

**CITY OF COPPERAS COVE  
CITY COUNCIL REGULAR MEETING MINUTES  
August 19, 2008 – 7:15 P.M.**

**A. CALL TO ORDER**

Mayor Pro Tem Robert L. Reeves called the regular meeting of the City Council of the City of Copperas Cove Texas to order at 7:15 p.m.

**B. INVOCATION AND PLEDGE OF ALLEGIANCE**

Council Member Sheppard gave the Invocation and led the Pledge of Allegiance.

**C. ROLL CALL**

**ALSO PRESENT**

Robert L. Reeves  
Larry D. Sheppard  
Mark E. Peterson  
Charlotte Heinze  
Ray Don Clayton  
Willie C. Goode  
Frank Seffrood

Andrea M. Gardner, City Manager  
James R. Thompson, City Attorney  
Jane Lees, City Secretary

**D. ANNOUNCEMENTS**

Council Member Seffrood made a motion to move item M-1 immediately after H. Public Hearings/Action, and to place item I-9 first under I. Action Items. Council Member Goode seconded the motion, and with a unanimous vote, motion carried.

**E. PUBLIC RECOGNITION**

1. Employee Service Awards. ***Andrea M. Gardner, City Manager***

August 2008 Recipients: Michael Merrell, Sewer Collection Operator II, 5 years; Elke Hutto, Library Reference Assistant/Electronic Technology Coordinator, 5 years; Michael Mundell, Solid Waste Superintendent, 5 years.

**F. CITIZENS' FORUM** citizens are allowed to speak on any matter other than personnel matters, matters under litigation, or matters on the regular agenda, for a length of time not to exceed five minutes per person. Thirty minutes total has been allotted for this section.

Chuck Downard, 208 Ridge Street. Mr. Downard stated that he is very proud to be a citizen of the City of Copperas Cove and asked the Council take what he was about to say as a positive recommendation. He stated that the Council had three choices back in March 2008, when they called for the forfeiture of the citizens' Mayor. The Council could have censured the Mayor; they could have had a citizens' committee do a recall petition, or remove him from office. Mr. Downard asked the Council to put all that has happened behind us. He then called for the Council Members up for recall to resign prior to August 25, 2008, in order to save the City the cost and embarrassment of a possible special election after the November recall vote. By

resigning he stated that they would also show the rest of Central Texas that we are not country hicks, and that when it comes down to it, we can, in fact, work together. Mr. Downard then stated that he would run for Council.

Debbie Murphy, 1010 West Avenue B. Ms. Murphy spoke on behalf of her daughter who lives at 729 West Avenue B. Last summer her daughter's home flooded several times. After lengthy repairs and having to live in a travel trailer, it flooded again. Ms. Gardner, City Manager, has been a great help to her and truly willing to help resolve the flooding problems as much as possible. The first copy of prints that were brought to her daughter's home, regarding the ditch that was next to it, was not on the City plans. Some City employees told them that half of the ditch belonged to a resident and half belonged to the City. Every once in a while, she said that the City comes out and cleans and grooms the ditch, which proves to her that it probably belongs to the City. The house never flooded prior to TxDOT putting in new sidewalks and drainage last summer. She said that City employees had told her that the ditch was not done properly and that TxDOT themselves had admitted it needed to be done over; however, it is not on their agenda to redo until June 2009. The house could flood again anytime. She said that Ms. Gardner approached them with a hold harmless agreement re-grade and re-sod the yard, however, when the agreement was written up for her daughter to sign, it wasn't written up the way they thought it had been discussed. She said that the agreement actually relieved the City from all responsibility. They requested that the document be rewritten. An envelope was provided to Council Members with a suggestion as to how the agreement could be stated. She said they hope that the agreement can be rewritten in the future to re-grade and re-sod the yard to help the drainage. Something still has to be done with the ditch and it can't wait until June 2009 for TxDOT. This is not acceptable. She asked the Council to work together and see if something can be done.

#### **G. CONSENT ITEMS**

1. Consideration and action on approval of minutes from the July 1, 2008 regular council meeting. **Jane Lees, City Secretary**

2. Consideration and action on approval of minutes from the July 15, 2008 regular council meeting. **Jane Lees, City Secretary**

3. Consideration and action on approval of minutes from the August 5, 2008 regular council meeting. **Jane Lees, City Secretary**

4. Consideration and action on approval of minutes from the August 7, 2008 special council meeting. **Stefanie Brown, Deputy City Secretary**

5. Consideration and action on approval of minutes from the August 8, 2008 special council meeting. **Stefanie Brown, Deputy City Secretary**

6. Consideration and action on approval of minutes from the August 9, 2008 special council meeting. **Jane Lees, City Secretary**

7. Consideration and action on authorizing the release of funds in the amount of \$7,204 from the Hotel Occupancy Tax Fund to the Boys and Girls Club of Copperas Cove. **Wanda Bunting, Director of Financial Services**

8. Consideration and action on authorizing the release of funds in the amount of \$42,500 from the Hotel Occupancy Tax Fund to the Copperas Cove Chamber of Commerce to satisfy the quarterly installment due for period ending June 30, 2008 and the additional funds requested to cover the reimbursement of costs associated with the Rabbit Fest. **Wanda Bunting, Director of Financial Services**

Council Member Heinze made a motion to remove item G-3 from the Consent Agenda and postpone it until the September 2, 2008 Council Meeting. Council Member Clayton seconded the motion, and with a unanimous vote, motion carried.

Council Member Clayton made a motion to approve consent items G-1, G-2, G-4, G-5, G-6, G-7, and G-8. Council Member Peterson seconded the motion, and with a unanimous vote, motion carried.

#### **H. PUBLIC HEARINGS/ACTION**

1. Public hearing and action on Ordinance No. 2008-25, amending the 2007-08 fiscal year budget for the City of Copperas Cove. **Wanda Bunting Director of Financial Services**

Wanda Bunting, Director of Financial Services, gave an overview of agenda item H-1.

Mayor Pro Tem Reeves opened the public hearing.

Speaking for: None.

Speaking Against: None.

Mayor Pro Tem Reeves closed the public hearing.

Council Member Peterson made a motion to approve agenda item H-1. Council Member Heinze seconded the motion, and with a unanimous vote, motion carried.

#### **M. EXECUTIVE SESSION**

1. Pursuant to §551.087 of the Open Meetings Act. *Tex. Gov't Code*, Council will meet in Executive Session to discuss the offer or other incentive to a business prospect that the governmental body seeks to have locate in the territory of the governmental body and with which the governmental body is conducting economic development negotiations – Cinergy Cinemas Contract and Performance Agreement.

The Council adjourned to Executive Session at 7:37 p.m.

**N. RECONVENE INTO OPEN SESSION FOR POSSIBLE ACTION RESULTING FROM ANY ITEMS POSTED AND LEGALLY DISCUSSED IN EXECUTIVE SESSION**

The Council reconvened the open meeting at 8:06 p.m. Mayor Pro Tem Reeves asked if there was any action from the Council that arose from the discussion of item M-1. Council Member Peterson made a motion to authorize the EDC to sell the spec building for \$1.525M to Cinergy Cinemas, and at 50 percent completion a construction incentive back to Cinergy Cinemas in the amount of \$625,000. Council Member Seffrood seconded the motion, and with a unanimous vote, motion carried.

**I. ACTION ITEMS**

9. Consideration and action on approving Ordinance No. 2008-27 of the City Council of the City of Copperas Cove, Texas, calling a bond election to be held within the City of Copperas Cove, Texas; making provisions for the conduct and the giving of notice of the election; containing other provisions relating thereto; and finding and determining that the meeting at which this ordinance is passed is open to the public as required by law. **Andrea M. Gardner, City Manager**

Andrea M. Gardner, City Manager, gave an overview of agenda item I-9. Ms. Gardner introduced Glenn Opel of Vinson and Elkins. She said Mr. Opel is the City's bond counsel for any bond issuance items and bond elections. Mr. Opel gave a summary of the ordinance and further explanation.

Council Member Heinze made a motion to approve agenda item I-9. Council Member Peterson seconded the motion, and with a unanimous vote, motion carried.

The Ordinance caption is as follows:

**ORDINANCE NO. 2008-27**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS, CALLING A BOND ELECTION TO BE HELD WITHIN THE CITY OF COPPERAS COVE, TEXAS; MAKING PROVISIONS FOR THE CONDUCT AND THE GIVING OF NOTICE OF THE ELECTION; CONTAINING OTHER PROVISIONS RELATING THERETO; AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.**

1. Consideration and action on re-appointments of four (4) returning members to the Keep Copperas Cove Beautiful Commission. **Silvia Rhoads, Executive Director, Keep Copperas Cove Beautiful**

Silvia Rhoads, Executive Director, Keep Copperas Cove Beautiful, gave an overview of agenda item I-1.

Council Member Seffrood made a motion to re-appoint Tom Corll, Christine Luciano, Dorothy Hardy and Barbara Lehmkuhler to the KCCB Commission for two-year terms ending September 2010. Council Member Peterson seconded the motion, and with a unanimous vote, motion carried.

2. Consideration and action on appointment/re-appointment of members to the Copperas Cove Hospital Authority Board of Directors. **Jane Lees, City Secretary**

Jane Lees, City Secretary, gave an overview of agenda item I-2.

Council Member Clayton made a motion to re-appoint John Noel, Randy Curtis, Diane Connell, Billy Sanders and Ross Caviness to the Copperas Cove Hospital Authority Board of Directors for two year terms to begin September 1, 2008 through August 31, 2010. Council Member Peterson seconded the motion, and with a unanimous vote, motion carried.

3. Consideration and action on Ordinance No. 2008-26, amending the City of Copperas Cove's Code of Ordinances, Chapter 11, Municipal Utilities and Services, Article IV, Solid Waste Collection and Disposal. **Michael Mundell, Solid Waste Superintendent**

Michael Mundell, Solid Waste Superintendent, gave an overview of agenda item I-3.

Council Member Heinze made a motion to approve agenda item I-3. Council Member Clayton seconded the motion, and with a unanimous vote, motion carried.

The Ordinance caption is as follows:

**ORDINANCE NO. 2008-26**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS, AMENDING THE CITY OF COPPERAS COVE'S CODE OF ORDINANCES, CHAPTER 11, MUNICIPAL UTILITIES AND SERVICES, ARTICLE IV, SOLID WASTE COLLECTION AND DISPOSAL.**

4. Consideration and action on authorizing the City Manager to enter into an Inter-local Agreement with the Copperas Cove Independent School District to share facilities for recreational purposes. **Ken Wilson, Director of Community Services**

Ken Wilson, Director of Community Services, gave an overview of agenda item I-4.

Council Member Peterson made a motion to approve agenda item I-4. Council Member Heinze seconded the motion, and with a unanimous vote, motion carried.

5. Consideration and action to authorize the City Manager to enter into an agreement with Tyler Technologies for the Incode Building Module software purchase in the amount of \$50,823. **Carl Ford, Director of Development Services**

Carl Ford, Director of Development Services, gave an overview of agenda item I-5.

Council Member Goode made a motion to approve agenda item I-5. Council Member Heinze seconded the motion, and with a unanimous vote, motion carried.

6. Consideration and action authorizing the City Manager to execute a contract with Shelton & Shelton Plumbing of Killeen, Texas for Improvements to Turkey Run Pump

Station and Installation of a 30-Inch Waterline, in the amount of \$1,579,982.67. **Robert M. McKinnon, Public Works Director**

Robert M. McKinnon, Public Works Director, gave an overview of agenda item I-6.

Council Member Peterson made a motion to approve agenda item I-6. Council Member Heinze seconded the motion, and with a unanimous vote, motion carried.

7. Consideration and action authorizing the City Manager to execute a contract with UCS Restoration, Harker Heights, Texas for repairs to the Allin House, in the amount of \$48,978.83. **Robert M. McKinnon, Public Works Director**

Robert M. McKinnon, Public Works Director, gave an overview of agenda item I-7.

Council Member Peterson made a motion to approve agenda item I-7. Council Member Seffrood seconded the motion, and with a unanimous vote, motion carried.

8. Consideration and action on Resolution No. 2008-30, accepting the quarterly investment report as presented for the quarter ending June 30, 2008 per the Investment Policy. **Wanda Bunting, Director of Financial Services**

Wanda Bunting, Director of Financial Services, gave an overview of agenda item I-8.

Council Member Heinze made a motion to approve agenda item I-8. Council Member Peterson seconded the motion, and with a unanimous vote, motion carried.

The Resolution caption is as follows:

#### **RESOLUTION NO. 2008-30**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS, ACCEPTING THE QUARTERLY INVESTMENT REPORT AS PRESENTED FOR THE QUARTER ENDING JUNE 30, 2008 PER THE INVESTMENT POLICY.**

10. Consideration and action on Ordinance No. 2008-28, approving a moratorium on Chapter 14, Oil & Gas Wells, of the Copperas Cove Code of Ordinances. **Andrea M. Gardner, City Manager**

Andrea M. Gardner, City Manager, gave an overview of agenda item I-10.

Council member Clayton announced that he recused himself from this item and paperwork has been filed with the City Secretary. Mr. Clayton left the Council Chambers.

Council Member Peterson made a motion to approve agenda item I-10. Council Member Heinze seconded the motion, and with a unanimous vote, motion carried.

The Ordinance caption is as follows:

#### **ORDINANCE NO. 2008-28**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS, APPROVING A MORATORIUM ON CHAPTER 14, OIL & GAS WELLS, OF THE COPPERAS COVE CODE OF ORDINANCES.**

Council Member Clayton returned to Council Chambers.

11. Consideration and action on authorizing the City Manager to execute an agreement between the City of Copperas Cove and River City Engineering, LTD. for professional engineering services associated with the construction of the Mesa Verde Water Project in the amount of \$135,200. **Andrea M. Gardner, City Manager**

Andrea M. Gardner, City Manager, gave an overview of agenda item I-11.

Council Member Peterson made a motion to approve agenda item I-11. Council Member Goode seconded the motion, and with a unanimous vote, motion carried.

12. Conducting the annual evaluation for the Municipal Judge. **Kelli Sames, Human Resources Director**

Kelli Sames, Human Resources Director, gave an overview of agenda item I-12.

Council Member Peterson made a motion to continue with the functional areas as outlined in the contract. Council Member Heinze seconded the motion, and with a unanimous vote, motion carried.

13. Consideration and action on continuing or terminating the Independent Contractor Agreement with F.W. Price, Municipal Court Judge and the City of Copperas Cove as approved on January 3, 2008. **Kelli Sames, Human Resources Director**

Kelli Sames, Human Resources Director, gave an overview of agenda item I-13.

Council Member Peterson made a motion to continue the contract as adopted on January 3, 2008. Council Member Goode seconded the motion, and with a unanimous vote, motion carried.

14. Conducting the annual evaluation for the City Attorney. **Kelli Sames, Human Resources Director**

Kelli Sames, Human Resources Director, gave an overview of agenda item I-14.

Council Member Peterson made a motion to continue with the functional areas as outlined in the contract. Council Member Clayton seconded the motion. A roll call vote was taken as follows:

Larry D. Sheppard	For
Mark E. Peterson	For
Charlotte Heinze	For
Ray Don Clayton	For
Willie C. Goode	Against
Frank Seffrood	For

Motion carried 5 to 1.

15. Consideration and action on continuing or terminating the Independent Contractor Agreement with James R. Thompson, City Attorney and the City of Copperas Cove as approved on January 3, 2008. **Kelli Sames, Human Resources Director**

Kelli Sames, Human Resources Director, gave an overview of agenda item I-15.

Council Member Goode made a motion to terminate the contract with James R. Thompson, City Attorney. Council Member Peterson seconded the motion, and with a unanimous vote, motion carried.

#### **J. STAFF REPORTS**

1. Financial Report for the Month ended June 30, 2008. **Wanda Bunting, Director of Financial Services**

Wanda Bunting, Director of Financial Services, presented the Financial Report for the Month ended June 30, 2008.

#### **K. REPORTS OF ADVISORY COMMITTEES AND BOARDS – None.**

#### **L. ITEMS FOR FUTURE AGENDAS**

Council Member Peterson said he would like the City Manager to look into closing the pay gap between the Executive Secretary to the City Manager and the City Secretary.

Mayor Pro Tem Reeves requested that an item be placed on the next agenda to move the October 2, 2008 Council Meeting to October 14, 2008, as it interferes with the annual AUSA trip to Washington, D.C. that the Council attends. Council Members Heinze, Clayton and Seffrood concurred.

#### **M. EXECUTIVE SESSION**

2. Pursuant to §551.074 of the Open Meetings Act. *Tex. Gov't Code*, Council will meet in Executive Session to discuss the evaluation of the City Manager.

3. Pursuant to §551.074 of the Open Meetings Act. *Tex. Gov't Code*, Council will meet in Executive Session to discuss the evaluation of the City Secretary.

The Council adjourned to Executive Session at 8:58 p.m.

#### **N. RECONVENE INTO OPEN SESSION FOR POSSIBLE ACTION RESULTING FROM ANY ITEMS POSTED AND LEGALLY DISCUSSED IN EXECUTIVE SESSION**

The Council reconvened the open meeting at 10:27 p.m. Mayor Pro Tem Reeves stated that there was no action to be taken on the discussion from Executive Session.

#### **O. ADJOURNMENT**

There being no further business, Mayor Pro Tem Reeves adjourned the meeting at 10:28 p.m.

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Robert L. Reeves, Mayor Pro Tem

**ATTEST:**

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Jane Lees, City Secretary