

MINUTES
City Council – Regular Meeting
FEBRUARY 16, 2021 – 6:00 p.m.

PRESENT: Mayor Wyman Williams
Mayor Pro Tempore Gene Lockhart
Council Members: Anthony Henry, Stephanie Muller & Beckey Thompson
City Manager Howdy Lisenbee
City Attorney Charles Anderson
City Secretary Molly Jacobsen
Finance Director Jamie Campbell
Director of Public Safety Chris Bassham
Administrative Lieutenant Kalei Beelitz

ABSENT:

1. **Call to order:**
Mayor Wyman Williams called the meeting to order at 6:00 p.m.
2. **Invocation:**
Mayor Wyman Williams asked the audience for a moment of silence.
3. **Pledge of Allegiance:**
Council Member Anthony Henry lead the Pledge of Allegiance.
4. **Consent Agenda:**
 - a. **Acceptance of Minutes:**
 - City Council Regular Meeting Minutes- January 19, 2021
 - Parks & Recreation Advisory Board Meeting Minutes- January 13, 2021
 - City Council Special Meeting Minutes- February 2, 2021
 - b. **Consider and Take Action on:**
 - Approving an Agreement between the Texas Division of Emergency Management (TDEM) and the City of Commerce for Grant Terms and Conditions related to the City's Application for the 2021 Emergency Management Performance Grant (EMPG).

Council Member Anthony Henry moved to approve the consent agenda. The motion was seconded by Council Member Stephanie Muller and the vote carried unanimously.
5. **Presentation to City Council Members by members of the Public. (To be conducted as close to 6:05 p.m. as possible with a three-minute limit per person. Public Comments will cease at 6:20 p.m. This period is reserved for citizens to discuss items not on the listed agenda. The response to Public Comments will be limited to 1) A statement of fact or policy; 2) Direction to take up the issue with a city staff member; 3) An offer to place the item on a future Council Agenda.**

No one came forward.
6. **Discussion related to a Process for the Sale of Surplus City Owned Property.**

City Manager Howdy Lisenbee reminded the Council that they have previously discussed the number of properties the City currently holds and whether those properties should be placed back on the market. The appraisal district provided to the City a list of all properties owned by the City currently. Manager Lisenbee and staff went through the list to catalog properties into three different categories and ultimately determined which properties are (1) held and utilized by the City currently (City Hall, parks, Fire/Police, etc.), (2) properties which the City currently owns

1 and would prefer to continue to hold due to drainage issues or right-of-way maintenance, and (3) a
2 final category of properties which are city-owned and would benefit both the City and the
3 community for the City to dispose of. He noted that there are 31 properties in category three
4 which appear to be eligible for residential or commercial development and have a total taxable
5 value of \$367,900 but would likely not yield that amount since the properties would be sold at fair
6 market value. He stated that these properties could be disposed of via a live auction or a sealed
7 bid process. He also noted the City could secure the services of a broker, who could do the sale on
8 behalf of the City. He recommended the Council pursue one of these options to get these
9 properties on the market and back on the tax roll. Manager Lisenbee recommended that the
10 Council have some guarantee that whomever buys it, develops it and doesn't instead keep the land
11 undeveloped with the intent to flip it one day. City Attorney Charles Anderson stated that deed
12 restrictions could be put in place which would ensure if the property wasn't developed within a
13 certain time frame, the City would have the right to return the money to the new owner and the
14 property could revert back to the City.
15

16 Council Member Beckey Thompson inquired as to how quickly those stipulations could be put
17 into place. City Attorney Charles Anderson stated that those restrictions would need to be set
18 prior to the decision on how to begin selling the land. Council Member Thompson recommended
19 the City begin to look at lots that were large enough to develop as she felt some of the lots were
20 too small to develop.
21

22 Mayor Williams inquired with the City Attorney as to what the most common method of disposing
23 of city owned property seems to be. Mr. Anderson noted that he typically sees the sealed bid
24 process, but more cities seem to be moving to brokers as the public tends to understand that
25 process better and it appeals to a larger market. He stated the City could try multiple approaches
26 to see what works best for Commerce. He did agree that pursuing several of the larger lots first,
27 rather than flooding the market with all the properties at once, was probably the best route to go.
28 Mayor Williams inquired as to how the broker is compensated. City Attorney Anderson noted
29 that around 3% of the sale price is average compensation for a broker. He noted that the City
30 could set a minimum price, make the development requirements known and see what offers are
31 received. Mayor Williams clarified if the City could reject the offer and City Attorney Anderson
32 noted that they would reserve that right through this process.
33

34 City Manager Lisenbee noted that he would recommend the Council use a broker for the larger,
35 more desirable lots and then do a sealed bid process for the smaller lots.
36

37 The Council reached a general consensus to direct the City Manager to bring back to the Council a
38 procedure for disposing of city owned property, to include deed restrictions which would
39 encourage development.
40

41 **7. Presentation of the 2020 Racial Profiling Report in Compliance with the Code of Procedure,**
42 **Article 2.131 - Article 2.138; discussion and acceptance of same.**
43

44 Director of Public Safety Chris Bassham stated the Texas Code of Criminal Procedure requires
45 that all law enforcement agencies track and report all traffic stops throughout the year. It further
46 requires that the department adopt a detailed written policy on racial profiling which clearly
47 defines acts which constitute racial profiling and commits the department to take action against
48 any officer who engages in racial profiling.
49

50 For 2020, the City had 1,558 traffic stops across the City. Of those 1,558 stops: 5 were Alaska
51 Native/American Indian, 41 were Asian/Pacific Islander, 463 were black, 878 were white and 171
52 were Hispanic/Latino. Of the 1,558 traffic stops, 556 of those were female and 1,002 were male.
53 Chief Bassham noted that the City received no complaints of racial profiling during the 2020 year.
54

55 Council Member Anthony Henry inquired as to how these numbers compared to last year's
56 numbers. Chief Bassham stated that while he didn't have the 2019 numbers in front of him, the

percentage breakdowns by ethnicity were very similar in 2019 to these numbers. Council Member Henry inquired if he could get this report from the last 5 years. Chief Bassham stated we would get that information to Mr. Henry and make that information available to the public online under the Police Department page on the city's website.

Council Member Stephanie Muller moved to accept the 2020 Racial Profiling Report for the City of Commerce Police Department. Council Member Anthony Henry seconded the motion and the vote carried unanimously.

8. Discussion and Possible Action on a Resolution Approving Tax Resale Deeds for the Properties located at 604 Pickett Street (Property ID #95647) and 1604 Division Street (Property ID #95648), within the City of Commerce.

Director of Administrative Services Molly Jacobsen stated that the item before Council was a Tax Resale deed for adjacent properties on 604 Pickett and 1604 Division. Both properties were in tax resale auctions in 2016 and 2018 and received no bids at that time. Since then, an individual has come forward and bid the minimum amount of \$2,005 in total for both properties. The school district, hospital district and county have already approved the sale of these properties. Both properties were struck off the tax roll in 2010 and 2015. The property on Pickett Street has a labor lien which has accumulated approximately 20 years of interest on it. The property on Division had several mowing liens, which all would have to be forgiven should the council move forward with the approval of this tax resale deed. Council Member Anthony Henry inquired if this property was adjacent to the bidder's property. Director Jacobsen stated she was unsure where he lived and couldn't answer that question. Director Jacobsen clarified that while there were no development intentions included with this tax resale, that wasn't unusual for sales through the City's tax attorneys and that she could not say whether the intent was to develop the property in the future or not.

Council Member Beckey Thompson moved to approve the tax resale deeds for these properties. The motion was seconded by Council Member Stephanie Muller and the vote carried unanimously.

9. Discussion and Possible Action on a Resolution designating City-owned land for use as a Dog Park in Commerce and reallocating budgeted funds for the Parks & Recreation Department to be utilized to fence off the Dog Park.

City Manager Howdy Lisenbee reminded the Council that this conversation was the result of a meeting a couple of weeks ago when the Council met with the Friends of the Commerce Dog Park and the Parks & Recreation Advisory Board. The consensus was reached to make the location for the Dog Park at City Park, specifically, the north west corner of the Park from the creek up to the northern boundary.

Kathleen Hooten and Jennie Reynolds briefly discussed with the Council that they visited City Park and spent time brainstorming design ideas and use of space at this location. They intend to make separate spaces for large dogs and small dogs and feel there are a lot of options to do this in this location.

Manager Lisenbee reminded the Council that the City would pay for the fencing in of the Dog Park and the Dog Park Board would use money they raised for features within the dog park, like benches, waste removal stations and fountains.

Council Member Thompson inquired as to who would be responsible for the parking surface and whether the Dog Park would use the one there currently or utilize the available parking across the street. City Manager Lisenbee said that was something they would have to plan for but if the parking space there now needed to be removed, city staff could probably do that. Mayor Williams asked if the City would have the ability to approve the final design and layout of the Park before

proceeding with construction. City Manager Lisenbee said that is something staff could bring back to Council or workout amongst staff and the Dog Park Board.

City Council Member Stephanie Muller moved to give the City Manager the authority to work with the Friends of the Commerce Dog Park to work out the layout and design of the Dog Park and to approve the Resolution as presented. The motion was seconded by Council Member Anthony Henry and the vote carried unanimously.

10. Consider all Matters incident and related to the Issuance and Sale of the City of Commerce, Texas Combination Tax and Revenue Certificates of Obligation, Series 2021, including the Adoption of an Ordinance Authorizing the Issuance of such Certificates, Approving an Official Statement, a Paying Agent/Registrar Agreement and an Engagement Letter of Bond Counsel.

City Manager Howdy Lisenbee reminded council that as previously discussed at a prior Council meeting, the City planned to sell certificates of obligation, to issue debt for the purpose of phase I street improvements, new public safety equipment, and funding repairs at the water treatment plant and the wastewater treatment plant. Whenever certificates of obligation are issued, they're taken to market and bid on. The City did maintain their A+ bond rating as of recently, which contributed to the excellent bids received. The City received 6 bids for this issuance and the winning bid was from Robert W. Baird and Co. with a total interest cost of 1.406%. The high bid was for 1.578% total interest cost for this debt issuance.

The City was looking to raise \$2,755,525 and only had to sell \$2,615,000 with certificates. The issues were sold at a premium, meaning the City got an extra \$140,525 that will not have to be paid back. The City's strong bond rating contributed to this outcome. Manager Lisenbee stated these funds would become available to the City by March 10th to begin working on these projects. He further stated that engineering has already began for projects at the Water and Wastewater Treatment Plant.

Council Member Stephanie Muller made a motion to adopt an Ordinance authorizing the issuance and sale of the City of Commerce Combination Tax and Revenue Certificates of Obligation, Series 2021 and approving all matters incident thereto. Council Member Anthony Henry seconded the motion and the vote carried unanimously.

11. First Reading- Discussion and Possible Action on an Ordinance Amending Ordinances 2020-13 and 2020-14, to specify City of Commerce Water and Wastewater Rates.

City Manager Howdy Lisenbee stated that this was a housekeeping item. The city doesn't intend to adjust any rates which are currently charged to our customers. During the course of issuing the certificates of obligation discussed earlier, the city's bond counsel recommended this change to promote transparency. City Manager Lisenbee noted that certificates of obligation are issued as tax exempt and anytime an investor is given the opportunity to invest money and get revenue off that investment tax free, the IRS pays special attention. One of the things the IRS pays attention to, is that the City isn't utilizing these funds to benefit a private interest but rather they are used for a public purpose. There are industrial customers that consume large amounts of water from the City. As such, they pay a different rate than commercial customers. Historically, the ordinance designating those rates didn't differentiate between the rates paid by residential, commercial, industrial and institutional customers. The practice historically was a rate established for residential customers, rates for industries and a rate for the University and rates by contract for wholesale customers. This ordinance would update the rates charged for water and wastewater so that it reflects the practice the City has been following by listing all of those rates in one place. This means the industrial customers and the University are all paying fair rates identified in our rate schedule should a potential audit occur in the future.

Council Member Beckey Thompson moved to approve this Ordinance amendment to the City's water and wastewater rates. The motion was seconded by Council Member Anthony Henry and the vote carried unanimously.

12. ***First Reading-*** Discussion and Possible Action on an Ordinance Amending Chapter 10, Article VI, Section 10-1 to Establish Rules and Regulations for the Possession of a Dangerous Dog.

City Manager Lisenbee noted that the regulatory language existing in our ordinance currently doesn't provide the City with enough teeth or tools to respond to issues with dangerous dogs. Lieutenant Kalei Beelitz stated that this proposed Ordinance provides a more transparent definition of a dangerous dog and the process for determining if a dog is considered dangerous. He noted that it further listed out requirements for owners in order to lawfully possess a dangerous dog within the City of Commerce.

Director of Public Safety Chris Bassham clarified that this wasn't intended to discriminate against any breed but that in the past, dogs have attacked someone and owners have not taken responsibility for the dog but rather transferred the dog to a different owner and subsequently lost track of the dog. This added ordinance language would require the owner to insure their dog if it was deemed dangerous and track the dog if it changes hands. This ensures accountability of owning a dangerous dog to the owner.

Council Member Anthony Henry inquired if other cities had a similar ordinance. Lieutenant Beelitz stated that North Richland Hills does and this one was modeled after it. Council Member Henry asked if any more local cities had a similar ordinance. Lieutenant Beelitz stated that while this isn't something he is aware of any surrounding cities doing, as a police officer, he has seen firsthand the damage a dangerous dog can do to humans. He suggested that this Ordinance would ensure the safety of the public. City Attorney Charles Anderson noted that this is a pretty "up-to-date" approach to a problem that lots of cities are seeing and that a lot of City's are moving toward this practice. He did note that he recommended changing the civil penalty for violation of the ordinance from \$10,000 to \$1,000 per day. He stated this would be consistent with state statutes and would be useful in gaining compliance from dangerous dog owners.

Council Member Anthony Henry voted to approve this Ordinance on the first reading and modify the civil penalty to a \$1,000 fine for the second reading. The motion was seconded by Council Member Stephanie Muller and the vote carried unanimously.

13. ***First Reading-*** Consideration and Possible Action on an Ordinance amending Chapter 90, 'Traffic and Vehicles,' Subsections 90-101 (a)(2) and (a)(3) of the Code of Ordinances of the City of Commerce to amend the official Traffic Parking Map and the official Traffic No Parking Map to designate a 'No Parking Zone' on both sides of the Highway 24, East Frontage Road, beginning at the intersection of Culver Street and continuing North to the Crosswalk immediately adjacent to the Health Science Building; and Providing a Penalty and Providing for an Effective Date.

City Manager Lisenbee stated with the upcoming Highway 24 project that is part of the Hunt County Transportation Bonds, they're currently surveying this area and will begin construction at some point. He noted that when that happens, they will close Highway 24 and route traffic through the frontage roads. He noted if people continue parking here, it will be extremely dangerous, and this "No Parking" Ordinance is a proactive way of addressing that before this becomes an issue.

Director of Public Safety Chris Bassham stated parking here has been a problem in the past. He stated the University has ensured city staff there is adequate parking available should the City proceed with prohibiting parking in this area. Director Bassham noted that this section is currently strictly two-lane with no designated parallel parking. He noted that when cars are parked here and people traverse this section, you have to swerve into oncoming traffic to get around the parked

cars in that area. He is recommending designating both sides of the east Highway 24 frontage road as "No Parking."

Mayor Williams noted that the opening of the new residence facility and Health Science Center nearby contributed to parking issues in this area. He stated that he wasn't aware people were allowed to park there. Director Bassham stated that without designating this as a "No Parking" area, nothing prevents them from parking there. Mayor Williams inquired as to what prevents students from moving from parking here to parking in neighborhoods east of this area. City Manager Lisenbee stated that staff would be addressing this issue separately in the coming months by looking at "Resident Only" parking options for this area as that too has been a problem.

Council Member Anthony Henry moved to approve this Ordinance on its first reading. The motion was seconded by Council Member Stephanie Muller and the vote carried unanimously.

14. First Reading- Consideration and Possible Action on an Ordinance amending Chapter 90, 'Traffic and Vehicles, 'Subsections 90-101 (a)(2) and (a)(3) of the Code of Ordinances of the City of Commerce to designate a 'No Parking Zone' on a Portion of the west side of Bois d'Arc Street, between Live Oak and Lee Street, Providing a Penalty and Providing for an Effective Date.

City Manager Lisenbee noted that city staff will be identifying ways to improve parking issues in neighborhoods near and around the University. He noted that we are looking for ways to allow residents to park outside their home, but not allowing students or the general public.

Director of Public Safety Bassham noted that this was a section of street that went from the cleaners up to the "Slice of Pie" pizza place on Bois d'Arc Street. He noted that the east side of the street has been "No Parking" but parking has been allowed on the west side. Over time, Chief Bassham noted that parking has become a problem in this area now on the west side as well.

Council Member Anthony Henry moved to approve this Ordinance on its first reading. The motion was seconded by Council Member Stephanie Muller and the vote carried unanimously.

15. Second Reading- Discussion and Possible Action on an Ordinance vacating W Neal Street, south of Culver, for the purpose of gifting the Street to Texas A&M University-Commerce.

City Manager Lisenbee noted that the University owns land on both sides of the public road on West Neal, which runs south of Culver. He stated that there is no public benefit to the City maintain ownership of this road, but rather a private benefit to the University. Further the City has no utilities under the road. The University will continue to maintain it but has requested the City vacate our right of way here as well.

Council Member Beckey Thompson moved to accept this Ordinance. The motion was seconded by Council Member Anthony Henry and the vote carried unanimously.

16. Adjourn.

City Manager Lisenbee noted there were some emergency updates he wanted to make the Council and public aware of in light of the winter weather storms impacting the area currently.

He summarized that the City brings raw water in from Tawakoni on the south side of town and turns it into potable drinking water that is pumped into town. East of town, there are ground water wells which produce water from the east and send it into town. The water treatment plant to the south of town has been without power and is thus preventing the pumps from pushing water into town. Therefore, the well field on the east edge of town has been the only source of water which kept up with demand for some time. The power also went out at the Ross pump station and resulted in levels in the water tower to drop significantly. An electrician was called in to re-wire the pump station

1 and a generator was attached to the pumps at Ross Street as of this afternoon. As the day went on,
2 the City was unable to keep up with water demand utilizing the one source. As a result, pressure
3 dropped across the system about an hour prior to tonight's meeting and the City has almost
4 completely lost pressure within the water distribution system. The City is still able to produce water
5 out of the well field on the east side of town. The pumps will be turned back on at Ross about 7:30
6 tonight, but that may only keep the pipes full of water, but likely won't produce enough to refill the
7 elevated storage tanks. As a result, TCEQ will more than likely require the City to issue a boil water
8 notice.
9

10 Further, as of about 4 or 5 pm today, at the water treatment plant power was restored and treated
11 water within the clear well was sent into town. However, on the raw water side of the treatment
12 plant, there was a pump that froze due to lack of power and became completely encased in ice that
13 staff is currently trying to thaw. A pump technician will come to the City tomorrow to try and
14 resurrect that pump. If that is successful and we maintain power supply overnight and tomorrow,
15 the City can begin producing water again tomorrow. If that does not work, the City will have to
16 resort to the emergency purchase of a pump which could take several days.
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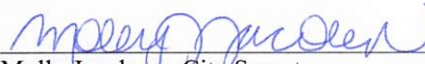
18 Further, there is currently no power at City Hall and no power at the Commerce Police/Fire
19 Department. As such, dispatch is being routed through the University dispatching system currently.
20

21 Lastly, Manager Lisenbee acknowledged the incredible team of City of Commerce employees who
22 are on the ground working to serve the citizens of Commerce during this winter weather event and
23 most are working without heat and without power and leaving their families in those conditions as
24 well in order to continue serving the community.
25

26 Mayor Williams inquired as to how the City would keep citizens informed of the status of the water
27 situation. City Manager Lisenbee stated that staff was pushing out IRIS alerts and posting to social
28 media to try and keep everyone updated. Mayor Williams stated that he felt over communicating
29 would likely be the best approach to address citizen concerns.
30

31 Council Member Stephanie Muller made the motion to adjourn. Council Member Beckey
32 Thompson seconded the motion, resulting in a unanimous vote to adjourn. The meeting was
33 adjourned at 7:10 p.m.
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38 Wyman Williams, Mayor

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41 Molly Jacobsen, City Secretary

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44 3/16/2021
45 Date

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