

**STATE OF TEXAS                   §**  
**COUNTY OF POLK                 §**  
**CITY OF LIVINGSTON         §**

**MINUTES**  
**REGULAR MEETING**  
**AND PUBLIC HEARING**  
**CITY COUNCIL**  
**March 12, 2019**  
**5:00 P.M.**

The City Council of the City of Livingston, Texas convened in regular session in Council Chambers at City Hall at 5:00 P.M., March 12, 2019, with the following members present:

Judy B. Cochran	)	Mayor
Alan Cook	)	Councilmembers
Raymond Luna	)	
Elgin Davis	)	
Marion 'Bid' Smith	)	
Clarke Evans	)	
Billy S. Wiggins	)	City Manager
Ellie Monteaux	)	City Secretary
James Wright	)	City Attorney

and the following others present:

Lisa Haynes	)	Family Members & Friends of Ann Milner
David Haynes	)	
Kyle Haynes	)	
Jacob Haynes	)	
Lilly Haynes	)	
Donald Milner	)	
Teresa Milner	)	
Taylor Milner	)	
Chuck Hinton	)	

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Chief Corky Cochran	)	Livingston Volunteer Fire Department
Landon Smith	)	
Roy Sanders	)	
Tracy Kincaid	)	
Tommy Overstreet	)	
Chief Dennis Clifton	)	Livingston Police Department
Lt. Matt Parrish	)	
Josh Mohler	)	Livingston Fire Marshal/Code Enforcement

Mayor Cochran called the meeting to order at 5:00 P.M. and called on Alderman Cook to open the meeting with prayer and the pledges.

Mayor Cochran presented a Certificate of Remembrance to the family members of Ann Milner for her 30 years of service to the Livingston Volunteer Fire Department.

(Family members and friends of Ann Milner and LVFD Members retired from the meeting.)

It was moved by Alderman Evans and seconded by Alderman Cook that the minutes of the regular meeting of February 12, 2019 be approved. All present voted aye.

The City Manager presented a proposed update of the Livingston Police Department Policy Manual and advised the Council that Chief of Police Dennis Clifton and Lieutenant Matt Parrish are present to answer any questions the Council may have. It was moved by Alderman Cook and seconded by Alderman Smith that the Livingston Police Department Policy Manual be approved, as presented. All present voted aye.

(Dennis Clifton and Matt Parrish retired from the meeting.)

Mayor Cochran opened a Public Hearing 5:07 P.M. on the possible determination of the 16 ft. x 70 ft. Ranger Homes "Lakemont" manufactured home, serial no. 50502247, label no. LOU0037067, located on Lot 5, West Block, of the J. S. Snell Subdivision in the City of Livingston, per plats thereof recorded in Volume 1, Page 56 and Volume 1, Page 62 of the Polk County Plat Records, also known as 121 Lee St., Livingston, Texas, as an unsafe and/or dilapidated building, and the cleanup and removal of weeds, rubbish, garbage, and abandoned personal property from said Lot 5, West Block, of the J. S. Snell Subdivision in the City of Livingston, per plats thereof recorded in Volume 1, Page 56 and Volume 1, Page 62 of the Polk County Plat Records, also known as 121 Lee St., Livingston, Texas.

Fire Marshal/Code Enforcement Officer Josh Mohler was sworn as a witness. Wanda Walker, David Walker and Jimmy Dewayne Walker were not present at the hearing.

Josh Mohler presented his report to Council concerning the property located at 121 Lee Street (Lot 5, West Block, of the J.S. Snell Subdivision). The manufactured home located on the above property is an unsafe building under the City's Unsafe Building Code, and is in violation of Section 10-209 of the Code of Ordinances of the City of Livingston because the structure located on the property is not maintained in a safe and sanitary condition; the property was found to be overgrown with weeds, and to have excess amounts of debris and rubbish, in violation of Article II (Nuisances) of Chapter 20 (Environment). Mr. Mohler confirmed that notices had been published in the Polk County Enterprise, posted on the property, mailed by certified mail to the owners of the property, and filed for record with the County Clerk. Mr. Mohler provided Council with the most recent pictures of the property advising that the property continues to be unsafe, unsanitary and a public nuisance.

Mr. Mohler recommended 1) that the property owner be given thirty days for the complete demolition of the manufactured home and associated garage, shed or outbuilding, and removal of the remaining building structure, weeds, rubbish and abandoned personal property from the property; 2) that the City proceed with demolition and clearing of the property if the owner fails to act within thirty (30) days; and 3) that the City's costs be assessed against the property owner and secured by a lien on the property.

There being no one present speaking for or against the property owner and no further comments to be received in the public hearing, Mayor Cochran declared the public hearing closed at 5:30 P.M.

Based on the evidence presented at the Public Hearing and as recommended by the City Attorney and Fire Marshal/Code Enforcement Officer, it was moved by Alderman Cook and seconded by Alderman Smith that the following Final Order be issued:

- 1) That the Council find that the 16 ft. by 70 ft. Ranger Homes Lakemont manufactured home, bearing serial no. 50502247 and label no. LOU0037067, as well as an associated garage, shed or outbuilding, situated at 121 Lee Street, and situated on Lot 5, West Block of the J. S. Snell Subdivision, are dilapidated, substandard, unsafe and a public nuisance, that the conditions described in the testimony of Josh Mohler exist and there is a danger to the life, health, property or safety of the public, and that it is not feasible to make repairs to the manufactured home and outbuilding.

- 2) It is ordered that Wanda Walker, David Walker, or Jimmy Dewayne Walker are to immediately secure the manufactured home as well as the associated garage, shed or outbuilding to prevent unauthorized entry, and to demolish the manufactured home and associated garage, shed or outbuilding and remove all demolition debris within 30 days. All such rubbish and debris must be taken to the Polk County Landfill for disposal, and delivery tickets from the Landfill evidencing such disposal be presented to the City's Community Development Department within said 30 days. If the manufactured home and outbuilding are not demolished and all debris removed within said 30 days, the City shall cause the manufactured home and outbuilding to be demolished, and all debris removed, and the City shall place a lien on the property to recover the City's costs.
- 3) That the Council find that the accumulation of weeds and grass in excess of 12 inches in height, and brush, grass, refuse, rubbish and abandoned personal property on the property constitutes a public nuisance and is in violation of the City's ordinances.
- 4) It is ordered that Wanda Walker, David Walker, or Jimmy Dewayne Walker are to immediately remove all weeds and grass in excess of 12 inches in height, and all brush, refuse, rubbish and abandoned personal property on the property within 30 days. All such weeds, grass, brush, refuse, rubbish and abandoned personal property must be taken to the Polk County Landfill for disposal, and delivery tickets from the Landfill evidencing such disposal be presented to the City's Community Development Department within said 30 days. If all such weeds, grass, brush, refuse, rubbish and abandoned personal property are not removed by within said 30 days, the City shall cause all such weeds, grass, brush, refuse, rubbish and abandoned personal property to be removed, and the City shall place a lien on the property to recover the City's costs.

All present voted aye. The Final Order of Abatement related to Cause No. CE-201812 shall be attached with these minutes.

Discussion ensued relative to the mowing of the property following the removal of the structures and debris, ownership of the manufactured home and possible sale of the property through a county tax sale.

(Josh Mohler retired from the meeting.)

The City Secretary furnished a Certification of Unopposed Candidates confirming that Alderman Ray Luna, Alderman Elgin Davis and Alderman Clarke Evans for the office of Alderman are unopposed for election to office to be held on May 4, 2019. It was moved by Alderman Davis and seconded by Alderman Luna that the ordinance declaring the General Election of May 4, 2019 cancelled and the unopposed candidates elected, as introduced, be approved and adopted. All present voted aye. The ordinance, as adopted, is captioned as follows:

**"ORDINANCE NO. A-809**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LIVINGSTON, TEXAS, CANCELLING THE MAY 4, 2019 GENERAL ELECTION AND DECLARING EACH UNOPPOSED CANDIDATE ELECTED TO OFFICE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE."**

The City Manager advised Council that Mayor Cochran will sign the Order of Cancellation for the City's General Election to be held on May 4, 2019. The Order of Cancellation, prescribed by the Secretary of State, Sections 2.051 - 20.053, Texas Election Code, shall be attached with Ordinance No. A-809.

It was moved by Alderman Cook and seconded by Alderman Davis that the accounts over \$500.00, as submitted, be approved for payment. All present voted aye.

The City Manager reported on the following items:

- A) Update on Current Projects and Development - The City Manager provided the Council with an update on current projects and development.
- B) Upcoming Events
  - ▶ Livingston Trade Days and Outdoor Expo - Saturday, March 16 and Sunday, March 17
  - ▶ 74<sup>th</sup> Annual Trinity-Neches Livestock Show & Rodeo - March 18-22, 2019
  - ▶ World Down Syndrom Day Proclamation Presentation - Thursday, March 21, 2019 at 2:00 P.M. at City Hall
  - ▶ City of Livingston Easter Eggstravaganza - Saturday, April 13, 2019 at Pedigo Park

There being no further business to come before the City Council, it was moved by Alderman Cook and seconded by Alderman Davis that the meeting be adjourned at 6:08 P.M. All present voted aye.

**SIGNED:**

  
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**Judy B. Cochran, Mayor**

**ATTEST:**

  
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**Ellie Monteaux, TRMC, CMC**  
**City Secretary/Assistant City Manager**

**CAUSE NO. CE-2018012**

**AN ORDER OF THE CITY COUNCIL OF THE CITY OF LIVINGSTON,  
TEXAS WITH REGARD TO THE ABATEMENT OF THE UNSAFE AND  
DILAPIDATED STRUCTURES LOCATED AT 121 LEE STREET,  
LIVINGSTON, TEXAS AND THE ABATEMENT OF PUBLIC NUISANCES  
ON SUCH PROPERTY**

**FINAL ORDER OF ABATEMENT**

**WHEREAS**, on the 12<sup>th</sup> day of March, 2019, at 5:00 P.M., the City Council of the City of Livingston convened and opened a Public Hearing to hear testimony concerning the consideration of a 16 ft. by 70 ft. Ranger Homes Lakemont manufactured home, bearing serial no. 50502247, and label no. LOU0037067 as well as an associated garage, shed or outbuilding, as public nuisances and as dilapidated and unsafe buildings, pursuant to Sections 10-209 and 10-210 of the Code of Ordinances of the City of Livingston, Texas, and Chapter 214 of the Texas Local Government Code; and

**WHEREAS**, the manufactured home and associated garage, shed or outbuilding made the subject of the Public Hearing is located on certain real Property within the City of Livingston as described as:

Lot Five (5), in West Block of the J. S. Snell Subdivision to the City of Livingston, Polk County, Texas, and commonly known as 121 Lee Street, Livingston, Texas; and

**WHEREAS**, all requirements of law, and of the Code of Ordinances of the City of Livingston concerning notices to all interested parties were complied with and all proper interested parties were notified of the time and date of the Public Hearing; and

**WHEREAS**, although notified of the hearing, neither the lienholder on the Property, manufactured home and associated garage, shed or outbuilding, nor the Owners of the Property and the manufactured home and associated garage, shed or outbuilding appeared at the Public Hearing; and

**WHEREAS**, the City Council proceeded to hear evidence and testimony in this cause by Code Enforcement Officer Josh Mohler, and the City Council takes notice of and incorporates all evidence presented to the City Council, including the issuance of notices, for its consideration of this matter and incorporates the same into this Order for all purposes; and

**WHEREAS**, based upon the evidence presented, the City Council finds:

1. the owners of the real Property are Wanda Walker, David Walker and Jimmy Dewayne Walker;

2. the owners of the manufactured home and associated garage, shed or outbuilding are Wanda Walker, David Walker and Jimmy Dwayne Walker;
3. the lienholder on the Property, manufactured home and associated garage, shed or outbuilding is The First State Bank of Livingston, Texas;
4. the Ordinance violations relate to the public health and safety;
5. the manufactured home and associated garage, shed or outbuilding are unoccupied and are not secured against unauthorized entry;
6. the manufactured home and associated garage, shed or outbuilding contain nuisance violations that constitute hazards to the health, safety and welfare of the public and are likely to endanger persons and property;
7. conditions on the real Property consist of the accumulation of weeds and grass in excess of 12 inches in height, and brush, refuse, rubbish and abandoned personal property;
7. the real Property, manufactured home and associated garage, shed or outbuilding made the subject of this action are located within the territorial limits of the City of Livingston, Polk County, Texas and were properly identified; and

**WHEREAS**, based upon the evidence presented, the City Council finds that the manufactured home and associated garage, shed or outbuilding on the Property are unsafe, dilapidated, substandard, unfit for human habitation, constitute hazards to the health, safety and welfare of the public and are likely to endanger persons and property; and

**WHEREAS**, based upon the evidence presented, the City Council finds that the accumulation of weeds and grass in excess of 12 inches in height, and brush, refuse, rubbish and abandoned personal property on the real Property are public nuisances in violation of City ordinances;

It is **THEREFORE ORDERED** that, within thirty (30) days from the date of this Order, the Owners, at Owners' cost, shall cause the manufactured home and associated garage, shed or outbuilding on the Property to be demolished and all debris from such demolition removed within said thirty (30) days. All debris resulting from such demolition shall be taken to the Polk County Landfill located at 3477 FM 942 West, Leggett, Texas 77350 for proper disposal. The Owners shall present to the City Community Development Department receipts from the Landfill evidencing such proper disposal of the debris.

It is **FURTHER ORDERED** that if the demolition of the manufactured home and associated garage, shed or outbuilding does not occur by action of the Owners within said thirty (30) days, the City of Livingston shall cause the structures to be demolished and all demolition debris to



be removed, shall assess all costs of demolition to the Owners, and if not paid, shall record a lien against the Property to recover the cost of demolition. The costs shall bear interest at the rate of 10% per annum until paid.

It is **FURTHER ORDERED** that, within thirty (30) days from the date of this Order, the Owners, at Owners' cost, shall cause the removal of the accumulation of weeds and grass in excess of 12 inches in height, and brush, refuse, rubbish and abandoned personal property on the real Property within said thirty (30) days. All such materials resulting from such removal shall be taken to the Polk County Landfill located at 3477 FM 942 West, Leggett, Texas 77350 for proper disposal. The Owners shall present to the City Community Development Department receipts from the Landfill evidencing such proper disposal of the materials.

It is **FURTHER ORDERED** that if the accumulation of weeds and grass in excess of 12 inches in height, and brush, refuse, rubbish and abandoned personal property are not removed by the by action of the Owners within said thirty (30) days, the City of Livingston shall cause the accumulation of weeds and grass in excess of 12 inches in height, and brush, refuse, rubbish and abandoned personal property to be removed from the real Property and shall assess all costs of removal to the Owners, and if not paid, shall record a lien against the Property to recover the cost of removal. The costs shall bear interest at the rate of 10% per annum until paid.

ENTERED as the action of the City Council of the City of Livingston, Texas as of the 12<sup>th</sup> day of March, 2019.

  
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JUDY B. COCHRAN, Mayor

ATTEST:

  
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ELLIE MONTEAUX, City Secretary

