

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

MINUTES
REGULAR MEETING
AND PUBLIC HEARING
CITY COUNCIL
July 9, 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., July 9, 2019, with the following members present:

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

and the following others present:

Josh Mohler)	Fire Marshal/Code Enforcement Officer
Valerie Reddell)	Polk County Enterprise

Mayor Cochran called the meeting to order at 5:02 P.M. and called on Alderman Cook to open the meeting with prayer and the pledges.

Mayor Cochran advised Council that Agenda Item I. Presentation of Certificates of Recognition and Appreciation would be held at this time and possibly be addressed later in the meeting.

It was moved by Alderman Davis and seconded by Alderman Cook that the minutes of the regular meeting of June 11, 2019 be approved. All present voted aye.

Mayor Cochran opened a Public Hearing 5:04 P.M. on the possible determination of multiple structures located on a called 0.457 of an acre of land, situated in the J.M. Dikes Survey, A-27 in the City of Livingston, also known as 114 Ponderosa Lane, Livingston, Texas, titled to Shila F. Battise, now deceased, and inherited by Debra L. (Battise) Kleinman, as an unsafe and/or dilapidated building.

Fire Marshal/Code Enforcement Officer Josh Mohler was sworn as a witness. Debra L. (Battise) Kleinman was not present at the hearing.

Josh Mohler presented his report to Council concerning the possible determination of multiple structures located on a called 0.457 of an acre of land, situated in the J.M. Dikes Survey, A-27 in the City of Livingston, also known as 114 Ponderosa Lane, Livingston, Texas, titled to Shila F. Battise, now deceased, and inherited by Debra L. (Battise) Kleinman, as an unsafe and/or dilapidated building. The multiple structures located on the above property are unsafe buildings 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 structures located on the property are 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, and mailed by certified mail to the owner of the property. 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 advised Council that Ms. Kleinman is scheduled to meet with him tomorrow concerning her consent for demolition of the structures.

Mr. Mohler recommended 1) that the property owner be given thirty days for the complete demolition of the multiple structures 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 5:21 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 Davis that the following Final Order be issued:

- 1) That the Council find that the multiple structures situated on the property described as a called 0.457 of an acre of land, situated in the J. M. Dikes Survey, A-27 in the City of Livingston, also known as 114 Ponderosa Lane, Livingston, Texas, and further described in a Correction Deed of Trust dated May 20, 1993, and recorded in Volume 896, Pages 305 et seq of the official records of Polk County, Texas, titled to Shila F. Battise, now deceased, and inherited by Debra L. (Battise) Kleinman, to be 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 structure.
- 2) It is ordered that Debra L. (Battise) Kleinman is to immediately secure the home to prevent unauthorized entry, and to demolish said structure 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 structure is not demolished and all debris removed within said 30 days, the City shall cause the structure 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 Debra L. (Battise) Kleinman is 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 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 Case No. CE-2018001 shall be attached with these minutes.

(Josh Mohler retired from the meeting.)

The City Manager presented Polk County's annual request for the City's pro-rata share of \$4,200.00 in funding for the Brazos Transit District service. It was moved by Alderman Davis and seconded by Alderman Cook that the payment of \$4,200.00, as the City of Livingston's pro-rata share of annual funding of the Brazos Transit District service, be approved. All present voted aye.

The City Manager presented an engagement letter from Harper and Pearson Company to perform the audit for the fiscal year ending September 30, 2019. It was moved by Alderman Evans and seconded by Alderman Cook that Mayor Cochran be authorized to execute the engagement letter with Harper and Pearson Company for the audit for the fiscal year ending September 30, 2019 for an expected total fee of between \$26,000 and \$28,000. All present voted aye.

The City Attorney presented a proposed resolution authorizing the execution of an Abatement Agreement with Settlement, LLC regarding multiple substandard structures at 113 Branch Drive to delay the ordered demolition for six months to allow Mr. Carnes time to effect repairs to the structures. The City Attorney advised Council an Abatement Agreement was prepared and sent to Mr. Carnes, which he signed and returned for approval. The City Attorney and Fire Marshal Josh Mohler recommend that Council accept the proposal. It was moved by Alderman Davis and seconded by Alderman Cook that the resolution authorizing execution of an Abatement Agreement regarding 113 Branch Drive, with the correction of the numbering of Section 3 to read Section 2, be approved and adopted and that the Mayor be authorized to execute the Abatement Agreement on behalf of the City. All present voted aye. The resolution, as approved, is captioned as follows:

"RESOLUTION NO. 572

A RESOLUTION AUTHORIZING EXECUTION OF AN ABATEMENT AGREEMENT WITH SETTLEMENT, LLC FOR THE REPAIR AND REBUILDING OF STRUCTURES ON LOTS SEVEN (7), AND EIGHT (8), BLOCK NINE (9) OF THE PINECREST SUBDIVISION, LOCATED AT 113 BRANCH DRIVE IN THE CITY OF LIVINGSTON, POLK COUNTY, TEXAS."

The City Manager requested to return to Agenda Item I. Presentation of Certificates of Recognition and Appreciation - Serve Together Polk County 2019. He advised Council that he would like to opportunity to send personal invitations to each of the fourteen churches who were involved in the community service event for a representative of the church to attend the August City Council meeting. It was moved by Alderman Evans and seconded by Alderman Davis that Agenda Item I. Presentation of Certificates of Recognition and Appreciation - Serve Together Polk County 2019 be tabled as of this time for consideration at the August 13, 2019 City Council Meeting. All present voted aye.

The City Manager presented Pay Estimate No. 2 in amount of \$7,832.50 of David J. Waxman, Inc. for TxCDBG Contract No. 7218290 Sewer Improvements SCADA Project for approval. Based on the recommendation of the City Manager, it was moved by Alderman Cook and seconded by Alderman Luna that Pay Estimate No. 2 in amount of \$7,832.50 of David J. Waxman, Inc. for TxCDBG Contract No. 7218290 Sewer Improvements SCADA Project for engineering services provided by The C.T. Brannon Corporation be approved, payable upon receipt of grant funds from the Texas Department of Agriculture. All present voted aye.

It was moved by Alderman Luna and seconded by Alderman Davis that the accounts over \$500.00, as submitted, be approved for payment. The motion prevailed by the following vote: AYES - Alderman Evans, Alderman Davis, and Alderman Luna. NOES - None. ABSTAIN - Alderman Cook.

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 - Saturday, September 14 and Sunday, September 15 at Pedigo Park

- ▶ Farmers Market at Anniversary Park - Each Saturday from 7:00 AM to 10:00 AM
- ▶ Polk County Youth Rodeo - July 17-20, 2019

(Valerie Reddell retired from the meeting.)

Mayor Cochran called the Council into executive session at 5:54 P.M., pursuant to Texas Government Code Section 551.071 (Legal - Consultation with Attorney).

Council reconvened in open session at 6:21 P.M.

There being no further business to come before the City Council, it was moved by Alderman Cook and seconded by Alderman Luna that the meeting be adjourned at 6:21 P.M. All present voted aye.

SIGNED:



Judy B. Cochran, Mayor

ATTEST:



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