

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

**MINUTES**  
**REGULAR MEETING**  
**& PUBLIC HEARING**  
**CITY COUNCIL**  
**March 9, 2021**  
**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 9, 2021, 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/Assistant City Manager
James Wright	)	City Attorney

and the following others present:

Jeff Hunter	)	Community Development Coordinator
Josh Mohler	)	Fire Marshal/Code Enforcement Officer
Jay Carrell, Jr.	)	Self

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

It was moved by Alderman Evans and seconded by Alderman Cook that the minutes of the regular meeting of February 9, 2021 be approved. All present voted aye.

Mayor Cochran opened a Public Hearing at 5:02 P.M. regarding the possible determination as an unsafe and/or dilapidated building, a structure located at 924 W. Church St., Livingston, Texas, being situated on an approximate 0.322 acre tract of land, in the M. L. Choate Survey, A-15, and described as First Tract and Second Tract in a deed recorded in Volume 398, Page 160 of the Deed Records of Polk County, Texas, owned by Jimmy G. Defee and Erma Defee.

(James Carrell, Jr. entered the meeting.)

Fire Marshal/Code Enforcement Officer Josh Mohler was sworn as a witness. Jimmy G. Defee and Erma Defee were not present at the hearing.

Josh Mohler presented his report to Council concerning the possible determination as an unsafe and/or dilapidated building, a structure located at 924 W. Church St., Livingston, Texas, being situated on an approximate 0.322 acre tract of land, in the M. L. Choate Survey, A-15, and described as First Tract and Second Tract in a deed recorded in Volume 398, Page 160 of the Deed Records of Polk County, Texas, owned by Jimmy G. Defee and Erma Defee. The structure located on the above property is an unsafe building under the City's Unsafe Building Code, and is in violation of Section 10-246 and Section 10-271 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. Mr. Mohler confirmed that notices had been published in the Polk County Enterprise, posted on the property, and mailed by certified mail to the owners of the property. Mr. Mohler provided Council with the most recent pictures of the property and advised that the property continues to be unsafe, unsanitary and a public nuisance.

Mr. Mohler recommended that the property owner be given thirty days for the complete demolition of the structure and removal of the debris from the property.

There being no further comments to be received in the public hearing, Mayor Cochran declared the public hearing closed at 5:13 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 Luna that the following Final Order be issued:

- 1) That the structure located at 924 W. Church St., Livingston, Texas, being situated on an approximate 0.322 acre tract of land, in the M. L. Choate Survey, A-15, and described as First Tract and Second Tract in a deed recorded in Volume 398, Page 160 of the Deed Records of Polk County, Texas, owned by Jimmy G. Defee and Erma Defee, is 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 are in violation of City ordinances, and that it is not feasible to make repairs to the building.
  
- 2) That the Council order Jimmy G. Defee and wife, Erma Defee to immediately secure the building on the property to prevent unauthorized entry, and to demolish the building, and to remove all demolition debris within 30 days. All such 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 30 days. If the building is not demolished and all debris removed within 30 days, the City shall cause the building to be demolished, all debris removed, and the City shall place a lien on the property to recover the City's costs.

All present voted aye. The Order of Abatement related to Case No. 2017-012 shall be attached with these minutes.

The City Manager advised Council that the City of Livingston has received a letter from Polk County Judge Sydney Murphy, Chairman of the Alliance for I-69 Texas, regarding the City's participation in the Alliance for I-69 and an invoice for membership dues in the amount of \$1,150.00. Discussion ensued relative to the payment of dues in the amount of \$1,150.00, the status of segment committees that met previously regarding the proposed route, and a request for an update to be presented to Council at a future meeting. It was moved by Alderman Davis and seconded by Alderman Cook that the payment of annual dues in the amount of \$1,150.00 be approved. All present voted aye.

The City Manager presented a preliminary plat and a request for variances for approval on Phase 2 of the Towne South Duplex Subdivision, a subdivision of 3.26 acres in the Joseph Morgan Survey, A-56, Polk County, Texas, owned by C&M Baskin Investments LLC. Discussion ensued relative to variances requested, contingency upon Texas Department of Transportation permits, green space

included in the project, and size of the cul-de-sac. The City Manager recommended approval of the preliminary plat and the request for variances subject to the following: 1) the developer obtaining from the Texas Department of Transportation a permit for the driveway access from Pan American Drive into the development; 2) submission of proposed utility plans (water, sanitary sewer and electrical systems) and final approval of such system plans by the Community Development Department, Electrical Department and Public Works Department; 3) submission of final 'As Built' utility system plans after construction is complete; 4) designation of Lizzy Lane for no parking on the street right-of-way and that 'No Parking' signs be installed by the developer; and 5) submission of the Final Plat for City Council approval after development is complete. Discussion ensued relative to the lot size and grounds maintenance in the development by the owner and not by the tenants. Based on the recommendation of the Community Development Coordinator and City Manager, it was moved by Alderman Davis and seconded by Alderman Cook that the preliminary plat and request for variances, as presented, be approved. All present voted aye.

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 1, 2021. It was moved by Alderman Cook and seconded by Alderman Evans that the ordinance declaring the General Election of May 1, 2021 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-826**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LIVINGSTON, TEXAS, CANCELLING THE MAY 1, 2021 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 1, 2021. 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-826.

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

Mayor Cochran called a Public Hearing for April 13, 2021 at 5:00 P.M. regarding the possible determination as an unsafe and/or dilapidated building, the structure located at 1009 W. Church St., Livingston, Texas, being situated on an approximate 0.231 acre tract of land, in the M. L. Choate Survey, A-15, and described in a deed recorded in Volume 812, Page 787 of the Official Public Records of Polk County, Texas, owned by James Jay Carrell, Jr.; and the cleanup and removal of weeds, rubbish, garbage and abandoned personal property at the property and address described above. Fire Marshal/Code Enforcement Officer Josh Mohler advised Council that the owner of the property had contacted the Community Development Department for a list of demo contractors and that the owner stated he hoped to have the structure demolished prior to Council taking action.

Mayor Cochran called a Public Hearing for April 13, 2021 at 5:00 P.M. regarding the possible determination as an unsafe and/or dilapidated building, the 14 ft. by 56 ft. Patriot Homes "Crest Ridge" manufactured home, Label No. NTA0374785, Serial No. 7863, owned by Gregory C. Thompson, located at 1002 Colita Ave., Livingston, Texas, situated on real property described as a part of Lot 7 and all of Lot 9, Block 3, of the Viola Jones Subdivision, owned by Marie R. Bennett.

The City Manager reported on the following items:

A) Upcoming Events

- ▶ Livingston Trade Days - Saturday March 13<sup>th</sup> and Sunday March 14<sup>th</sup>
- ▶ Annual Spring Outdoor Expo - Saturday March 13<sup>th</sup> at Trade Days
- ▶ 75<sup>th</sup> Annual Trinity-Neches Livestock Show - March 22-26, 2021 at the Barney Wiggins Memorial Arena and Fairgrounds
- ▶ Easter Eggstravaganza - Saturday, March 27, 2021 at Pedigo Park

B) Sales Tax - The City Manager reported that the March sales tax will be available Friday, March 12, 2021.

C) Update on Projects and Development - The City Manager provided the Council with an update of current projects and development.

D) City's Response to Arctic/Freezing Weather - The City Manager advised Council that the City staff is to be commended for their response to the arctic/freezing weather that took place recently, working around the clock to provide services to our citizens.

Upon inquiry of Alderman Luna as to the status of the dilapidated building case regarding the house located at 1958 S. Washington, Fire Marshal/Code Enforcement Officer Josh Mohler advised Council that he spoke with Mr. Perez on March 8, 2021 regarding the status of the case and the deadline of March 11, 2021. Mr. Mohler further advised that plans have not been received by the Community Development Department as of today.

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 5:52 P.M. All present voted aye.

**SIGNED:**

  
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**Judy B. Cochran, Mayor**

**ATTEST:**

  
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**Ellie Monteaux, TRMC, MMC, CPM**  
**City Secretary/Assistant City Manager**

CAUSE NO. CE-2017-012

**AN ORDER OF THE CITY COUNCIL OF THE CITY OF LIVINGSTON, TEXAS ORDERING THE ABATEMENT OF THE UNSAFE AND DILAPIDATED STRUCTURE LOCATED ON A CALLED 0.322 ACRE TRACT OF LAND IN THE M. L. CHOATE SURVEY, A-15 IN THE CITY OF LIVINGSTON, POLK COUNTY, TEXAS, LOCATED AT 924 W. CHURCH ST., LIVINGSTON, TEXAS**

**FINAL ORDER OF ABATEMENT**

**WHEREAS**, on the 9<sup>th</sup> day of March, 2021, at 5:00 P.M., the City Council of the City of Livingston, Texas convened and opened a Public Hearing to hear testimony concerning the consideration of a building as a public nuisance and as a dilapidated and unsafe building, pursuant to Section 10-246 and Sections 10-271 *et seq.* of the Code of Ordinances of the City of Livingston, Texas, and Chapter 214 of the Texas Local Government Code; and

**WHEREAS**, the building made the subject of the Public Hearing is located on certain real Property within the City of Livingston as described as:

an approximate 0.322 acre tract of land, in the M. L. Choate Survey, A-15, and described as First Tract and Second Tract in a deed recorded in Volume 398, Page 160 of the Deed Records of Polk County, Texas, owned by Jimmy G. Defee and Erma Defee, and commonly known as 924 W. Church St., 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**, public notices of the Public Hearing were posted on the building on the Property, and were published twice in the City's official newspaper, the *Polk County Enterprise*, on February 18, 2021 and February 25, 2021; and

**WHEREAS**, although notified of the Public Hearing, the Owners of the Property, Jimmy G. Defee and wife, Erma Defee did not appear 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 JIMMY G. DEFEE and wife, ERMA DEFEE;

2. the Ordinance violations relate to the public health and safety;
3. the building on the Property is unoccupied and is not secured against unauthorized entry;
4. the building on the Property contains nuisance violations that constitute hazards to the health, safety and welfare of the public, are likely to endanger persons and property, and are public nuisances in violation of City Ordinances;
5. the Property and building on the Property made the subject of this action are located within the territorial limits of the City of Livingston, Polk County, Texas and were properly identified.

**WHEREAS**, based upon the evidence presented, the City Council finds that the building on the Property is unsafe, dilapidated, substandard, unfit for human habitation, constitute a hazard to the health, safety and welfare of the public and are likely to endanger persons and property.

It is **THEREFORE ORDERED** that, within thirty (30) days from the date of this Order, the Owners, at Owners' cost, shall cause the building 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 building on the Property does not occur by action of the Owners within said thirty (30) days, the City of Livingston shall cause the building 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.

ENTERED as the action of the City Council of the City of Livingston, Texas as of the 9<sup>th</sup> day of March, 2021.

  
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JUDY B. COCHRAN, Mayor

ATTEST:

  
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ELLIE MONTEAUX, City Secretary

