

MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF JERSEY VILLAGE, TEXAS, HELD ON DECEMBER 21, 2009 AT 7:00 P.M. IN THE CIVIC CENTER, 16327 LAKEVIEW, JERSEY VILLAGE, TEXAS.

**A. CALL TO ORDER AND ANNOUNCE A QUORUM IS PRESENT**

The meeting was called to order by Mayor Hamley at 7:00 p.m. with the following present:

Mayor, Russell Hamley	City Manager, Mike Castro
Council Member, Joyce Berube	City Secretary, Lorri Coody
Council Member, Rod Erskine	City Attorney, Martha Williams
Council Member, Curtis Haverty	
Council Member, Ernie English	
Council Member, Jill Klein	

Staff in attendance: Mark Bitz, Fire Chief; Charles Wedemeyer, Chief of Police; Danny Segundo, Director of Public Works; Isabel Kato, Director of Finance; and Michael Brown, Director of Parks.

**B. INVOCATION AND PLEDGE OF ALLEGIANCE – Curtis Haverty, Council Member**

**C. CITIZENS COMMENTS**

Citizens who have signed a card and wish to speak to the City Council will be heard at this time. In compliance with the Texas Open Meetings Act, unless the subject matter of the presentation is on the agenda, the City staff and City Council Members are prevented from discussing the subject and may respond only with statements of factual information or existing policy. Citizens are limited to five (5) minutes for their presentation to the City Council.

**Mark Maloy, 7803 Hamilton Circle, Jersey Village, Texas (713) 937-0408** – Mr. Maloy thanked the City Manager for writing the letter to the Harris County Toll Road Authority and TXDOT concerning noise abatement.

**D. CITY MANAGER’S REPORT**

In addition to the items listed in the report below, City Manager, Mike Castro, told Council about the recent letter he had received from the United State Post Master concerning a response to Council’s request for a zip code to be issued to the City of Jersey Village. Basically, the letter informed the City that the Post Master would not be issuing a unique zip code for Jersey Village. City Manager Castro also addressed the Noise Abatement Letters that were sent to the Harris County Toll Road Authority (HCTRA) and to TXDOT, He explained that both entities were willing to meet with the City to discuss the matter. He told Council that a meeting was already set with the HCTRA for January 6, 2010 at 2:00 p.m.

1. Monthly Fund Balance Report, Red Light Camera Fund Report, Enterprise Funds Report, and Governmental Funds Report.
2. Departmental Request Report and Open Records Request and Solicitor’s Permit Requests
3. Fire & Emergency Services Departmental Report

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4. Police Activity Report, Crime Prevention Unit, Warrant Report, Investigations/Calls for Service Report, Red Light Camera Summary Report and Staffing/Recruitment Report.
5. Municipal Court Collection Report, Municipal Court Activity Report, Municipal Court Courtroom Activity Report, Report Graphs, and Revenue Comparison Report.
6. Public Works Departmental Report, and Construction Update Summary
7. Combined Monthly and Annual Mileage Report
8. Golf Course Monthly Report; Golf Course Financial Statement Report, and the Parks and Recreation Departmental Report
9. Report from Code Enforcement
10. Capital Improvements Projects Report
11. White Oak Bayou Capital Improvements Projects Report
12. Noise Abatement Letters to TXDOT and HCTRA
13. Letter Response dated 12-10-09 from US Postal Service on Unique Zip Code Request

**E. CONSENT AGENDA**

The following items are considered routine in nature by the City Council and will be enacted with one motion and vote. There will not be separate discussion on these items unless requested by a Council Member, in which event the item will be removed from the Consent Agenda and considered by separate action.

1. **Consider approval of the Minutes for the Regular Session Meeting held on November 16, 2009 and the Special Session Meeting held on November 19, 2009.**
2. **Consider Resolution No. 2009-82, appointing Gene W. Frohbieter as the presiding Municipal Court Judge; and Don R. Byrnes and Martin Halick as Municipal Court Judges for the City of Jersey Village for the term beginning January 1, 2010 and ending December 31, 2011.**

RESOLUTION NO. 2009-82

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF JERSEY VILLAGE, TEXAS, APPOINTING GENE W. FROHBIETER AS THE PRESIDING MUNICIPAL COURT JUDGE ; DON R. BYRNES AND MARTIN HALICK AS MUNICIPAL COURT JUDGES OF THE CITY OF JERSEY VILLAGE.

4. **Consider Resolution No. 2009-84, appointing Deborah Anne Haun as Municipal Court Clerk of the City of Jersey Village for the term beginning January 1, 2010 and ending December 31, 2011.**

RESOLUTION NO. 2009-84

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF JERSEY VILLAGE, TEXAS, APPOINTING DEBORAH ANNE HAUN AS MUNICIPAL COURT CLERK OF THE CITY OF JERSEY VILLAGE.

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- 5. Consider Resolution No. 2009-85, authorizing a New Public Road at Grade Crossing Agreement with Union Pacific Rail Road covering the construction, maintenance, and use of the new Jones Road at grade crossing for the Jones Road Extension Project.**

RESOLUTION NO. 2009-85

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF JERSEY VILLAGE, TEXAS, AUTHORIZING A NEW PUBLIC ROAD AT GRADE CROSSING AGREEMENT WITH UNION PACIFIC RAIL ROAD COVERING THE CONSTRUCTION, MAINTENANCE, AND USE OF THE NEW JONES ROAD AT GRADE CROSSING FOR THE JONES ROAD EXTENSION PROJECT.

- 6. Consider Ordinance No. 2009-58, amending the budget of such city for the fiscal year beginning October 1, 2009 and ending September 30, 2010 for additional equipment that will be reimbursed with the HGAC Criminal Justice Program Grant.**

ORDINANCE NO. 2009-58

AN ORDINANCE OF THE CITY OF JERSEY VILLAGE, TEXAS, AMENDING THE BUDGET OF SUCH CITY FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2009, AND ENDING SEPTEMBER 30, 2010; AND PROVIDING FOR SEVERABILITY.

- 7. Consider Ordinance No. 2009-59, amending the budget of such city, for the fiscal year beginning October 1, 2009 and ending September 30, 2010, to cover increases in the Texas Commission on Environmental Quality (TCEQ) Public Health Service Fee.**

ORDINANCE NO. 2009-59

AN ORDINANCE OF THE CITY OF JERSEY VILLAGE, TEXAS, AMENDING THE BUDGET OF SUCH CITY FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2009, AND ENDING SEPTEMBER 30, 2010; AND PROVIDING FOR SEVERABILITY.

- 9. Consider Resolution No. 2009-87, authorizing the City Manager to enter into a contract with Harris County, Texas, allowing the City Of Jersey Village Fire Department to train in homes under the control of said county before they are scheduled for FEMA demolition.**

RESOLUTION NO. 2009-87

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF JERSEY VILLAGE, TEXAS, AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH HARRIS COUNTY, TEXAS, ALLOWING THE CITY OF JERSEY VILLAGE

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FIRE DEPARTMENT TO TRAIN IN HOMES UNDER THE CONTROL OF SAID COUNTY BEFORE THEY ARE SCHEDULED FOR FEMA DEMOLITION.

10. **Consider Ordinance No. 2009-60, amending the budget of such city, for the fiscal year beginning October 1, 2009 and ending September 30, 2010, to purchase a computer, printer, and necessary hardware in order to equip the Police Department's second motorcycle unit with the new traffic citation system.**

ORDINANCE NO. 2009-60

AN ORDINANCE OF THE CITY OF JERSEY VILLAGE, TEXAS, AMENDING THE BUDGET OF SUCH CITY FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2009, AND ENDING SEPTEMBER 30, 2010; AND PROVIDING FOR SEVERABILITY.

Items three and eight were removed from the consent agenda for further discussion and considering same, Council Member Berube moved to approve items 1, 2, 4, 5, 6, 7, 9, and 10 on the consent agenda. Council Member English seconded the motion. The vote follows:

Ayes: Council Members Berube, Erskine, Haverty, English, and Klein

Nays: None

The motion carried.

Mayor Hamley called the following item:

3. **Consider Resolution No. 2009-83, setting compensation for Gene W. Frohbieter, as presiding Municipal Court Judge, and setting compensation for Don R. Byrnes and Martin Halick as Municipal Court Judges.**

Finance Director, Isabel Kato explained the item. She told Council that on January 28, 2009, she conducted a meeting with the Judges, the Prosecutors, and the Court Administrator in which a survey of surrounding area Municipal Courts was presented. The survey, which is attached to this request, looked at Municipal Court case load and the payment method used for compensating Judges and Prosecutors. The purpose of the survey was to determine how Cities of comparable size pay their Judges and Prosecutors and to recommend a solution for the City of Jersey Village's Municipal Court in order that it operates more efficiently.

As a result of the findings of this survey, in October 2009 with the opening of the 2009-2010 budget year, the Prosecutors compensation for the Municipal Court was adjusted from \$100.00 per hour to \$250.00 per docket. Compensation for the Judges was not adjusted in October because adjustment of same was held for consideration after the appointment for new terms of office which was accomplished in the prior agenda item.

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Finance Director Kato told Council that this item is to recommend that Council consider adjusting the compensation of the City of Jersey Village Municipal Court Judges from \$125.00 per hour to \$350.00 per docket and from \$125.00 per hour for jail visits to \$125.00 per jail visit effective January 1, 2010.

Municipal Court Judge, Gene W. Frohbieter was present. He addressed Council stating his position on the item. He told council about the case load in his court and the number of dockets he handles. He explained his position concerning case load and dispositions and mentioned to Council that there are many defendants in the Jersey Village Municipal Courts that do not show up for Court.

City Manager, Mike Castro explained that Jersey Village is one of the few Cities that pays its Municipal Court Judges on an hourly basis. He gave background information to Council concerning budget information pertaining to budget cuts for the past 18 months and stated that even with these projected adjustments, the Judges' compensation for Jersey Village Municipal Court will remain comparable to other Cities.

Council engaged in discussion about the Jersey Village Municipal Court dockets and how the Court operates. They discussed how the operations equate to hours and how other cities may break their dockets into more than one while our court only has one docket. Discussion continued about the number of dockets versus the number of hours. No action was taken on this item.

Mayor Hamley called the next item that was pulled from the consent agenda as follows:

- 8. Consider Resolution No. 2009-86, of authorizing the City Manager to enter into a contract with KBR to make repairs to the city swimming pool and to replace and upgrade the marking according to new standards.**

Parks and Recreation Director, Michael Brown introduced the item. He told Council that this item is to cover repairs to the City's Swimming Pool. During the 2009-2010 Budget Work Sessions, a \$70,000 Supplemental was presented because the plaster at the City Pool is over 8 years old and in disrepair. Additionally, because of new standards, all of the pool markings need to be updated and replaced as well as the pool furniture.

Council approved the supplemental for FY 2009-2010 in the amount of \$70,000. Staff has received a proposal from KBR, a vendor that is currently listed as a State of Texas Authorized Vendor to perform such services. Accordingly, Staff requests that Council authorize the City Manager to engage KBR to perform the swimming pool repair work.

Council engaged in discussion about why the work is being purchased off the State contracts as opposed to the proposal process. Director Brown explained and Council Member English moved to approve Resolution No. 2009-06, authorizing the City Manager to enter into a contract with KBR to make repairs to the city swimming pool and to replace and upgrade the marking according to new standards. Council Member Berube seconded the motion. The vote follows:

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Ayes: Council Members Berube, Erskine, Haverty, English, and Klein

Nays: None

The motion carried.

RESOLUTION NO. 2009-86

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF JERSEY VILLAGE, TEXAS, AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH KBR TO MAKE REPAIRS TO THE CITY SWIMMING POOL AND TO REPLACE AND UPGRADE THE MARKING ACCORDING TO NEW STANDARDS.

**F. CLOSE THE REGULAR SESSION**

Close the Regular Session to Convene into Executive Session pursuant to the Texas Open Meetings Act, Government Code Section 551.071 (2) for Consultation with our Attorney.

Mayor Hamley closed the Regular Session of the City of Jersey Village Council Meeting to Convene into Executive Session with the following statement at 7:47 p.m.:

As provided under Section 551.071 (2) of the Texas Open Meetings Act, City Council is now going to retire to a Closed Session in order to receive legal advice from the City Attorney.

We will return to Open Session and continue with the remainder of tonight's agenda after the City Attorney has provided the legal advice.

**G. EXECUTIVE SESSION**

- 1. Consult with Attorney pursuant to the Texas Open Meetings Act Section 551.071 (2).**

**H. ADJOURN EXECUTIVE SESSION**

**I. CONVENE REGULAR SESSION**

Council returned to Open Session at 8:10 p.m. and continued with the remainder of the Regular Session agenda after the City Attorney provided the legal advice. No official Action was taken by the Council during Executive Session.

**J. REGULAR AGENDA**

- 1. Receive Construction Update for the North Tahoe Construction Project and the Jones Road Extension Project.**

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Erik Tschanz, Project Manager, gave the project update concerning the North Tahoe Construction Project and the Jones Road Extension Project. Council engaged in limited discussion on this item.

**2. Consider Ordinance No. 2009-61, amending Section 58-2 of the Code of Ordinances of the City of Jersey Village, Texas, to provide for placing of non-commercial signs.**

Council Member Berube, who asked for this item to be placed on the agenda for consideration, asked that the item be withdrawn from consideration. Therefore, no action was taken.

**3. Consider Ordinance No. 2009-62, re-imposing the city's one and one half percent (1.5%) sales and use tax on the residential use of gas and electricity.**

Finance Director, Isabel Kato presented the item, explaining to Council that the 81<sup>st</sup> Legislature passed SB 575, permitting Crime Control and Prevention Districts to impose sales tax throughout special purpose districts on residential use of gas and electricity, which brings about the topic of this item.

She also explained that legislation enacted in 1978, (House Bill 1, 65th Legislature, Second Called Session) exempted residential use of natural gas and electricity from sales and use taxes. However, the legislation also included a grandfather clause that authorized any city that imposed sales tax prior to October 1, 1979 to either retain the tax by ordinance on or before May 1, 1979; or if the city properly exempted residents from the tax, it could re-impose the tax at any time after May 1, 1979. The City of Jersey Village by Ordinance No. 1978-15 properly exempted residents from the sales tax for the use of natural gas and electricity effective October 1, 1978.

With the passage of SB 575, Council should consider re-imposing the local sales tax which may be done by a majority vote. If adopted, the re-imposition would take effect beginning on the first day of the calendar quarter next succeeding the elapsed quarter. The exemption or re-imposition of the local tax does not apply to sales of natural gas and electricity for residential use made during a customer's regular monthly billing period which begins before the effective date of the exemption or re-imposition. The exemption or re-imposition shall apply to each regular monthly billing period beginning on or after the effective date of the exemption or re-imposition.

In checking the records, 768 cities across the State impose this tax, and 152 cities, although eligible, have not re-imposed the tax after some 30 years. The local tax applies to sales of natural gas and electricity for use in a city that has adopted the local tax and must be collected for the city in which delivery is made to the consumer.

If adopted, Ms. Kato explained the projected revenue that this tax would generate for the City.

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Council engaged in discussion concerning the amounts of income that would be generated by the tax. City Manager Castro explained why the tax is needed stating:

1. The sales tax differential of \$50,000 less this December than one year ago;
2. The decrease in property tax evaluations, which means lower taxes equating to lower tax revenues for the City;
3. City budgets have already been cut.

The City Manager stated that the re-imposition of this tax will help off-set the loss in city revenues from other areas and it is a source of revenue that the City gave up over 30 years ago.

Discussion continued about this increase as well as the increase in water rates. It was the consensus of Council that a letter should be sent to residents explaining the tax increase and then Council should vote on whether or not to re-impose the tax. Council also believed that more data was needed pertaining to sales tax revenues to see if the recent decline in revenue is an anomaly or if it is a trend.

After discussion, Council Member Haverty moved to postpone approval of Ordinance No. 2009-62, for re-imposing the city's one and one half percent (1.5%) sales and use tax on the residential use of gas and electricity until next month in anticipation of more data on tax receipts and in order that a letter be composed to the citizens on what we are doing. Council Member Berube seconded the motion.

Discussion on the motion followed. It was the consensus of Council that a review of the letter was necessary before it is sent out.

The vote on the motion follows:

Ayes: Council Members Berube, Erskine, Haverty, English, and Klein

Nays: None

The motion carried.

**K. ADJOURN**

There being no further business on the Agenda the meeting was adjourned at 8:29 p.m.

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Lorri Coody, City Secretary