

**REGULAR MEETING OF THE CANTON CITY COUNCIL
6:00 P.M., JANUARY 19, 2016**

Canton City Hall
290 E. Tyler, Canton, Texas 75103

MINUTES

The Canton City Council met at the above-named date and time in the City Municipal Courtroom. Members present were Mayor Lou Ann Everett and Councilmembers Shawn Stewart, Cindy Malouf, Nathan Moore, and Connie Odic. Councilmember Scott Perkins was absent. Also present were City Manager Lonny Cluck, City Secretary Debra Johnson, Finance Director Kimberly Kroha, Public Works Director Walt Lehmann, Building Inspector Dwight Lancaster, CEDC Executive Director Julie Seymore, and City Attorney Ron Stutes.

1. CALL TO ORDER - The meeting was called to order and a quorum was declared by Mayor Lou Ann Everett at 6:00 p.m.
2. INVOCATION was given by Randy Dodd.
3. PLEDGE OF ALLEGIANCE was led by Mayor Everett.
4. MAYOR'S WELCOME
5. DECLARATIONS REGARDING CONFLICTS OF INTEREST - None
6. PROCLAMATIONS AND ANNOUNCEMENTS - None

CITIZENS FORUM

7. CITIZENS FORUM – CITIZENS ARE INVITED TO SPEAK FOR THREE MINUTES ON MATTERS RELATING TO CITY GOVERNMENT THAT ARE NOT LISTED ON THE REGULAR AGENDA – Jim Fuller requested permission to fix the dent in the old fire truck. He also thanked the Canton Fire Department for their help when his wife had a recent medical emergency. Mr. Fuller announced they sold 1566 tickets for the Western Swing last fall and would hold another event in February.

Councilmember Odic entered the meeting at 6:05 p.m.

CONSENT AGENDA

8. CONSIDER APPROVAL OF MINUTES OF THE DECEMBER 8 AND 15, 2015 CITY COUNCIL MEETINGS
9. CONSIDER APPROVAL OF DECEMBER 2015 FINANCIAL STATEMENTS – Councilmember Stewart made a motion to approve items 8 and 9 of the Consent Agenda. Councilmember Malouf seconded.

Mayor Pro Tem - Shawn Stewart: Approve
Council Member - Scott Perkins: Absent
Council Member - Cindy Malouf: Approve
Council Member - Connie Odic: Approve
Council Member - Nathan Moore: Approve

INDIVIDUAL CONSIDERATION

10. APPEAL OF BUILDING OFFICIAL'S DECISION REGARDING THE DEMOLITION OF THE SUBSTANDARD BUILDING AT 901 W. COLLEGE, CANTON, TEXAS – Mr. Stutes explained he had developed the procedures for the appeal. Mr. Lancaster made an Order of Demolition. Under the City's ordinance, the other side had a right to appeal the decision. Council was free to make its own decision based on what was presented to them. Dwight Lancaster presented the photos he had taken of the property, indicating various drainage problems and other deficiencies in the building. Windows had been knocked out and window frames were torn loose. He said the building was not secured. The back entrance doors had been knocked out. There was water damage inside the building. Air conditioning units had been pulled out. There were obvious foundation problems. There was black mold inside the building in the hallways and bathrooms. Pursuant to the City's ordinance, this would qualify as an obsolete building because the cost of the repair would exceed 50% of the value assessed by the County Tax Assessor. Councilmember Moore pointed out an independent inspector had found the foundation and roof to be adequate in December. Councilmember Odic said it did not make sense for the inspection report to say there was no significant movement of the foundation when there were pictures showing bricks sliding out from the wall. Mr. Lancaster said his opinion was the brick problem was not just cosmetic, based on his experience. Raymond Shackelford, counsel for the former owners of the property and former lienholders, asked Mr. Lancaster if he had signed and dated the demolition order. Mr. Lancaster said he had not signed the Order. He did not know if the order had been published in the newspaper. Mr. Lancaster said he was not an appraiser or a structural engineer. He was licensed and experienced as a building inspector. He had not seen an inspection report or a structural engineer's report on the building. Mr. Shackelford said in 2013 the building had been assessed at a value of \$1.3 million. The Van Zandt Appraisal District currently showed a value of the building at \$75,000. Councilmember Malouf pointed out the value of the property at \$1.1 million was when the nursing home was an operating entity. Mr. Lancaster said at the first hearing he told the owner, the City would address the issue after the sale was completed. Mr. Shackelford said if the meeting notice was bad, the whole proceeding should be stopped and a reset button pushed. He did not believe proper notice was given and that the building should not be torn down. Mr. Shackelford said the building was up to Code in 2011. He did not know if there was a different code in place at that time or not. Mr. Lancaster agreed the Owner provided proof of the scope of the work in December. Mr. Lancaster said he sent an order related to the hearing to Mr. Chapman.

Fred Cartwright, member of the Dignity Group and owner of the property at 901 W. College said he provided the City with an inspection report and list of repairs and time schedule in December. Symtec Engineering was supposed to be present tonight with an engineering report. He had no issue with repairing the building. He had not requested a reduction in the value of the building. He thought the tax appraisal value was below value. He was unsure how or why the devaluation occurred. When he came to his first meeting with the City, he thought he was going to get a list of what they required as far

as repairs. He said the fire chief had said it was predetermined the building was going to be demolished. His intention was to bring the property up to standards and use it. Mr. Cartwright said it had been disclosed to him that the City was having issues with the property. He thought the purpose of the meeting was to reset the clock. Mr. Cartwright had done his own assessment of the property before the purchase. Mr. Cartwright said he had only asked the inspector for a report regarding the foundation and the roof. Councilmember Odic felt the inspection report was not thorough. It did not address the plumbing or electrical issues. Mr. Cartwright said he paid \$500 for a licensed inspection. He also had an engineering report done by Symtec Engineering. The engineer was supposed to bring that report to the meeting tonight. Mr. Cluck said the City made inspections based on the schools they attended on building inspections. The City had never been given proof that their assessment was incorrect. Mr. Shackelford said the Local Government Code required a brief description of the conditions in the notice to the owner.

Mayor Everett convened Council into Executive Session at 7:22:19 p.m. under 551.71 for consultation with the City's attorney. Council reconvened into Open Session at 7:41:38 p.m.

Councilmember Malouf made a motion to push this matter back into Dwight Lancaster's area, reset the clock, and start the process over. Councilmember Stewart seconded.

Mayor Pro Tem - Shawn Stewart: Approve
Council Member - Cindy Malouf: Approve
Council Member - Nathan Moore: Approve
Council Member - Connie Odic: Approve
Council Member - Scott Perkins: Absent

11. PUBLIC HEARING AND CONSIDER ADOPTION OF ORDINANCE NO. 2016-1 CHANGING THE FUTURE LAND USE PLAN AT 449 S. TRADE DAYS BLVD. FROM GENERAL BUSINESS DISTRICT (B-2) TO GATEWAY DISTRICT – Mayor Everett opened a public hearing at 7:40 p.m. There being no comments, the public hearing was closed at 7:43 p.m. Councilmember Stewart made a motion to adopt Ordinance No. 2016-1 changing the future land use plan at 449 S. Trade Days Blvd. from General Business District (B-2) to Gateway District. Councilmember Moore seconded.

Mayor Pro Tem - Shawn Stewart: Approve
Council Member - Cindy Malouf: Approve
Council Member - Nathan Moore: Approve
Council Member - Connie Odic: Approve
Council Member - Scott Perkins: Absent

12. PUBLIC HEARING AND CONSIDER ADOPTION OF ORDINANCE 2016-2 CHANGING ZONING AT 449 S. TRADE DAYS BLVD. CANTON, TEXAS, FROM GENERAL BUSINESS DISTRICT (B-2) TO GATEWAY DISTRICT – Mayor Everett opened a public hearing at 7:44 p.m. There being no comments, the public hearing was closed at 7:44 p.m. Councilmember Malouf made a motion to adopt Ordinance No. 2016-2 changing the zoning at 449 S. Trade Days Blvd. from General Business District (B-2) to Gateway District. Councilmember Stewart seconded.

Mayor Pro Tem - Shawn Stewart: Approve
Council Member - Cindy Malouf: Approve
Council Member - Nathan Moore: Approve
Council Member - Connie Odic: Approve
Council Member - Scott Perkins: Absent

13. CONSIDER APPOINTING A COMMITTEE TO RECOMMEND A SELECTION FOR CITIZEN OF THE YEAR AWARD – Mayor Everett appointed Councilmembers Odic and Perkins, Ann Moore and Debra Johnson to a committee to recommend selection for Citizen of the Year.
14. CONSIDER ALL ASPECTS OF FIRST MONDAY-RELATED BUSINESS INCLUDING, BUT NOT LIMITED TO, BUILDINGS, POLICIES, SOLICITATION ON THE GROUNDS AND FUTURE PLANS – Ms. Johnson explained they had combined all rules regarding First Monday into one policy manual. She requested Council review the draft.
15. CONSIDER DESIGN, CONSTRUCTION AND FINANCING OF PROJECTS INCLUDING, BUT NOT LIMITED TO, STREETS AND UTILITIES, IMPROVEMENTS TO FIRST MONDAY GROUNDS, CONSTRUCTION OF NEW CELL TOWER, RELOCATION OF ANTENNAS FROM HISTORIC WATER TOWER, REPAINTING OF HISTORIC WATER TOWER, AND NEW CITY HALL – Mr. Cluck reported the cell tower had been built for several months but they were still waiting on the antennas. Ms. Johnson said she had received word that day that the antennas should be here in about a week. Mr. Cluck said the new city hall was in the dry. Trade Center IV was also in the dry. He said they had not finished their assessment of the street repairs yet. The water leak on Old Kaufman road had been repaired. Some bolts had become corroded and water pressure caused a break. He felt the City acting as its own general contractor on the city hall and Trade Center IV projects was saving money for the city. Bids were received as they progressed on the job. All bids thus far were in line with the estimates.
16. DISCUSSION OF POTENTIAL PURCHASE OF REAL PROPERTY – The other party involved was not present at the meeting, so this item was passed.
17. CITY MANAGEMENT REPORTS
 - A. FIRST MONDAY – Mr. Cluck reported First Monday revenue was up \$1,500 from this time last year, but \$5,000 overall for the year. He attributed this to the large amount of rain last year.
 - B. CITY HALL RENOVATION – Mr. Cluck said there were still minor things to be corrected in the building, but the renovation was basically complete.
 - C. MILL CREEK TRAIL – Walt Lehmann said the woods were too wet for any work to be done. They had cleared the areas they could. He requested the contractor mobilize so they could start work at the first opportunity.
 - D. CHERRY CREEK TRAIL - Mr. Lehmann said the trail was progressing nicely. The plans had to be approved by the Texas Department of Parks and Wildlife. Mr. Cluck said Mr. Lehmann and Ray Brumley would oversee the design and construction of the trail.

- E. FINANCIAL – Kimberly Kroha reported she had not received all the tax payment information prior to the preparation of the last financial report, so some of the money was not included in this month's report. Sales tax revenue had increased 3% for the year. The cash balance was down in the debt service fund due to semi-annual payments made on certain obligations.
- F. ELECTION – Debra Johnson reported January 20, 2016, was the first day to submit applications for the 2016 election, which would be held May 7. The deadline for filing packets was February 19. The election would be for three councilmembers.
- G. BOARD OF ADJUSTMENT – Mr. Johnson said Bob Moore had resigned from the committee. There was an alternate in place already. Since both Mr. Moore and Mr. Yarbrough had terms which expired in May, she suggesting waiting before making the appointment to fill this position. Mayor Everett asked to have a notice placed in the paper about the open position.
- H. PLANS FOR HOTEL ON I-20 – Mr. Cluck said plans received on the hotel were incomplete. Mr. Lancaster informed them of the deficiencies, and they had sent more plans which were still not sufficient. Mr. Lancaster hoped to receive a good set of plans soon so the review could begin.

Mayor Everett called a brief recess at 8:14 p.m.

EXECUTIVE SESSION

In accordance with the authority contained in Sections 551.071 and 551.074 of the Open Meetings Law, Chapter 551, Govt. Code, Vernon's Texas Codes Annotated, Council will convene in closed or executive session to discuss the following matters.

- 18. EXECUTIVE SESSION FOR CONSULTATION WITH ATTORNEY REGARDING EXISTING LITIGATION (Section 551.071)

- a. *Bement v. Bradshaw, et. al*, Cause No. 6:15CV391, Eastern District of Texas.
- b. *Johnson v. City of Canton*, Cause No. 6:15CV1140, Eastern District of Texas

Mayor Everett convened Council into Executive Session at 8:15 p.m.

- 19. EXECUTIVE SESSION FOR DELIBERATIONS REGARDING POTENTIAL PURCHASE OF REAL PROPERTY (Section 551.072) – Council reconvened into Open Session at 8:58 p.m.

RETURN TO OPEN SESSION

- 20. RECONVENE TO OPEN SESSION AND CONSIDER ACTION, IF ANY, ON ITEMS DISCUSSED IN EXECUTIVE SESSION – Councilmember Stewart made a motion to grant authorization for the City Manager to make an offer on a piece of property pursuant to the discussions in Executive Session. Councilmember Malouf seconded.

Mayor Pro Tem - Shawn Stewart: Approve
Council Member - Cindy Malouf: Approve
Council Member – Nathan Moore: Approve
Council Member - Connie Odic: Approve
Council Member - Scott Perkins: Absent

21. ITEMS FOR FUTURE AGENDAS

22. ADJOURN - There being no further business to discuss, the meeting was adjourned at 8:59 p.m.