

**City of Newark
City Council Minutes
August 22, 2013**

I. Call to Order

Mayor Matt Newby called the meeting to at 7:02 p.m. on August 22, 2013 in the Newark Municipal Building located at 209 Hudson Street, Newark, Texas. Those present were Mayor Matt Newby, Mayor Pro Tem Bob Wells, Councilmember Linda Anderson, Councilmember Dan Sessler, Councilmember Doug Anderson, City Attorney Kevin Curley, City Engineer Gary Burton, Code Enforcement Officer Jimmy Duvall, Financial Advisor Ted Christensen, Wastewater Operator William Allen, and City Administrator Diane Rasor.

II. Invocation – Councilmember Doug Anderson delivered the invocation.

III. Citizens' Comments

Ms. Tracie Windsor, who has lived at 405 Country Living Drive for thirteen (13) years, said the road and drainage are disasters. The holes that are being dug to lay the water service lines are dangerous because small children could fall into one. She has had a pothole in front of her house for years and has notified the City but nothing has been done. She requested the Council allocate funds to repair Country Living Drive this year in the budget.

IV. Public Hearing – A public hearing on a proposal to increase total tax revenues from properties on the tax roll in the preceding tax year by 1.13%.

Mayor Newby opened the public hearing at 7:07 p.m. There were neither proponents nor opponents. Mayor Newby closed the public hearing at 7:11 p.m.

V. Consent Agenda: (A) Approval of the July 25 and August 2, 2013 minutes. (B) Approval of the Accounts Payables. (C) Approval of the Financial Reports, and (D) Approval of Staff Reports

City Administrator Diane Rasor gave an oral staff report consisting mainly of the projects the Council and Staff have accomplished in the last three (3) years.

Mayor Pro Tem Wells moved to approve the consent agenda items A, B, C, and D; Councilmember Doug Anderson seconded the motion. All approved. Motion passed.

VI. Regular Meeting

1. Consider and act on Mr. Ferron's, 602 Rogers Road, request to be reimbursed for past sewer charges.

Mr. Ferron stated he has two (2) five hundred (500) gallon sewer tanks that have been there for thirty (30) years and he would like to be reimbursed for the sewer charges since his father passed away in May. Mayor Pro Tem Wells stated that if his property is in the City limits and is within a hundred (100) feet of our sewer system is required to be hooked into our system. Mayor Pro Tem Wells suggested Mr. Ferron have his property surveyed to determine if his house is located in the City or the County. Mayor Newby said that if his father applied for service and then paid for the service, then he should have discontinued his service.

If Mr. Ferron can prove that his home is outside of the city limits, then he may ask for the service to be discontinued.

2. Discussion and possible action on the zoning and home occupations violations and issues at 538 Oak Hills between the homeowner, the neighbors, and the City of Newark and how the tennis program affects the community.

Coach Shannon Cruise, Chisholm Trail Middle School, has been coaching tennis for seventeen (17) years. Mr. Williams began giving private lessons and it helped the tennis program so they were able to compete with other teams in the district. He stated that Mr. Williams has met a need in the community.

Mr. Loy Mann, lifelong resident of Newark, stated his son began lessons after his freshman year in high school and became the number one player at Northwest High School. He believes a city should have a place for children to go and Mr. Williams not only teaches tennis, but also life lessons.

Kendall Mann, past student, stated that Mr. Williams has given him much more than tennis; he gave him skills on the court and off, taught him to never quit and to have a good work ethic. He lost thirty pounds the year he began tennis lessons.

Mr. Scott Moore has lived in Newark for eighteen (18) years and both of his sons are students of Mr. Williams. One of his sons has been a victim of bullying at his school but when he walks into Roger's facility, it's like a family. He has learned teamwork, kindness, and a good work ethic. It gives his kids an alternative of something to do, because the City does not have anything in this town for kids.

Grayson Moore requested that the Council not shut down the tennis program. He has learned skills like teamwork, friendship, and self esteem. Skills that will follow him through the rest of his life.

Mr. Roger Williams gave a brief background leading up to playing and teaching tennis. At the time the tennis court was being built he stated he got Mayor Pro Tem Wells' and Mayor Malone's blessing. He was never told he needed a permit. He has never put up a sign and there are still neighbors that don't know he has a tennis court. Most of the court is blocked off from any view. In 2010, he was the President of Newark Pride, until he was diagnosed with

cancer. However he was still teaching tennis. When the tennis program grew, he made the students and parents park on the side of his house. Ms. Wells at 534 Oak Hills began complaining about the traffic and parking. Mr. Wells asked him to park all of the students on the other side of his house. Mr. Williams spent \$14,000 to build a parking lot on the other side of his house. He sponsored a fund raiser for the "Heart for Park" committee to purchase playground equipment for the Delora Doughty Park and the situation got worse with the neighbors. He read a letter from Dr. Thornell, the neighbor on the opposite side, speaking in favor of the "Backyard Tennis Club". He believes he is now being harassed and the reason this issue is before the City Council is because a Councilmember and his wife are the ones complaining.

Mayor Pro Tem Wells requested the audience look at the facts. He showed an aerial of the entire area and then the tennis court. He showed the parking for six cars and the gravel for overflow traffic and pointed out the playground for tennis students' children and a basketball court for students. Mayor Pro Tem Wells showed the eight (8) lights that illuminate the tennis court and required a permit, which Mr. Williams failed to obtain. Since more students were added, a restroom was constructed without a permit. Mr. Williams has thirty (30) to thirty five (35) chairs for students and guest. Mayor Pro Tem Wells pointed out that tennis courts with lights are required to be approved by a Specific Use Permit, which Mr. Williams was asked to apply for but has refused. He is also breaking the City's noise ordinance since students have exercises that require counting and loud commands. Mr. Williams is violating several sections of the "Home Occupations" Ordinance resulting in violation of nine (9) or ten (10) City ordinances all together. Mr. Williams' property is zoned for residential, not commercial and if the tennis lessons are allowed to continue it will destroy the City's zoning.

VII. Executive Session – Texas Government Code, Section 551.071 – Consultation with Attorney on pending or contemplated litigation, property dispute and ordinance enforcement pertaining to 538 Oak Hills Drive and Section 551.072 – Deliberation Regarding Real Property, property for sale at the corner of Marshall and Rogers Road.

The Council adjourned into executive session at 8:39 p.m. and returned to open session at 9:59 p.m.

3. Consider and act on executive session items.

No action on either item or currently Mr. Williams can continue giving tennis lessons.

4. Presentation of 2013-2014 Capital Improvement Projects and the possibility of issuing Certificates of Obligation to fund the projects.

Mr. Ted Christensen presented three (3) scenarios for issuing Certificates of Obligation, one for three hundred thousand (\$300,000), four hundred thousand (\$400,000), and five hundred thousand (\$500,000) and explained the process, which is about sixty (60) days.

City Administrator Diane Rasor explained the reason for borrowing money is because the bids to relocate the discharge line came \$130,000 over budget. Other projects included that will need to be funded are: Rocks in the creek to keep the water main from washing out for \$24,000, reimbursement for some cost associated with the STEP grant for \$38,500, a new contact chamber for approximately \$30,000, a wastewater filtration system for \$100,000, the match for the relocation of the discharge grant of \$49,000, the current TCEQ fine of \$27,000, manhole repairs of \$6,487, and a transfer pump for \$21,222 for a total of over \$400,000. She suggested having a public hearing and raising the water rates to make the payments on the loan.

5. Consider and act on a Reimbursement Resolution relating to capital expenditures.

Mayor Pro Tem Wells moved to adopt the Reimbursement Resolution relating to capital expenditures; Councilmember Linda Anderson seconded the motion. All approved. Motion passed.

6. Discussion and possible action awarding the bid for the Texas Community Development Project (TCDP) #712259 for wastewater treatment improvements.

City Engineer Gary Burton explained that if the lift station was taken out of the bids, then the low bid from Schultz and Sons would be \$20,000 under the budget. The problem is that the discharge line will not work without a more powerful lift station. He did suggest taking out items #4 and #10 in order to lower the cost. The discharge line needs to be relocated by December 2014, so if the lift station stayed in the bid, the City would be able to meet that date.

Mayor Pro Tem Wells moved to accept the Schultz and Son bid of \$359,980 with a change order of extracting item #4 and item #10, which will reduce it to \$345,000; Councilmember Linda Anderson seconded the motion. All approved. Motion passed.

7. Consider and act on comments and recommendations on the *City of Newark Emergency Procedural Manual*.

This item tabled to a future meeting.

8. Consider and act on Ordinance No. A-399 amending Appendix "A" – the Fee Schedule, Article A7.000 Utility Fess, section A7.004 Water and Sewer Rates, (c) Sewer Rates, by adding a forty-five dollar (\$45.00) cap to all residential sewer rates.

Mayor Pro Tem Wells moved to adopt Ordinance No. A-399; Councilmember Linda Anderson seconded the motion. All approved. Motion passed.

9. Consider and act on approving the funding for painting the City logo(s) on the FM 718 water tower.

Councilmember Linda Anderson moved to approve Image #2 for \$3,500 for both sides of the water tower; Councilmember Sessler seconded the motion. All approved. Motion passed.

10. Consider and act on voting for one of the nominees to represent the Public Works Council Northeast Sub-Region.

Mayor Pro Tem Wells moved to nominate Adam Farguson to represent the Public Works Council Northeast Sub-Region; Councilmember Sessler seconded the motion. All approved. Motion passed.

11. Consider and act on adding a pre-council session to the regular council meetings.

Councilmember Linda Anderson said this is so items can be discussed in a less formal atmosphere and reduce the time of the regular council meeting.

Councilmember Linda Anderson moved to act on adding a pre-council session to the regular meetings. The motion died for lack of a second.

12. Consider and act on reviewing procedures for closing the Library when short staffed.

No action on this item.

13. Consider and act on a car allowance for use of private automobile on City business.

Mayor Pro Tem Wells recommended the allowance for the City Administrator since she uses her personal vehicle to take care of City business.

Mayor Pro Tem Wells moved to reimburse Diane Rasor fifty dollars (\$50.00) per month for personal automobile use; Councilmember Anderson seconded the motion. All approved. Motion passed.

The meeting was adjourned at 9:59 p.m.

APPROVED:



Matt Newby, Mayor

09-16-2013

Date

ATTEST:



Diane Rasor, City Administrator