

MINUTES
EVANS CITY COUNCIL
Regular Meeting
April 16, 2013 - 7:30 P.M.

CALL TO ORDER

Mayor Achziger called the meeting to order at 7:35 p.m.

PLEDGE

ROLL CALL

Present: Mayor Achziger, Mayor Pro-Tem Morris, Councilmembers Brown, Burmont, Neibauer, Rudy, and Schaffer

PROCLAMATION

A. Victims' Rights Week – April 21st-27th, 2013

Mayor Achziger read the proclamation for Victims' Rights Week and presented it to Rick Brandt, Evans Police Chief, and Brooke Coughlin, Victim Assistance Coordinators, Greeley Police Department. Ms. Coughlin thanked City Council for the proclamation.

AUDIENCE PARTICIPATION

There was no audience participation.

APPROVAL OF AGENDA

Council Member Schaffer made the motion, seconded by Council Member Rudy, to approve the agenda. The motion passed with all voting in favor thereof.

CONSENT AGENDA

A. Approval of Minutes of the Regular Meeting of April 2, 2013

Council Member Schaffer and Mayor Pro-Tem Morris recused themselves from approving the minutes of the April 2nd meeting. Council Member Brown made the motion, seconded by Council Member Rudy, to approve the minutes as presented. The motion passed with all voting in favor thereof.

OLD BUSINESS

A. Ordinance No. 558-13 — 1st Quarter Budget Revision

Jessica Gonifas, Deputy City Manager, presented Ordinance 558-13 concerning appropriating revenues and fund balances for the 1st quarter of the City's 2013 budget. Ms. Gonifas explained that the Ordinance was amended after first reading to include \$155,500 for the landscaping at Prairie View Drive, which was left off of the first reading of the Ordinance.

Council Member Rudy made the motion, seconded by Council Member Schaffer, to adopt

Ordinance 558-13, as amended. The motion passed with all voting in favor thereof.

B. Resolution No. 10-2013 – A Resolution Denying the Rezoning of the Property Known as the North Point 6th

Council Member Schaffer excused himself from the hearing on Resolution 10-2013. The Resolution outlines the findings of fact for rejecting Ordinance 557-13 concerning a zoning amendment request for the North Point 6 Subdivision. Sheryl Trent, Evans Community Development Director, discussed the denial of the zoning change at the City Council public hearing held on April 2, 2013. She explained that under Section 19.60.040.B of the Evans Municipal Code, denying a zoning request must be finalized through the adoption of a Resolution which identifies the reasons for denial.

Council Member Rudy made the motion, seconded by Council Member Brown, to adopt Resolution 10-2013. The motion passed with all voting in favor thereof.

C. Emergency Ordinance 559-13 – Drought Restrictions

Russ Anson, Evans City Attorney, addressed City Council to discuss the Drought Management Plan (DMP) that was adopted by City Council at the April 2nd meeting and explained the need for an emergency ordinance under current drought conditions. Mr. Anson explained that the emergency ordinance was necessary to implement provisions under the DMP concerning penalties and enforcement. Specifically, Section 7.3 of the Evans Home Rule Charter requires an Ordinance for any “rule or regulation for the violation of which a penalty is imposed.”

Mayor Pro-Tem Morris asked about the timeline of implementing the DMP and the need to adopt the emergency ordinance.

Mr. Anson explained that the Ordinance was administrative in nature and necessary to allow enforcement of the DMP once the plan is fully implemented.

Mayor Pro-Tem Morris made the motion, seconded by Council Member Rudy, to adopt Emergency Ordinance 559-13. The motion passed with all voting in favor thereof.

NEW BUSINESS

A. Resolution No. 11-2013–Establishing May 21, 2013 As The Date To Review An Application For Annexation Into The City Of Evans, Known As The Envirotech Industrial Park Annexation Nos. 2 And 3.

Ms. Trent explained that the City of Evans received a petition on March 4, 2013 for annexing 16.980 acres that is currently is zoned agricultural. She stated that the purpose of the Resolution is to comply with statutory requirements to initiate the annexation process by establishing a hearing date for the City Council to consider the annexation.

Ms. Trent talked about EnviroTech Industrial Park and explained the timeline of “serial” annexations. She explained that the annexation would require two separate annexations of EnviroTech Industrial Park Annexation No.2 and No.3 — with the request to zone the property as I-2 (Medium Industrial District).

Mayor Pro-Tem Morris asked about where the annexation area is specifically located.

Ms. Trent discussed the specific location of the two separate annexations of EnviroTech Industrial Park Annexation No.2 and No.3.

Council Member Schaffer made the motion, seconded by Council Member Rudy, to adopt Resolution 11-2013. The motion passed with all voting in favor thereof.

B. Approval of Real Estate Contract for Tri Pointe Property

Ms. Trent discussed the contract between the City and Sears Real Estate to sell property owned by the City of Evans located at 2952 11th Avenue. According to the contract, the City is selling the property for \$350,000, or about \$2.87 a square foot, and lists Shelly Costigan as the realtor to market and sell this property.

Ms. Trent discussed the need to sell the property for commercial development, talked about the price of the property, and distributed an amended version of the contract to City Council.

Council Member Burmont asked about including a local Charter School as an “exception” on the contract, in case the Charter School decides to purchase the property.

He also asked about Ms. Costigan acting as a transactions broker and not a sellers’ broker according to the contract and how past contracts between the City and Tri Pointe have been executed.

Mr. Anson discussed the difference between a transaction broker and a sellers’ agent for real estate transitions between the City and Tri Pointe.

Shelly Costigan, Transaction Broker, representing Sears’ Real Estate, located at 2121 Clubhouse Drive, Greeley, addressed City Council and talked about why she is designated as a Trans-Broker and not a Sellers’ Agent for the contract. She also talked about the differences between being listed as a transaction broker and a sellers’ agent, and the future plans for the property.

Council Member Burmont asked Ms. Costigan why the contract retains her for an entire year.

Ms. Costigan explained the time frame for selling the property and the need to have a contract for one year.

Council Member Burmont discussed the need to possibly amend the contract for a shorter time frame and stated that he wanted to see active marketing for the sale of the property.

Discussion ensued between the City Council Members about amending the contract to for less than

one year or including the Charter School as an exception buyer.

Council Member Burmont made a motion, seconded by Council Member Rudy, to amend the contract to list the Charter School as an exception. The motion passed with all voting in favor thereof.

Mayor Pro-Tem Morris made the motion, seconded by Council Member Brown, to adopt the contract with Tri Pointe Property, as amended. The motion passed with all voting in favor thereof.

REPORTS:

A. City Manager Report

The City Manager presented the Monitoring Report to City Council and discussed upcoming geologic testing in the City and how to respond to citizens who may have questions. He also talked about the upcoming aerial photography occurring the week of April 22nd.

B. City Attorney's Report

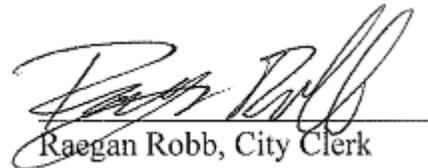
Mr. Anson clarified that the motion for Ordinance 558-13 (agenda item 8.A) should have been for final adoption of the Ordinance, as amended. The City Council Members agreed that the motion was adopted with the understanding that it was final passage of the amended Ordinance.

AUDIENCE PARTICIPATION:

There was no audience participation.

ADJOURNMENT:

Mayor Achziger adjourned the meeting at 8:14 p.m.



Raegan Robb, City Clerk