

CITY OF FORT STOCKTON, TEXAS  
 MINUTES OF: REGULAR CITY COUNCIL MEETING  
 DATE OF MEETING: FEBRUARY 27, 2018  
 TIME OF MEETING: 5:30 P.M.  
 PLACE OF MEETING: CITY HALL COUNCIL CHAMBER

ROLL CALL WAS ANSWERED BY COUNCIL MEMBERS:

RUBEN FALCON, JAMES WARNOCK, BILLY JACKSON, &  
 MIKE URETA, JR.  
 ABSENT: DINO RAMIREZ

MAYOR: JOE CHRIS ALEXANDER  
 CITY MANAGER: FRANK RODRIGUEZ III  
 CITY SECRETARY: DELMA A. GONZALEZ  
 CITY ATTORNEY: JESSE GONZALES, JR.

Mayor Alexander called the Regular Meeting to order at 5:30 p.m. after declaring a quorum present.

Council Member Ureta gave the Invocation.

Mayor Pro-Tem Jackson led the Pledge of Allegiance

Mayor Alexander read the Mission Statement: "The Mission of the City of Fort Stockton Municipal Government is to Promote & Value Public Confidence and Trust by the Accountable and Responsible Use of Community Resources; to Ensure Public Safety; Improve Public Services; Promote Local Recreation and Entertainment; and Generate Economic Development."

#### FIRST ORDER OF BUSINESS:

##### 1. Public Testimony on Agenda Items Only.

Public comments pertaining to agenda items were not received by those in attendance.

#### SECOND ORDER OF BUSINESS:

##### 2. Consent Agenda:

###### Minutes:

- Regular Meeting Minutes of Fort Stockton City Council, 02/13/2018
- Regular Meeting Minutes of Convention & Visitor's Bureau, 01/30/2018
- Regular Meeting Minutes of Intergovernmental Recreation Board, 01/24/2018

Accounts Payable Total: \$ 1,240,181.23

Account Recap Report Total: \$17,763,457.05

Motion was made, seconded and carried unanimously to approve the Consent Agenda, as presented.

#### THIRD ORDER OF BUSINESS:

##### 3. Rocky Rives of Smith & Rives, PC ---

- ➔ City of Fort Stockton's Final Audit for Fiscal Year Ending September 30, 2017.

VOTED NAY  
 VOTED AYE  
 SECONDED  
 MOVED

FALCON  
 WARNOCK  
 JACKSON  
 URETA

X X  
 XX  
 X  
 X

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CPA Rives reported that according to the Independent Auditor's Report, the financial statements referred to presented fairly in all material respects. The City of Fort Stockton received an "unmodified" opinion which was the best opinion that could be rendered.

**FY 2016-2017 Financial Highlights:**

- The City's net position increased by \$4,487,547 as a result of that year's operations. Net position of the business-type activities increased by \$1,867,674 or about 9.97%, and net position of the governmental activities increased by \$2,619,873.
- During the year, the City incurred expenditures that were \$1,585,737 more than the \$7,682,417 generated in taxes and other revenues for the governmental programs. This compared to last year when expenditures exceeded revenues by \$3,531,481.
- In the City's business-type activities, operating revenues increased by \$1,519,629, or about 15.33%, while operating expenses decreased by \$7,904, or about 0.13%.
- Total cost of the City's programs was \$8,521,950, while last year's cost was \$9,521,044.
- The General Fund ended the year with a fund balance of \$4,138,413, which was above last year's fund balance of \$2,570,254.
- The resources available for appropriation were \$98,001 or about 1.92% less than budgeted for the General Fund.
- Actual expenditures were \$1,786,998 less than budgeted for the General Fund due primarily to health insurance revenues being netted against medical claims.
- It took \$8,521,950 to operate the City for a 12-month period whereas business-type activities took \$6,314,386 to operate for a full year and component units \$1.157,095 million. Resources were from various sources i.e. water, sewer, gas, unrestricted grants & contributions, property taxes, general sales & use taxes, franchise tax, mixed beverage tax, etc. Total General Revenues and Transfers were \$7,454,342.
- On the Report on Internal Control Over Financial Reporting and Report on Compliance for Each Major Federal Program regarding Federal Awards, "No Findings" were issued.

A potential nepotism violation was brought to their attention by several employees of the City although on July 17, 1948, the City adopted the City-Manager Form of Government. After further research of this type of government and duties that have been assigned to the City Manager; he has full & final hiring authority for all employees that are subordinate to a Department Head. As a result

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 VOTED NAY

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of this structure, there is not a nepotism violation. This conclusion was included in their Report to the City Council.

Also included in this report were:

Employee Department Transfers - Their recommendation was that employees and positions be classified to the department that they benefit and that the City amend its Personnel Policy to accommodate split positions and require that either the City Manager or Assistant City Manager approve employee transfers.

Conflict of Interest Disclosure - Anytime that a local government officer becomes aware of the facts that there is a conflict of interest; a "Conflicts Disclosure Statement" must be filed with the City Secretary no later than 5:00 p.m. on the seventh business day after the date.

#### FOURTH ORDER OF BUSINESS:

##### 4. City Water Attorney Harral ----

- ✚ Update on 500 Acre Feet Production Permit from Middle Pecos Groundwater Conservation District (MPGCD) at Blue Ridge Farms.

City Water Attorney Harral reported that the 500 acre feet production permit at Blue Ridge was approved for public-use & industrial-use. All of the wells were in Pecos County and traditionally used by Jay Cleo Thompson and Oxy. The objective of this permit was to serve the City's Pecos County customers which included Oxy and WaterBridge. WaterBridge planned to upgrade each well to ensure that they were TCEQ compliant; as well as placing them on the SCADA Systems.

Although the permit failed after the first and second attempts, it received a unanimous approval the third time by directors of the MPGCD. It took approximately 6-8 months to finalize this request.

Mayor Pro-Tem Jackson asked how many well had been refurbished?

City Water Attorney Harral replied "None" because City Council had not designated which wells could be refurbished.

#### FIFTH ORDER OF BUSINESS:

5. Discuss/Act upon Certification of Unopposed Candidates for the May 5, 2018 City General Election & Ordinance No. 18-101; Order of Cancellation for the May 5, 2018 City General Election.

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Mayor Alexander conveyed that the General Election was cancelled because three individuals (two incumbents and one candidate) signed up for the three (3) Council Member seats that would have been on the ballot. Due to a lack of further opposition, these three (3) candidates are duly elected.

He emphasized that the Special Election for the ¼% Street Maintenance Sales Tax (H.B. 445) would be held. This was an extremely important election that needed to be ratified by voters due to the City's aggressive street/road strategy that was planned for the following year.

Motion was made, seconded and carried unanimously to approve Certification of Unopposed Candidates for the May 5, 2018 City General Election & Ordinance No. 18-101; Order of Cancellation for the May 5, 2018 City General Election.

#### SIXTH ORDER OF BUSINESS:

6. Discuss/Act upon Ordinance No. 18-102, Adopting Budget Amendment No. 2 to the Original Budget of the City of Fort Stockton, Texas, for the Fiscal Year 2017-2018; Providing for Supplemental Appropriation and/or Transfer of Certain Funds; Providing for Severability; and Providing for Other Matters Related to the Subject.

City Manager Rodriguez remarked that the Recreation Department requested \$30,000.00 in additional funds from the Fund Balance to pay for a consultant agreement & benefits to Former Director Casias, as approved by their Board on January 24, 2018. The 2016-2017 Fiscal-Year End Fund Balance for the Recreation Department was \$41,683.00.

The Public Works Department requested \$309,120.00 from the General Fund and \$63,500.00 from the H.B. 445 Fund to purchase equipment from the Capital Improvements priority list created during the 2017-2018 Fiscal-Year Budget Workshop. The 2016-2017 Fiscal-Year End General Fund Balance was \$3,817,752.00 and the H.B. 445 Fund Balance was \$299,942.34.

This will allow the Public Works Department to obtain the equipment needed to operate their department:

H.B. 445	Water Truck 4000 gallons	\$63,500
Water	Ditch Witch & Trailer	\$78,000
	Hydro Excavator	\$70,000
	12cy Dump Truck	\$30,000

FALCON  
 WARNOCK  
 JACKSON  
 URETA

MOVED	SECONDED	VOTED AYE	VOTED NAY
X		X	
	X	X	
		X	
		X	

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	Valve Maintenance System	\$63,410
	Diamond Wire Cutter	\$10,710
R.O. Plant	Variable Frequency Drives (1)	\$20,000
	Tank Cleaning	\$17,000
Gas	Smart Meters	\$20,000
	<b>Total Capital Improvements:</b>	<b>\$372,622</b>

The \$229,000.00 sewer truck was not included in the list but in conversing with Public Works Director Ramos and Assistant Public Works Director Dominguez, these identified the immediate needs to operate. A request for additional items would be made in two months.

**Council Member Falcon** inquired if everything that was needed for the Sewer Department was procured because Supervisor Valenzuela was somewhat reserved during the budget hearings? Upon completion of his presentation, City Council believed that the Sewer Department was in need the most. He merely wanted reassurance that Supervisor Valenzuela was not being disregarded again.

**Director of Public Works Ramos** responded that maintenance was the issue. Several motors, pumps, etc. were purchased and numerous work was completed.

Motion was made, seconded and carried unanimously to approve Budget Amendment No. 2 to the Original Budget of the City of Fort Stockton, Texas, for the Fiscal Year 2017-2018; Providing for Supplemental Appropriation and/or Transfer of Certain Funds; Providing for Severability; and Providing for Other Matters Related to the Subject.

#### SEVENTH ORDER OF BUSINESS:

7. Discuss/Act upon Ordinance No. 18-103, Adopting Amendment No. 1 for Calendar Year 2018 to the City of Fort Stockton Personnel Policies & Procedures Manual; Chapter II. Classification, Compensation & Performance, Section 2.2 Compensatory Time; Subsection "Longevity Pay;" Containing a Savings Clause and Providing for the Publication and Effective Date Thereof.

City Manager Rodriguez stated that, if approved, this revision to the Personnel Policy & Procedures Manual contained a "Cost of Living Adjustment" that will be issued to personnel from the additional \$833,000 in the 2016-2017 Fund Balance

FALCON  
 WARNOCK  
 JACKSON  
 URETA

VOTED NAY  
 VOTED AYE  
 SECONDED  
 MOVED

X  
 X  
 X  
 X  
 X



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that was received from sales tax and audit collections. The City's auditor was contacted in advance and this one-time payout is permissible.

"For the Fiscal-Year 2017-2018, all full-time employees who are employed prior to January 1, 2018 with the City of Fort Stockton will receive a "Cost of Living Adjustment (COLA)" at the rate of 2.5% of his/her annual salary. To receive this stipend, an employee must be actively employed by the City when it is approved by City Council and on March 15, 2018, the payout date."

Mayor Pro-Tem Jackson clarified that the City could not give bonuses to employees but they wanted to give back to personnel and this was the best way they could.

FALCON  
 WARNOCK  
 JACKSON  
 URETA

MOVED	SECONDED	VOTED AYE	VOTED NAY
	X	X	
		X	
		X	
X		X	

Motion was made, seconded and carried unanimously to approve Ordinance No. 18-103, Adopting Amendment No. 1 for Calendar Year 2018 to the City of Fort Stockton Personnel Policies & Procedures Manual; Chapter II. Classification, Compensation & Performance, Section 2.2 Compensatory Time; Subsection "Longevity Pay;" Containing a Savings Clause and Providing for the Publication and Effective Date Thereof.

#### EIGHTH ORDER OF BUSINESS:

8. Discuss/Act upon the City of Fort Stockton's Final Audit for Fiscal Year Ending September 30, 2017, as presented by Rocky Rives of Smith & Rives, PC.

FALCON  
 WARNOCK  
 JACKSON  
 URETA

		X	
		X	
	X	X	
X		X	

Motion was made, seconded and carried unanimously to approve the City of Fort Stockton's Final Audit for Fiscal Year Ending September 30, 2017, as presented by Rocky Rives of Smith & Rives, PC.

#### NINTH ORDER OF BUSINESS:

9. Discuss/Act upon Providing Notice to Mr. Schuyler Wight that the City of Fort Stockton will Operate Pecos County Water Wells, as Per Paragraph 4.1 through 4.6 of the Grazing Lease Contract – Blue Ridge Farms.

City Water Attorney Harral remarked that in order to abide with the Grazing Lease Contract with Schuyler Wight (specifically paragraphs 4.1 & 4.6) the City needed to provide notice to him that it intended to produce and operate 8-9 of its water wells located in Pecos County for the purposes of selling water to oil and gas firms. Also, the City deemed it necessary to begin producing and operating

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these water wells as early as March 1, 2018 wherein one of them would be used as a monitoring well.

Wells could not be renovated until they were designated for industrial-use and public-use. The intent was to bifurcate every well and well system at Blue Ridge to avoid the co-mingling of assets, etc. If a well was being used for irrigation, that well would be on one system and if other wells were used for oil/gas supply or for public supply then those wells would be on completely separate systems. This process would essentially resolve every issue that was encountered at Blue Ridge this past year when the auditing process commenced.

He and Asst. City Manager Davis met with Mr. Wight and his attorney earlier that day and discussed was the notice that would be received by them. The water wells had not been used by Mr. Wight with the exception of one for cattle purposes. A water trough was being used but that issue would be resolved in the immediate future.

Fundamentally, to proceed forward with the WaterBridge Agreement, as well as using the wells for industrial and oil/gas use, the City needed to provide the specified notice regarding the grazing lease agreement.

Once this notice was issued, Asst. City Manager Davis would contact WaterBridge regarding the installation of the SCADA System and all of the wells upgrade requirements, as per their agreement. Last week, an email regarding this process was directed to WaterBridge which was essentially the final step before anything could be touched.

**Mayor Pro-Tem Jackson** inquired how long WaterBridge had been out there.

**City Water Attorney Harral** replied since August 2017 but they encountered these issues and were unable to alter any of the wells until this point. Also, the City lacked an industrial-use production permit for these Pecos County wells and could not authorize WaterBridge to use those wells to transport water offsite without violating water codes.

**Mayor Pro-Tem Jackson** inquired, "So they were selling water from Reeves County?"

**City Water Attorney Harral** replied "Correct." Everything needed to be separated, was the approach that the City was taking, and what was prepared when the application was submitted in August to the MPGCD for the 500 acre feet for the Pecos County wells.

VOTED NAY  
 VOTED AYE  
 SECONDED  
 MOVED

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Mayor Pro-Tem Jackson asked how many barrels were sold.

City Water Attorney Harral replied that 150 acre feet were sold in August and halted until the co-mingling issue was resolved and permits were obtained.

Mayor Alexander understood that the trough was being used for cattle and inquired for how many cattle.

Assistant Public Works Director Dominguez replied 2-3 dozen; it's a small dirt tank.

City Water Attorney Harral responded that Mr. Wight had used one of the other wells. A permit was not needed for livestock if using merely one horsepower for pumping. This issue would be discussed with him.

Motion was made, seconded and carried unanimously to approve Notice to Mr. Schuyler Wight that the City of Fort Stockton will Operate Pecos County Water Wells, as Per Paragraph 4.1 through 4.6 of the Grazing Lease Contract – Blue Ridge Farms.

#### TENTH ORDER OF BUSINESS:

10. Discuss/Act upon Initiating the Voluntary Annexation Process for All that Certain Lot, Tract or Parcel of Land located in Pecos County, Texas, and being 25.73 Acres of Land and being All of Block S, FORT STOCKTON IRRIGATED LAND COMPANY LANDS, Pecos County, Texas; as requested by Donohue Investments, LLC, a Texas LLC which shall be zoned "Commercial" for the construction of "Fort Stockton Resort & R.V. Park."

Motion was made, seconded and carried unanimously to approve Initiating the Voluntary Annexation Process for All that Certain Lot, Tract or Parcel of Land located in Pecos County, Texas, and being 25.73 Acres of Land and being All of Block S, FORT STOCKTON IRRIGATED LAND COMPANY LANDS, Pecos County, Texas; as requested by Donohue Investments, LLC, a Texas LLC which shall be zoned "Commercial" for the construction of "Fort Stockton Resort & R.V. Park."

#### ELEVENTH ORDER OF BUSINESS:

11. Discuss/Act upon the City/County-Wide Clean-Up from March 26<sup>th</sup> - 30<sup>th</sup> & April 2<sup>nd</sup> - 13<sup>th</sup>.

FALCON  
 WARNOCK  
 JACKSON  
 URETA

MOVED  
 SECONDED  
 VOTED AYE  
 VOTED NAY

X  
 X  
 X  
 X  
 X

FALCON  
 WARNOCK  
 JACKSON  
 URETA

X  
 X  
 X  
 X



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Motion was made, seconded and carried unanimously to approve City/County-Wide Clean-Up from March 26th - 30th & April 2nd - 13th.

**TWELFTH ORDER OF BUSINESS:**

**12. Discuss/Act upon Re-Classification of the Lieutenant Position for the Police Department; as per Revised Job Description.**

City Manager Rodriguez stated that permission was being requested to re-classify the Lieutenant position to an exempt/non-exempt status. Being that this position continued to be on-call investigating crimes during and after hours that it could result in working beyond the 86 hour schedule leading to overtime pay. Thus, following the provisions of the Federal Labor Standards Act (FLSA) and just wanted to ensure that this position was also identified as non-exempt.

Motion was made, seconded and carried unanimously to approve Re-Classification of the Lieutenant Position for the Police Department; as per Revised Job Description.

Mayor Alexander recessed from the Regular Meeting @ 6:13 p.m. to convene into the:

**THIRTEENTH ORDER OF BUSINESS:**

**13. City Council May Convene in Closed Session in Accordance with the Texas Open Meetings Act, Texas Government Code, Concerning Attorney-Client Matters (§551.071); Deliberation regarding Real Property (§551.072); Deliberation regarding Prospective Gifts (§551.073); Personnel Matters (§551.074); and/or Deliberation regarding Security Devices (§551.076):**

- Ref:** (a) Confidential Settlement and Release Agreement with Halcon Resources concerning Water Usage at Blue Ridge Farms.  
 (b) Contemplated Litigation with Brigham Resources concerning its Water Use Agreement and Schuyler Wight concerning the Grazing Lease Contract.  
 (c) Client Engagement Letter and Scope of Work with City Water Attorney Mark Harral.  
 (d) Purchase of Property i.e. 1710 & 1712 N. Front Street  
 (e) Engineer Contract for Raul B. Rodriguez

Mayor Alexander closed the Executive Session @ 7:25 p.m. to reconvene into the Regular Meeting.

FALCON  
 WARNOCK  
 JACKSON  
 URETA

MOVED	SECOND	AYE	NAY
		X	
	X	X	
		X	
X		X	

FALCON  
 WARNOCK  
 JACKSON  
 URETA

	X	
	X	
X	X	
	X	

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**FOURTEENTH ORDER OF BUSINESS:**

**14. Reconvene into Open Session Pursuant to Texas Government Code Section §551.102 & Take Action, if any, on Matters Deliberated in Executive Session:**

**(a) Discuss/Act upon Confidential Settlement and Release Agreement with Halcon Resources concerning Water Usage at Blue Ridge Farms.**

City Water Attorney Harral conveyed that he had been working with Halcon Resources since June 2017. Finalized was a settlement agreement that resolved issues at Blue Ridge and which "set up the City pretty well for the future." Once the settlement agreement was completed, a new surface-use agreement would be finalized for Halcon Resources at Blue Ridge. This item would be placed on the agenda for the next or subsequent agenda.

FALCON  
 WARNOCK  
 JACKSON  
 URETA

X  
 X  
 XX  
 X

Motion was made, seconded and carried unanimously to approve Confidential Settlement and Release Agreement with Halcon Resources concerning Water Usage at Blue Ridge Farms.

**(b) Discuss/Act upon Contemplated Litigation with Brigham Resources concerning its Water Use Agreement and Schuyler Wight concerning the Grazing Lease Contract.**

FALCON  
 WARNOCK  
 JACKSON  
 URETA

X  
 X  
 X  
 XX

Motion was made, seconded and carried unanimously to Table item. City Water Attorney Harral to possibly return in March with additional information.

**(c) Discuss/Act upon Client Engagement Letter and Scope of Work with City Water Attorney Mark Harral.**

As per Mayor Alexander, item was "pulled" from the agenda; item tabled.

**(d) Discuss/Act upon Purchase of Property at 1710 & 1712 N. Front Street.**

FALCON  
 WARNOCK  
 JACKSON  
 URETA

X  
 XX  
 X  
 X

Motion was made, seconded and carried unanimously to authorize City Manager Rodriguez to continue negotiations on both properties.

**(e) Discuss/Act upon Engineer Contract for Raul B. Rodriguez**

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Motion was made, seconded and carried unanimously to authorize City Manager Rodriguez and City Attorney Gonzales to negotiate a contract with Engineer Raul B. Rodriguez.

**FIFTEENTH ORDER OF BUSINESS:**

15. Questions from the Media on Agenda Items.

There being no further business, the Regular City Council Meeting was adjourned @ 7:31 p.m.

  
 Joe Chris Alexander, Mayor

ATTEST:  
  
 Delma A. Gonzalez, City Secretary

FALCON  
 WARNOCK  
 JACKSON  
 URETA

MOVED	SECOND	VOTED AYE	VOTED NAY
		X	
	X	X	
		X	
X		X	