

Minutes
Regular Session
Breckenridge City Commission

March 4, 2013 – 6:30 P.M.
Breckenridge City Offices Commission Chambers
105 North Rose Avenue
Breckenridge, Texas 76424

Those Present: Jimmy McKay, Mayor; Kody Knight, Mayor Pro-Tem; Scott Carter, Commissioner; Harvey Green, Commissioner; Sherry Strickland, Commissioner; Andy McCuistion, City Manager; Heather Robertson, City Secretary; Diane Latham, Assistant City Secretary; Lois Rockefeller, City Attorney; Bill Andrews, Gabriel Rodriguez, Public Works Director; Jay Marcom, Stacy Harrison, Parks Director; Joe Graham, Danyele Young, Tony Pilkington, Calvin Chaney, Brenda Gray, Tommy Wimberley, Brenda & Dennis Funder, Marlisa Goldsmith, Marc Gustirson, Jon Jackson, Shane Shockley, Sarah Shockley, Virgil Moore, Victor Sotelo, Larry Mahan, Jr., Police Chief; James Perster, Bob Hamilton, Peter Morgan, George, Morgan & Sneed, P.C.; Melinda Lane, Jacob Craig, Rob Krecklow, Lonnie Hinson, Les Strickland, Peggy Holder, Larry Holder

1. Call to Order

Mayor Jimmy McKay at 6:30 P.M. A quorum was established.

2. Invocation by Rev. Melinda Lane, Covenant Tabernacle

3. Pledge of Allegiance

Mayor Jimmy McKay led the Pledge of Allegiance

4. Consider approval of minutes of the February 4, 2013 City Commission Meeting

Commissioner Knight made a motion, seconded by Commissioner Green, to approve the minutes of the February 4, 2013 City Commission Meeting. When the motion was put to vote, it prevailed as follows: Ayes: McKay, Knight, Carter, Green, Strickland. Nays: None. Absent: None.

Citizens Presentation

No citizens presentation

CONSENT AGENDA

ALL ITEMS LISTED BELOW ARE CONSIDERED TO BE ROUTINE BY THE CITY COMMISSION AND WILL BE ENACTED WITH ONE MOTION, THERE WILL BE NO SEPARATE DISCUSSION OF ITEMS UNLESS A COMMISSION MEMBER OR CITIZEN SO REQUEST, IN WHICH EVENT, THE ITEM WILL BE REMOVED FROM THE GENERAL ORDER OF BUSINESS AND CONSIDERED IN ITS NORMAL SEQUENCE.

5. Request to approve Electrical Board Appointment
6. Request to approve Departmental Reports
7. Request to approve Racial Profiling Report
8. Request to approve The Stephens County Child Welfare Board request to tie blue ribbons on both sides of Main Street in observance of April being Child Abuse Awareness month

Commissioner Strickland made a motion, seconded by Commissioner Knight, to approve the consent agenda. When the motion was put to vote, it prevailed as follows: Ayes: McKay, Knight, Carter, Green, Strickland. Nays: None. Absent: None.

INDIVIDUAL CONSIDERATION

9. Request to approve 2011-2012 Audit

Peter Morgan from the George, Morgan, Sneed, Certified Public Accountants was present to review the Audit with the Commission. According to Mr. Morgan the City is beginning to increase the fund balance to where it needs to be.

Commissioner Carter made a Motion, seconded by Commissioner Green to approve the request to approve the 2011-2012 Audit. When the motion was put to vote, it prevailed as follows: Ayes: McKay, Knight, Carter, Green, Strickland. Nays: None. Absent: None.

10. Request to accept Latimer Properties

City Manager McCuiston advised that two separate properties that are adjacent to the park were purchased at the Sheriffs Tax Sale. Once Mr. Latimer found out that he couldn't build on the properties because they are both in the flood zone, he decided to give them to the city.

City Attorney Rockefeller recommended doing a title search and preparing a deed.

Commissioner Green made a motion, seconded by Commissioner Knight, to approve the request to accept Latimer Properties. When the motion was put to vote, it prevailed as follows: Ayes: McKay, Knight, Carter, Green, Strickland. Nays: None. Absent: None.

11. Consider all matters incident and related to the issuance and sale of the City of Breckenridge Combination Tax and Surplus Revenue Certificates of Obligation, Series 2013 in the amount of \$840,000 to fund improvements to the City's wastewater treatment plant and upgrades for the City's wastewater collection system, including the adoption of an ordinance authorizing the issuance of such Certificates of Obligation and authorizing a Paying Agent/Registrar Agreement and an Escrow Agreement.

City Manager McCuiston informed that this relates to the CWSRF that will help make improvements to the wastewater treatment plant.

Commissioner Carter made a motion, seconded by Commissioner Knight, to approve all matters incident and related to the issuance and sale of the City of Breckenridge Combination Tax and Surplus Revenue Certificates of Obligation, Series 2013 in the amount of \$840,000 to fund improvements to the City's wastewater treatment plant and upgrades for the City's wastewater collection system, including the adoption of an ordinance authorizing the issuance of such Certificates of Obligation and authorizing a Paying Agent/Registrar Agreement and an Escrow Agreement. When the motion was put to vote, it prevailed as follows: Ayes: McKay, Knight, Carter, Green, Strickland. Nays: None. Absent: None.

12. Consider approval of a resolution authorizing a Loan Forgiveness Agreement with the Texas Water Development Board for costs of sewer system improvements

City Manager McCuiston informed that the loan forgiveness is for \$ 353,000 which is a great benefit for the city.

Commissioner Knight made a motion, seconded by Commissioner Carter to approve a resolution authorizing a Loan Forgiveness Agreement with the Texas Water Development Board for costs of sewer system improvements. When the motion was put to vote, it prevailed as follows: Ayes: McKay, Knight, Carter, Green, Strickland. Nays: None. Absent: None.

13. Consider request from Breckenridge Industrial Foundation for \$5,000 of Hotel/Motel tax funds to extend Paul Prater ramp at Hubbard Creek Lake

City Manager McCuiston explained that this ramp is barely under water. Building an adjacent ramp to be extended out further in the water will allow continued use of the lake for fishing tournaments.

Mayor McKay made a motion, seconded by Commissioner Strickland to approve request from Breckenridge Industrial Foundation for \$5,000 of Hotel/Motel tax funds to extend Paul Prater ramp at Hubbard Creek Lake. When the motion was put to vote, it prevailed as follows: Ayes: McKay, Knight, Carter, Green, Strickland. Nays: None. Absent: None.

14. City Manager statement regarding incident on November 20, 2012 involving a Breckenridge police officer.

City Manager McCuiston read his statement regarding the incident on November 20, 2012. (See attached statement)

Commissioner Green responded and stated that he stands by his statements.

Tommy Wimberley stated that Officer Adams was assaulted, he tried to put her in the pickup. She should have arrested Wade and taken him in like anybody else, Wade should have got a blood alcohol test done. Since Officer Adams didn't do that then no one knows for sure if he was intoxicated or not. If it would of been himself, his sons or one of his grandsons they would of not allowed someone to pick them up. Mr. Wimberley stated that he is speaking from experience because of what has happened to his family. Mr. Wimberley told City Manager McCuistion that for him to say that Officer Adams did as she needed to, then he wants to know why everyone else that gets pulled over is taken in for blood alcohol test or is put to the breathalyzer test. Mayor McKay then responded to Mr. Wimberley by letting him know that he appreciated his opinion. At this time all investigations are done neither the Attorney General nor the Internal Investigation found any wrong doing in this case. Mr. Wimberley asked if he believed that both Officers Adam and Hay didn't violate what should have been done. Mayor McKay responded by saying that he was not going to comment on either one at this time. Mr. Wimberley responded to him by saying he didn't think he would respond to him. Mayor McKay responded by saying that policies were followed and every agency that looked into it hasn't found anything. To what Mr. Wimberley responded to by saying that they know that the policies were not followed because if the policies were being followed then they are violating everyone else's civil rights by doing the policy different when it comes to arresting them (police officers). Mayor McKay thanked Mr. Wimberley for his comments.

Mayor McKay asked if anyone else had any comments, Jay Marcom stated to the Commission that they had drawn in a crowd from the TV stations, the radio station and the newspaper. Mr. Marcom then went on to say that he and the City Manager McCuistion have locked horns many times in the past. Mr. Marcom agrees that City Manager McCuistion should not give interviews to the media since they have given him negative press. Mr. Marcom then went on talking about his military background. Mr. Marcom stated that he believed that the Commission should go into Executive Session and emerge with the resolution to give City Manager McCuistion the permission not to talk to the media, along with a pink slip because this manager is everything that himself and millions of vets have fought against for 200 years. Mr. Marcom stated that City Manager McCuistion will never be able to silence the media as long as a vet is alive and stated to the Commission that they need to get rid of him. Mayor McKay thanked Mr. Marcom for his comments.

Mayor McKay asked if anyone else had any comments, Joe Graham thanked the Mayor and the Commission for giving him the opportunity to speak. Mr. Graham then went on and read a statement that stated that the City Manager McCuistion made statements to his employee Tony Pilkington after Mr. Pilkington tried to set up an interview with City Manager McCuistion regarding violations of City Police Policy in regards to what has become known as the Wade incident. To what City Manager McCuistion responded by saying that he was not going to answer any questions and that he would give a statement in tonight's meeting, according to Mr. Pilkington and Mr. Graham. Mr. Graham also went on to say that City Manager McCuistion told Mr. Pilkington that he would no longer respond to any inquiries to Lake Country Radio or KTAB

because he did not like the coverage that they have been providing. Mr. Graham then went on to say that he felt it necessary to discuss these issues with the City Commission, he states that in the past they have never had problems obtaining cooperation with the Breckenridge city managers' office. Mr. Graham stated to the Commission that his radio station has helped keep the residents of Breckenridge informed of issues affecting this city, he then went on and asked the Commission if they are willing to end the relationship that they have because of the statements that City Manager McCuiston has said. Mr. Graham stated that he has to file a Freedom of Information Request anytime he needs information, he then addressed the Commission and said that they could pay for a legal representative or order City Manager McCuiston and Police Chief Mahan to release the pertinent information. Mr. Graham then stated to the Commission that they should review the Police Policy as he too has a copy of this document. City Manager McCuiston asked Mr. Graham where he obtained the copy of the Police Policy, to what Mr. Graham responded by saying that he was not going to reveal his source. Mr. Graham stated that he is not influenced by anybody in the city, what influences him is the facts. City Manager McCuiston responded by saying that the same comments that Mr. Pilkington had were the same that Commissioner Green had told him, therefore the Police Policy was probably given to Mr. Graham by Commissioner Green. At this time City Manager McCuiston asked Commissioner Green if he would like to admit to this, to what Commissioner Green responded by saying he would not admit to anything that is not true. City Manager McCuiston informed Mr. Graham that the reason behind him not doing an interview with Mr. Pilkington was that he did not want to violate the policy, to what Mr. Graham responded by saying that the policy was not going to be violated since the questions did not have anything to do with the policy. City Manager McCuiston responded by saying that he and the Commission feel that this case is closed, the policy was followed adequately. City Manager McCuiston let the media know that he is not working against them, he will release what he can and will work with them. Mr. Graham thanked everyone for their time.

Tommy Wimberley stated that this is not over and this incident has now become his personal agenda. Mr. Wimberley thinks that with everything that is going on they are destroying the community that he loves and has worked hard for. He will not be intimidated and still has one more avenue to pursue to try and bring the truth to light on everything that has been done and on how the law and ordinances have been violated. Mayor McKay asked Mr. Wimberley if he was accusing the Commission of violating the law, to what Mr. Wimberley responded by saying that he is not accusing the Commission of violating the laws.

Mayor McKay stated that he would like to thank City Manager McCuiston for everything he has done for the city in the last nine months he has always kept the Commission and himself aware and up to date on any issues.

Commissioner Knight stated that the biggest issue was that the things that were said in the Closed Session were brought up to the media by Commissioner Green, that is a violation of the Sunshine Law. Commissioner Green responded to this by saying that he did not discuss anything

from that Closed Session. Commissioner Green stated that he had already brought up his issues with the Police Department to the attention of City Manager McCuiston and Mayor McKay. Commissioner Green stated that the incident that occurred on November 20, 2012, is a symptom of the problem that is going on with the Police Department.

Commissioner Green stated that he had a statement to read as well, this was a resignation letter. Commissioner Green got up after reading his resignation letter and left the Commission meeting around 7:22 P.M. (See attached statement)

Mayor McKay stated that he appreciates law enforcement for everything they do for the community.

Danyeale Young stated that Billy Wade assaulted a female officer; her father was the prior Sherriff. Ms. Young then addressed the Commission and told them that they are basically telling the community that they can get away with things like this. She went further on to say that this all looks like a cover up.

Commissioner Strickland asked the people present if they thought the Commission had the authority or power to influence the District Attorney, the Attorney General office, or the Texas Rangers. Everything that was gathered by the Breckenridge Police Department has been turned over to those agencies for full disclosure and full investigation.

Shane Shockley stated that he grew up in this town and said that this is not the fault of any of the Commission members or of City Manager McCuiston but the fault of the police officers that were there that night. Mr. Shockley stated that from watching the videos and from the statements that were provided from the officers involved it seems like two different stories. Mr. Shockley agrees with Mr. Wimberley that if it would have been a citizen that would have done this they would be in jail. Mr. Shockley believes that there is enough evidence and that this should go to Grand Jury, but if no complaint has been filled then the District Attorney's office won't take it.

15. City Manager reports

A. Brush clean-up -

Public Works Director informed that the last week of March will be Brush clean up, they ask that all guidelines be followed so that this process can be faster

B. City wide clean-up

Fire Chief Bufkin informed that they will allow up to five large bulk items and bags of trash as well. Four batches of Junk Vehicles have been done, both Batch 1 and Batch 2 have been 100% completed. Batch 3 still has 13 cars that are being put into privacy fence they should be taken off the list sometime next week. Batch 4 is still being worked on, some of those have been in compliance.

C. AT&T update-

City Manager McCuiston informed that AT&T is working on the cell phone issues, they are working on making this area go from 2G to 3G by the end of 2013. AT&T plans to have the entire state of Texas upgraded to 4G by the end of 2014.

16. Items from the City Commission not requiring formal action:

There were no items from the City Commission not requiring formal action.

17. Adjourn

Commissioner Knight made a motion, seconded by Commissioner Carter to adjourn the meeting. When the motion was put to vote it prevailed as follows: Ayes: McKay, Knight, Carter, Strickland. Nays: None Absent: Green

Meeting adjourn 7:37 P.M.

Jimmy McKay, Mayor

SEAL

Heather Robertson, City Secretary

