

REGULAR MEETING OF THE CITY COMMISSION  
OF THE CITY OF DUMAS, TEXAS

APRIL 21, 2008

6:30 P.M.

BE IT REMEMBERED THAT THERE CAME AND WAS HELD A REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF DUMAS, TEXAS IN THE CITY HALL OF SAID CITY:

Members Present:

Mayor Mike Milligan  
Mayor Pro Tem Pat L. Sims  
Commissioner John D. Harris  
Commissioner Mike Salim  
Commissioner James Mahaffey  
City Manager Vince DiPiazza  
City Attorney Tom Moore

Others Present: Kim Rehkopf, Greg Tanner, Tommy Raper, Dolores Montoya, Paul J. Jenkins, Kayte Cook, Dottie Williams, Dale Alwan, Andrew Nolte, Bill Abell, Harriet Abell, Charlotte Pitts, Donna Ditzler, Lavon Ditzler, Kenneth Feese, Ruth Ann Feese, Mike Pitts, Karla Smith, Steve Bodnar, Susan Benge, Dovie Poole, Rebecca Torres, Kenna S. Moyers, and Jim Vines.

Mayor Milligan called the meeting to order.

Ms. Torres told the Commission she owns a lawn mowing business and all of their equipment is stored in a shop located at their residence. Ms. Torres said there is not a residence next to her house and that she also owns the home across the street from her residence. Commissioner Harris told Ms. Torres her situation is related to an item on the agenda.

Commissioner Mahaffey asked Public Works Director Tommy Raper to explain the bill for the street department from Texas Concrete for \$1,680. Mr. Raper said the bill is for washout from the concrete trucks and the city uses it for alley repairs. Mr. Raper said washout is less expensive compared to caliche or other material. Commissioner Mahaffey asked Mr. Raper to explain the bill for the landfill department from Thou Shall Not Waste Tires for \$1,200. Mr. Raper said this cost is per trailer load to remove old tires from the landfill. City Manager Vince DiPiazza asked Mr. Raper how many trailer loads were picked up annually. Mr. Raper said approximately one load every two to three months. Mr. DiPiazza said the city is not allowed to bury tires. Mr. DiPiazza also stated that the tires could not be recycled due to the steel in tires. Mr. Raper said the city does charge citizens that dump their old tires at the landfill. Commissioner Mahaffey asked about the bill for the emergency management department from Diamond Business

Service for \$175 for repair on an identification printer. Commissioner Mahaffey said the printer was recently purchased and asked if there was a guarantee on the printer. Mayor Milligan told Mr. DiPiazza to find out if the printer has a guarantee and what the \$175 repair cost was exactly for. A motion was made by Commissioner Mahaffey, seconded by Mayor Pro Tem Sims, and passed unanimously to approve the April 7, 2008 Regular City Commission meeting minutes; April 14, 2008 Special City Commission meeting minutes; and paying the bills.

Mayor Milligan said the proclamation presented was a program that D.I.S.D. does annually at the high school. The high school children participate in a mock accident that was caused by a drunk driver. Mayor Milligan said this program is very powerful and effective and the Commission supports the program. The program educates the high school children, especially before prom, on what the results of alcohol consumption and driving a vehicle are. A motion was made by Commissioner Harris, seconded by Commissioner Mahaffey, and passed unanimously to approve the "Every 15 Minutes" proclamation.

Charlotte Pitts asked the Commission to review the enforcement policy of zoning regulations pertaining to home occupations. Ms. Pitts presented pictures of her home, located at 109 Floyd, where she has a dog grooming business. Ms. Pitts presented a petition with 247 signatures supporting her home occupation should be continued. Ms. Pitts said she has been operating there for four years. Ms. Pitts said her parking is located on the side of her home, off of the alley, and she has a four vehicle area for parking. Commissioner Harris stated that there is a chiropractic business across the street from Ms. Pitts and the city has asked them to close the business because of a complaint received concerning traffic congestion. Commissioner Harris said the chiropractic business does not have ample parking and asked Ms. Pitts why the city should allow her to keep her home business but restrict other home businesses. Ms. Pitts said the city ordinance allows home occupations from the main building as long as there is not traffic congestion, odor, or noise. Mr. Jim Vines told the Commission the city inspected Ms. Pitts business when she opened and doesn't understand why she is being asked to close her business now. Commissioner Harris said it was because the city received a complaint. Ms. Feese said she is a neighbor and she has talked to many city employees concerning Dr. Duke's practice because it has caused a traffic problem. Ms. Feese said the city tells her that they can't fine Dr. Duke unless they see a patient at his home. Ms. Feese said Dr. Duke's patients turn around in her driveway and he did not ask any of the neighbors if they would agree to his patients coming to his home, whereas Ms. Pitts did ask her neighbors. Mayor Milligan said he drives down Floyd Avenue, as does the city manager and city inspector at least three or more times a day, and they have not seen one vehicle at his residence. Ms. Feese said Dr. Duke is just being very careful right now because he knows he is being watched. Mayor Milligan said Dr. Duke was asked by the city to close his chiropractic business at his home by April 1, 2008 and Dr. Duke said he would. Commissioner Harris told Ms. Feese the city could not hold a stakeout on Dr. Duke's home and that the most the city could do is issue him a citation. Commissioner Harris told Ms. Feese she could file a complaint. Ms. Feese told the Commission the city has not really tried to catch someone at Dr. Duke's residence because she calls the city

inspector when vehicles are parked on the street and the inspector does not show up. Mayor Milligan said Ms. Pitts business is no different than Dr. Duke's and if the city is going to enforce the law, they would have to make everyone comply, not just a select few. Ms. Feese said the residents do not feel safe because of Dr. Duke's patients. Commissioner Harris said Ms. Pitts has customers from Dumas and surrounding towns. Ms. Feese said again that the city should put a policeman down the street to watch for vehicles. Commissioner Harris said again that the city could not provide the man power to allow a police officer to sit down the street to enforce a code ordinance. Commissioner Harris told Ms. Feese again, she should make a formal written complaint and provide pictures and Ms. Feese said the city would receive her pictures. Steve Bodnar said he lives on First Street and Floyd Avenue and owns the lots beside his home, which is basically a whole city block. Mr. Bodnar said he owns a mechanic shop that is located on Dumas Avenue and if home occupations are allowed he could move his business to his home. Mr. Bodnar said there are other home occupations in this specific area including an off-road repair shop, which is listed in the telephone book with the home address for the location of the business. Mr. Bodnar agreed with the Commission and said the law should apply to everyone. City Inspector Greg Tanner read part of the city ordinance that states a home occupation could not trade in merchandise, display a sign or symbol advertising the business, or could have more than one person performing the home occupation. Mr. Tanner said Ms. Pitts did have a sign and she removed the sign he asked her to. Mr. Tanner said Dr. Duke did have a sign stating he was open and he also had another person participating in the business. Mr. Tanner said he has never had any complaints on Ms. Pitts business until now, and he has only received one complaint. Mr. Tanner said since he received a complaint he had to give her a notice to close her business. Mr. Tanner said the city ordinance is very vague on what kind of business a person can have in their home. Commissioner Harris asked City Attorney Tom Moore if the city approved a distance of 250 feet for a home occupation and written consent from the neighbors would that protect the city. Mr. Moore said that would not protect the city because the neighbors can't tell the city what kind of ordinances to have. Mr. Moore said there is a danger in allowing that because the city loses complete control of any long-term planning. Mr. Moore said Ms. Pitts is not asking for a variance, and the city does have an ordinance in place, but if Ms. Pitts was issued a ticket she would be allowed to take it to court and the city would have the burden to prove, beyond a reasonable doubt, that there was traffic congestion, odor, or noise due to her business. Mr. Moore said if a jury said it did not create those items, then Ms. Pitts could continue her business. Mr. Moore said if Dr. Duke had the same factors he would also be allowed to continue. City Manager Vince DiPiazza said the issue is, where does the city draw the line, and told the Commission that the city has acted against businesses in the past. Mr. DiPiazza said there is a difference between a welding shop and a pet grooming business. Mr. Tanner said he did not issue a citation to Ms. Pitts only a verbal warning. Commissioner Harris suggested the city look at other city's ordinances since the Dumas ordinance was written in 1967. After a lengthy discussion, a motion was made by Commissioner Harris, seconded by Mayor Pro Tem Sims, and passed unanimously to make an exception and allow Ms. Pitts to continue her pet grooming business at her resident located at 109 Floyd Avenue.

A motion was made by Commissioner Harris, seconded by Mayor Pro Tem Sims, and passed unanimously to approve the Second & Final Reading of Ordinance No. 1037 rezoning a 4.242 acre tract of land out of Lots 6 & 7, Block 1, Tri-Canyon Subdivision of surveys 195 and 226, located in the 300 Block of E. 19th Street from “Ag”, Agriculture, to “H”, Retail.

Fire Chief Paul J. Jenkins presented an ordinance concerning abandoned and junk vehicles. Chief Jenkins said there is another change concerning I. B.1. and it states “Does not lawfully have attached to it: a. an unexpired license plate; or b. a valid.....” City Attorney Tom Moore recommended adding the word “**both**” at the end of 1. ”....attached to it **both**: and on a. change or to “**and.**” Commissioner Harris asked if all-terrain vehicles and watercraft vessels were addressed and Chief Jenkins said that issue is addressed in the ordinance. Chief Jenkins said any motor driven or propelled vehicle required or **not required** to be registered would apply to the all-terrain and watercraft vessels and that they must be covered by a six foot, opaque, fence, including the trailers. Chief Jenkins said as long as the unit is operable and is currently registered it could be parked in the street. The Commission asked that the ordinance include licensed boats and trailers. Mr. Abel told the Commission he lives at 315 S. Birge and behind his home, across the alley, there are junk vehicles in that yard. Mr. Abel said Dumas has become a junk town and something should be done about it. A motion was made by Commissioner Harris, seconded by Commissioner Salim, and passed unanimously to approve the Second and Final Reading of Ordinance No. 1038, amending public nuisances, abandoned, junk vehicles and to include motorboat and watercraft recreation trailers in the ordinance.

Fire Chief Paul J. Jenkins presented an ordinance concerning fire department protection and prevention service including the authority to enforce these services. Chief Jenkins said non-residential building and construction plans, prior to the issuance of a building permit, be approved by the fire chief. Chief Jenkins said that the city inspector does over ninety percent of approving the plans, but he would like to approve sprinkler systems, exit signs, and fire extinguishers. Chief Jenkins said for non-residential fire prevention service fees a permit should not be issued until the fire department reviews plans concerning a remodel, alteration, new construction, fire alarm system, sprinkler system and hood suppression plans. Chief Jenkins recommends a \$50 fee for each service. Mayor Milligan suggested a \$50 or \$100 minimum fee be assessed. Mayor Milligan asked Chief Jenkins to check other cities fees and present those fees at the next meeting. Chief Jenkins said he has added non-resident fire operations service fees be charged for fire responses outside the city limits with a minimum fee of \$850 charged for any vehicle accident, vehicle fire, or hazardous material incident. Mayor Milligan asked if someone would be charged even though the accident was not their fault and Chief Jenkins said yes. Mayor Milligan said he did not want someone to receive a bill for \$850 if they were not at fault, and if fault could not be determined, the city shouldn't send a bill to anyone. Mayor Milligan did state that the \$850 fee should be charged for hazard material incidents. A motion was made by Commissioner Harris, seconded by Commissioner Mahaffey, and passed unanimously to approve the First Reading of Ordinance No. 1039 amending Chapter 10 relating to the fire department protection and

prevention services, including fire chief approval on non-residential building and construction plans, non-residential fire prevention service fees, an non-resident fire operations service fees of \$850 for at-fault vehicle accidents, vehicle fires, and hazardous material incidents.

Fire Chief Paul J. Jenkins asked the Commission to consider approving roof repair for their burn house. Chief Jenkins presented two quotes from Cactus Construction for \$5,307.85 and Jennings Construction for \$6,033.33. A motion was made by Commissioner Harris, seconded by Mayor Pro Tem Sims, and passed unanimously to approve the quote from Cactus Construction for \$5,307.85 for the fire department burn house roof repair.

Park Superintendent Karla Smith asked the Commission to consider approval to purchase a skid loader. Ms. Smith said the current skid loader is twenty years old and the pressure pump does not work. Ms. Smith said it would cost a minimum of \$7,000 to repair their current skid loader and she could purchase a 2005 skid loader for \$18,500. Ms. Smith said she has checked with different vendors and would like to purchase the skid loader from Heritage Equipment. Heritage Equipment has offered a \$4,500 trade-in. A motion was made by Commissioner Salim, seconded by Mayor Pro Tem Sims, and passed unanimously to purchase a skid loader for \$18,500 from Heritage Equipment for the park department.

City Inspector Greg Tanner said terms have expired for all members of the Planning and Zoning Commission. Mr. Tanner said William Watson, Jim Johnston, and Mike Funk agreed to be reappointed but he needs two more members. The Commission asked City Secretary Kim Rehkopf to place an ad in the news paper and on the radio station. A motion was made by Commissioner Harris, seconded by Mike Salim, and passed unanimously to approve the reappointment of William Watson, Jim Johnston, and Mike Funk to the Planning and Zoning Commission.

City Manager Vince DiPiazza said there are two terms that have expired on the Park Board. John Haltom and Crystal Knight agreed to be reappointed. Mayor Milligan asked if Mr. Haltom and Ms. Knight attended the meetings regularly. City Secretary Kim Rehkopf said that Ms. Knight does not attend regularly. Mayor Milligan asked Ms. Rehkopf to contact Ms. Knight again to confirm that she does want to be reappointed. A motion was made by Commissioner Salim, seconded by Mayor Pro Tem Sims, and passed unanimously to reappoint John Haltom and Crystal Knight.

City Manager Vince DiPiazza said the Park Board recommended naming the park located at 3rd Street and South Bliss Avenue, "Bliss Park". Commissioner Salim said Jack Hickman was the mayor when the property was purchased by the city and he recommends the park be named "Hickman Memorial Park". Mayor Milligan recommended the park board reconsider naming the park. This item was tabled.

Mayor Milligan opened the Work Session.

Public Works Director Tommy Raper presented area bulk water rates. Dumas charges \$1.60 per thousand gallons. Amarillo charges \$81.28 minimum plus \$1.56 per thousand for usage over 2,000 gallons; Dalhart charges \$3.50 per thousand with no minimum; and Borger charges \$2.73 per thousand with no minimum. Mr. Raper suggested charging \$2.50 or \$2.75 per thousand gallons with no minimum fee. Mr. Raper said the bulk water rate would need to be approved by ordinance. The consensus of the Commission is to charge \$3.00 per thousand gallons with no minimum fee.

Mayor Milligan discussed entry and rental fees for the proposed swimming pool. Mayor Milligan said Brownfield, Texas charges \$3.00 for students, \$4.00 for adults, and \$300 an hour to rent the swimming pool in the evening for parties. Park Superintendent Karla Smith said Dumas' entry fee is \$2.00 and \$50 to rent the pool for two hours. Mayor Milligan said the proposed swimming pool would accommodate more than one party every evening. Mayor Milligan said \$100 per hour would be reasonable and he would like to have season passes for students that have straight A's or one hundred percent attendance. Mayor Milligan suggested a \$100.00 pass be considered for A and B students. Mayor Milligan said he went to Valero to present the proposed swimming pool design and if Valero were to contribute \$150,000 for the pool project, the city should possibly consider allowing their employees to swim free for one year. Commissioner Harris said one of the services Brannon Corporation provides is suggested entry and party fees and recommendations that should be offered to companies, employees, and other entities.

Mayor Milligan recessed into executive session at 8:19 p.m. for attorney consultation concerning the wastewater treatment plant permit issues. Mayor Milligan recessed the executive session at 8:40 p.m. and reopened the regular meeting. There were no votes or action taken.

Meeting adjourned.

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Mike Milligan, Mayor

ATTEST:

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Vince DiPiazza, City Manager