

Council met in special session with the following persons present: Mayor Richard Zink, Safety-Service Director Ralph Holt and Clerk Beverly Brown.

In the absence of President Donley Mr. Koogler conducted the meeting calling it to order at 8:00 a.m. at 130 North High Street in the Conference Room of the Hillsboro City Building.

ROLL CALL:

Present: Mr. Rod Daniels, Mr. Lee Koogler, Mr. John Levo, Mrs. Bonnie Parr, Mr. Peter Pence, Mr. David Shoemaker

Absent: Mr. Brian Waller

There was a motion by Mr. Levo to excuse Mr. Waller and Mr. Donley from the meeting and Mr. Daniels seconded the motion with all members present voting yea.

The purpose of the special council meeting was several pieces of legislation that needed to be passed and approval of some issues that needed resolution.

1. Kathryn Hapner, Assistant City Law Director, came before the council to explain the next step toward resolving the issue of Union Stockyards vs. City of Hillsboro. She explained that what she had received from Judge Martin was not a final appealable order and they have an entry that they can't do anything with. Certain language must be in an entry order for it to go to the Court of Appeals.

She said there were two options; one is to file a Notice of Appeal which the court will reject and send it back telling us that it is not a final appealable order which is a message to the judge to do what he needs to do to make it a final appealable order. Number two is to not do anything and sit and wait for the judge on his own to make it a final appealable order.

She said that Mr. Tepe has filed for interest on \$140,000 from October, 2007 until it's paid. Mr. Holt said that he would like council to approve going ahead and beginning the procedure for the appeal so we can get the information back. Mr. Koogler said that he didn't want to take any chances on Judge Martin and having the Notice of Appeal being rejected. Ms. Hapner said that would be her suggestion, too. She said that she wanted everyone to know that when the Court of Appeals sends it back and rejects it; it is not because we've done anything wrong. It's simply that the judge hasn't followed through with what he's supposed to do to make it a final appealable order.

Mr. Daniels asked Ms. Hapner why the judge wasn't wanting to make that final decision and what did she think the odds were on winning an appeal on this. Ms. Hapner said that she thought maybe the judge didn't know the language had to be in there; that he doesn't understand that there is very specific language the entry has to say this is a final appealable order, there is no just cause for delay. In answer to his second question she said that she it was 90% sure that we're going to win but of course she is representing the city.

Mrs. Parr made a motion to have Ms. Hapner file an appeal on behalf of the city and Mr. Shoemaker seconded the motion. All members present voted yea; motion carried.

2. RES. 09-25 – The resolution had been passed, however the state was requiring that the amount of \$89,100 be included. Mr. Levo made a motion to amend the resolution and Mr. Pence seconded the motion with all members present voting yea. Mrs. Parr made a motion to suspend the three-reading rule and Mr. Shoemaker seconded the motion with all members present voting yea. Mrs. Parr made a motion to pass the amended resolution and Mr. Shoemaker seconded the motion with all members voting yea; amended resolution adopted.

3. RES. 09-33 – A RESOLUTION TO AUTHORIZE THE MAYOR TO ENTER INTO A CONTRACT WITH CARGILL AND DECLARING AN EMERGENCY- The clerk read the resolution in full for a first reading. Mr. Levo made a motion to suspend the three-reading rule and Mrs. Parr seconded the motion. All members voted yea except Mr. Daniels who voted "no". Mr. Levo made a motion to approve the resolution and Mrs. Parr seconded the motion with all members present voting yea except Mr. Daniels who voted "no". Resolution approved.

4. Approval for the YMCA to cross city property at Liberty Park to have Time Warner lay cable for the telephone and internet service. Mrs. Parr's committee had a meeting and recommended that council approve the request. Mrs. Parr then made a motion to allow the cable to cross city

property and Mr. Daniels seconded the motion. All members present voted yea except Mr. Koogler who abstained because he is on the Board at the YMCA. Approval granted.

5. RES. 09-34 – A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF HILLSBORO TO FILE APPLICATION WITH THE HIGHLAND COUNTY COMMISSIONERS FOR FY09 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FORMULA FUNDS AND DECLARING AN EMERGENCY- The clerk read the resolution in full for a first reading. Mr. Shoemaker made a motion to amend Section 4 to read Section 3 and Mrs. Parr seconded the motion with all members voting yea. Mr. Shoemaker made a motion to suspend the three-reading rule and Mrs. Parr seconded the motion with all members present voting yea. Mr. Shoemaker made a motion to approve and adopt and Mrs. Parr seconded the motion. All members present voted yea; resolution adopted.

6. RES. 09-35 – A RESOLUTION TO TRANSFER FUNDS FROM THE STREET FUND TO THE STATE HIGHWAY FUND- The clerk read the resolution by title only. Mr. Shoemaker made a motion to approve and adopt and Mr. Levo seconded the motion. All members present voted yea; resolution adopted.

7. RES. 09-36 – A RESOLUTION TO TRANSFER FUNDS FROM THE MUNICIPAL MOTOR VEHICLE LICENSE FUND TO THE STATE HIGHWAY FUND- The clerk read the resolution by title only for a first reading. Mr. Shoemaker made a motion to approve and adopt and Mrs. Parr seconded the motion. All members present voted yea; resolution adopted.

With no further items before the assembly Mr. Shoemaker made a motion to adjourn and Mr. Daniels seconded the motion; meeting adjourned.

Lee Koogler, President Pro Tempore

Beverly Brown, Clerk