

**CITY OF VAN ALSTYNE**

**MINUTES**

**City Council Meeting**

Van Alstyne Community Center  
262 N. Preston Ave

**Tuesday, March 12, 2013  
6:30 P.M.**

Members present: Mayor Kim DeMasters, Jim Smith, John Jennings, Billy Plake and Kaaren Teuber.

Staff present: Frank Baker, Julie Fort, Jennifer Gould, Chuck Milner, Landon Smith, Steve White and Tracy Luscombe.

**AGENDA.**

1. Call to Order. Mayor DeMasters called the meeting to order at 6:32pm.
2. Invocation.
3. Pledges of Allegiance. (*US and Texas*)
4. Citizens Communications. Daniel Perez addressed Council expressing concern regarding comments made by the Mayor stating as a citizen he accepts her comment and her apologies. Mr. Perez added he believes it is important that the City embrace growth. Rick DeMasters addressed Council expressing concern regarding comments made by members of the Council. Mr. DeMasters expressed disappointment in the lack of collaborative efforts of the members, defended the integrity of his family as he feels a personal attack has been made and offered a challenge to the Council to focus on the needs of the community rather than the elementary attitudes displayed by members as well as seek training and let go of personal vendettas.

**PUBLIC HEARINGS.**

5. None.

**CONSENT AGENDA.**

6. Approval of minutes from the October 30, 2012 special called meeting and the February 23, 2013 regular meeting. Typographical error in the agenda. The February date should be listed as February 12, 2013. Jim Smith made a motion to approve the minutes as presented. Billy Plake seconded the motion and the motion passed unanimously.

**REGULAR AGENDA (NON-CONSENT).**

7. Discussion of the utility payment extension policy. Citizen request concerned utility customers who work abroad and are unable to request extensions in person. Citizen says banks, gas and electric company all accept extensions over the phone and would like the Council to discuss allowing extensions by phone request. Mayor DeMasters identified that the citizen requesting the discussion was not present. Jim Smith expressed the need to

allow for extension requests over the phone or electronically rather than requiring customers to come in the office as a matter of customer service. John Jennings clarified with staff that the requirement for an in office request is an instrument of documentation and expressed his desire to change the requirement to allow four extensions per year with two being by phone or electronic mail. Kaaren Teuber suggested removing the last sentence of item two in the policy which would allow for verbal, electronic and phone requests to be accepted adding that there are legitimate times when a phone request is necessary. John Jennings suggested modifying the sentence to say “Verbal, electronic and/or phone requests can be made no more than twice in a consecutive twelve month period.” Ms. Teuber suggested changing “must” to “may” in the first sentence of item two providing for consistency. Council directed staff to make said changes and return for consideration and adoption at the next regular meeting.

8. Consider and take any action necessary regarding amending the Van Alstyne Community Development Corporation budget in the amount of \$499.00 in order to fund a Certified Registration Specialist to obtain a valid DUNS number and set up and migrate to Systems for Award Management. Kanita Larkins addressed Council regarding the Community Development Corporation budget amendment and explained the need for the fees to be expensed. Jim Smith asked if this would be a one-time fee or if the funds would have to be expensed in the future to which Mrs. Larkins answered that the fee is one-time. Mr. Smith made a motion to approve amending the Community Development Corporation budget in the amount of \$499.00 to fund a Certified Registration Specialist to obtain a valid DUNS number and set up and migrate to Systems for Award Management. John Jennings seconded the motion and the motion passed unanimously.
9. Consider and take any action necessary regarding amending the Van Alstyne Economic Development Corporation budget to allow funding for training and education of board members and staff. Kanita Larkins addressed Council regarding the requested amendment and the need for educating new board members. Two members would like to attend basic economic development training and a sales tax workshop. The total amendment requested would be \$1,750.00. Members discussed possibilities for reallocation of funds to allow for the expense. Billy Plake suggested the Economic Development Corporation Board propose a reallocation of funds to pay for the desired training. John Jennings suggested forecasting the needed expenses on the 221 building as \$4,000.00 was budgeted and has yet to be expensed. Billy Plake made a motion to table the item and take it back to the EDC Board and allow them to suggest where the money will come from and provide a before and after view of the budget with the suggested changes. Kaaren Teuber seconded the motion and the motion passed unanimously.
10. Consider and take any action necessary regarding builder incentives. Frank Baker addressed Council regarding the builder incentives currently in place adding that builders are interested in knowing if the incentives will be extended past the August 2013 deadline. Jim Smith asked if the incentive would apply to every new home constructed not just DR Horton to which Mr. Baker clarified that it would be an incentive for all new residential construction just as it was passed previously. Mr. Smith asked if DR Horton pays based on square footage or cost of the project to which Jennifer Gould advised the permit fee is assessed based on the value of the home. Mr. Smith asked what the average permit cost is for DR Horton to which Ms. Gould advised the fee assessed is generally between \$800.00 and \$900.00. John Jennings suggested reviewing the incentive program further as the new homes are impacting the City’s infrastructure which is in need of repair. Mr. Jennings discussed area City’s fees identifying that they are significantly higher adding that Council has until August and believes it would be advantageous to review further. Mr. Smith advised he does not want to display hesitation in extending the incentive as it may discourage building. The loss will be recouped in the collection of ad valorem tax. Billy

Plake asked if DR Horton had discussed the fees to which Mr. Baker advised the extension of the incentive has been their primary concern. Jim Smith made a motion to extend the builder incentive for an additional three years with an annual review. Kaaren Teuber seconded the motion and the motion passed with Jim Smith and Kaaren Teuber in favor, John Jennings opposed and Billy Plake abstaining.

11. Consider and take any action necessary regarding awarding a depository agreement. Frank Baker addressed Council regarding the two bids received by City Hall advising that the administration conducted brief review and has some questions. Jim Smith asked if there is a reason Texas Star Bank did not submit a proposal to which Mr. Baker advised the City hand delivered a request for proposal to each bank in the City and any question that arose from an entity was answered and the information provided to each bank. Tom Smith with Independent Bank addressed Council and introduced the bank, giving a brief overview of the submitted bid. Mr. Smith advised that basically all services are offered for free with all funds held in now accounts at 0.35% and will fully collateralize 102% of the City's monies. Nathan Petri and Sam Henry with Landmark Bank addressed Council and introduced the bank giving a brief overview of the submitted bid. Mr. Petri summed the bid in one word, that being "free". Mr. Henry advised Landmark is offering a fixed interest rate of 0.35% or a floating rate with a 0.25% floor. Mr. Smith asked if the floating rate is something that should be considered to which Mr. Petri advised when earning money it can be beneficial. Mayor DeMasters asked what the trend in interest rates has been to which Mr. Henry advised it has been very flat. Mr. Smith asked for a recommendation from staff to which Mr. Baker advised staff has only been able to conduct a brief review and initially Landmark Bank seems to be the best option however time for further review is preferred. Jim Smith made a motion to table the motion for further review. Kaaren Teuber seconded the motion and the motion passed unanimously. Julie Fort advised that the law requires the funds be fully transferred within 60 days of Councils decision.
12. Consider and take any action necessary regarding an ordinance amending Ordinance No. 680 as it relates to bulk water rates. Steve White addressed Council regarding the rate proposal. In November 2012 Council directed staff to research the rate. In review of the rates assessed by neighboring cities Van Alstyne's rates are significantly higher. Mr. White recommended to Council that the rate be set at eight dollars per thousand gallons. Kaaren Teuber questioned charging eight dollars per thousand gallons rather than seven to which Mr. White advised he proposes eight dollars as it is between the rate assessed by the City of Anna and the City of Melissa and would be competitive. Frank Baker added staff is considered taking CGMA water to sell as bulk. The proposed rate would also help offset the cost of pumping this water. John Jennings made a motion to approve the ordinance amending Ordinance No. 680 as it relates to bulk water as presented. Jim Smith seconded the motion and the motion passed unanimously.
13. Consider and take any action necessary regarding an ordinance amending Ordinance No. 446 as it relates to temporary fire plug meter deposits, connections and transfer fees. Steve White addressed Council regarding the need to amend the fire plug meter deposit advising the cost of equipment provided is nearly \$2,000.00. Increasing the deposit fee would help to offset the cost of replacing the equipment should it go unreturned. Jim Smith asked if contractors' supply their own meter to which Mr. White answered it is not typical as they would have to furnish calibration reports and certifications to verify the functionality of the device. Mr. White clarified the \$2,000.00 fee is a deposit that is refundable. Mr. Smith asked if there is a meter rental fee that is also assessed to which Ms. Gould advised the fee for a two inch meter rental. Mr. White clarified that the meter rental is based on the size of the connection. John Jennings asked who is responsible for loss in the event of theft to which Mr. White advised typically the City is responsible. Mr. Jennings suggested adding a responsibility for theft clause to the service agreement. Jim Smith motioned to approve

the ordinance amending Ordinance No. 446 as it relates to temporary fire plug meter deposits as presented. John Jennings seconded the motion and the motion passed unanimously.

14. Consider and take any action necessary regarding approval of an ordinance regarding filming in the City. Frank Baker addressed Council advising of the revision made to the ordinance as directed by Council to define commercial use. Kaaren Teuber asked if there is a fee involved in the Texas Film Commission membership to which Laura Dapkus answered no. Ms. Teuber asked for an example of what would constitute an unforeseen event wherein the City Manager would possibly impose an additional regulation to which Mr. Baker answered it would be an unforeseen unusual event that is not accounted for in the ordinance. Ms. Teuber asked if the permit fee of \$25.00 is only applied to commercial to which Mr. Baker advised the fee is only assessed to commercial productions. Ms. Teuber asked if the item identifying the requirement to pay off duty personnel time and a half should be included as it should be negotiated between the parties. Mr. Baker advised it helps to streamline the process and provide for personnel on scene who are trained appropriately. It does not require the use of off duty City personnel however it may be required if it is deemed in the best interest of public health and safety by the City Manager, Police Chief or Fire Chief. Billy Plake made a motion to approve the ordinance regarding filming in the City. John Jennings seconded the motion and the motion passed unanimously.
15. Consider and take any action necessary regarding an ordinance amending Ordinance No. 439 as it relates to noise regulations. (During discussion Mayor DeMasters excused herself from the meeting and the remainder of the meeting conducted by Mayor Pro-Tem Billy Plake) John Jennings expressed concern regarding the latest amendment proposed stating it had become more complex than necessary. Mr. Jennings suggested adding a clause to Ordinance No. 439 as proposed in January making construction noise acceptable from 6:00am to 8:00pm. Kaaren Teuber questioned the allowance of noise on Sundays and holidays. Billy Plake expressed a need to allow home owners to perform construction later in the evening. Jim Smith made a motion to amend Ordinance No. 439 to allow commercial construction crews to work between the hours of 6:00am and 8:00pm, Monday-Saturday. Ms. Teuber questioned if an exception can be considered for Sundays. John Jennings seconded the motion and the motion passed with Jim Smith, John Jennings and Billy Plake in favor and Kaaren Teuber abstaining.

#### EXECUTIVE SESSION.

*In accordance with Chapter 551 of the Texas Government Code (Open Meetings Law), the City Council may meet in a closed Executive Session pursuant to applicable laws.*

17. Recess into Closed Session in compliance with Section 551.001 et. seq. Texas Government Code for the following:

Council recessed into executive session at 8:25pm.

- A. Section 551.074. To deliberate the duties of the City Attorney.
- B. Section 551.071 (2). To receive legal advice regarding the seizure fund.

16. Consider and take any action necessary regarding authorizing advertisement of a legal services request for proposal. In accordance with Chapter 551 of the Texas Government Code (Open Meetings Law), the City Council discussed under executive session.

OPEN MEETING.

*Pursuant to Section 551.0415 of the Texas Government Code, the City Council may report on the following items: 1) expression of thanks, congratulation or condolences, 2) information about holiday schedules, 3) recognition of individual, 4) reminders about upcoming city events, 5) information about community events and 6) announcements involving an imminent threat to public health and safety.*

18. Reconvene into Regular Session and discuss any item and/or take any action necessary as a result of the Closed Session. Council convened into regular session at 8:53pm. Jim Smith made a motion to enter into a contract with Julie Fort for legal services. Kaaren Teuber seconded the motion and the motion passed unanimously.
19. Departmental Reports. Jennifer Gould advised Council and the public of the need for election workers and asked any interested in serving to contact City Hall. Steve White advised Council his department has been patching streets.
20. City Manager's Report. Frank Baker advised Council that things are looking up for the City regarding development and home building. Mr. Baker expressed his appreciation for Council, staff and citizens continued cooperation.
21. Mayor and Council Closing Comments. Billy Plake invited those running for a seat in the May 2013 election to be introduced. Timmerle Kelly and Melvin Barker introduced themselves to Council and public.
22. Adjournment. Kaaren Teuber made a motion to adjourn the meeting at 8:58pm. John Jennings seconded the motion and the motion passed unanimously.

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Kim DeMasters, Mayor

ATTEST:

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Jennifer Gould, City Clerk