

**REGULAR CALLED CITY COUNCIL MEETING
JUNE 19, 2014**

MINUTES OF THE REGULAR CALLED MEETING OF THE CITY COUNCIL OF THE CITY OF OVERTON, TEXAS THAT WAS HELD ON **JUNE 19, 2014** AT 7:00 PM IN THE COUNCIL CHAMBER, CITY HALL, 1200 SOUTH COMMERCE, OVERTON, TEXAS.

PRESENT:

C. R. Evans Jr., Mayor
John Posey
Philip Cox
Jerry Clark
John Ed Welch, Mayor Pro-Tem

ABSENT:

Pat Beets

Also in attendance were, Rachél Gafford, City Secretary, Pamela Raney, Finance Director and Clyde Carter, Police Chief representing staff. Joe Jones, representing Kilgore News Herald, and Lawrence Davis and Jean Beth Hamblen representing the public.

ITEM I: CALL TO ORDER - Mayor Evans called the meeting to order at 7:00 P.M.

1. Invocation given by Councilman Posey.
2. Pledge of Allegiance lead by Councilman Clark

ITEM II: CONSENT AGENDA

1. REVIEW MINUTES OF THE SPECIAL CALLED CITY COUNCIL MEETING HELD ON JUNE 5, 2014
2. REVIEW MINUTES OF A SPECIAL CALLED CITY COUNCIL MEETING HELD ON NOVEMBER 23, 2013.
3. ACCEPT LETTER OF RESIGNATION OF CHRISTINA (TINA) WOOD FROM THE PLANNING AND ZONING COMMISSION.

Mayor Evans stated he would entertain a motion to accept and approve the consent agenda items.

Councilman Cox made a motion to approve the June 5, 2014 Minutes (with corrections), The November 23, 2013 Minutes (with corrections), and to accept the resignation of Commissioner Wood. Mayor Pro Tem Welch seconded The Motion. The motion carried 4 – 0, Councilman Beets Absent.

ITEM III: CITIZEN FORUM

Jean Beth Hamblen addressed the council stating that she wished the council would adopt some enforceable ordinances concerning the upkeep and maintenance of citizen's property. When she

grew up in Overton, citizens took pride in their property, people not have to tell or made to keep their property well maintained and clean, the town has become an eyesore.

ITEM IV: CITY MANAGER'S REPORT

City Secretary Gafford presented the Fire Department, Police Department and Finance Department reports to the Council.

Mayor Evans asked Chief Carter if he would like to address the council concerning his report.

Police Chief Carter declined.

Discussion concerning the finance report deposits and expenditures took place between several council members and Finance Director Raney

ITEM V: NEW BUSINESS

1. HEAR AND/OR CONSIDER ACTION ON APPROVAL OF REPLACEMENT OF THE AIR CONDITIONING UNIT FOR THE COUNCIL CHAMBERS IN CITY HALL

Councilman Posey made a motion to approve the bid from Waggoner Air Conditioning of \$4,490 to replace the existing 4 Ton Heat Pump Unit. Motion Was Seconded By Mayor Pro Tem Welch, Motion Carried 4 – 0, Councilman Beets Absent.

2. HEAR AND/OR CONSIDER ACTION ON APPROVAL OF ORDINANCE NO. 2014-06-19A, AN ORDINANCE REESTABLISHING THE PLANNING AND ZONING COMMISSION OF THE CITY OF OVERTON, TEXAS AND REPEALING ORDINANCE NO. 12-01-80, ADOPTED ON THE 1ST DAY OF DECEMBER 1980, CREATING A PLANNING AND ZONING COMMISSION, AND ALL PREVIOUS ORDINANCES TOGETHER WITH ALL AMENDMENTS THERETO, IS HEREBY AMENDED, REPEALED AND REPLACED IN ITS ENTIRETY BY THIS ORDINANCE

Councilman Cox made a motion to approve Ordinance No. 2014-06-19A, an ordinance reestablishing the Planning And Zoning Commission of the City of Overton, Texas and repealing Ordinance No. 12-01-80, adopted on the 1st Day Of December 1980, creating a Planning And Zoning Commission, and all previous ordinances together with all amendments thereto, is hereby amended, repealed and replaced in its entirety by this ordinance. Mayor Pro Tem Welch seconded the Motion. Motion carried 4 – 0, Councilman Beets absent.

Ordinance No. 2014-06-19A – Attachment 1

3. CONSIDER THE REAPPOINTMENT OF EXISTING MEMBERS OF THE PLANNING AND ZONING COMMISSION; KAREN CASEY, KIM COX, DUDLEY HICKMAN, SKIPPER HONEYCUTT AND ROBERT RANEY.

Councilman Cox made a motion to re-appoint the following Planning and Zoning Commission with term expiration dates as listed below.

COMMISSIONER	TERM EXPIRATION
ROBERT RANEY	SEPTEMBER 30, 2014
KAREN CASEY	SEPTEMBER 30, 2015
KIM COX	SEPTEMBER 30, 2014
DUDLEY HICKMAN	SEPTEMBER 30, 2015
SKIPPER HONEYCUTT	SEPTEMBER 30, 2014

Mayor Pro Tem Welch seconded the Motion. Motion carried 4 – 0, Councilman Beets absent.

- HEAR AND/OR CONSIDER ACTION ON APPROVAL AN ORDINANCE NO. 2014-06-19B, AN ORDINANCE CREATING THE ZONING BOARD OF ADJUSTMENT OF THE CITY OF OVERTON, TEXAS AND REPEALING ANY AND ALL PREVIOUS ORDINANCES REGARDING THE CREATION OF A ZONING BOARD OF ADJUSTMENT TOGETHER WITH ALL AMENDMENTS THERETO IS HEREBY AMENDED, REPEALED AND REPLACED IN ITS ENTIRETY BY THIS ORDINANCE

Commissioner Cox made a motion to approve Ordinance No. 2014-06-19B, An Ordinance creating the Zoning Board of Adjustment of the City of Overton, Texas and repealing any and all previous ordinances regarding the creation of a Zoning Board of Adjustment together with all amendments thereto, is hereby amended, repealed and replaced in its entirety by this ordinance. Councilman Clark seconded the motion. Motion carried 4 – 0, Councilman Beets absent.

Ordinance No. 2014-06-19B – Attachment 2

- HEAR AND/OR CONSIDER RESOLUTION 14-0619, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OVERTON, TEXAS DESIGNATING THE HENDERSON DAILY NEWS AS THE OFFICIAL NEWSPAPER OF THE CITY OF OVERTON, TEXAS AND THE KILGORE NEWS HERALD AS THE OFFICIAL SUPPORT NEWSPAPER OF THE CITY OF OVERTON, TEXAS; PROVIDED FOR AN EFFECTIVE DATE HEREOF .

Mayor Pro Tem Welch made a motion to approve Resolution 14-0619, a resolution of the City Council of the City of Overton, Texas designating the Henderson Daily News as the official newspaper of the City of Overton, Texas and the Kilgore News Herald as the official support newspaper of the City of Overton, Texas; provided for an effective date hereof. Councilman Cox seconded the motion. Motion carried 4 – 0, Councilman Beets absent.

Resolution No. 14-0619 – Attachment 3

6. HEAR AND/OR CONSIDER ACTION ON THE NEED FOR A SPECIAL CALLED MEETING OF THE CITY COUNCIL ON MONDAY, JUNE 30TH TO CONSIDER RECOMMENDATION FROM THE PLANNING AND ZONING COMMISSION REGARDING TEMPORARY VARIANCE APPLICATION 2014-03 FOR THE ESTABLISHMENT OF A MANUFACTURED HOME LOT FOR THE PLACEMENT OF A MANUFACTURED HOME IN A SINGLE FAMILY RESIDENTIAL ZONING DISTRICT.

City Secretary Gafford stated that she had received an email from Legal Counsel Blake Thompson with a recommendation that the Planning and Zoning Commission take no action on the Temporary Variance request until the City has had the chance to adopt a new Zoning Ordinance and put in place the proper mechanism for handling request to place a manufactured home into a Single Family Residential Zoning District, therefore, there would be no need for the proposed Special Called meeting on June 30, 2014.

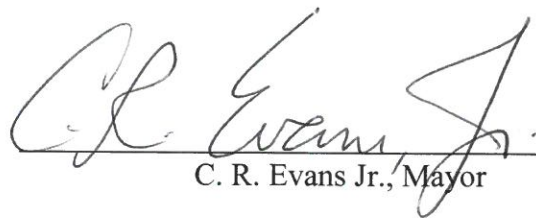
No action taken.

ITEM VI: ADJOURNMENT

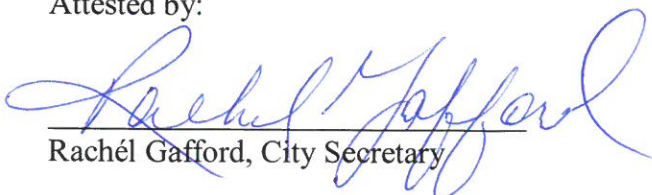
Councilman Cox made a motion that the meeting be adjourned. Mayor Pro Tem Welch seconded the Motion. Motion carried 4 – 0, Councilman Beets absent.

With no further business, the meeting was adjourned at 8:06 P. M.

Minutes approved and submitted and/or corrected this 17th day of July 2014.


C. R. Evans Jr., Mayor

Attested by:


Rachél Gafford, City Secretary

ATTACHMENT 1

ORDINANCE NO. 2014-06-19A

AN ORDINANCE REESTABLISHING THE PLANNING AND ZONING COMMISSION OF THE CITY OF OVERTON, TEXAS AND REPEALING ORRDINANCE NO. 12-01-80, ADOPTED ON THE 1ST DAY OF DECEMBER 1980, CREATING A PLANNING AND ZONING COMMISSION, AND ALL PREVIOUS ORDINANCES TOGETHER WITH ALL AMENDMENTS THERETO, IS HEREBY AMENDED, REPEALED AND REPLACED IN ITS ENTIRETY BY THIS ORDINANCE TO READ AS FOLLOWS:

SECTION 1. CREATION AND PURPOSE

A Planning and Zoning Commission is hereby created in order to accomplish the following purposes:

- A. To identify community needs and to advise the City Council of their short-range and long-range implications for the total development of the City;
- B. To recommend achievable community goals as a basis for long-range planning and development programs;
- C. To recommend plans, programs, and policies that will aid the entire community in achieving its defined goals; and
- D. To interpret the adopted plans and programs to concerned citizens so that private activities and desires may be accomplished in harmony with public needs and policies.

SECTION 2. ORGANIZATION AND APPOINTMENT

There is hereby created a Planning and Zoning Commission referenced in Texas Local Government Code, §211.007, which shall be organized, appointed by the City Council and function as follows:

A. Membership:

1. The Planning and Zoning Commission shall consist of five (5) members and a Chairman who are residents of the City of Overton, each to serve for a term of two (2) years and removable for cause by the City Council. Appointees shall fill positions which shall be designated by place numbers (e.g. Place 1, Place 2, etc.).
2. The Chairman shall vote only in the case of a tie.
3. Vacancies shall be filled for the remaining term of any member whose place becomes vacant for any cause in the same manner as the original appointment was made. The Mayor and City Council may appoint two (2) alternate members of Planning and Zoning Commission who shall serve in the absence of one or more of the regular members when

requested to do so by the Chairman of the Planning and Zoning Commission.

B. Terms:

1. The terms of members filling Places 1, 3, and 5 shall expire on September 30th of each odd-numbered year and the terms of members filling the position of chairman and Places 2 and 4 shall expire on September 30th of each even-numbered year.
2. Commission members may be appointed to succeed themselves. Vacancies shall be filled for unexpired terms.
3. Newly appointed members shall be installed at the first regular commission meeting after their appointment.

C. Quorum and Compensation:

1. A quorum for the conduct of business shall consist of three (3) members and/or alternate members of the Commission.
2. The members shall serve without compensation, except for reimbursement of authorized expenses attendant to the performance of their duties.

D. Commission Actions:

1. A motion may be made by any member other than the presiding officer.
2. A motion to approve any mater before the Commission or to recommend approval of any request requiring Council action shall require a majority of favorable votes of the members present.

E. Disqualification From Voting:

1. A member shall disqualify himself from voting whenever he finds that he has a personal or monetary interest in the property under appeal, or that he will be directly affected by the decision of the Commission.
2. A member may disqualify himself from voting whenever any applicant, or his agent has sought to influence the vote of the member of his application, other than in the public hearing.

F. Attendance:

1. Both members and alternate members are expected to attend meetings of the Planning and Zoning Commission.
2. Any member or alternate member who misses three regular meetings in any calendar year shall be deemed to have forfeited his or her position and the City Council shall appoint a person to fill the resulting vacancy.
3. The person who forfeited such office may be reappointed.

SECTION 3. DUTIES AND AUTHORITY

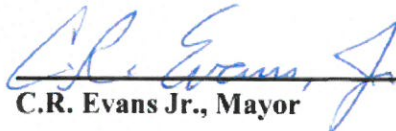
The Planning and Zoning Commission is hereby charged with the duty and invested with the authority to:

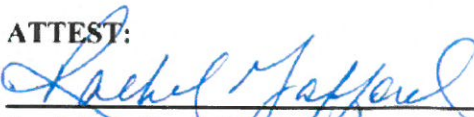
- A. Hold public hearings and make recommendations to Council on all proposed amendments to the zoning ordinance and amendments to the zoning of property. Exercise all powers of a planning commission as to approval or disapproval of plans, plats, or replats as authorized under state law. Hear and consider issues assigned by council.
- B. Initiate, in the name of the City, proposals for the opening, vacating, or closing of public rights-of-way, parks, or other public places and for the change of zoning district boundaries on the area-wide basis.
- C. In the month of September of each year, a progress report shall be submitted to the City Council summarizing the Commission's activities for the past year and propose a work program for the coming year.

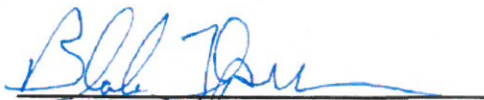
SECTION 4. WITHDRAWAL

Any proposal or application may be withdrawn by the applicant after the Commission makes its final report, and such proposal or application shall not be subject to the provision hereof that a period of time must pass before a new application is considered, if such proposal is withdrawn, the City Council will not consider it. Any proposal or application withdrawn may be resubmitted and shall be subject to all fees and notice requirements as an original application.

PASSED AND APPROVED this 19 day of June, 2014.


C.R. Evans Jr., Mayor

ATTEST:

Rachél Gafford, City Secretary


Blake Thompson, City Attorney

ATTACHMENT 2

ORDINANCE NO. 2014-06-19B

ORDINANCE NO. 2014-06-19B, EFFECTIVE JULY 1, 2014, AN ORDINANCE CREATING THE ZONING BOARD OF ADJUSTMENT OF THE CITY OF OVERTON, TEXAS AND REPEALING ANY AND ALL PREVIOUS ORDINANCES REGARDING THE CREATION OF A ZONING BOARD OF ADJUSTMENT TOGETHER WITH ALL AMENDMENTS THERETO IS HEREBY AMENDED, REPEALED AND REPLACED IN ITS ENTIRETY BY THIS ORDINANCE TO READ AS FOLLOWS:

SECTION 1. CREATION

The City Council the City of Overton is granted authority to act as the Zoning Board of Adjustment for the City of Overton as authorized by Section 211.008(g), Texas Local Government Code.

SECTION 2. DUTIES AND POWERS

The Board of Adjustment shall have the powers and exercise the duties of a Board in accordance with Texas Local Government Code § 211.009. Board members are representatives of the city and shall have the right to inspect premises where required in the discharge of their responsibilities under the laws of the state and the ordinances of this city. The Board's jurisdiction shall extend to and include the hearing and deciding of the following types of appeals and applications and to that end shall have the necessary authority to ensure continuing compliance with its decision:

1. Interpretation: To render an interpretation of the zoning regulations or the manner of their application where it is alleged that there is error in any order, requirement or determination made by the enforcing officer in the administration of such provisions. In reaching its decision, the Board shall establish firm guidelines for future administrative actions on like manners;
2. Special exception: To decide upon those applications for a special exception to use or develop property when the same is authorized under these regulations subject to Board approval;
3. Variance: To authorize upon appeal in specific cases such variance from the terms of this ordinance as will not be contrary to the public interest. Such variances shall not be authorized unless the Board makes an affirmative finding to all the following requirements:

- a. That literal enforcement of the controls will create an unnecessary hardship or practical difficulty in the development of the affected property;
- b. That the situation causing the hardship or difficulty is neither self-imposed nor generally affecting all or most properties in the same zoning district;
- c. That the relief sought will not injure the permitted use of adjacent conforming property;
- d. That the granting of the variance will be in harmony with the spirit and purposes of these regulations.

SECTION 3. INTERPRETATION REQUEST; VARIANCE APPEAL

A request for interpretation of regulations or an appeal for variance from development controls may be taken by any person aggrieved or by any officer, department, board or bureau of the city affected by a decision of the enforcing officer. Such appeal shall be taken within fifteen (15) days after the decision has been rendered by filing with the enforcing officer a notice of appeal specifying the grounds thereof. The enforcing officer shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.

SECTION 4. STAY OF PROCEEDINGS

An appeal shall stay all proceedings of the action appealed from, unless the enforcing officer, after the notice of appeal has been filed with him, certifies to the Board that by reason of facts stated in his certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed except by a restraining order which may be granted by the Board or by a court of record on application on [of] notice to the enforcing officer and on due cause shown.

SECTION 5. FORM OF APPEAL OR APPLICATION

The appeal or application shall be in such form and shall contain such information as the Board may require under its rules of procedure. It shall be accompanied by the required fee. An incomplete appeal or application shall be deemed only to give notice of intent to appeal or apply to the Board and shall not be reviewed or scheduled for hearings until brought to completion.

SECTION 6. NOTICE OF HEARING

Official written notice of public hearing on every application for a variance or special exception or for an interpretation of regulations applying solely to an individual property shall be sent to all owners of property, of the person rendering the same for taxes, affected by such application, located within two hundred (200) feet of any property affected thereby, excluding any intervening public street, at least ten (10) days before such hearing is held. Such notice shall be served by using the last known address as listed on the city tax roll and depositing the notice, postage paid, in the United States mail. Notice of hearings shall also be given by causing publication of the time and place of such hearing in the official newspaper at least ten (10) days prior thereto, together with a brief description of the subject matter of the hearing.

SECTION 7. HEARING

1. Upon the hearing, any party may appear in person or by attorney or agent. Evidence supporting the grant or denial of an appeal shall be submitted only through the enforcing officer or to the Board in public meeting.
2. Any appeal or application may be withdrawn upon written notice to the enforcing officer, but no appeal shall be withdrawn after posting of hearing notice and prior to Board action thereon without formal consent of the Board.
3. The Board shall make its decision on any application on any application [sic] within forty-five (45) days from the time the initial hearing is held or the application will be deemed to have been denied.

SECTION 8. DECISION AND VOTING

1. Every decision of the Board shall be based upon findings of fact and every finding of fact shall be supported in the record of proceedings. The enumerated conditions required to exist on any matter upon which the Board is authorized to pass under these regulations shall be construed as limitations on the power of the Board to act.
2. Nothing contained in this section shall be construed to empower the Board to change the terms of these regulations, or to effect changes in the zoning districts. The power of the Board shall be so applied that the terms of these regulations will be strictly enforced.

3. In exercising its powers, the Board of Adjustment, in conformity with the provisions of Texas Local Government Code §211.008–211.010, may modify in whole or in part any order, requirement, decision or determination as ought to be made and shall have all the powers of the officer from whom the appeal is taken.
4. The concurring vote of four (4) members of the Board shall be necessary to reverse, on appeal, any order, requirement, decision or determination of the enforcing officer, or to approve any application upon which it is required to pass under these regulations or to effect any variance in such regulations.
 - a. A member shall disqualify himself from voting whenever he has a personal or monetary interest in the property under appeal, or will be directly affected by the decision of the Board.
 - b. A member may disqualify himself from voting whenever any applicant, or his agent, has sought to influence the member's vote on the appeal, other than in the public hearing.

SECTION 9. APPROVAL OF REQUEST

1. In approving any request, the Board may designate such conditions including time limits, if appropriate, in connection therewith in order to secure substantially the objectives of the regulation or provision to which variance is granted and provide adequately for the maintenance of the integrity and character of the zone in which such permit is granted.
2. When necessary, the Board may require guarantees, in such form as it deems proper, to insure that conditions designated in connection therewith are being or will be complied with.
3. Upon approval of a variance, the applicant shall apply for occupancy or construction permits within sixty (60) days after the Board's decision, unless a greater time is requested in the application and is authorized by the Board. Any approval may be granted one (1) emergency extension of sixty (60) days on written request filed with the Board before expiration of the original approval. Failure of the applicant to apply for occupancy of [or] construction permits within the authorized time period shall void the right to secure such permits except upon the filing of a new application or appeal.

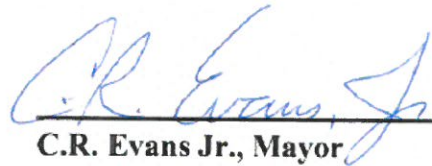
SECTION 10. DENIAL OF REQUEST

No application for variance or special exception shall be considered within one year of denial of a request for a variance on the same property.

SECTION 11. APPEAL OF BOARD ACTION

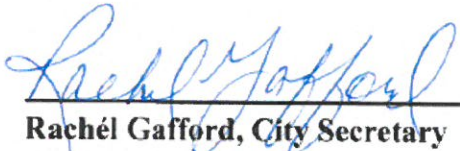
Any person or persons, jointly or separately, or any taxpayer, or any officer, department, board or bureau of the city aggrieved by any decision of the Zoning Board of Adjustment may present to the appropriate court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of such illegality. Such petition shall be presented to the court within ten (10) days after the filing of the decision complained of in the offices of the Board and not thereafter.

PASSED AND APPROVED this 19 day of June, 2014.

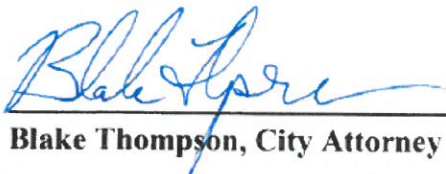


C.R. Evans Jr., Mayor

ATTEST:



Rachél Gafford, City Secretary



Blake Thompson, City Attorney

ATTACHMENT 3

RESOLUTION 14-0619

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OVERTON, TEXAS DESIGNATING THE HENDERSON DAILY NEWS AS THE OFFICIAL NEWSPAPER FOR THE CITY OF OVERTON, TEXAS AND THE KILGORE NEWS HERALD AS THE OFFICIAL SUPPORT NEWSPAPER OF THE CITY OF OVERTON, TEXAS ; PROVIDED FOR AN EFFECTIVE DATE HEREOF.

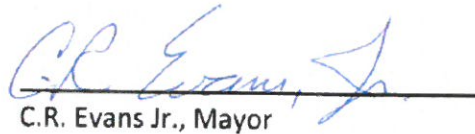
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF OVERTON, TEXAS:

SECTION 1: The City Council of the City of Overton, Texas hereby designates the Henderson Daily News as the official newspaper of the City of Overton, Texas.

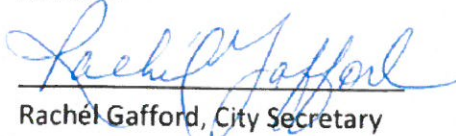
SECTION 2: In the event of a deadline, the notices may be published in the Kilgore News Herald as the official support newspaper of the City of Overton, Texas.

SECTION 3: The Resolution shall become effective immediately upon its passage and execution.

APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF OVERTON, TEXAS ON THIS 19TH DAY OF JUNE, 2014.


C.R. Evans Jr., Mayor

ATTEST:


Rachel Gafford, City Secretary

