

**SPECIAL CALLED CITY COUNCIL MEETING**  
**November 12, 2015**

MINUTES OF THE SPECIAL CALLED MEETING OF THE CITY COUNCIL OF THE CITY OF OVERTON, TEXAS THAT WAS HELD **NOVEMBER 12, 2015** AT 6:30 P.M. PM IN THE COUNCIL CHAMBER, CITY HALL, 1200 SOUTH COMMERCE, OVERTON, TEXAS.

PRESENT:

C. R. Evans Jr., Mayor  
Philip Cox, Mayor Pro Tem  
Jerry Clark  
Lawrence Davis  
John Posey

ABSENT:

Pat Beets

Also in attendance were, Charles Cunningham, City Manager, Rachél Gafford, City Secretary, Blake Thompson, City Attorney and Officer Todd Spakes representing staff.

I. **CALL TO ORDER** –Mayor Evans called the meeting to order by at 6:31 p.m.

1. Invocation was given by Councilman Posey.
2. Pledge of Allegiance was led by Councilman Davis.

II. **CITIZEN FORUM**

None

III. **CITIZEN'S REQUESTS**

1. Request by Jeanette Lawrence, on behalf of Dee Swan, to waive the remaining balance due of \$50.00 as shown on the Plot Card from Cemetery Records turned over to the City by the Cemetery Association on Cemetery Plot located in Section A-2, Block 32, Space 1.

City Secretary Gafford presented the staff report to Council on behalf of Jeanette Lawrence and Dee Swan.

**Mayor Pro Tem Cox made a motion to deny the request to waive the remaining balance due on the cemetery plot card. Councilman Posey seconded the motion.**

**Mayor Evans called for discussion**

*Mayor Pro Tem Cox stated that the Council had to be careful not to set a precedent. City Staff has to go by the records regarding the Cemetery as provided to the City by the Cemetery Association.*

*Councilman Posey agreed stating that it is the purchaser's responsibility to provide record of payment.*

*Councilman Davis stated that he felt that if the purchaser should have either the receipts or the deed providing proof of payment.*

*Mayor Evans stated that the purchaser should be able to go back to the bank and have the bank provide a cancelled check from the final payment.*

**Mayor Evans called for additional discussion or comments. There was none.**

**Mayor Evans called for a vote.**

**Motion carried 4-0, Councilman Beets absent.**

#### **IV. CONSENT AGENDA**

1. Approval of the minutes of the ~~regular~~ special-Council meeting held on **September 10, 2015.**
2. Approval of the minutes of the ~~special~~ regular Council meeting held on **October 15, 2015.**
3. Accept resignation letter of Overton Economic Development Corporation Board Member Mathew Prosser (term expiration date of 9/30/2017).

*City Secretary Gafford pointed out that the September 10<sup>th</sup> meeting was the special called meeting and that the October 15<sup>th</sup> was a regular called meeting, there was a typo on the Agenda.*

*Mayor Evans pointed out that he was misquoted on the minutes from the September 10, 2015 and asked that he be corrected.*

*Originally typed in minutes on page 3 of the September 10, 2015 Minutes:*

*“Mayor Evans stated that the average age of the population in Overton is 69 and has been since 1979. However, our current City tax rate is 30 cents less than that of Troup, Texas.”*

*September 10, 2015 minutes corrected to read:*

*Mayor Evans stated that 60 % of the population in Overton is over the age of 60, that is my belief. However, our current City tax rate is 30 cents less than that of Troup, Texas.*

**Mayor Pro Tem Cox made a motion to approve the minutes of the September 10, 2015 special called meeting as corrected, and all other Consent Agenda items as submitted. Councilman Davis seconded the motion.**

**Mayor Evans called for a vote.**

**Motion carried 4-0, Councilman Beets absent.**

#### **V. NEW BUSINESS**

1. Consider and/or take action on **Resolution No. 2015-11-12A**; a resolution to canvass votes of November 3, 2015 Special Election.

*City Manager Cunningham presented the staff report stating that voting for the resolution is to agree that the vote summaries from the County Elections Administrator is correctly transferred into the canvas document. This resolution is to certify the election results only.*

**Mayor Pro Tem Cox made a motion to approve Resolution No. 2015-11-12A, a resolution to canvass the votes of the November 2, 2015 Special Election as true and correct. Councilman Clark seconded the motion.**

**Mayor Evans called for discussion. There was no discussion.**

**Mayor Evans called for a vote.**

**Motion carried 4-0, Councilman Beets absent.**

2. Review, discuss and / or give staff direction for changes regarding proposed **Resolution No. 2015-11-19A**; a resolution of the City Council of the City of Overton, Texas legalizing the sale of all alcohol including mixed beverages inside the city limits of the City Of Overton, Texas; providing for an effective date hereof.

City Secretary Gafford presented staff report and the Resolution for review to City Council.

No discussion or corrections made.

3. Review, discuss and / or give staff direction for changes regarding Proposed **Ordinance No. 2015-12-15A**; An Ordinance amending Chapter 86 Of The Overton Code of Ordinances; regulating the location of establishments selling alcoholic beverages; regulating the hours during which alcohol may be; prohibiting the consumption of alcoholic beverages in city facilities; establishing a penalty, providing a severability clause, providing for publication and providing for an effective date hereof.

*City Manager Cunningham presented staff report and the Ordinance for review to City Council. Cunningham stated that this Ordinance would amend the ordinance adopted when the last local option election passed changing everything from beer and wine for off premise consumption to the legal sale of all alcohol including mixed beverages. Cunningham stated that he had provided some excerpts from the Texas Alcoholic Beverage Code in response to a request from the Mayor to look into the ability for the Council to increase the distance measurements. The code provides that the Council may reduce the distance requirement through a variance to be less restrictive; however, the Council could not be more restrictive. The Overton I.S.D. however can pass a resolution requesting that City Council expand the distance requirement to up to 1,000 from any school if they so choose.*

**Mayor Evans stated that he had spoken to the Overton I.S.D. Superintendent and that the School Board plans to pass a resolution to present to City council to increase the distance measurement from a public school from 300 feet to 1,000 feet at their next meeting.**

*City Manager Cunningham stated that we had dated the Ordinance to be presented in December to allow the School Board an opportunity to meet on this subject. .*

4. Review, discuss and / or give staff direction for changes regarding Proposed **Ordinance No. 2016-01-21A**; an ordinance amending Ordinance No. 2014-10-07A, Chapter 96 City Of Overton Zoning Ordinance; Section 29; Part V – Land Use

Schedule And Section 30 Land Use Definitions of the City of Overton Code of Ordinance, providing for a penalty of a fine of up to \$500.00 each and every day that the provisions of this ordinance are violated shall constitute a separate and distinct offense, a repealer, a severability Clause, An Effective Date And Providing For Publication.

*City Secretary Gafford presented proposed Ordinance No. 2016-01-21A; and ordinance to amend the Zoning Ordinance to restrict land uses for alcohol related businesses.*

***Mayor Evans presented the following alcohol related businesses for input from the Council for Zoning.***

*Bar, Billiard (Pool) Hall, Brewery, Brewpub, Dance/Hall/Night Club, Distillery, Package Store, Restaurant with Private Club and Winery.*

*City Attorney Thompson stated that we may want to add sexually oriented businesses that sale alcohol to cover those Adult Entertainment Venues and this would be a little more descriptive than just a dance hall or night club.*

**VI. ADJOURNMENT**

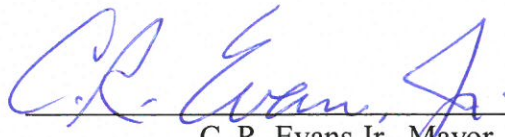
**Councilman Clark made a motion that the meeting be adjourned. Councilman Davis seconded the motion.**

**Mayor Evans called for a vote.**

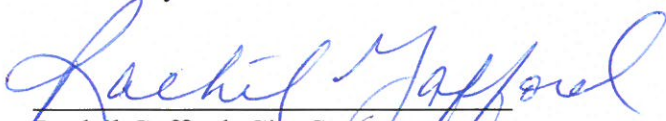
**Motion carried 4 – 0, Councilman Beets absent.**

With no further business, the meeting was adjourned at 7:23 P. M.

Minutes approved and submitted and/or corrected this 19<sup>th</sup> day of November, 2015.

  
C. R. Evans Jr., Mayor

Attested by:

  
Rachel Gafford, City Secretary





**ATTACHMENT 1**

**RESOLUTION NO: 2015-11-12A**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OVERTON, TEXAS CANVASSING THE VOTES FOR THE LEGAL SALE OF ALL ALCOHOL INCLUDING MIXED BEVERAGES INSIDE THE CITY LIMITS OF THE CITY OF OVERTON, TEXAS; PROVIDED FOR AN EFFECTIVE DATE HEREOF.

WHEREAS, a local option election on the issues of the legal sale of all alcohol including mixed beverages was held on November 3, 2015; and

WHEREAS, the City Council has met and canvassed the voters on such issue; and

WHEREAS, the canvass shows the following results:

Proposition # 1:									
"The legal sale of all alcoholic beverages including mixed beverages."									
	Early Votes By Mail	Early Votes Smith County	Election Day Votes	Early Votes By Mail	Early Votes Rusk County	Election Day Votes	Early Votes Rusk County	Election Day Votes	
TOTAL VOTES	0	0	10 & 26	0	1	10 & 26	1	24	
For	0	0	10	0	1	10	1	24	113
Against	0	0	8	0	0	8	0	23	90
Vote Totals	0	0	18	1	1	18	1	47	203

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

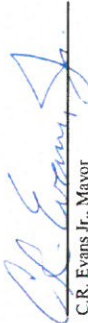
SECTION 1: THAT the above canvass of the election results to be the same and is hereby approved.

SECTION 2: THAT the sale of all alcohol including mixed beverages is hereby declared legal within the city limits of the City of Overton subject to compliance with applicable

state and city regulations. 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 12<sup>th</sup> day of November, 2015.

CITY OF OVERTON

By:   
C.R. Evans Jr., Mayor

ATTEST:  
  
Rachel Gafford, City Secretary



APPROVED AS TO FORM AND LEGALITY:

  
Blake Thompson,  
City Attorney

**CITY OF OVERTON, TX  
CANVAS OF SPECIAL ELECTION  
HELD NOVEMBER 3, 2015**

I, C. R. Evans, Jr., Mayor of the City of Overton, Texas, met with the City Council sitting as the canvassing board to canvass the Special Election of November 3, 2015 on November 12, 2015 at City Hall (1200 S. Commerce Street, Overton, Texas 75684).

I, certify that the figures on the tally sheets below correspond with the figures on the election returns.

Witness my hand this 12<sup>th</sup> day of November, 2015.

  
Presiding Officer of Canvassing Authority

Proposition # 1:  
"The Legal sale of all alcoholic beverages including mixed beverages."

	Early Votes By Mail Smith County Precincts 10 & 26	Early Votes Smith County Precincts 10 & 26	Election Day Votes Smith County Precincts 10 & 26	Early Votes By Mail Rusk County Precincts S 112&114	Early Votes Rusk County Precincts 112 & 114	Election Day Votes Rusk County Precincts 112 & 114	TOTAL VOTES
For	0	0	10	1	24	113	148
Against	0	0	8	0	23	90	121
Vote Totals	0	0	18	1	47	203	269

**Exhibit A  
Rusk County Results**

Summary Report - Group Detail  
Rusk County, Texas  
Special Election  
November 3, 2015  
Report ELESB Page 002

3-1 Date: 11/05/15 07:28 AM

TOTAL VOTES	Z	EV #3.1	EV	EO
<b>CONSTITUTIONAL AMENDMENT PROP 6</b>				
Vote for 1				
For (WITH 22 OF 22 PRECINCTS COUNTED)	2,639	32.54	46	653
Against	2,015	7.06	2	51
Total	2,994		48	764
Over Votes	0		0	0
Under Votes	46		0	38

TOTAL VOTES	Z	EV #3.1	EV	EO
<b>CONSTITUTIONAL AMENDMENT PROP 7</b>				
Vote for 1				
For (WITH 22 OF 22 PRECINCTS COUNTED)	2,445	84.75	39	603
Against	440	15.25	7	96
Total	2,885		46	699
Over Votes	2		2	0
Under Votes	62		0	13

TOTAL VOTES	Z	EV #3.1	EV	EO
<b>CITY QUESTION: PROPOSITION CITY OF OVERTON</b>				
Vote for 1				
FOR	138	54.98	1	24
AGAINST	113	45.02	0	23
Total	251		1	47
Over Votes	0		0	0
Under Votes	0		0	0

TOTAL VOTES	Z	EV #3.1	EV	EO
<b>WEST RUSK CRESS TRUSTEE WEST RUSK ISD</b>				
Vote for 3				
Scottie Anderson	96	19.16	0	19
John R. Jones	118	23.85	0	17
Eric R. Jones	71	14.17	0	11
C. D. Martin	47	9.38	0	5
Sandra Smith	164	32.73	2	31
Total	501		3	103
Over Votes	0		0	0
Under Votes	423		12	92

TOTAL VOTES	Z	EV #3.1	EV	EO
<b>Trustee, Place 1 OVERTON ISD</b>				
Vote for 1				
Mary Leigh Dine	212	101.00	1	49
Total	212		1	49
Over Votes	0		0	0
Under Votes	74		0	17

TOTAL VOTES	Z	EV #3.1	EV	EO
<b>Trustee, Place 2 OVERTON ISD</b>				
Vote for 1				
Scotty Moore	156	100.00	1	33
Total	156		1	32
Over Votes	0		0	0
Under Votes	96		0	16

Exhibit B  
Smith County Results

SUMMARY REPORT DETAIL Smith County, Texas Const. Amend. and Joint Elects November 3, 2015	Report ELISA Page 001
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Run Date: 11/09/15 03:23 PM	TOTAL VOTES	V	EARLY ELECTION DAY	MAIL	PROVISIONAL
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CITY OF WARDEN PROPOSITION Vote for 1	18	45	0	0	0
(WITH 2 OF 3 DISTRICTS COUNTED) YES	18	45	0	0	0
NO	0	0	0	0	0
Total	18	45	0	0	0
Over Votes	0	0	0	0	0
Under Votes	0	0	0	0	0