

**STATE OF TEXAS §**  
**COUNTY OF DENTON §**  
**TOWN OF BARTONVILLE §**

The regular monthly meeting of the Bartonville Town Council was held on February 19, 2008, at 7:00 p.m., in the Council Chambers of Bartonville Town Hall, 1941 East Jeter Road, Bartonville, Texas. This was an OPEN MEETING, open to the public, subject to the open meeting laws of the State of Texas and, as required by law, was duly posted at 3:00 p.m., on Friday, February 15, 2008, at Bartonville Town Hall giving notice of time, date, place, and agenda thereof.

**Present:**

Ron Robertson, Mayor  
Carla Anderson, Mayor Pro-Tem  
Ryan Litherland  
James Ashburn  
Bill Reaves

**Absent:**

Wayne Hoyt

Also present: Debbie E. Millican, Town Administrator  
Dave Howell, Chief of Police  
Gary Vickery, Town Engineer  
Terri Neal, Court Clerk

This constituting a quorum, the following business took place:

Mayor Robertson called the meeting to order at 7:00 p.m. and led the recitation of the Pledge of Allegiance to the American Flag.

**Call to Order**

The Town Council considered the Consent Agenda. Agenda items were marked with a single asterisk as a part of a Consent Agenda requiring no deliberation by the Council and could be approved with a single motion. Councilmembers were given the prerogative of removing an item from the Consent Agenda for separate discussion and consideration.

**Consent Agenda**

Ryan Litherland moved to remove Agenda Item \*B, regarding banning all outdoor burning and to approve the remaining agenda items as presented: \*A) Approval of Minutes: January 15, 2008, regular monthly meeting and \*C) Approval of Resolution 2008-02, appointing Kathy Bradham to serve as an Alternate Member of the Planning and Zoning Commission. James Ashburn seconded the motion. For: Unanimous. The motion carried by a vote of 4 to 0. The Council considered appropriate action regarding Consent Agenda Item \*B) approval of Ordinance 446-08, an Ordinance of the Town of Bartonville, Texas, declaring a state of emergency and prohibiting all outdoor burning including the use of open flame grills, campfires, possession or sale or discharge of fireworks, welding or hot work for a thirty (30) day period. Ryan Litherland asked if the County burn ban was still in effect. Mayor Robertson responded that it was. Councilmember Litherland expressed some concern that due to the recent wet

**ACTION: Approve  
Consent Agenda Items  
A and C**

**Discussion: Ordinance  
446-08, Burn Ban**

weather, the County could lift its burn ban and the Town would still have a burn ban in effect.

Ryan Litherland moved to approve Consent Agenda Item B, Ordinance 446-08, as presented. Bill Reaves seconded the motion. For: Unanimous. The motion carried by a vote of 4 to 0.

**ACTION: Approve Ordinance 446-08**

In accordance with Texas Local Government Code, Section 22.073 (b), Ordinance 446-08 is hereby engrossed and enrolled by copying the exact Caption and the Effective Date Clause into these official minutes as follows: AN ORDINANCE OF THE TOWN OF BARTONVILLE, TEXAS, DECLARING A STATE OF EMERGENCY AND PROHIBITING OUTDOOR BURNING INCLUDING THE USE OF OPEN FLAME GRILLS, CAMPFIRES, POSSESSION OR SALE OR DISCHARGE OF FIREWORKS, WELDING OR HOT WORK FOR A THIRTY DAY (30) DAY PERIOD; PROVIDING EXCEPTIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF A FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) OR EACH OFFENSE; AND, PROVIDING AN EFFECTIVE DATE. SECTION 9. This Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law in such cases provide and shall expire at midnight (12:00 a.m.) on the 18<sup>th</sup> day of March, 2008 unless earlier repealed.

**Engross and Enroll: Ordinance 446-08, Burn Ban**

Del Knowler stated that he wanted to give the Council a heads up that a petition would be presented to them at the next meeting regarding a helicopter landing repeatedly on Gibbons Road. He stated that several neighbors were disturbed by the noise of the frequent take offs and landings. Mr. Knowler also expressed safety concerns with flight plans bringing the helicopter over densely populated areas. Gaylord King, of Wolf Run, expressed concerns regarding the noise and lighting of the Willis Well on McMakin Road. Mr. King stated that the process of acquiring leases was very disturbing and needed to be looked into. He said that the XTO Land Men that had approached the residents of Wolf Hill had been giving out mixed messages with respect to the amount of money to be paid for signing up. Mr. King expressed great concern that Wolf Hill had been passed over by XTO. Double Oak residents, Marie Tucado and Kim Schafer, also expressed concerns regarding the noise level of the Willis Well and asked that their homes and their investment be protected. Mayor Robertson thanked the speakers for their comments and advised them to file a written complaint and it would be investigated.

**Citizen Input**

The Town Council received Liaison and Appointed Representative Reports. No action was taken.

**Reports**

The Council considered approval of the Rachwal-XTO #1H & #2H Gas Well Drilling Permit to be located approximately 1,500 feet north of East Jeter Road and approximately 4,750 feet west of FM 407, in the B.B.B. & C.R.R. Survey,

**Discussion: Rachwal-XTO #1H and 2H Drilling Permit**

Abstract No. 1594, Town of Bartonville, Denton County, Texas. The surface owner is Ponca City Inn; the applicant is Braden Exploration, LLC. Town Administrator, Debbie Millican, presented the Planning and Zoning Commission recommendation that the Council approve the permit contingent upon meeting the noise mitigation plan and insurance requirements of the ordinance. At the time of the P&Z meeting, the Town Attorney had not yet completed his review of the insurance coverage. The submitted noise mitigation plan cited an old ordinance and indicated that the pre-development noise levels at the site would exceed current ordinance requirements. Ms. Millican stated that the noise mitigation plan had been submitted but still did not meet the requirements of the ordinance. She stated that based on the results of the applicant's sound study, the applicant could request that a waiver with site specific baseline sound levels exceeding the maximum. Ms. Millican stated that the request for waiver would have to go before the P&Z Commission prior to Council approval which could delay the project. She also advised that Town Attorney had completed his review and said that the applicant had met the insurance requirements. Ms. Millican presented the Council with staff recommended options either to approve the permit contingent upon the applicant meeting the current noise requirements or to deny the permit until a waiver could be granted or a revised mitigation plan could be approved by the Planning and Zoning Commission.

Carla Anderson moved to deny approval of the Rachwal-XTO #1H & #2H drilling permit until such time that the noise mitigation plan was revised or the Planning and Zoning Commission recommended the granting of a waiver. Bill Reaves seconded the motion. For: Unanimous. The motion carried by a vote of 4 to 0.

**ACTION: Deny Gas Rachwal-XTO Well Permit**

The Council considered the Dickinson A1H Gas Well Drilling and Operating Permit to be located on the east side of McMakin road approximately 1,350 south of McMakin/East Jeter/FM 407 intersection. The proposed well site is in the B.B.B. & C.R.R. Survey, Abstract No. 152, Town of Bartonville, Denton County, Texas. The applicant and surface owner is XTO Energy, Inc. Bob Manthei spoke on behalf of XTO and stated that this was the second of two wells on this well site. He stated that to the extent possible, XTO would make improvements at the well site to lessen noise. Town Administrator Debbie Millican stated that the Planning and Zoning Commission had recommended approval contingent upon the Town Attorney's review for compliance with the Town regulations. Ms. Millican stated that Town Attorney had completed his review and had indicated that the applicant had met the Town's insurance requirements.

**Discussion: Dickinson A1H Gas Well**

Ryan Litherland moved to approve the Dickinson A1H Gas Well Drilling and Operation Permit as recommended by the Planning and Zoning Commission and Staff. Bill Reaves seconded the motion. For: Unanimous. The motion carried by a vote of 4 to 0.

**ACTION: Approve Dickinson A1H Gas Well Permit**

The Council discussed and considered a request for variance to the Town of Bartonville Code of Ordinances, Article 3.400, Section 3.403(d)(2) to allow for the installation of a new façade on the existing nonconforming use canopy sign located at the Bartonville Food Store, 3230 FM 407, Bartonville, Texas.

**Discussion: Sign Variance**

James Ashburn moved to approve the request for variance as presented allow for the installation of a new façade on the existing nonconforming use canopy sign located at the Bartonville Food Store. For: Unanimous. The motion carried by a vote of 4 to 0.

**ACTION: Approve: Sign Variance, 3230 FM 407**

The Council considered setting Saturday, April 19, 2008, as the date for the first annual Bartonville Cleanup and Recycle Day. Bartonville Court Clerk, Terri Neal presented the tentative plans for the first annual Bartonville Clean Up Day. Ms. Neal reported that IESI had donated two front loading trash trucks and personnel; Tex American will provide a 45' trailer for used tire collection; Interstate Batteries will collect used car and boat batteries; Fulton Recycling will man a 20' bin for collecting metal; a computer crusher service will be there to accept computers, monitors and TVs; Cintas is lined up to shred documents; Whitmore is donating a wood chipper and manpower. Town Administrator Debbie Millican commended Ms. Neal for her enthusiasm and her willingness to take on the challenge of organizing the cleanup day.

**Discussion: Cleanup Day**

James Ashburn moved to set April 19, 2008, as the date for the Bartonville Clean Up Day. Ryan Litherland seconded the motion. For: Unanimous. The motion carried by a vote of 4 to 0.

**ACTION: Approve April 19 Cleanup Day**

In conjunction with the April 19<sup>th</sup> Clean Up Day, the Council considered an Interlocal Cooperation Agreement with the Upper Trinity Regional Water District for participation in the Household Hazardous Waste Collection Program.

Ryan Litherland moved to enter into an ICA with the UTRWD for participation in the Household Hazardous Waste Collection Program. James Ashburn seconded the motion. For: Unanimous. The motion carried by a vote of 4 to 0.

**ACTION: Approve UTRWD- ICA**

James Ashburn moved to approve Ordinance 447-08, an Ordinance amending Chapter 9 of the Town of Bartonville Code of Ordinances, by adding Article 9.0010, Purchasing Policies and Procedures. Ryan Litherland seconded the motion. For: Unanimous. The motion carried by a vote of 4 to 0.

**ACTION: Approve Ordinance 447-08**

In accordance with Texas Local Government Code, Section 22.073 (b), Ordinance 447-08 is hereby engrossed and enrolled by copying the exact Caption and the Effective Date Clause into these official minutes as follows: AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BARTONVILLE, TEXAS AMENDING THE CODE OF ORDINANCES BY ADDING ARTICLE 9.1000, PROVIDING PURCHASING POLICIES AND

**Engross and Enroll: Ord. 447-08, Purchasing Policy**

PROCEDURES FOR PURCHASES UNDER FIVE HUNDRED DOLLARS, UNDER THREE THOUSAND DOLLARS AND UNDER FIFTY THOUSAND DOLLARS; PROVIDING FOR SEALED BIDS FOR PURCHASES EXCEEDING FIFTY THOUSAND DOLLARS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING THAT THIS ORDINANCE IS CUMULATIVE OF ALL OTHER ORDINANCES AND REPEALING ANY PROVISIONS IN CONFLICT; PROVIDING A SAVINGS CLAUSE PROVIDING FOR ENGROSSMENT AND ENROLLMENT; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER AND PROVIDING AN EFFECTIVE DATE. SECTION 8 EFFECTIVE DATE: THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT UPON PASSAGE AND PUBLICATION IN THE OFFICIAL NEWSPAPER.

The Council considered the release of roadway improvement escrow funds in the amount of \$7,719.25 and any accrued interest to the owner and developer of the Straub Addition located in the northeast corner of Broome Road and Porter Road. The Council received the following background information from the Mayor and the Town Administrator: The Straub Addition consists of one (1) approximately four-acre lot at the corner of Broome and Porter Roads. The purpose of the plat was to allow for the construction of a single family home. The property was platted in 2002 under our old development standards that required perimeter street improvements no matter the size or impact of the development. The Straubs were required to remit funds to be used at such time that we improved Porter Road. At the time, we had no choice but to collect the funds from the Straubs even though we felt it was an undue burden. By law, if the funds are not used within ten years, the funds, plus any accrued interest, must be returned to the developer or in this case the owner/developer. The Town has no plans to upgrade or improve (widen) Porter Road within the next five years. The escrow funds, with interest, have grown to approximately \$9,200. Mayor Robertson stated that escrow funds were not required of anyone other than the Straubs. He recommended that this money be returned to the Straubs at this time rather than holding the money for five additional years.

**Discussion: Release  
Straub Addition  
Escrow Funds**

James Ashburn moved to release the Straub Addition Escrow Funds as recommended by the Mayor and Staff. Bill Reaves seconded the motion. For: Unanimous. The motion carried by a vote of 4 to 0.

**ACTION: Release of  
Straub Escrow**

Bill Reaves moved to authorize the Town Administrator to select and consult with Insurance Agent(s) for the purpose of comparing health insurance plans and rates in preparation of the FY 2008-09 Budget. James Ashburn seconded the motion. For: Unanimous. The motion carried by a vote of 4 to 0.

**ACTION: Authorize  
Insurance Consultant**

The Council discussed creating a Capital Improvement Fund. Mayor Robertson stated that he would like to see the Council create a Restricted Capital Improvement Fund using any excess (funds collected in excess of budgeted amounts) for Gas Well Permits and the proceeds from the Flower Mound

**Discussion: Capital  
Improvement Fund**

Boundary Agreement. Mayor Robertson stated that should the Town use those funds for general operations, a very sizeable budget deficit would be created when those funds were no longer forthcoming. Mayor Robertson stated that he felt those funds should only be used for capital projects.

James Ashburn moved to table any action regarding a Capital Improvement Fund for further study. Bill Reaves seconded the motion. For: Unanimous. The motion carried by a vote of 4 to 0.

**ACTION: Table Action**

The Town Council suspended the open session of the meeting to convene into Executive (closed) Session at 8:35 p.m., pursuant to Section 551.072 of the Texas Government Code to deliberate the purchase, exchange, lease, or value of real property of which the discussion in an open meeting would have a detrimental effect on the position of the Town of Bartonville in negotiations with a third party.

**EXECUTIVE SESSION**

The Town Council adjourned the Executive Session and resumed the open session of the meeting at 8:47 p.m.

**Open Session**

Ryan Litherland moved to authorize the Mayor and Town Administrator to make an offer to purchase a certain tract of land for municipal purposes. Carla Anderson seconded the motion. For: Unanimous. The motion carried by a vote of 4 to 0.

**ACTION: Authorize Offer**

There were no requests for future agenda items.

**Future Agenda Items**

There being no further business to come before the Council, Mayor Robertson adjourned the meeting at 8:50 p.m.

**Adjournment**

**APPROVED this the 18<sup>th</sup> day of March 2008.**

Approved:

\_\_\_\_\_  
Ron Robertson, Mayor

(Seal)

Attest:

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Debbie E. Millican, Town Administrator