

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

The regular monthly meeting of the Bartonville Town Council was held on March 18, 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, March 14, 2008, at Bartonville Town Hall giving notice of time, date, place, and agenda thereof.

Present:

Ron Robertson, Mayor
Carla Anderson, Mayor Pro-Tem
Wayne Hoyt
James Ashburn
Bill Reaves

Absent:

Ryan Litherland

Also present: Debbie E. Millican, Town Administrator
Dave Howell, Chief of Police
Gary Vickery, Town Engineer
Bob Hager, Town Attorney

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

James Ashburn moved to approve the following agenda items as presented: *A) Approval of Minutes: February 19, 2008, regular monthly meeting; *B) Approval of Resolution 2008-03, appointing Patricia Needleman to fill the un-expired term of Brenda Whatley, Alternate Member of the Board of Adjustment; and *C) Acceptance of the 2007 Bartonville Police Department Racial Profiling Report. Carla Anderson seconded the motion. For: Unanimous. The motion carried by a vote of 4 to 0.

**ACTION: Approve
Consent Agenda**

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

Reports

Citizens' appearances for non-agenda items: C.J. Scheaf expressed concerns for the high grass and weeds along the right-of-way on East Jeter Road near the intersection with Porter Road. Mr. Scheaf stated that he had filed a complaint with the Town two weeks prior and to date nothing had been done. He said that it was not only a fire hazard, but also created a dangerous blind curve. Town Administrator Debbie Millican responded that the owners had been noticed before Mr. Scheaf had visited Town Hall. She said the property owner had requested additional time to clear the fencerow. Ms. Millican stated that their deadline was set for March 31. Mayor Robertson stated that the Town did not have a street department and had to rely on property owners to take care of the rights-of-way. Wayne Hoyt assured Mr. Scheaf that there were ordinances in place regulating right-of-way maintenance. No one else chose to speak.

Citizens' Appearances

The Town Council considered the development plat for the proposed Fuller Family gas wells. The development plat indicates a total of five wells located on one pad site generally described as being located on the southwest corner of the Gibbons Road/Frenchtown Road intersection, approximately 1,100 feet west of Gibbons Road and 1,100 feet south of Frenchtown Road. The applicant is XTO Energy, Inc. The surface owner is Lorene Fuller Etal.

Discussion: Fuller Family Gas Well Plat

Citizen comments: David Fuller stated that the Planning and Zoning Commission had been very helpful in getting the pad site location adjusted along with Mr. Manthei. He said that the gas well plat would be located on his property; however, he was still in negotiations with XTO to lease his mineral rights. Jim Strange expressed concern regarding public safety and the destruction of Dyer Road, the private road, which is the only access for several homes. He said that after urging from the Planning and Zoning Commission, XTO still had not met with the property owners regarding the use of Dyer Road. Mr. Strange said they needed some kind of guarantee that Dyer Road will not be destroyed by the heavy trucks. Dawn Repp stated that she had three small children and expressed concern for increased traffic and dust created by gas well trucks. Odis Fuller stated that he was one of the three sibling mineral owners of the 64 acres proposed well site. Mr. Fuller said that the well was to be used to gain access to minerals on other properties, not to produce the minerals on the 64 acres. He said he and his family had met with several attorneys and had been informed that it was illegal to drill on property that is not producing the minerals. Mr. Fuller stated that the Fuller family leaseholders had received a verbal offer from XTO but without a lease the well would be illegal and that the Council would have to decide if they were going to get involved. He stated that XTO had been working with the landowners to locate the well in a more desirable place to help hide the well and to save some trees. Mr. Fuller stated that they were hopeful that the Council might require a bond for the road damage. In response to a question from the Mayor, Mr. Fuller said that his family did not have any ownership in Dyer Road. In response to a question by Carla Anderson, David Fuller stated that the Llano lease expired on January 31, 2008 and that Llano was enforcing the force majeure clause in the lease. He

Citizen Comments and Discussion

said that in turn they had filed a protest with the Railroad Commission. James Ashburn stated that the Council was a legislative body and could not make legal determinations. Bob Manthei of XTO Energy stated that he had been out of the office and had not met with the landowners on Dyer Road. Mr. Manthei apologized to them and stated that it was their intent to enter into a road maintenance agreement similar to the agreements the Town uses for public roads. In response to a question by the Mayor, he stated that they did not have a lease with the Fullers but that they did have 25% of the minerals on the 64 acre well site. Town Attorney Bob Hager stated that the Town did not have the authority to regulate what the obligations are between parties. He said that there was nothing in the application that indicated that they do or do not have the right of access to Dyer Road. Mr. Hager stated that it was the Council's job to determine if the application for plat approval met the requirement of the Ordinance. In response to a question by the Mayor, Mr. Hager stated that if the applicant was agreeable to maintaining the road it could be a part of the plat approval but that the Town could not make them maintain a private road. Mayor Robertson stated that this was a platting issue and not a Dyer Road issue and unless there was someone from XTO Energy willing to agree to take care of Dyer Road, the Council could require that access be provided from Gibbons or Frenchtown Roads. Bob Manthei stated that XTO would commit to maintaining Dyer Road and reconstructing it to its current condition. The Council discussed access to the site and reviewed the Planning and Zoning Commission's recommendations. The Commission had recommended that the Council approve the plat contingent on the following items: the placement of a note on the plat indicating that the pipeline location will be determined at a later date and will not be located in Dyer Road; the movement of the pad site to the south and west as much as possible to save as many trees as possible; the limitation that the site to no more than five wells; the inclusion of a traffic control plan in the permit submittal; the agreement that XTO will make their best effort to enter into a road maintenance agreement for the private Dyer Road with the owners of the road; and the agreement that XTO will make their best effort to move the access to the pad site off of private Dyer Road from the northwest corner of the pad to the southwest corner of the pad.

Mayor Robertson announced that the open portion of the meeting would be suspended pursuant to Section 551.071 of the Texas Government Code to enter into a closed session to seek advice from the Town Attorney on a matter in which the duty of the Attorney to the Town of Bartonville under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas requires confidentiality. Mayor Robertson, Councilmembers, Town Attorney Bob Hager, and Town Administrator Debbie Millican entered into the Executive Session at 7:45 p.m.

**EXECUTIVE
SESSION**

The Town Council adjourned the Executive Session and resumed the open session of the meeting at 7:56 p.m. Discussion continued with respect to access. Mr. Manthei reiterated XTO's willingness to enter into an agreement with the

**OPEN SESSION
Discussion Cont.**

landowners and stated again that XTO would maintain and reconstruct Dyer Road back to its original condition after operations had ceased.

Bill Reaves moved to approve the Fuller Family Gas Well Development Plat as recommended by the Planning and Zoning Commission and with a note on the face of the plat stating that XTO Energy, Inc. will maintain Dyer Road during drilling operations and reconstruct the road to its original condition after drilling operations. James Ashburn seconded the motion. For: Unanimous. The motion carried by a vote of 4 to 0.

ACTION: Approve Fuller Family Gas Well Plat

The Town Council considered the Rachwal-XTO #1H & #2H drilling permit. The pad site is 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, Abstract No. 1594, Town of Bartonville, Denton County, Texas. The surface owner is Ponca City Inn; the applicant is Braden Exploration, LLC. The Town Council previously denied approval of the drilling permit until such time that the sound mitigation plan was revised to be in compliance with the Town's regulation or a waiver was granted for a site-specific sound baseline. The Planning and Zoning Commission met and recommended approval of the revised sound mitigation plan on March 5, 2008.

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

James Ashburn moved to approve the Rachwal-XTO #1H & #2H drilling permit as recommended by the Planning and Zoning Commission. Carla Anderson seconded the motion. For: Unanimous. The motion carried by a vote of 4 to 0.

ACTION: Approve Rachwal-XTO Well Permit

The Town Council considered a request for variance to the Bartonville Code of Ordinances, Chapter 3, Article 3.400, Sections 3.404(e); Garage Sale Signs, Section 3.408(9) Prohibited Signs: Off-Premise; and Section 3.405(c), Off-Site Signs (Off-Premises) to allow for the Bartonville Town Center to utilize off-site advertising signs in the Right-of-Way on the specific days that the Farmer's Market is active. In response to a question by Mayor Robertson, Debbie Millican stated that the applicant was not present. Annemarie Moore expressed opposition to the request. Ms. Moore stated she was afraid this would happen and people would just put signs up all along the roadway. Ms. Millican stated that the owner of the Bartonville Town Center had requested that the Council approve a variance to the sign standards to allow them to place signs in the right-of-way during the hours of operation for the Farmer's Market. Ms. Millican stated that the Town would be justified in denial of the request in that historically the Town has maintained strict regulations against off-premise advertising or "bandit signs."

Discussion: BTC Request for Off-Site Variance to the Sign Ordinance

Bill Reaves moved to deny the request for variance to the sign ordinance. Carla Anderson seconded the motion. For: Unanimous. The motion carried by a vote of 4 to 0.

ACTION: Deny Request for Variance

The Town Council considered a request for variance to the Bartonville Code of Ordinances, Chapter 3, Article 3.400, Section 3.404(u), Temporary Banners (General) to allow for the display of a temporary banner sign each Wednesday (Tuesday Evening) and Saturday (Friday Evening) May 1 through October 31 at the Bartonville Town Center, advertising the Bartonville Farmer's Market. Town Administrator Debbie Millican stated that the request for extending the maximum allowed time frame for an on-site temporary banner advertising for the Farmer's Market.

**Discussion: BTC
Request Variance for
Banner Signs**

Carla Anderson moved to deny the request for variance. The motion failed due to a lack of second. Bill Reaves moved to approve the request for a ninety-day period to allow time for further review. The motion failed due to a lack of second.

Failed Motions

James Ashburn moved to deny the request. Carla Anderson seconded the motion. For: Ashburn, Anderson and Hoyt. Against: Reaves. The motion carried by a vote of 3 to 1.

**ACTION: Deny
Variance Request**

James Ashburn moved to approve Resolution 2008-04, a resolution establishing a restricted use Capital Improvement Fund. Carla Anderson seconded the motion. For: Unanimous. The motion carried by a vote of 4 to 0.

**ACTION: Approve
Resolution 2008-04**

There were no contested positions in the May 10th General Election. No action was taken on Resolution 2008-05, Amended Order for the May 10, 2008, General Election, or approval a time/date for the "Meet the Candidates Night."

No Action: Election

James Ashburn moved to approve Ordinance 448-08 an Ordinance amending Town Of Bartonville Code of Ordinances, by repealing Chapter 5, Article 5.300, Outdoor Burning, Section 5.305, Restricted Outdoor Burning, in its entirety and providing new regulations entitled Restricted Outdoor Burning. Bill Reaves seconded the motion. For: Unanimous. The motion carried by a vote of 4 to 0.

**ACTION: Approve
Ordinance 448-08**

In accordance with Texas Local Government Code, Section 22.073 (b), Ordinance 448-08 is hereby engrossed and enrolled by copying the exact Caption and the Effective Date Clause into these official minutes as follows: AN ORDINANCE AMENDING TOWN OF BARTONVILLE CODE OF ORDINANCES, BY REPEALING CHAPTER 5, ARTICLE 5.300, OUTDOOR BURNING, SECTION 5.305, RESTICTED OUTDOOR BURNING, IN ITS ENTIRETY AND PROVIDING NEW REGULATIONS ENTITLED RESTRICTED OUTDOOR BURNING; PROVIDING THAT THIS ORDINANCE IS CUMULATIVE OF ALL OTHER ORDINANCES; PROVIDING FOR SAVINGS; PROVIDING SEVERABILITY; PROVIDING FOR ENGROSSMENT AND ENROLLMENT; PROVIDING FOR SAVINGS; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND NAMING AN EFFECTIVE DATE.

**Engross and Enroll:
Ordinance 448-08,
Burning Regulations**

The Mayor announced that there was no need to convene into the scheduled Executive Session.

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 8:47 p.m.

Adjournment

APPROVED this the 15th day of April 2008.

Approved:

Ron Robertson, Mayor

(Seal)

Attest:

Debbie E. Millican, Town Administrator