



**MINUTES OF A CITY COUNCIL
WORKSHOP/MEETING
HEWITT CITY HALL – 105 TAMPICO DRIVE
August 18, 2014 - 6:30/7:00 PM**

Members Present: Mayor Wilbert “Walky” Wachtendorf (presiding), Mayor Pro Tem Ed Passalugo; Council Members Bill Fuller, James Vidrine, Travis Bailey, Alex Snider, and Ronnie McNiel

Staff Present: City Attorney Charlie Buenger, City Manager Adam Miles, Assistant City Manager James Barton, Fire Chief Lance Bracco, Police Chief Jim Devlin, Finance Director Lee Garcia, Deputy Police Chief Tuck Saunders, and City Secretary Lydia Lopez

Staff Absent: City Engineer Bill Aston, City Engineer Miles Whitney, Library Director Waynette Ditto, HR/Civil Service Director Susana Garcia-Gilmore and Utilities Director James Black

Workshop – 6:30 PM

1. Mayor Wachtendorf called the meeting to order at 6:30 PM.
2. Briefing and discussion concerning evaluation of proposals for Construction Manager at Risk for the City Hall/Library project. City Manager Adam Miles suggested Council appoint a Review Committee to evaluate the proposals received. The following Council members were appointed: Mayor Pro Tem Ed Passalugo and Council Members Travis Bailey and Ronnie McNiel. The Review Committee will meet on Friday, August 22, 2014, 9 AM.
3. *A motion was made by Council Member Fuller and seconded by Mayor Pro Tem Passalugo to convene the Executive Session at 6:35 PM. The Council convened to Executive Session pursuant to the Open Meetings Act, Chapter 551, Texas Government Code to discuss the following:*
 - **Pursuant to §551.072 – Purchase, Exchange, Lease, or Value of Real Property.**
4. Close Executive Session. *A motion was made by Council member Fuller and seconded by Mayor Pro Tem Passalugo to close the Executive Session at 6:57 PM.*
5. Adjourn. *A motion was made by Mayor Pro Tem Passalugo and seconded by Council member Alex Snider to adjourn the Workshop at 6:58 PM.*

REGULAR MEETING – 7:00 PM

1. **CALL THE MEETING TO ORDER.** Mayor Wachtendorf called the meeting to order at 7:00 PM.
2. **PLEDGE OF ALLEGIANCE TO THE U.S. FLAG** – Fire Chief Lance Bracco led the Pledge of Allegiance.
3. **CONSIDER APPROVAL OF MINUTES OF THE SPECIAL CALLED WORKSHOP/MEETING OF AUGUST 11, 2014.** *A motion was made by Mayor Pro Tem Passalugo and seconded by Council Member Snider to approve the minutes as submitted but allow for corrections; all seven in favor, motion passed.*
4. **HEAR VISITORS ON MATTERS PERTAINING TO CITY BUSINESS.** Ms. Junie L. Wigman, 203 Gruver Circle, appeared to express concern of recycling fees and a pothole in the alley behind her address.
5. **CONSIDER AND TAKE APPROPRIATE ACTION CONCERNING AGENDA ITEM TABLED AT JULY 18, 2014, COUNCIL MEETING REGARDING REQUEST FROM JOSHUA BLACK TO HAVE A MINIATURE HORSE AS A SERVICE ANIMAL LOCATED AT 305 BONHAM.** *A motion was made by Council Member Vidrine and seconded by Mayor Pro Tem Passalugo to remove the item from the table and open for discussion.*

Mayor Wachtendorf opened the floor for discussion and/or motion.

Mr. Black came to the lectern.

Mayor Wachtendorf: “Mr. Black, do you have anything further to address the council on your original request.”

Mr. Black: “No, Sir”.

Council Member Vidrine: “My question that I would like to ask you now is, ‘what was the reason that you said you wanted this miniature horse?’”

Mr. Black: “To make it easier on me when it comes to doing household chores like mowing the yard, mostly”.

Vidrine: “Eating grass?”

Mr. Black: “That’s correct.”

Vidrine: “Correct...Not washing windows, dishes, sweeping floors...you said, household chores.”

Mr. Black: “I meant doing outdoor work.”

Vidrine: “Ok. It seems that I recall we talked about if it had to go the bathroom some place that you said that you would take care of it, shovel it and dispose of it and all that, is that correct?”

Mr. Black: “Yes, sir.”

Mr. Vidrine: “But you would have to use your hands to do that and that is a lot of work also.”

Mr. Black: “Yep, but there is no vibration to it. You adapt, overcome and improvise.”

Mr. Vidrine: “But you have other people that would mow your yard for you if you let them.”

Mr. Black: “I don’t like relying on others when work needs to be done. I’m independent. Just because I’m disabled doesn’t mean I’m helpless. I can still work and do everything...just adapt, overcome and improvise on every situation if possible.”

Mayor Pro Tem Passalugo stated, “I would like to make a motion to deny the miniature horse due to Americans with Disabilities Act (ADA) restrictions that don’t apply to this case. There is a judgment from Blue Ash, July 2014.”

Council Member Snider stated, “What is Blue Ash?”

Passalugo: “Blue Ash is a city where someone had a miniature horse and filed an ADA case over it and the U.S. District Court Judge Timothy Black granted the city a summary judgment which dismissed the lawsuit based on the fact that city laws defines it as a farm animal. ADA (regulations) says that it got to be if you are in a wheel chair and it pulls you around. It doesn’t say anything about eating grass or anything like that. A miniature horse is not a very efficient animal to cut the grass or eat the grass. A chicken is more efficient than a horse. The other part had to deal with the manure. I don’t think that I would like to live next to it”.

City Attorney Charlie Buenger: “What this is about is an exercise of valid police power. The city of Hewitt for the health, safety and welfare of the citizens passed this ordinance to protect the citizens. That is why it (the ordinance) regulates the size lot you have to have and the distances you have to have for this type of animal. We looked and can find no cases where the courts have allowed the ADA to usurp that authority of the city in making those types of police power decision which this one does. The City of Hewitt has exercised those powers when it created the ordinance that prohibit horses or that limit horses.”

Snider: “So we are saying that we are following regulations on an animal that is this tall under the guidelines of an animal that is 10 hands tall?”

Buenger: “I don’t think that the ordinance differentiates between the sizes of the horse, but this particular horse doesn’t qualify as a service animal anyway because of the use that is intended. What I am telling you is that there are no cases that say...that I can find that ADA trumps the city of Hewitt ordinance. But beyond that this horse doesn’t qualify as a service animal because it hasn’t met one of the qualifications and that is individualized specialized training – you don’t need to teach a horse to eat.”

Snider: “That is a strong man argument because it is not up to the City of Hewitt to certify an ADA animal. It’s the ADA’s area to certify an animal. And if the animal is ADA certified.”

Buenger: “One of the qualifications for any type of certification is that it receive individualized training to perform a task. If it were a seeing-eye horse, it would be okay. But it is not. It’s eating grass so it doesn’t qualify.”

Snider: “I still think that is Hewitt and I’ll leave it at this...Hewitt is making a determination on an ADA regulation that ADA would make. I know what you are saying...but under that idea, there is no animal that can help him cut the grass because every animal eats. So now we are saying that we have identified an area that ADA cannot issue a service animal for and I have a problem with that.”

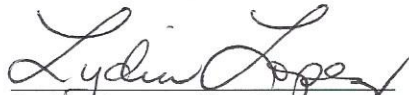
Buenger: “One of the qualification before it can be a service animal is that it receive individualized training. That is their (ADA) regulation. Is there a gap in what Congress has done...regulating this specific set of facts, I guess so. I guess unless Congress decides to change that...there is going to be a gap.”

Mayor Wachtendorf stated, “I got a motion on the table, do I have a second?”

The motion was seconded by Council Member James Vidrine, six in favor with Council Member Snider against; motion to deny the request passed.

6. **CONDUCT SECOND PUBLIC HEARING ON 2014 TAX RATE.** Mayor Wachtendorf opened the public hearing for those wishing to speak on the tax rate. No one appeared for or against. The public hearing was closed.
7. **ANNOUNCE AUGUST 25, 2014, AT 7:00 PM AT 105 TAMPICO DRIVE, HEWITT CITY HALL, AS THE DATE, TIME AND PLACE TO VOTE ON THE 2014 TAX RATE.** Mayor Wachtendorf announced August 25, 2014, at 7:00 PM at 105 Tampico Drive, Hewitt City Hall, as the date, time and place to vote on the 2014 tax rate.
8. **ADJOURN.** *Motion was made by Mayor Pro Tem Passalugo and seconded by Council Member Fuller to adjourn the meeting at 7:28 PM, all seven in favor, motion passed.*

Approved: August 25, 2014


Lydia Lopez, City Secretary


Wilbert Wachtendorf, Mayor