

**AGENDA  
BENBROOK CITY COUNCIL  
THURSDAY, DECEMBER 1, 2016  
911 WINSOTT ROAD, BENBROOK, TEXAS  
PRE-COUNCIL WORKSESSION 7:00 P.M.  
CENTRAL CONFERENCE ROOM**

**1. Review and discuss agenda items for regular meeting**

**REGULAR MEETING 7:30 P.M.  
COUNCIL CHAMBERS  
ALL AGENDA ITEMS ARE SUBJECT TO FINAL ACTION**

I. CALL TO ORDER

II. INVOCATION/PLEDGE OF ALLEGIANCE

Invocation To Be Given By Pastor Steve Beaulieu Of Capstone Church

III. MINUTES

1. Approve Minutes Of The Regular Meeting Held November 17, 2016

Documents:

[CC MINUTES-11-17-16.PDF](#)

IV. REPORTS FROM CITY MANAGER

A. GENERAL

G-2273 Adopt Ordinance Amending Chapter 6.12.100 Of The Benbrook Municipal Code To Clarify Ownership Of Stray Animals Upon Expiration Of Any Hold Period

Documents:

[G-2273 AMEND CHAPTER 6.12.100 ANIMAL CONTROL.PDF](#)  
[G-2273 ORDINANCE IMPOUNDED ANIMAL OWNERSHIP.PDF](#)

V. INFORMAL CITIZEN COMMENTS

State Law Prohibits Any Deliberation Of Or Decisions Regarding Items Presented In Informal Citizen Comments. City Council May Only Make A Statement Of Specific Factual Information Given In Response To The Inquiry; Recite An Existing Policy; Or Request Staff Place The Item On An Agenda For A Subsequent Meeting. The Exception To Informal Comments Is That Once An Election Date Has Been Set By City Council Comments Relative To Elections Will Not Be Broadcast On The City's Cable Channel. However, A Copy Of The Tape Containing Citizens' Comments Will Be Available At City Hall For Review Or Purchase By Interested Citizens.

VI. COUNCIL MEMBER AND STAFF COMMENTS

Announcements From City Councilmembers And City Staff May Be Made For Items To Include: Expression Of Thanks; Congratulations; Condolence; Recognition Of Public Officials, Employees Or Citizens; Information Regarding Holiday Schedules; Reminders Of

Community Events Or Announcements Involving An Imminent Threat To The Public Health And Safety Of The Municipality That Has Arisen After The Posing Of The Agenda. No Discussion Or Formal Action May Be Taken On These Items At This Meeting

VII. ADJOURNMENT



**MINUTES  
OF THE  
REGULAR MEETING OF THE  
BENBROOK CITY COUNCIL  
THURSDAY, NOVEMBER 17, 2016**

The regular meeting of the Benbrook City Council was held on Thursday November 17, 2016 at 7:30 p. m. in the Council Chambers at 911 Winscott Road with the following Council members present:

Jerry Dittrich  
Renee Franklin  
Larry Marshall  
Rickie Allison  
Jim Wilson  
Mark Washburn  
Ron Sauma

Also Present:

Andy Wayman, City Manager  
Dave Gattis, Deputy City Manager  
Joanna King, City Secretary  
Cathy Morris, EDC Director  
Sherri Newhouse, Finance Director  
Hillary Cromer, EDC Specialist

Others Present:

Bill Smith  
Williams, EDC President  
David Franklin  
Denise Huneycutt, Benbrook News  
Pat Dunkin  
Darlene Kalil  
Loretta Belisle  
Mary Martinez

**I. CALL TO ORDER**

Meeting called to order at 7:30 p. m. by Mayor Dittrich.

**II. INVOCATION/PLEDGE OF ALLEGIANCE**

Invocation given by Pastor Jack Cook of Wyatt Drive Baptist Church.  
The Pledge of Allegiance was recited.

**III. MINUTES**

**1. Approve Minutes of the Regular Meeting held November 3, 2016**

Motion by Dr. Marshall, seconded by Mr. Washburn to approve the minutes of the regular meeting held November 3, 2016.

Vote on the Motion:

Ayes: Ms. Franklin, Dr. Marshall, Mr. Allison, Mayor Dittrich, Mr. Wilson, Mr. Washburn, Mr. Sauma

Noes: None

Motion carries unanimously.

**IV. OATH OF OFFICE TO NEWLY ELECTED MEMBERS OF CITY COUNCIL**

The Oath of Office was administered to: Councilmember Renee Franklin, Place 2; Councilmember Rickie Allison, Place 4; and Councilmember Mark Washburn, Place 6.

**V. SELECTION OF MAYOR PRO-TEM**

Nomination by Mr. Sauma, seconded by Mr. Washburn to select Rickie Allison as the Mayor Pro-Tem.

Vote on the Nomination:

Ayes: Ms. Franklin, Dr. Marshall, Mr. Allison, Mayor Dittrich, Mr. Wilson, Mr. Washburn, Mr. Sauma

Noes: None

Nomination carries unanimously.

**VI. SELECTION OF VOTING REPRESENTATIVE FOR NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS**

Nomination by Mr. Allison, seconded by Ms. Franklin to select Ron Sauma as the Voting Representative for North Central Texas Council of Governments.

Vote on the Nomination:

Ayes: Ms. Franklin, Dr. Marshall, Mr. Allison, Mayor Dittrich, Mr. Wilson, Mr. Washburn, Mr. Sauma

Noes: None

Nomination carries unanimously.

## **VII. CITIZEN PRESENTATION**

### **1. Roxanne J. Laney, CEO of Shoot Smart – request permit to operate indoor shooting range**

Roxanne Laney, CEO of Shoot Smart provided presentation to City Council for proposed business to be located in the Benbrook Plaza, 9455 Benbrook Blvd.

Shoot Smart opened its first location in far north Fort Worth in March 2011, and acquired an existing range in Grand Prairie in 2013. The company is wholly owned by Roxanne and Jim Laney, both of whom are actively managing the business, along with son Jared Sloane. The company currently has about 40 employees and will add 12 to 15 more in the proposed Benbrook location.

The Company is known in the industry as innovators who operate a save business in a family setting. The mission is to deliver entertainment through education and they have a robust training business.

Ms. Laney discussed the safety and training aspects of the company.

Motion by Mr. Wilson, seconded by Mr. Allison to approve a permit for Shoot Smart to open and operate a shooting range in Benbrook Plaza, 9455 Benbrook Boulevard. Shoot Smart and its successors, as a condition of permit approval, must abide by all requirements of the Benbrook Municipal Code, both now and in the future.

Vote on the Motion:

Ayes: Ms. Franklin, Mr. Allison, Mayor Dittrich, Mr. Wilson, Mr. Washburn, Mr. Sauma

Noes: Dr. Marshall

Motion carries 6-1.

## **VIII. PRESENTATION BY BENBROOK ECONOMIC DEVELOPMENT BOARD OF DIRECTORS**

### **EDC-2016-04          Marketing Update**

Hillary Cromer presented City Council with the Benbrook Economic Development Corporation Marketing Update.

## **IX. REPORTS OF CITY MANAGER**

## **A. GENERAL**

### **G-2271      Accept finance report for period ending October 31, 2016**

Sherri Newhouse gave the following report: General Fund revenues for the month of October were \$1,293,643. Property tax collections were \$505,925. Sales tax collected in September 2016 but received by the City and recognized as revenue in October 2016 was \$182,656 for the month. General Fund revenues collected through the end of October were \$1,293,643 or 7.39% of the budget.

General Fund expenditures for the month of October were \$1,313,416. Expenditures through the end of October were \$1,313,416 or 6.99% of the adopted budget.

For the 2016-17 fiscal year-to-date, total General Fund expenditures of \$1,313,416 exceeded General Fund revenues of \$1,293,643 by \$19,773.

Debt Service revenues collected for the month of October 2016 totaled \$22,350; all revenue was from property taxes. There were no Debt Service expenditures for October. Total revenues for 2016-17 in the amount of \$22,350 exceeded total expenditures by \$22,350.

EDC revenues as of October 31, 2016 were \$91,191. Sales tax revenue received by the EDC in October 2016 was \$91,191. EDC expenditures for October were \$33,464. Revenues for the year exceeded EDC expenditures by \$57,727.

Total revenues received through October 31, 2016 for the Capital Projects Fund were \$40,333 from Stormwater Utility Fees. Total expenditures for the Capital Projects Fund were \$58,552 in October 2016. Expenses were for the Timberline Creek Drainage project, Vista Way project, and Benbrook Boulevard project. Total expenditures exceeded total revenues by \$18,219.

On October 31, 2016, the City had \$21,597,536 invested at varying interest rates; the EDC had \$6,538,061 available.

Motion by Mr. Washburn, seconded by Ms. Franklin to accept the finance report for the period ending October 31, 2016.

Vote on the Motion:

Ayes: Ms. Franklin, Dr. Marshall, Mr. Allison, Mayor Dittrich, Mr. Wilson, Mr. Washburn, Mr. Sauma

Noes: None

Motion carries unanimously.

**G-2272 Receive applications for Boards and Commissions and determine method of appointment:**

Joanna King gave the following report: The even numbered positions on the City's various Boards and Commissions will expire on December 30, 2016. There is also a one-year unexpired term on the Benbrook Economic Development Corporation Board of Directors.

The City advertised a formal notice to accept applications in the Benbrook News and the Fort Worth Star-Telegram. The announcement was also placed on the City Channel of Charter Communications, the City Home Page, City Facebook Page, and the quarterly Newsletter.

City Council has been provided a copy of the applications received from both current members and other citizens wishing to serve the City.

Motion by Ms. Franklin, seconded by Dr. Marshall to schedule interviews of Board and Commission candidates for December 7 and December 8, 2016 and to make the appointments at the December 15, 2016 regular City Council meeting.

Vote on the Motion:

Ayes: Ms. Franklin, Dr. Marshall, Mr. Allison, Mayor Dittrich, Mr. Wilson, Mr. Washburn, Mr. Sauma

Noes: None

Motion carries unanimously.

**X. INFORMAL CITIZEN COMMENTS**

**XI. COUNCIL MEMBER AND STAFF COMMENTS**

Councilmember Wilson announced that November is Diabetes Month and encouraged citizens to become aware on the step to manage their health.

**XII. ADJOURNMENT**

Meeting adjourned at 8:28 p.m.

**APPROVED:**

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**Jerry B. Dittrich, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Joanna King, City Secretary**



# City of Benbrook

## CITY COUNCIL COMMUNICATION

DATE: 12/01/16	REFERENCE NUMBER: G-2273	SUBJECT: Adopt Ordinance amending Chapter 6.12.100 of the Benbrook Municipal Code to clarify ownership of stray animals upon expiration of any hold period	PAGE: 1 of 1
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The Texas Supreme Court recently issued its opinion in *Lira v. Greater Houston German Shepherd Dog Rescue*. Pursuant to the opinion, the Texas Municipal League recommends that municipalities review their animal control ordinances to ensure that the city takes ownership of a stray animal if the owner does not claim it.

The case involved a dog that escaped from its owner's home with no collar or microchip. The dog ended up in the City of Houston's animal control facility. After the "hold period" in the city's ordinance, the dog was transferred to a rescue organization. The organization then placed the dog in a foster home. Sometime later, the original owner learned that the dog was in foster care and asked the rescue organization to return the dog to her. When the organization refused, she sued to get her dog back. The court ruled unanimously that the family did not forfeit their ownership claims over their dog even though he had been picked up by local animal control and transferred to a foster home. Nothing in Houston's ordinances "states or implies that a dog merely held by a private shelter, awaiting adoption, has been divested of the ownership rights of the original owner," the justices stated in an unsigned opinion.

The resulting Supreme Court opinion is unclear. At worst, it could be read to mean that a city's animal control ordinance can never divest ownership from an animal's original owner. At best, it concludes that the City of Houston's ordinance could have done so, but did not.

The proposed Ordinance amends Chapter 6.12.100 of the Benbrook Municipal Code by stating that a stray animal becomes the property of the City of Benbrook upon the expiration of any hold period. The amendments are intended to protect Benbrook from potential liability and do not in any way impact operations or care of animals.

### **RECOMMENDATION**

Staff recommends that City Council adopt amendments to Chapter 6.12.100 of the Benbrook Municipal Code to clarify that a stray animal becomes the property of the City of Benbrook upon the expiration of any hold period.

SUBMITTED BY:	DISPOSITION BY COUNCIL: <input type="checkbox"/> APPROVED <input type="checkbox"/> OTHER (DESCRIBE)	PROCESSED BY:
		CITY SECRETARY
CITY MANAGER		DATE:

**ORDINANCE NO. 1403**

**AN ORDINANCE OF THE CITY OF BENBROOK AMENDING CHAPTER 6.12.100 - IMPOUNDMENT, OF THE BENBROOK MUNICIPAL CODE (1985) TO ESTABLISH CITY OWNERSHIP OF IMPOUNDED ANIMALS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR ENGROSSMENT AND ENROLLMENT; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; PROVIDING A PENALTY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, The City of Benbrook is a home-rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

**WHEREAS**, The City of Benbrook periodically impounds animals to protect the health and safety of the general public and the animal population; and

**WHEREAS**, The City Council now deems it necessary to establish city ownership of impounded animals.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BENBROOK, TEXAS:**

**SECTION I**

That Chapter 6.12.100 – Impoundment of the Benbrook Municipal Code (1985 as amended) is hereby amended to read as follows:

- “H. Any animal, except vicious or wild animals, not reclaimed by the owner shall become the property of the City and may be humanely euthanized after being impounded for five days.
- I. Any impounded vicious or wild animal, unless there is reason to believe that it has an owner, shall become the property of the City and may be immediately disposed of as may be deemed appropriate by the animal control officer upon approval by the city manager.
- J. Any nursing baby animal impounded without the mother, or where the mother cannot or refuses to provide nutritious milk, shall become the property of the City and may be immediately euthanized to prevent further suffering.
- K. Any impounded animal that appears to be suffering from extreme injury or illness shall become the property of the City and may be euthanized or given to a nonprofit humane organization for the purpose of veterinary medical care, as determined by the animal control officer.”

**SECTION II  
PENALTY CLAUSE**

Any person, firm, or corporation who violates, disobeys, omits, neglects, or refuses to comply with or who resists the enforcement of any provisions of this ordinance shall be fined not more than Five Hundred Dollars (\$500.00) for all violations of this ordinance. Each day that a violation is permitted to exist shall constitute a separate offense.

**SECTION III  
CUMULATIVE CLAUSE**

This ordinance shall be cumulative of all provisions of ordinances and of the Code of the City of Benbrook, Texas (1985), as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event the conflicting provisions of such ordinances and such Code are hereby repealed.

**SECTION IV  
SEVERABILITY CLAUSE**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

**SECTION V  
SAVINGS CLAUSE**

All rights and remedies of the City of Benbrook are expressly saved as to any and all violations of the provisions of the Benbrook Municipal Code (1985), as amended, or any ordinances regulating platting or subdivisions which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

**SECTION VI  
PUBLICATION IN PAMPHLET FORM**

The City Secretary of the City of Benbrook is hereby authorized to publish this ordinance in book or pamphlet form for general distribution among the public, and the operative provisions of this ordinance as so published shall be admissible in evidence in all courts without further proof than the productive thereof, as provided in Section 3.10 of the Charter of the City of Benbrook.

**SECTION VII  
ENGROSSMENT AND ENROLLMENT**

The City Secretary of the City of Benbrook is hereby directed to engross and enroll the Ordinance by copying the caption, penalty clause, and effective date clause of this ordinance in the minutes of the City Council and by filing the Ordinance in the Ordinance records of the City.

**SECTION VIII  
PUBLICATION IN OFFICIAL NEWSPAPER**

The City Secretary of the City of Benbrook is hereby directed to publish the caption, penalty clause, publication clause and effective date clause of this ordinance for two (2) days in the official newspaper of the City of Benbrook, as authorized by Section 52.013 of the Local Government Code.

**SECTION IX  
EFFECTIVE DATE**

This ordinance shall be in full force and effect from and after its passage and publication as required by law.

**PASSED AND APPROVED** this 1st day of December, 2016.

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Jerry B. Dittrich, Mayor

**ATTEST:**

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Joanna King, City Secretary