

**COUNTY OF DALLAS/COUNTY OF KAUFMAN  
CITY OF SEAGOVILLE**

**CITY OF SEAGOVILLE CITY COUNCIL MINUTES**

The City Council of the City of Seagoville met in a Regular Meeting on Thursday, July 15, 2010 beginning at 7:30 p.m. in the Council Chambers of City Hall, 702 N. Highway 175, Seagoville, Texas, with the following members present:

Mayor	Sidney M. Sexton, Jr.
Mayor Pro Tem	Brenda Thompson
Council Member	Harold Magill
Council Member	Lee Landess
Council Member	Carl Polnac
Council Member	Peggy Day

The following Council Members were absent:  
None

The following City staff members were present:

City Manager	Denny Wheat
City Attorney	Bob Hager
SEDC President and CEO	Bekki Roberts
City Secretary	Sheila Martin

Mayor Sexton called the meeting to order at 7:32 p.m. and delivered the invocation. The City Council led the Pledge of Allegiance.

**PRESENTATION / PROCLAMATION(S)**

Mayor Sexton read a Proclamation recognizing July as Parks and Recreation Month

**CONSENT AGENDA**

1. Consider approval of the minutes of the July 1, 2010 Regular City Council Meeting

Motion: Harold Magill made a MOTION Carl Polnac SECONDED to approve, the Consent Agenda as presented.

VOTE: 5- Ayes

0-Nays

**ITEMS FOR INDIVIDUAL CONSIDERATION:**

**PUBLIC HEARINGS**

**None Were Held**

**ACTION ITEMS**

**2. Consider Ordinance No. 10-10 Abandoning a 20 Foot Water Line Easement Located at 1106 N. Highway 175**

Motion: Brenda Thompson made a MOTION – Peggy Day SECONDED to approve Ordinance No. 10-10 as presented.

VOTE: 5- Ayes

0-Nays

**3. Consider on the First Reading Resolution No. 27-10 Ratifying an SEDC Project Agreement with SAI KESAV, INC (Ravi Kumar Gadde), Seagoville Food Mart for Parking Lot Improvements**

Motion: Peggy Day MOTIONED to postpone Resolution No. 27-10 until August 19, 2010. Lee Landess SECONDED the Postponement.

Discussion:

Carl Polnac inquired if the SEDC attorney had approved this agreement?

Bekki Roberts, SEDC President and CEO responded in the affirmative.

Harold Magill stated the Council wanted to see the performance requirements for the agreement.

Carl Polnac stated since the agreement has been reviewed and approved by the SEDC and the SEDC Attorney, he would prefer to see approval of the Resolution put to a vote.

City Attorney Bob Hager stated Council would need to resolve the MOTION on the floor to postpone the First Reading of Resolution No. 27-10

VOTE: 4- Ayes (Thompson, Magill, Landess, Day) 1-Nay (Polnac)

Following the vote:

- Harold Magill stated in the future documents such as Peggy Day's memo and associated documents be submitted to the City Secretary's Office for inclusion in the Friday City Council Agenda Packet to allow Council adequate time to review them.

**4. Consider Appointments to Boards and Commissions- Re-appointing Mildred Thompson's re-appointment to the Board of Adjustment by Minute Entry.**

Motion: Harold Magill made a MOTION Brenda Thompson SECONDED to approve Mildred Thompson's re-appointment.

VOTE: 5- Ayes

0-Nays

**CITIZEN COMMENTS**

Mike Cheves of Kat Teams a division of Inkairos Group, (currently headquartered at the) Best Western Motel 1910 Hwy 175 Seagoville, Texas. Mr. Cheves gave an overview of the Texas Back-to-Work Program which offers up to \$2,000 in wage subsidies for hiring and retaining qualified job seekers.

**FUTURE AGENDA ITEMS**

5. Lee Landess requested an item discussing the City Manager's performance in Executive Session at the next scheduled City Council Meeting. Mr. Landess requested the City Attorney be present for the Executive Session.

Brenda Thompson requested an "after event" report on the Patriotic Festival to include revenue and expenditures.

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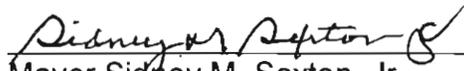
**EXECUTIVE SESSION**

No Executive Session was Scheduled

**ADJOURN**

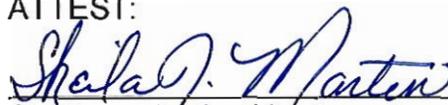
Mayor Sexton adjourned the Council meeting at 8:08 p.m.

Approved this the 5<sup>th</sup> day of August, 2010.

  
\_\_\_\_\_  
Mayor Sidney M. Sexton, Jr.



ATTEST:

  
\_\_\_\_\_  
Sheila J. Martin, City Secretary

### **Can section 4A or 4B corporations grant or gift section 4A or 4B proceeds to a business entity without a performance agreement?**

In 2003, the Texas Legislature amended the Development Corporation Act of 1979 to address business incentives and performance agreements. Section 4A and 4B corporations may not provide a direct incentive or make expenditures on behalf of a business enterprise unless the corporation enters into a performance agreement with the business enterprise.<sup>54</sup> The performance agreement at a minimum must provide for a schedule of additional payroll or jobs to be created or retained and the capital investment to be made as consideration for any incentives.<sup>55</sup> Further, the agreement must specify the terms for any repayment should the business fail to meet the performance requirements specified in the agreement.

### **Can section 4A and 4B corporations hire an independent third party to conduct business recruitment or development?**

Section 4A and 4B corporations may hire a third party for the purposes of conducting business recruitment or development.<sup>56</sup> Nonetheless, the corporation must enter into a written contract approved by the corporation's board of directors in connection with the payment of a commission fee, or thing of value to a broker, agent, or third party who is involved in business recruitment or development.<sup>57</sup> This requirement does not apply to the business recruitment or development activities conducted by the executive director or other employees of the section 4A or 4B corporation.<sup>58</sup> Should the corporation hire a third party for the purposes of business recruitment or development without a written contract approved by the board, the corporation could be liable to the State of Texas for a civil penalty in an amount not to exceed \$10,000.<sup>59</sup> Further, the Texas Attorney General's office could bring an action to recover the penalty in Travis County District Court or the district court in the county in which the violation occurred.<sup>60</sup>

<sup>54</sup> TEX. REV. CIV. STAT. ANN. art. 5190.6, § 40(a).

<sup>55</sup> TEX. REV. CIV. STAT. ANN. art. 5190.6, § 40(b).

<sup>56</sup> TEX. REV. CIV. STAT. ANN. art. 5190.6, § 41(a)-(d).

<sup>57</sup> TEX. REV. CIV. STAT. ANN. art. 5190.6, § 41(b).

<sup>58</sup> TEX. REV. CIV. STAT. ANN. art. 5190.6, § 41(a).

<sup>59</sup> TEX. REV. CIV. STAT. ANN. art. 5190.6, § 41(c).

<sup>60</sup> TEX. REV. CIV. STAT. ANN. art. 5190.6, § 41(d).

Action Item #3 - Regular Council Meeting on July 15, 2010

Agreement with SAI Keshave, Inc. aka Sunny Sakaria - Seagoville Food Mart)

Mr. Mayor, I move to Postpone Definitely this motion until our August 19 meeting to allow the City Attorney to give me (us) some guidance to a statement relative to this agenda that I don't understand, which is:

Exhibit A of this agenda item "Project Agreement," the "Witnesseth" section third paragraph reads, "Whereas, the SEDC has determined that certain grants should be offered in order to develop property and create jobs referred to herein;"

Although a grant is free money, so to speak, there would seem to be a need for some sort of guarantee that the grantee will perform, and in the "Project Agreement" I see no mention of jobs to be created or any penalty for non-performance of this agreement.

Under Tex. Rev. Civ. Stat. Ann. Art. 5190.6 ==40(b) (copy attached) the meaning seems to be that the Project Agreement - at a minimum - must provide for a schedule of additional payroll or jobs to be created or retained and for the capital investment to be made as consideration for any incentives (such as years of performance required or a diminishing rate of repayment if the business should fail or be sold to someone else between the next one and ten years, for example, since the grantee would not have had time to provide much employment or sales taxes).

I am requesting that we get attorney's opinion on the law mentioned. My belief is that the taxpayers who approved the SEDC intended for the corporation to ensure that grantees return value in an enforceable manner.

RECEIVED BY  
CITY OF SEAGOVILLE

JUL 15 2010

CITY SECRETARY'S OFFICE