



NOTICE OF REGULAR MEETING AND AGENDA
Nacogdoches City Council
5:30 p.m., Tuesday, May 1, 2012
City Council Room – City Hall - 202 E. Pilar Street

PLEASE LIMIT PRESENTATIONS TO THREE MINUTES
(UNLESS PRIOR APPROVAL IS OBTAINED)

1. Call to order.
2. Invocation.
3. **PRESENTATIONS AND RECOGNITIONS:**
 - A. Consider Proclamation designating May 6-12, 2012 as “Public Service Recognition Week” in Nacogdoches. (Mayor)
 - B. Consider Proclamation designating May “Preservation Month” in Nacogdoches. (Mayor)
4. Items to be removed from Consent Agenda.
5. **CONSENT AGENDA:** Items included under the Consent Agenda require little or no deliberation by the Council. Approval of the Consent Agenda authorizes the City Manager or his designee to proceed with conclusion of each in accordance with staff recommendations as reflected in the minutes of this meeting.
 - A. Consider approval of minutes from regular session of April 17, 2012. (City Secretary)

REGULAR AGENDA:

6. Consider awarding bids for construction of Water Well No. 13. (City Engineer)
7. Receive semi-annual activity report from Nacogdoches Economic Development Corporation. (NEDCO)
8. Consider Nacogdoches Economic Development Corporation Professional Services Contract (City Manger)
9. Receive Mid-fiscal year budget review. (City Manager)
10. **EXECUTIVE SESSION:** Personnel - Confirm appointment of Library Director, as per G.C. Section 551.074. (City Manager)
11. Open for action, if any, on Item No. 9.
12. Adjourn.


Lila Fuller, City Secretary



This agenda is posted as required under G. C. Section 551.041. For more information or a copy of the Open Meetings Act, please contact the Attorney General of Texas at 1-800-252-8011; the City Secretary at 936/559-2504 or visit the City of Nacogdoches web site at www.ci.nacogdoches.tx.us.

The Nacogdoches City Council Chambers are wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary's office at (936) 559-2504 or FAX (936) 559-2912 for further information.

CERTIFICATION

I certify that the above notice of meeting was posted in the directory outside of City Hall, 202 E. Pilar Street, Nacogdoches, Texas on Friday, April 27, 2012 at 5:00 p.m.

Lila Fuller, City Secretary

I certify that the attached notice and agenda of items to be considered by the City Council was removed by me from the directory outside of City Hall on the ____ day of May 2012.

Name: _____ Title: _____

ITEM NO. 3-A

**CITY OF NACOGDOCHES
AGENDA INFORMATION SHEET:**

PROJECT: Recognize May 6-12, 2012 as Public Service Recognition Week" in Nacogdoches

MEETING DATE: May 1, 2012

**Presentation will be made at
Tuesday's meeting**

ITEM NO. 3-B

**CITY OF NACOGDOCHES
AGENDA INFORMATION SHEET:**

PROJECT: Consider Proclamation designating May "Preservation Month" in Nacogdoches

MEETING DATE: May 1, 2012

**Presentation will be made at
Tuesday's meeting**

ITEM NO. 5-A

CITY OF NACOGDOCHES AGENDA INFORMATION SHEET:

PROJECT: CONSENT AGENDA: Consider approval of minutes from regular session of April 17, 2012.

MEETING DATE: May 1, 2012

CITY CONTACT: Lila Fuller, City Secretary - 559-2504

ATTACHMENTS: Minutes

DRAFT

MINUTES
Regular Session
Nacogdoches City Council
April 17, 2012 – 5:30 p.m.
City Council Room – City Hall
202 E. Pilar Street

Regular Session:

Those Present:

Mayor Roger Van Horn, Council members Shelley Brophy, William Sanders and Bob Dunn; City Manager Jim Jeffers, City Attorney Rob Atherton and City Secretary Lila Fuller.

Call to Order.

Mayor Van Horn at 5:30 p.m. A quorum was established. Council member Norton had an excused absence.

2. Invocation.

Council member Sanders gave the invocation.

3. Presentations and Recognitions.

Mayor Van Horn recognized students from Regents Academy who were in attendance.

4. Items to be removed from the Consent Agenda.

None.

- 5. CONSENT AGENDA: Items included under the Consent Agenda require little or no deliberation by the Council. Approval of the Consent Agenda authorizes the City Manager or his designee to proceed with conclusion of each in accordance with staff recommendation as reflected in the minutes of this meeting.**

A. Consider approval of minutes from regular session of April 3, 2012.

Approved as presented.

B. Appoint City Manager as representative of the City membership in the Nacogdoches County Industrial Foundation.

Appointed City Manager as recommended.

C. Consider approval of the Historic Restoration Grant budget for Spring FY 2011-2012.

Approved budget in the amount of \$36,494.82.

Council member Sanders moved to approve the Consent Agenda as presented. The motion was seconded by Council member Dunn and unanimously passed.

REGULAR AGENDA:

- 6. PUBLIC HEARING: Consider Edward Byrne Memorial Justice Assistance Grant (JAG) Program FY 2012 local in the amount of \$15,559 to purchase high threat tactical vests.**

Minutes unofficial until accepted by City Commission

DRAFT

Police Chief Jim Sevey stated grant funding would be used to purchase three to four tactical vests for use by the special tactical teams and required no matching funds.

Mayor Van Horn opened the public hearing. There being no one present desiring to be heard, the public hearing was closed.

Council member Sanders moved to authorize the submission of an application through the Edward Byrne Memorial Justice Assistance Grant (JAG) Program FY 2012 local in the amount of \$15,559 to purchase high threat level tactical vests as requested. The motion was seconded by Council member Brophy and unanimously passed. (Resolution No. 1122-4-12)

7. Consider removal of the traffic signal located at the intersection of Hospital Street and Mound Street, replacing it with a 4-way stop sign configuration.

Steve Bartlett, city engineer, stated after review the Traffic Committee was recommending the traffic signal at this intersection be removed and replaced with a 4-way stop sign configuration based on a 3-month trial. He stated no complaints and no accidents had occurred during the trial period.

Council member Dunn moved to authorize the removal of the traffic signal located at the intersection of Hospital Street and Mound Street, replacing it with a 4-way stop sign configuration. The motion was seconded by Council member Brophy and unanimously passed.

8. Consider Change Order for the Southwest Pump Station project through Texas Water Development Board Drinking Water State Revolving Fund loan No. 61250.

Steve Bartlett, city engineer, stated the change order was an aggregation of several change orders due to unknown piping locations, line adjustments, etc. He stated the cost added to the contract was \$58,360 and there were funds available in the project budget.

Council member Brophy moved to approve the change order for the Southwest Pump Station project through Texas Water Development Board Drinking Water State Revolving Fund loan No. 61250. The motion was seconded by Council member Sanders and unanimously passed. (Acct 30.179.08)

9. Authorize purchase of a 2012 Fire Engine through HGAC.

Keith Kiplinger, fire chief, stated the purchase of a 2012 Pierce model fire truck was a budgeted item and would be purchased through HGAC. He stated staff was recommending pre-payment of the fire truck which would reduce the cost by \$14,000. He stated it was anticipated that the vehicle would be delivered in September.

After some discussion on the risks associated with pre-payment, Council member Dunn moved to authorize the purchase of a 2012 Pierce model fire engine through HGAC and authorizing the pre-payment option, reducing the cost to \$380,000. The motion was seconded by Council member Sanders and unanimously passed. (Acct 60.174.00)

10. Consider approval for installation of Supervisory Control and Data Acquisition (SCADA) System to include security systems at the Surface Water Treatment Plant, Southside Pump Station and Wastewater Plant.

Russell Grubbs, water utilities manager, stated this was Phase 3 of the SCADA system and would include security components at the described water utility locations. He stated the total cost for this phase was \$78,790.33 and BLOC Build Design would be the contractor.

DRAFT

Council member Dunn moved to approve the installation of Phase 3 of the SCADA System to include security systems at the Surface Water Treatment Plant, Southside Pump Station and Wastewater Plant as requested in the amount of \$78,790.22. The motion was seconded by Council member Brophy and passed unanimously. (Acct. 30.173.02)

11. **Consider appointment of four (4) City Council members to the Deep East Texas Council of Governments (DETCOG) Board of Directors for one year.**

Council member Dunn moved to appoint Mayor Van Horn and Council members Brophy, Sanders and Norton to the DETCOG Board of Directors for one year. The motion was seconded by Council member Brophy and unanimously passed.

The City Council went into closed session at 5:55 p.m.

12. **EXECUTIVE SESSION: Deliberation regarding real property – Discuss acquisition of the previous Texas National Guard Armory located at 1028 Armory Drive, Nacogdoches, Texas.**
13. **EXECUTIVE SESSION: Personnel – Confirm appointment of Director of Community Services, as per G.C. Section 551.074.**

The City Council reconvened into open session at 6:12 p.m.

14. **Open for action, if any, on Item 12.**

No action was taken in open session.

15. **Open for action, if any, on Item 13.**

Council member Brophy moved to confirm the appointment of Brian Bray as Director of Community Services. The motion was seconded by Council member Sanders and unanimously passed.

16. **Adjourn.**

Mayor Van Horn adjourned the meeting at 6:14 p.m.

Mayor Roger Van Horn
City Council
City of Nacogdoches

ATTEST:

Lila Fuller, City Secretary

Minutes approved May 1, 2012.

**CITY OF NACOGDOCHES
AGENDA INFORMATION SHEET:**

PROJECT: Consider awarding bids for construction of Water Well No. 13

MEETING DATE: May 1, 2012

DESCRIPTION: On April 12, 2012, the City received two (2) bids for Construction of Well 13 located at the SW Pump Station on FM 225. The following bids were submitted:

Weisinger, Inc	\$684,400.00
Russell Drilling Co., Inc.	\$772,000.00

Weisinger was found to be the qualified low bidder in the amount of \$684,400.00 for the Base Bid. The company is a qualified and experienced well drilling contractor with that has and is currently, working for the City on several water well projects.

The project includes the drilling of a test well, hydraulic analyses of the water bearing strata and the installation of a permanent well, pump and motor. Site piping and chlorination facilities will be accomplished under a separate contractor. Funds are available in the project budget.

COST: \$684,400.00

BUDGET AMENDMENT REQUIRED?: No

FUNDING FROM CURRENT BUDGET

FUNDING:	Acct. Name & No.	Adopted Budget	Balance	Requested
	30.175.03	\$1,400,000	\$12,020,067	\$684,400.00

SCHEDULE: Notice to proceed - immediately after approval. Anticipate drilling arrival within 6 weeks.

RECOMMENDED ACTION: It is recommended that the low bid for Well 13 be awarded to Weisinger, Inc. in the amount of \$684,400.00

CITY CONTACT: Steve Bartlett, P.E., City Engineer

ATTACHMENTS: A bid tabulation is available for review in the Engineering office

ITEM NO. 7

**CITY OF NACOGDOCHES
AGENDA INFORMATION SHEET:**

PROJECT: Receive semi-annual activity report from Nacogdoches Economic Development Corporation

MEETING DATE: May 1, 2012

ATTACHMENTS: None

**Presentation will be made
At Tuesday's meeting**

CITY OF NACOGDOCHES AGENDA INFORMATION SHEET:

- PROJECT:** Consider Nacogdoches Economic Development Corporation (NEDCO) Professional Services Contract
- MEETING DATE:** May 1, 2012
- DESCRIPTION:** The contract with Nacogdoches Economic Development Corporation expired September 2011. Due to other demands, such as the drought, City Administration has not had time to work on the contract renewal earlier.
- Note worthy changes to the contract include:
- Inclusion of "recruitment" in addition to assisting retail, industrial and manufacturing businesses to relocate to City.
 - Addition of growth of sales tax collected by City.
 - Prior to NEDCO submitting annual comprehensive program of action to City Council, City Manager shall submit to NEDCO recommendations concerning comprehensive program of action specific to City needs.
 - Addition of performance evaluation which allows City Council to view various criteria as indicators of NEDCO's effectiveness.
 - Shifting NEDCO payments from annual to quarterly.
 - NEDCO will provide semi-annual reports instead of annual.
 - Contract may be renewed annually.
- RECOMMENDED ACTION:** Renew contract with Nacogdoches Economic Development Corporation.
- CITY CONTACT:** Jim Jeffers, City Manager
jeffers@ci.nacogdoches.tx.us
936-559-2501
- ATTACHMENTS:** Draft contract

**NACOGDOCHES ECONOMIC DEVELOPMENT CORPORATION
PROFESSIONAL SERVICES CONTRACT**

STATE OF TEXAS §

COUNTY OF NACOGDOCHES §

This agreement (“ Contract” and Resolution) is made and entered into by the City of Nacogdoches, a municipal corporation, hereinafter referred to as “ City” , and the Nacogdoches Economic Development Corporation, a Texas non-profit corporation, hereinafter referred to as “ NEDCO” , each acting by and through its authorized officials.

For and in consideration of the agreements herein contained, the City and NEDCO hereby covenant and agree as follows:

**ARTICLE I
Services**

In consideration of City’ s agreement to pay monies to NEDCO from utility and tax revenues, as hereinafter provided, NEDCO agrees to undertake economic development activities for the promotion, recruitment and assisting retail, industrial and manufacturing business to relocate to the City of Nacogdoches and Nacogdoches County and further the expansion or retention of existing local business, to increase employment, reduce unemployment and underemployment and increase the local property and sales tax base, as hereinafter provided. The City sales and property tax base is best enhanced when businesses and industry locate inside the City limits.

The City resolves NEDCO is specifically authorized and contracted to act on City’ s behalf to further the public purpose stated herein and in NEDCO’ s Articles of Incorporation, both of which the City approves.

Specifically, but without limitation, NEDCO agrees as follows:

- 1.1. To promote the construction, lease or use of local private or public facilities.
- 1.2. To conduct coordinated state, regional, and national advertising, publicity and promotion campaigns emphasizing facilities and incentives offered in the City to business and industry, as well as the benefits of locating in the greater Nacogdoches area.
- 1.3. To maintain and make available through the NEDCO website and upon demand a current database of property and facilities available for business and industry, as provided by property owners or their representatives.
- 1.4. To distribute by electronic and print media attractive and informative brochures or advertisements detailing advantages and incentives available.
- 1.5. To participate with appropriate state and federal agencies to assure favorable economic development activities are pursued.

1.6. To solicit economic development conventions and business development meetings for the education of local businesses.

1.7. To hire, manage, discharge and pay full-time staff necessary to undertake an aggressive economic development program for the City and vicinity.

1.8. To work closely with the City Manager and City Council to provide a unified economic development program.

1.9. To cause NEDCO to appear from time to time, at the request of the City Council or City Manager, to discuss NEDCO programs and activities.

**ARTICLE II
NEDCO Marketing Plan**

In order for the City to monitor the operation of NEDCO hereunder, NEDCO shall submit for City Council review a comprehensive program of action (marketing plan) for each fiscal year. The marketing plan shall provide specific and detailed actions to be performed by the NEDCO during the fiscal year in question. The marketing plan is to be submitted by the date requested by the City each year in advance of the City's fiscal year in question. Prior to NEDCO submitting a comprehensive program of action to the City Council, the City Manager shall submit to NEDCO recommendations concerning the comprehensive program of action specific to City needs.

**ARTICLE III
Performance Evaluation**

The City Manager, with the assistance of NEDCO, shall prepare an annual report for the City Council on the effectiveness of NEDCO in achieving the services and goals in Article I. The report will address recruitment, retention and assistance provided local businesses and industry. The report shall also monitor economic development indicators, such as sales tax, housing starts, unemployment, total work force, per capita income, enrollment at Stephen F. Austin State University, active utility meters, new businesses/industry inside City limits, etc. The items listed in Article III are not inclusive.

**ARTICLE IV
Compensation**

The City shall pay NEDCO \$23,750.00 quarterly for a total of \$95,000.00 annually for services.

**ARTICLE V
Term**

The term of this agreement shall begin October 1, 2011, and shall remain in effect until September 30, 2012, renewable for additional one-year periods at the option of the City, subject to appropriations. NEDCO shall annually have an independent audit and prepare a report covering the terms set forth herein and all funds expended.

The following operating procedures are hereby adopted:

- 1) Budget. NEDCO shall submit to City a proposed program (including a marketing plan) and corresponding line item budget no later than September 1 of each year the contract is in effect for review and consultation.
- 2) Reports. A progress report of activities and financial operations shall be made at least semiannually.
- 3) Record Retention. All original documents, deeds, articles of incorporation, charters, 501-c(3) authorizations and similar fundamental documents will be maintained in perpetuity. All canceled checks and other financial records will be maintained for a period of six (6) years after the close of a fiscal year.
- 4) Audit. All accounting procedures, records and reports shall be available for inspection by a duly authorized representative of City. An independent audit of the program's financial records or a report on agreed upon procedures, by a qualified Certified Public Accountant, shall be furnished to the City within one hundred twenty (120) days of the close of each fiscal year.

NEDCO shall use the funds provided by City solely to further purposes stated herein. The program planning, preparation, and execution under this agreement shall be the sole responsibility of NEDCO, and NEDCO shall indemnify City for any action taken or debt incurred by NEDCO contrary to provisions of this agreement. The obligation of City shall be limited to the transmittal of funds as provided herein.

ARTICLE VI

Withdrawal by NEDCO

NEDCO may withdraw from this agreement if the City materially breaches this agreement and such breach remains uncured for sixty (60) days after actual written notice to the City describing such breach and demanding its cure.

ARTICLE VII

Withdrawal by the City

The City may withdraw from this agreement if NEDCO materially breaches this agreement and such breach remains uncured for sixty (60) days after the actual written notice to NEDCO describing the breach and demanding its cure.

ARTICLE VIII

Term and Appropriations

8.1 In the event of termination or expiration of this Contract, City payments to NEDCO for such current year shall be prorated and the portion for the balance of the contract year returned to the City.

ARTICLE IX

Independent Contractor

9.1 The relationship of NEDCO to City shall be that of independent contractor as to all services performed hereunder and not as an officer, agent, servant, or employee of City. NEDCO shall have exclusive control of its operations hereunder, and the persons performing same, and shall be solely responsible for the acts and omissions of its officers, agents, servants, employees, contractors, and subcontractors. The doctrine of respondent superior shall not apply as between City and NEDCO, its officers, agents, servants, employees, contractors, and subcontractors, and nothing herein shall be construed as creating a partnership or joint enterprise between City and NEDCO.

9.2 NEDCO covenants and agrees to, and does hereby, indemnify, hold harmless, and defend City, its officers, agents, servants, and employees from and against any and all claims or suits for property damage or loss and/or personal injury, including death, to any and all persons, of whatsoever kind or character, whether real or asserted, arising out of or in connection with this Contract, its performance or non-performance; and NEDCO hereby assumes all liability or responsibility for same.

ARTICLE X Non-Exclusive

10.1. Both parties agree this agreement is non-exclusive. Each may engage in similar activities, programs, promotions, advertising, etc., either on their own or through other contractual agreements. Both agree such will not be a breach of this agreement unless it directly interferes with services to be provided, payments for such service or other conditions stipulated in this agreement.

Applicable Laws

10.2. Claims by or against the parties shall be governed by the Texas Tort Claims Act or other appropriate statutes, ordinances or laws of the State of Texas.

Non-Waiver

10.3. It is expressly understood and agreed that, in the execution of this agreement, no party waives, nor shall be deemed hereby to waive, any immunity or defense that would otherwise be available to it against claims arising in the exercise of governmental powers and functions.

Venue

10.4. Each party to this agreement agrees if legal action is brought under this agreement, exclusive venue shall lie in Nacogdoches County, Texas.

Governing Law

10.5. The validity of this agreement and of any of its terms or provisions, as well as rights and duties of the parties hereunder, shall be governed by the laws of the State of Texas.

Severability

10.6. In case any one or more of the minor provisions contained in this agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this agreement shall be construed as if such invalid, illegal, or unenforceable provision had ever been contained herein.

Notice

10.7. Notices shall be written and mailed by certified mail or hand delivered to the chief executive officer of each party or such party' s office.

Effective Date

10.8. This agreement shall become effective between parties hereto on day following execution of agreement by the parties, and shall continue in effect until it has been terminated according to this agreement.

Modification

10.9. This agreement may be amended or modified by mutual agreement of the parties hereto in writing to be attached to and incorporated into this agreement.

Headings

10.10. The headings of sections or paragraphs of this agreement are for convenience purposes only and in no way control, contradict or limit contents of such sections or paragraphs.

Approval

10.11. This agreement shall be executed by duly authorized official(s) of each party as expressed in the approving resolution of the governing body of each such party, a copy of which is attached hereto as Exhibit " A" and this agreement shall remain in effect until rescinded by resolution of such governing body and notice of that action is transmitted in writing to all other parties to this agreement.

Counterparts

10.12. The parties agree their collective agreement may be evidenced by execution of an identical counterpart of this instrument by duly authorized officer(s) of each participant, and failure of any member to enter into this agreement shall not affect the agreement between and among the parties executing the agreement.

Assignment

10.13 NEDCO may not assign this contract without prior written consent of City.

Open Records

10.14 NEDCO understands receipt of payment for these services may subject all or part of NEDCO' s records to the Texas Open Records Act, but only to the extent required by law .

Executed and effective as of the day of May 2012.

Jim Jeffers, City Manager
City of Nacogdoches

Bill King, President/CEO
Nacogdoches Economic Development Corporation

**CITY OF NACOGDOCHES
AGENDA INFORMATION SHEET:**

PROJECT: Receive Mid-fiscal year budget review

MEETING DATE: May 1, 2012

ATTACHMENTS: None

**Presentation will be made
At Tuesday's meeting**

**CITY OF NACOGDOCHES
AGENDA INFORMATION SHEET:**

PROJECT: CLOSED SESSION: Personnel - Confirm appointment of Library Director as per G. C. Sec. 551.074.

MEETING DATE: May 1, 2012

DESCRIPTION: Consider appointment of Library Director

RECOMMENDED ACTION: Confirm appointment of Library Director following closed session.

CITY CONTACT: Jim Jeffers, City Manager
jeffers@ci.nacogdoches.tx.us
936-559-2501

ATTACHEMENTS: None