MINUTES
DECEMBER 10, 2013
HEATH CITY COUNCIL
200 LAURENCE DRIVE - HEATH, TEXAS
WORK SESSION - PUBLIC HEARINGS - REGULAR MEETING

ATTENDING:	LORNE LIECHTY, MAYOR	ABSENT:	JULIE ZUREK
	JUSTIN HOLLAND, MAYOR PRO TEM		
	BRIAN BERRY		
	BARRY BROOKS		
	RICHARD KRAUSE		
	KEVIN LAMBERTH		

WORK SESSION – Discuss Capital Improvements Program.

Mayor Liechty convened the work session at 5:05 p.m. Staff provided updates regarding projects, as discussed during the May 28, 2013 work session, to be funded by the General Obligation Refunding Bonds, Series 2013 and cost estimates and timelines for projects for inclusion on a future bond program. (Brooks arrived at 6:26 p.m.) There was discussion regarding prioritizing and accelerating critical projects.

The Mayor recessed the meeting at 6:43 p.m. and reconvened it at 6:50 p.m. City Manager Ed Thatcher delivered the invocation.

Discussion and Action Regarding the Minutes of November 26, 2013.

MOTION: APPROVE THE MINUTES OF NOVEMBER 26, 2013.

MOTION MADE:	KRAUSE
SECONDED:	HOLLAND
APPROVED:	UNANIMOUS (Absent: Zurek)

Discussion and Action Regarding an Ordinance Amending the Code of Ordinances in Chapter 153, Other Codes Adopted by Providing for the Adoption of the 2009 International Building Code, the 2008 National Electrical Code, the 2009 International Energy Conservation Code, the 2009 International Fuel Gas Code, the 2009 International Residential Code, the 2009 International Mechanical Code, the 2009 International Plumbing Code with Amendments thereto; providing for a penalty not to exceed the sum of $2000.00; providing a severability clause; providing a repealer clause; providing an effective date.

Building Official Scott Qualls presented and answered questions regarding regular updates to various codes and amendments thereto as recommended by the North Central Texas Council of Governments.

MOTION: APPROVE ORDINANCE 131210A AMENDING THE CODE OF ORDINANCES IN CHAPTER 153, OTHER CODES ADOPTED BY PROVIDING FOR THE ADOPTION OF THE 2009 INTERNATIONAL BUILDING CODE, THE 2008 NATIONAL ELECTRICAL CODE, THE 2009 INTERNATIONAL ENERGY CONSERVATION CODE, THE 2009 INTERNATIONAL FUEL GAS CODE, THE 2009 INTERNATIONAL RESIDENTIAL CODE, THE 2009 INTERNATIONAL MECHANICAL CODE, THE 2009 INTERNATIONAL PLUMBING CODE WITH AMENDMENTS THERETO; PROVIDING FOR A PENALTY NOT TO EXCEED THE SUM OF $2000.00; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; PROVIDING AN EFFECTIVE DATE.

MOTION MADE:	BERRY
SECONDED:	HOLLAND
APPROVED:	UNANIMOUS (Absent: Zurek)

Discussion and Action regarding the Preliminary Plat of the Sonterra Estates Addition – Requested by Todd Wintters, Engineering Concepts & Design on behalf of owner George and Julia Roland Living Trust.

James Roland presented and answered questions regarding the preliminary plat for the Sonterra Estates planned development consisting of 17 residential lots on 16.89 acres. Roland stated that the proposed preliminary plat

conformed to the development/concept plan approved in July 2013. Chairman John Main reported that the Planning and Zoning Commission voted unanimously to approve at their December 3, 2013 meeting.

MOTION: APPROVE THE PRELIMINARY PLAT OF THE SONTERRA ESTATES ADDITION SUBJECT TO ENGINEERING REVIEW.

MOTION MADE:	BERRY
SECONDED:	BROOKS
APPROVED:	UNANIMOUS (Absent: Zurek)

Discussion and Action regarding the Site Plan for the Collier Office Building on Lot 2-R-R, Block E of the Cobblestone Farms Phase 2 Addition (30 Hope Drive) – Requested by Alan Hucaby, Callahan & Freeman Architects on behalf of owner James Collier Properties.

Speaking on behalf of James Collier Properties, Frank Callahan presented the site plan for the Collier Office Building to be situated at 30 Hope Drive. Callahan and James Collier answered questions regarding site plan and proposed uses of the building. Director of Community and Economic Development Kim Dobbs stated that a facilities agreement regarding trails, streets and easements would be presented for future City Council consideration.

MOTION: APPROVE THE SITE PLAN FOR THE COLLIER OFFICE BUILDING ON LOT 2-R-R, BLOCK E OF THE COBBLESTONE FARMS PHASE 2 ADDITION (30 HOPE DRIVE) SUBJECT TO REVIEW BY THE CITY ENGINEER.

MOTION MADE:	KRAUSE
SECONDED:	LAMBERTH
APPROVED:	UNANIMOUS (Absent: Zurek)

Application for a Conditional Use Permit to Construct an Accessory Building, 1500 square feet in area, at least 17'-3" in height and built of like materials with a 4:12 pitch roof in an SF 43 zoning district on Lot 6, Heathridge Estates (560 Smirl Dr.) - Requested by Vasile Dolinschi;

Staff reported that subsequent to the public hearing and discussion during the December 3 Planning and Zoning Commission meeting, Dolinschi requested that action be deferred in order to revise plans. Staff stated that there was no recommendation forthcoming from the Commission for Council consideration.

PUBLIC HEARING

The Mayor opened the public hearing at 7:10 p.m. There being no one present wishing to provide input regarding the request, the Mayor continued the public hearing to January 14, 2014. No action was taken by the Council.

Application for Conditional Use Permit to add 700 square feet in area, 12' in height to an existing accessory structure (2000 sq. ft.; 24' in ht.), and built of like materials and design as the residence in a (SF43) Single-Family Residential Zoning District on Lot 7, Block A, Seabolt #1 Addition (114 Luther Lane) - Requested by Mike Mishler;

Presentation of request.

Mike Mishler, builder, expressed his opinion that the portion of the structure situated at 114 Luther Lane, for which an addition was planned, was most likely considered attached when it was constructed in 1995. Mishler described plans of owner Dolores Barkley to finish out existing space, turn an existing garage into living space and to add a sunroom and a garage to improve the existing residence for herself and her son's family.

Main reported that some on the Commission expressed concerns regarding the size of the proposed addition and regarding there being a caliche rather than concrete driveway to the proposed new garage. Main stated that a motion to deny the request resulted in a tie vote and that after additional discussion with the applicant, the Commission voted to recommend approval of a conditional use permit for the addition of a sunroom only.

PUBLIC HEARING to receive comments regarding the request.

Liechty opened the public hearing at 7:13 p.m. Dolores Barkley, 114 Luther Lane spoke in support of the request. Barkley asked the Council to reconsider the request as submitted to include both a sunroom and a garage. Richard Handschuch, 116 Luther Lane, expressed support for the request as originally submitted, stating that the proposed

addition was ideal and that there was no negative impact. There being no others present to speak in support of or in opposition to the request, Mayor Liechty closed the public hearing at 7:18 p.m.

Discussion and Action regarding the request.

Staff reported that of 10 notices sent to neighboring property owners, 5 were returned in support and none were returned in opposition to the request. Discussion included recognition that the portion of the home that the Building Official determined to be an accessory structure pursuant to the current definition was likely considered at the time it was built to be attached to the residence by a breezeway. Mrs. Barkley and her son Douglas responded affirmatively to a suggestion that the caliche driveway be improved to concrete. The city attorney stated that a ¾ vote of the Council would be required to override a recommendation of the Planning and Zoning Commission.

MOTION: APPROVE ORDINANCE 131210B GRANTING TO ADD 700 SQUARE FEET IN AREA, 12' IN HEIGHT TO AN EXISTING ACCESSORY STRUCTURE (2000 SQ. FT.; 24' IN HT.), AND BUILT OF LIKE MATERIALS AND DESIGN AS THE RESIDENCE IN A (SF43) SINGLE-FAMILY RESIDENTIAL ZONING DISTRICT ON LOT 7, BLOCK A, SEABOLT #1 ADDITION (114 LUTHER LANE) PROVIDED THAT THE DRIVEWAY TO THE ADDITION IS CONCRETE-PAVED IN ACCORDANCE WITH CITY STANDARDS.

MOTION MADE:	HOLLAND
SECONDED:	LAMBERTH
APPROVED:	UNANIMOUS (Absent: Zurek)

(Liechty and Lamberth were recused at 7:32 p.m. Mayor Pro Tem Holland began presiding over the meeting at 7:33 p.m.)

Application for a Zoning Change from Agricultural (A) and Single-Family Residential (SF 43) to Planned Development (PD) zoning district for single-family residential uses similar to SF-43 (25 lots on 27.6 acres) consisting of Lot 5, Lot 6, part of Lot 7, Lot 8 and Lot 9R in the Heathridge Estates Addition, part of Lot 1 in the Lamberth Addition, part of Kevin D. Lamberth tract (16.310 acres) and 1.88 acres situated in E. Teal Survey A-0207 and J.O. Heath Survey A-116, situated on Smirl Drive - Requested by Gene Lamberth for Pneuma Ventures, Ltd.;

Presentation of request.

Gene Lamberth, 480 Smirl Drive and project Engineer Dub Douphrate of Douphrate and Associates, Inc. presented and answered questions regarding the request for a planned development zoning district for 25 single-family residential lots on 27.6 acres consisting of certain undeveloped lots in the Heathridge Estates Addition, part of Lot 1 of the Lamberth Addition and part of an adjoining tract deeded to Kevin D. Lamberth.

PUBLIC HEARING to receive comments regarding the request.

Mayor Pro Tem Holland opened the public hearing at 7:34.p.m. and invited input regarding the proposed zoning change. Lamberth, Chuck Dale, 804 Smirl Drive and Justin Hall, 500 Heathland Crossing spoke in support of the request. Joan Ream, 11 Pintail Point, expressed concern regarding planned developments and urged protection of the goal specified in the Comprehensive Plan of one residential unit to the acre. There being no others present to speak in support or in opposition to the proposed zoning change, Holland closed the public hearing at 7:38 p.m.

Discussion and Action regarding the request.

Council discussion regarding the request confirmed that the proposed planned development conformed to the density goal for development specified in the Comprehensive Plan. Main reported that the Commission voted unanimously to recommend approval of the request.

MOTION: APPROVE ORDINANCE 131210D CHANGING THE ZONING CLASSIFICATION FROM (A) AGRICULTURAL AND (SF43) SINGLE- FAMILY RESIDENTIAL TO (PD) PLANNED DEVELOPMENT FOR SINGLE FAMILY USES ON 27.6 ACRES, IN THE CITY OF HEATH IN ROCKWALL COUNTY.

MOTION MADE:	BROOKS
SECONDED:	BERRY
APPROVED:	UNANIMOUS (Absent: Zurek) (Recused: Lamberth, Liechty)

(Mayor Liechty returned and resumed presiding over the meeting at 7:44 p.m.)

Application for a Special Use Permit to Construct a 120' Monopole Communications Tower within a 50' by 50' fenced lease area on Tract 26-07 (3.642 acres; part of a 16.31 acre tract) E. Teal Survey A-207 within the City of Heath (504 Smirl Drive) - Requested by ERS Telecom Properties on behalf of Kevin Lamberth; (*K.Dobbs*)

Presentation of request.

Steve Woody, ERS Telecom Properties, presented and answered questions regarding the request. Woody explained the site selection process and stated that the subject site was determined to be best suited to provide coverage to currently underserved areas. Woody stated that either of the City's water towers might be suitable locations for future antennas but neither one would provide coverage for the currently targeted areas of the City. Woody stated that the special use permit application was considered and recommended for approval by the Planning and Zoning Commission in May, unanimously approved by the City Council in June and then in September, a stop work order was issued when it was realized that there was a clerical error in the description of the property on the documents. Woody stated that the monopole was installed in the location it was intended for that was previously proposed and approved and requested that the corrected application be approved. Jeremy Baldwin with AT&T and Dennis Lowry with Sprint, both of which are represented by ERS Telecom participated in the presentation.

Dobbs stated that a resident brought it to the City's attention that the published and mailed notices referenced incorrectly an adjacent parcel (Tract 26-11) rather than the parcel (Tract 26-07) upon which the tower was intended and located. Pursuant to the advice of the city attorney, a stop work order was issued. Subsequently, public hearings designating Tract 26-07 were scheduled and appropriate notices were published and mailed.

PUBLIC HEARING to receive comments regarding the request.

Mayor Liechty opened the public hearing at 7:57 p.m. for input regarding the application. The following persons spoke in support of the request:

Steve and Carie Woody	-	497 Ridge Point Drive;
Jeremy Baldwin	-	AT&T;
Dennis Lowry	-	Sprint; and
Gene Lamberth	-	480 Smirl Drive.

The following residents expressed opposition to the monopole:

Jessica and Michael Saucier	-	814 Smirl Drive;
Art and Cheryl Zunker	-	14 Kingsbury Lane;
Barbara and Bruce Trego	-	26 Kingsbury Trail;
Deanna Carroll	-	33 Kingsbury Trail; and
Joan Ream	-	11 Pintail Point.

Stated concerns included appearance, obtrusiveness, insufficient notice and doubts regarding the need for a monopole and the site selection process. Some stated that a communications tower should be installed on public property such as water towers rather than private property in order that lease revenue would be remitted to the City. There were suggestions that the monopole be taken down and implications of impropriety due to its situation on property owned by a Council member.

Chuck Dale, 804 Smirl Drive, expressed concern regarding notification procedures. Dale suggested that although he had not been opposed to the request when it was previously considered, action should be deferred in order to find a different location for the monopole.

There being no others present to provide input regarding the request, Liechty closed the public hearing at 8:24 p.m.

Discussion and Action regarding the request.

There was discussion regarding the request with specific attention to concerns expressed during the public hearing. The consensus of the Council was that the issue was resultant of a clerical error on the original application and that given the proximity of Tracts 26-07 and 26-11 and the size of the parcels in the vicinity, the outcome was likely unaffected. It was clarified that the application was submitted prior to the start of Lamberth's term on the Council and stated that his position had no bearing on the granting of the special use permit. It was stated that it would be unethical for a private sector decision to be blocked so that the City could benefit financially and that even if a different suitable site could be found, it would only relocate the issue. Addressing sufficiency of notice concerns, the Council requested that staff research notice procedures for structures other than the usual residential and commercial structures. Further, it was suggested that homeowner associations and residents subscribe on the City's

website to receive notification of posting of Council agendas and watch for notices published in the newspaper and on the City's website. Holland suggested deferring action to work out a solution.

MOTION: APPROVE ORDINANCE 131210D GRANTING A SPECIAL USE PERMIT TO CONSTRUCT A 120' MONOPOLE COMMUNICATIONS TOWER WITHIN A 50' BY 50' FENCED LEASE AREA ON TRACT 26-07 (3.642 ACRES; PART OF A 16.31 ACRE TRACT) E. TEAL SURVEY A-207 WITHIN THE CITY OF HEATH (504 SMIRL DRIVE).

MOTION MADE:	BERRY	
SECONDED:	KRAUSE	
APPROVED:	UNANIMOUS	(Absent: Zurek) (Recused: Lamberth)

(Lamberth returned and resumed participating in the meeting at 8:55 p.m.)

Application for a Zoning Change from temporary Agricultural (A) to Agricultural (A) zoning district for Tract 12-11 (8 acres), A. Rodriguez Survey A-0231 (1096 Rabbit Ridge Rd.) - Requested by City of Heath;

Presentation of Request.

Speaking on behalf of the City, Dobbs stated that the subject property was assigned temporary agricultural zoning when it was annexed and that the City is responsible for assigning appropriate permanent zoning, which is required prior to platting.

PUBLIC HEARING to Receive Comments Regarding the Request.

Mayor Liechty opened the public hearing at 8:56 p.m. Dobbs and Jeff Cole, 900 Bridle Patch Court and owner of the subject property expressed support for the zoning change. There being no others present to speak in support of or in opposition to the request, Liechty closed the public hearing at 8:57 p.m.

Discussion and Action Regarding the Request.

Main reported that the Commission voted unanimously to recommend approval of the requested zoning change.

MOTION: APPROVE ORDINANCE 131210E CHANGING THE ZONING FROM TEMPORARY AGRICULTURAL (A) TO AGRICULTURAL (A) ZONING DISTRICT FOR TRACT 12-11 (8 ACRES), A. RODRIGUEZ SURVEY A-0231 (1096 RABBIT RIDGE RD.).

MOTION MADE:	HOLLAND
SECONDED:	BERRY
APPROVED:	UNANIMOUS (Absent: Zurek)

Discussion and Action Regarding the Development Plat of the Cole Addition on Tract 12-11 (8 acres), A. Rodriguez Survey A-0231 (1096 Rabbit Ridge Rd.) - Requested by Jeff and Piper Cole.

Dobbs stated that the owner of the subject property submitted a development plat as required in order to obtain a building permit for a single-family home. Dobbs explained that the subject property was subdivided by metes and bounds prior to being annexed into the City and that because there was no access point to a public or private street it was accessed via a private access easement across an adjoining tract. Dobbs stated that water would be delivered from the future Rabbit Ridge Road water line and that a temporary service agreement with the RCH Water Supply Corporation would be required to serve the property in the interim. It was noted the Fire Marshal stated that there would possibly be times that emergency vehicles would not be able to get to the property, that the developer would be required to build a turnaround sufficient to accommodate emergency vehicles and that the future residence would be sprinkled. There was discussion regarding the proposed plat and regarding future water, sanitary sewer and street improvements and regarding a facilities agreement to specify associated obligations, indemnities and releases. Liechty expressed concern regarding development of a parcel the only access to which is an easement. Main stated that the Commission voted unanimously to approve subject to specified corrections to the plat document.

MOTION: APPROVE THE DEVELOPMENT PLAT OF THE COLE ADDITION ON TRACT 12-11 (8 ACRES), A. RODRIGUEZ SURVEY A-0231 (1096 RABBIT RIDGE RD.) SUBJECT TO ENGINEERING REVIEW PROVIDED THAT:

1.) **THE DEVELOPMENT PLAT IS CORRECTED TO SPECIFY THAT THE ZONING CLASSIFICATION IS AGRICULTURAL AND TO SPECIFY THE OWNER NAME ON AN ADJOINING PROPERTY AS "THOMPSON" (NOT "TAYLOR"); AND**

2.) **AN AGREEMENT(S) APPROVED BY THE CITY ATTORNEY THAT OUTLINES THE DEFERRAL OF ESCROW FUNDING FOR FUTURE WATER, SANITARY SEWER AND STREET IMPROVEMENTS AND INDEMNIFIES AND RELEASES THE CITY REGARDING EMERGENCY RESPONSE IS (ARE) EXECUTED.**

MOTION MADE:	HOLLAND		
SECONDED:	BROOKS		
APPROVED:	FOR:	BERRY, BROOKS, HOLLAND KRAUSE, LAMBERTH	
	OPPOSED:	LIECHTY	(Absent: Zurek)

Application for a Conditional Use Permit to construct a single-family residence and accessory structure on a tract less than 10 acres in size in an Agricultural (A) zoning district on Tract 12-11 (8 acres), A. Rodriguez Survey A-0231 (1096 Rabbit Ridge Rd.) - Requested by Jeff and Piper Cole;

Presentation of request.

Jeff Cole provided information regarding plans to build a residence and accessory structure on the tract for which a development plat was just approved.

PUBLIC HEARING to receive comments regarding the request.

Liechty opened the public hearing at 9:31 p.m. Owners Jeff and Piper Cole and Chris Thompson, 596 Lowe Road expressed support for the request. There being no others present to speak in support of or in opposition to the request, Main closed the public hearing at 9:32 p.m.

Discussion and Action regarding the request.

MOTION: APPROVE ORDINANCE 131210F GRANTING A CONDITIONAL USE PERMIT TO CONSTRUCT A SINGLE-FAMILY RESIDENCE AND ACCESSORY STRUCTURE ON A TRACT LESS THAN 10 ACRES IN SIZE IN AN AGRICULTURAL (A) ZONING DISTRICT ON TRACT 12-11 (8 ACRES), A. RODRIGUEZ SURVEY A-0231 (1096 RABBIT RIDGE RD.).

MOTION MADE:	BROOKS
SECONDED:	BERRY
APPROVED:	UNANIMOUS (Absent: Zurek)

Application for a Conditional Use Permit to construct an accessory building, 4800 square feet in area, 26.5' in height, not built of like materials and design as the residence in an Agricultural (A) zoning district on Tract 12-11 (8 acres), A. Rodriguez Survey A-0231 (1096 Rabbit Ridge Rd.) - Requested by Jeff and Piper Cole.

Brenda McDonald, assistant city attorney, stated that published and mailed notices were insufficient because the size of the proposed accessory building exceeded specifications on the application and notices. McDonald advised that the public hearing could not be conducted and that the application will be re-published and re-noticed for the January 14 meeting. No action was taken by the Council.

Discussion and Action Regarding a Resolution Authorizing the Mayor to Execute a Contract with Cam-Crete Contracting, Inc. for Street Repairs for Fiscal Year 2013-2014. (*D.Herbert*)

Director of Public Works David Herbert presented and answered questions regarding a proposed contract for routine and permanent street repairs. Herbert stated that working with a contract would expedite the process. There was discussion regarding the proposed contract. Krause expressed support for contracting for annual street repairs and concerns regarding the way specifications were written and the fact that only two companies submitted bids.

MOTION: APPROVE RESOLUTION 131210A AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH CAM-CRETE CONTRACTING, INC. FOR STREET REPAIRS FOR FISCAL YEAR 2013-2014.

MOTION MADE:	HOLLAND	
SECONDED:	BROOKS	
APPROVED:	FOR:	BERRY, BROOKS, HOLLAND LAMBERTH, LIECHTY
	OPPOSED:	KRAUSE (Absent: Zurek)

Discussion and Action Regarding Award of the Country Club Drive Pavement Repair Project (Base Bid and Alternate Bid #4) Construction Contract to Camino Construction and Resolution authorizing the Mayor to Execute a Construction Contract with Camino Construction.

City Engineer, Richard Dormier presented and answered questions regarding the proposed contract with Camino Construction for the Country Club Drive pavement and repair project. There was discussion regarding the proposed co and regarding the comprehensive evaluation of streets within the Buffalo Creek Country Club Estates additions.

MOTION: APPROVE RESOLUTION 131210B AUTHORIZING THE MAYOR TO EXECUTE A CONSTRUCTION CONTRACT WITH CAMINO CONSTRUCTION FOR THE COUNTRY CLUB DRIVE PAVEMENT REPAIR PROJECT (BASE BID AND ALTERNATE BID #4).

MOTION MADE:	HOLLAND
SECONDED:	BERRY
APPROVED:	UNANIMOUS (Absent: Zurek)

Mayor Liechty adjourned the meeting at 9:59 p.m.

APPROVED:

LORNE O. LIECHTY
MAYOR

ATTEST:

STEPHANIE GALANIDES
CITY SECRETARY

CITY OF HEATH 19 59 STATE OF TEXAS