

**MINUTES
SEPTEMBER 9, 2014
HEATH CITY COUNCIL
200 LAURENCE DRIVE - HEATH, TEXAS
REGULAR MEETING - PUBLIC HEARINGS - EXECUTIVE SESSION**

ATTENDING: LORNE LIECHTY, MAYOR
JUSTIN HOLLAND, MAYOR PRO TEM
BRIAN BERRY
BARRY BROOKS

JOE CHAMBERLAIN
RICHARD KRAUSE
KEVIN LAMBERTH

Mayor Liechty called the meeting to order and delivered the invocation at 6:30 p.m. Liechty recognized and welcomed Dennis Bailey, Rockwall County Commissioner for Precinct 3. The Mayor outlined the guidelines for the conduct of public hearings.

Discussion and action regarding the Minutes of August 26, 2014.

MOTION: APPROVE THE MINUTES OF AUGUST 26, 2014.

MOTION MADE: KRAUSE
SECONDED: LAMBERTH
APPROVED: UNANIMOUS

PUBLIC HEARING - To receive input regarding the Proposed Annual Budget for the Fiscal Year that begins October 1, 2014 and ends September 30, 2015.

Director of Finance Laurie Mays provided an overview of the proposed budget for the fiscal year that begins on October 1, 2014. The Mayor opened the public hearing at 6:37 p.m. Gini Seely, 219 Scenic Drive, expressed support for the proposed budget. There being no others present to speak in support of or in opposition to the proposed budget, Liechty closed the public hearing at 6:38 p.m. The Mayor stated that the City Council would vote on the proposed budget at a regular meeting Heath City Hall on Tuesday, September 23, 2014 during a meeting that begins at 6:30 p.m.

PUBLIC HEARING - To receive input regarding the Proposed Tax Rate of \$0.4266 per \$100 valuation on all taxable property within the corporate limits of the City as of January 1, 2014.

The Mayor stated that the largest part of the projected increase in revenue generated by the proposed tax rate, increased for the first time in 22 years, would pay for debt issued for capital improvement projects in various stages of planning and construction throughout the City. The Mayor stated that the City Council would vote on the tax rate at a regular meeting on Tuesday, September 23, 2014 during a meeting scheduled for 6:30 p.m. at Heath City Hall.

Liechty opened the public hearing regarding the proposed tax rate of \$0.4266 per \$100 valuation at 6:41 p.m. The following residents provided input:

- Gini Seely, 219 Scenic Drive spoke in support of the proposed tax rate;
- Ginny Jackson, 203 Scenic Drive spoke in support of the proposed tax rate; and
- Joan Ream, 11 Pintail Point, spoke in opposition to the proposed tax rate.

Kay Mythen, 1813 Morrish Lane requested that the City Council freeze property taxes for senior citizens. Ron LaRoux, 508 Terry Lane, inquired regarding whether the City had considered filing an insurance claim for the failure of the Terry Park retaining wall. There being no others present to speak in support of or in opposition to the proposed tax rate, the Mayor closed the public hearing at 6:45 p.m.

The Mayor informed Mythen that a senior citizen property tax freeze could not approved and in effect for the fiscal year that begins October 1, but that the subject would be researched for future consideration. In response to LaRoux's question regarding the Terry Park retaining wall, Liechty stated that the Council had considered all options prior to proceeding with reconstruction.

Discussion and Action Regarding a Resolution Amending the Investment Policy for Public Funds as Adopted by Resolution 010322 and last amended by Resolution 130528B; providing an effective date.

Mays stated that the City's Investment Policy was reviewed and updated annually as required by the Public Funds Investment Act. Mays stated that there were no major changes to the Policy as approved in 2013.

MOTION: APPROVE RESOLUTION 140909A AMENDING THE INVESTMENT POLICY FOR PUBLIC FUNDS AS ADOPTED BY RESOLUTION 010322 AND LAST AMENDED BY RESOLUTION 130528B.

MOTION MADE: KRAUSE
SECONDED: CHAMBERLAIN
APPROVED: UNANIMOUS

Discussion and action regarding a Resolution Authorizing the Mayor to Enter into an Interlocal Cooperation Agreement with Rockwall County, Texas.

Mays presented and recommended approval of the proposed interlocal agreement with Rockwall County pertaining to roadway and drainage area improvements.

MOTION: APPROVE RESOLUTION 140909B AUTHORIZING THE MAYOR TO ENTER INTO AN INTERLOCAL COOPERATION AGREEMENT WITH ROCKWALL COUNTY, TEXAS PERTAINING TO ROAD AND DRAINAGE IMPROVEMENTS.

MOTION MADE: CHAMBERLAIN
SECONDED: HOLLAND
APPROVED: UNANIMOUS

Application for an amendment to Ordinance 000803A that granted a conditional use permit for an accessory building for use as a garage on Lot 19, Block A of the Windward Slope Addition (19 Lakeway Drive) to convert the structure to a pool house - requested by Brad Dovin;

Staff reported that the Planning & Zoning Commission has not yet made a recommendation regarding the application and that the applicant requested that the public hearing be continued and action deferred to October 14.

PUBLIC HEARING

Liechty opened then continued the public hearing to October 14 at 6:48 p.m. No action was taken by the Council.

Application for a conditional use permit for a cedar carport 19' by 40' in area and 12' in height on Lot 9C, Twin View Addition (509 Twin View) - requested by Ray Collin;

(Chamberlain was recused at 6:49 p.m.)

Presentation of request.

Chairman John Main stated that the Planning and Zoning Commission considered the application on September 2 and voted unanimously to recommend approval provided that: 1.) The structure may only be used for a porch/patio and the parking of registered, licensed vehicles; 2.) The structure may not be used for general storage; and 3.) The structure is approved as presently constructed and may not be modified without amendment of the conditional use permit. Chip Chamberlain, 1817 Mystic Court in Rockwall, speaking on behalf of owner Ray Collin, stated that the applicant agreed to the provisions recommended by the Commission.

PUBLIC HEARING to receive comments regarding the request.

Liechty opened the public hearing at 6:51 p.m. Chip Chamberlain indicated support for the application. There being no others present to provide input in support of or in opposition to the application, the Mayor closed the public hearing at 6:52 p.m.

Discussion and action regarding the request.

Director of Community and Economic Development Kim Dobbs stated that during the recent process to replat the subject property to form 3 lots, it was realized that a carport had been constructed. Dobbs stated that the Building Official determined that the size of the carport was in compliance and that a conditional use permit was required because it was not constructed of like materials and design as the residence.

MOTION: GRANT A CONDITIONAL USE PERMIT FOR A CEDAR CARPORT 19' BY 40' IN AREA AND 12' IN HEIGHT ON LOT 9C, TWIN VIEW ADDITION (509 TWIN VIEW).

MOTION MADE: LIECHTY
SECONDED: BROOKS

Brooks expressed concern that the structure was built without a permit. There was discussion regarding the request. The motion to grant the conditional use permit was defeated (*as indicated below*).

DEFEATED: FOR: LIECHTY
OPPOSED: BERRY, BROOKS, HOLLAND, KRAUSE, LAMBERTH
(Recused: Chamberlain)

MOTION: DENY A REQUEST FOR A CONDITIONAL USE PERMIT FOR A CEDAR CARPORT 19' BY 40' IN AREA AND 12' IN HEIGHT ON LOT 9C, TWIN VIEW ADDITION (509 TWIN VIEW).

MOTION MADE: HOLLAND

SECONDED: BROOKS

APPROVED: FOR: BERRY, BROOKS, HOLLAND, KRAUSE, LAMBERTH

OPPOSED: LIECHTY

(Recused: Chamberlain)

(Chamberlain returned and resumed participating in the meeting at 7:00 p.m.)

Application for a conditional use permit for an additional accessory building (cedar pergola) 192 sq. ft. in area and 11' in height on Lot 78, Block A of the Stoneleigh Phase Three Addition (8 Camden Court) - requested by Mike Mishler;

Presentation of request.

Contractor Mike Mishler presented and answered questions regarding the request on behalf of owner Jack Ellis.

PUBLIC HEARING to receive comments regarding the request.

Liechty opened the public hearing at 7:02 p.m. Mishler indicated support for the request. There being no others present to speak in support of or in opposition to the request, the Mayor closed the public hearing at 7:02 p.m.

Discussion and action regarding the request.

Main stated that the Commission voted unanimously on September 2 to recommend approval of the request.

MOTION: APPROVE ORDINANCE 140909 GRANTING A CONDITIONAL USE PERMIT FOR AN ADDITIONAL ACCESSORY BUILDING (CEDAR PERGOLA) 192 SQ. FT. IN AREA AND 11' IN HEIGHT ON LOT 78, BLOCK A OF THE STONELEIGH PHASE THREE ADDITION (8 CAMDEN COURT).

MOTION MADE: KRAUSE

SECONDED: HOLLAND

APPROVED: UNANIMOUS

Application for a zoning change from Agricultural (A) to Planned Development (PD) zoning district for single-family residential uses similar to SF-43 and SF-22 (98 lots) on 109.25 acres of land in the A. Rodriguez Survey A-231 (RCAD Tracts 39, 40 and 42, parcel IDs 12978, 12979 and 12980) situated on the south side of Rabbit Ridge Road between FM 549 and Rabbit Ridge Road, Heath, Rockwall County, TX – requested by Darren Mabry of Talus Development Group, LLC;

Presentation of request.

Garon Horton, Horton Archibald, LLC, 207 Laurence Drive, speaking on behalf of Darren Mabry of the Talus Development Group, stated that the proposed concept plan for the Ridge Lakes addition on 109.25 acres situated on the south side of Rabbit Ridge Road between FM 549 and Rabbit Ridge Road was revised subsequent to the August 5 Planning and Zoning Commission public hearing and discussion. Horton outlined changes to the concept plan that included:

- Reduction in the number of lots from 108 to 98 ranging in size from .5 acre to 1 acre;
- Reconfiguration of lots abutting tracts to the southwest and adjacent to Rabbit Ridge Road to one-acre minimum;
- Addition of a 25' landscape buffer on the southwest property line;
- Relocation of access points to minimize headlight and traffic disturbance; and
- Addition of a solid masonry fence along FM 549.

Horton stated that lots less than one acre in size were clustered in the center of the proposed development consistent with guidelines in the City's Comprehensive Plan. Horton described lake, trail and sidewalk amenities and participation in the cost of improvements to water system infrastructure, trails and Rabbit Ridge Road and provided information regarding proposed minimum residence size, projected home values and mandatory homeowners association. The presentation included a video visualization of the lake and entry feature.

Main stated that the Commission voted (4/2/1 absent) to recommend approval of the proposed planned development at their September 2 meeting.

PUBLIC HEARING to receive comments regarding the request.

Mayor Liechty opened the public hearing at 7:18 p.m. Horton and Mabry expressed support for the Ridge Lakes planned development. The following residents expressed concerns regarding and/or opposition to the proposed planned development:

- Suellen Hogue - 148 Old Vineyard Lane;
- Al Lowrance - 137 Manor Drive;
- Kimberly Best - 7235 South FM 549;
- Don Baker - 4 Manor Court;
- Susan Beaman - 7229 South FM 549;
- Dennis Bailey - 1036 Rabbit Ridge Road;
- Chris and Susan Thompson - 596 Lowe Road;
- Gini Seely - 219 Scenic Drive;
- Rusty Wallis - 7373 South FM 549;
- Gary Tynes - 459 Terry Lane; and
- Amy Ganci - 453 Terry Lane.

Expressed concerns included traffic on Old Vineyard Lane, consistency with existing development in the vicinity, lot sizes, lack of access from FM 549, density, impact on city infrastructure and consistency with Comprehensive Plan goals and other regulations. There being no others present to provide input regarding the proposed zoning change, the Mayor closed the public hearing at 7:48 p.m.

Discussion and action regarding the request.

Staff confirmed that in accordance with §159.80(C)(4), because owners of at least 20% of the land extending 200' from the subject property submitted signed written protest to the proposed zoning change, a vote of at least 6 of the Council would be required to approve the Ridge Lakes planned development. Dobbs stated that the City's Development Review Committee reviewed the proposed concept plan and determined that access off of FM 549 was not appropriate for traffic safety due to the sight distance, existing intersections and speed limit of the roadway. Items discussed included density, lot sizes, connectivity and consistency with development in the vicinity as they relate to Comprehensive Plan goals and guidelines, addition of rooftops to help attract a grocery store and other retail uses to the City and Texas Department of Transportation (TxDOT) plans for future improvements to FM 549. Brooks noted that TxDOT plans to widen FM 549 would not be prioritized until warranted by development.

MOTION: APPROVE ORDINANCE CHANGING THE ZONING FROM AGRICULTURAL (A) TO PLANNED DEVELOPMENT (PD) ZONING DISTRICT FOR SINGLE-FAMILY RESIDENTIAL USES SIMILAR TO SF-43 AND SF-22 (98 LOTS) ON 109.25 ACRES OF LAND IN THE A. RODRIGUEZ SURVEY A-231 (RCAD TRACTS 39, 40 AND 42, PARCEL IDS 12978, 12979 AND 12980) SITUATED ON THE SOUTH SIDE OF RABBIT RIDGE ROAD BETWEEN FM 549 AND RABBIT RIDGE ROAD.

MOTION MADE: BERRY
SECONDED: HOLLAND
DEFEATED: FOR: BERRY, BROOKS, HOLLAND, LAMBERTH, LIECHTY
 OPPOSED: CHAMBERLAIN, KRAUSE

MOTION: DENY WITHOUT PREJUDICE A REQUEST FOR A ZONING CHANGE FROM AGRICULTURAL (A) TO PLANNED DEVELOPMENT (PD) ZONING DISTRICT FOR SINGLE-FAMILY RESIDENTIAL USES SIMILAR TO SF-43 AND SF-22 (98 LOTS) ON 109.25 ACRES OF LAND IN THE A. RODRIGUEZ SURVEY A-231 (RCAD TRACTS 39, 40 AND 42, PARCEL IDS 12978, 12979 AND 12980) SITUATED ON THE SOUTH SIDE OF RABBIT RIDGE ROAD BETWEEN FM 549 AND RABBIT RIDGE ROAD.

MOTION MADE: CHAMBERLAIN
SECONDED: HOLLAND
APPROVED: UNANIMOUS

Application for a zoning change from Agricultural (A) to Planned Development (PD) for single-family residential uses similar to SF-43 (31 lots) on 43.66 acres out of the J. O. Heath Survey A-0116 (RCAD ID 11153) situated at the northwest corner of Terry Ln. and Smirl, adjacent to Terry Ln., Smirl and Meadowview - requested by Advanced Real Estate and Development;

(Brooks was recused at 8:24 p.m.)

Presentation of request.

Main stated that, on September 2, the Planning and Zoning Commission voted to recommend denial of the proposed Hubbard Springs planned development. The Mayor stated that due to the Commission's recommendation for denial, a vote of at least 6 of the Council would be required to approve the zoning change request.

T. K. Lawless, Advanced Real Estate & Development, 400 Mulberry Circle, Forney, presented the request for a planned development zoning district at the intersection of Terry Lane and Smirl Drive consisting of 31 single-family minimum 1-acre lots on 43.66 acres. Lawless stated that the average density would be .77 residential units per acre, the number of lots abutting Terry Lane was reduced from earlier submissions and that the minimum residence size would be 3000 square feet. Lawless presented a rendering of planned landscaping and screening.

PUBLIC HEARING to receive comments regarding the request.

Liechty opened the public hearing at 8:38 p.m. and invited input regarding the request.

Lawless, Cindy Frye, realtor, Brandon Baker, 1371 Water Oak in Kaufman, and Steve McKimmey, 217 Carriage Hill Lane and member of the Planning and Zoning Commission expressed support for the request. McKimmey stated that the developer had listened to and accommodated concerns and that the proposed concept plan was consistent with the City's Comprehensive Plan.

The following citizens expressed concerns regarding and opposition to the proposed planned development:

- Ron LaRoux - 508 Terry Lane;
- Becky Burkett - 277 Terry Lane;
- Kevin and Amy Ganci - 453 Terry Lane;
- John Rackley - 507 Briarcrest Circle;
- Joan Ream - Owner of 516 Terry Lane;
- Joan Marshall - 504 Meadowlake Drive;
- Gary Tynes - 459 Terry Lane;
- Shannon Platz - 2 Meadowview Court;
- Cyndi Pitman - 210 Rush Creek Drive;
- Tim and Alison Hartley - 283 Terry Lane;
- Jeff Hyre - 503 Meadowlake Lane and 229 Smirl Drive; and
- Sondra Sullivan - 503 Meadowlark Place.

Concerns included effect on the flood plain and drainage, increased traffic and traffic safety, view from Terry Lane of back yards and the rear of houses, unappealing layout, density, effect on property values, state of the economy, school capacity, sufficiency of water, sanitary sewer and road infrastructure, inconsistency with the vicinity and a desire to slow down development. Ream stated her opinion that Liechty should be recused because he lives on Terry Lane. The Mayor stated that there was no legal reason for him to be recused from the proceedings.

The Mayor invited Lawless to respond to expressed concerns. In response to flood plain and drainage concerns, Lawless stated that engineering for the subdivision would have to be approved by the City for compliance with all applicable regulations and that development cannot adversely impact properties up or down stream. Lawless provided information responsive to concerns regarding build-ability of the lots as proposed.

There being no others present to speak in support of or in opposition to the request, the Mayor closed the public hearing at 9:31 p.m.

Discussion and action regarding the request.

There was discussion regarding the request. Liechty stated that potential benefits of the proposed planned development included trail connections, right-of-way dedications and traffic visibility improvements that might not be realized should the property be zoned SF-43. Joan Ream stood, interrupted the Council's discussion and began addressing the Mayor. Liechty stated that the public hearing had been closed, advised Ms. Ream that she was out of order and asked her to cease. Subsequent to repeated attempts to restore order, Ream was escorted from the meeting and the Council's discussion continued. Items discussed included the Commission's recommendation to deny the request, the likelihood that drainage issues could be improved and deed restrictions to regulate house and garage size and maintenance of trails and landscaped areas. Chamberlain expressed his preference that evergreen trees be included in the perimeter screening of the subdivision.

MOTION: APPROVE A REQUEST FOR A ZONING CHANGE FROM AGRICULTURAL (A) TO PLANNED DEVELOPMENT (PD) FOR SINGLE-FAMILY RESIDENTIAL USES SIMILAR TO SF-43 (31 LOTS) ON 43.66 ACRES IN THE J. O. HEATH SURVEY A-0116 (RCAD ID 11153) SITUATED AT THE NORTHWEST CORNER OF TERRY LN. AND SMIRL PROVIDED THAT THE PERIMETER OF THE SUBDIVISION IS SCREENED.

MOTION MADE: CHAMBERLAIN
SECONDED: LAMBERTH
DEFEATED: FOR: CHAMBERLAIN, LAMBERTH, LIECHTY
 OPPOSED: BERRY, HOLLAND, KRAUSE
 (Recused: Brooks)

MOTION: DENY A REQUEST FOR A ZONING CHANGE FROM AGRICULTURAL (A) TO PLANNED DEVELOPMENT (PD) ZONING DISTRICT FOR SINGLE-FAMILY RESIDENTIAL USES SIMILAR TO SF-43 (31 LOTS) ON 43.66 ACRES IN THE J. O. HEATH SURVEY A-0116 (RCAD ID 11153) SITUATED AT THE NORTHWEST CORNER OF TERRY LN. AND SMIRL WITHOUT PREJUDICE.

MOTION MADE: CHAMBERLAIN
SECONDED: BERRY
APPROVED: FOR: BERRY, CHAMBERLAIN, KRAUSE, LAMBERTH, LIECHTY
 OPPOSED: HOLLAND
 (Recused: Brooks)

Discussion and Action regarding the preliminary plat of the Providence, consisting of 35 lots on 60.08 acres described as Tracts 7-01 and 7-02 in the Antonio Rodriguez Survey, A-231, (RCAD ID 12911 and 12912) - requested by Rockwall Ventures, Ltd., on behalf of owner William Way.

Joey Howell, Rockwall Ventures, Ltd. presented the preliminary plat for the Providence addition consisting of 35 lots on 60.08 acres abutting FM 549.

MOTION: APPROVE THE PRELIMINARY PLAT OF THE PROVIDENCE, CONSISTING OF 35 LOTS ON 60.08 ACRES DESCRIBED AS TRACTS 7-01 AND 7-02 IN THE ANTONIO RODRIGUEZ SURVEY A-231 INCLUDING THE PARK LAND DEDICATION AS RECOMMENDED BY THE PARK BOARD.

MOTION MADE: HOLLAND
SECONDED: BERRY
APPROVED: UNANIMOUS

Liechty adjourned the meeting at 10:03 p.m.

APPROVED:

LORNE O. LIECHTY
MAYOR

ATTEST:

STEPHANIE GALANIDES
CITY SECRETARY

