

**MINUTES
AUGUST 25, 2015
HEATH CITY COUNCIL
200 LAURENCE DRIVE - HEATH, TEXAS
REGULAR MEETING - PUBLIC HEARINGS - EXECUTIVE SESSION**

ATTENDING: LORNE LIECHTY, MAYOR
BRIAN BERRY, MAYOR PRO TEM
BARRY BROOKS
JOE CHAMBERLAIN
JUSTIN HOLLAND
RICHARD KRAUSE
KEVIN LAMBERTH

Mayor Liechty called the meeting to order at 5:31 p.m. and delivered the invocation.

EXECUTIVE SESSION

The Mayor recessed the meeting to go into Executive Session (Closed Meeting) in accordance with Government Code: §551.071(2): Consultation with City Attorney on matters in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act regarding the Heath Golf & Yacht Club development and The Peninsula development at 5:32p.m. (Holland was recused at 6:26 p.m.; Holland returned and resumed participating in the meeting at 6:41 p.m.) The Mayor reconvened the meeting at 6:41 p.m. and stated that no action was taken in executive session.

Department and Committee Reports.

The reports were included in the Council meeting packet.

Update regarding Capital Improvement Program (CIP) projects.

Consulting engineer Chuck Todd provided an update regarding the status of projects included in the Capital Improvements Projects Program.

Discussion and action regarding the Minutes of August 11, 2015 special and regular meetings.

MOTION: APPROVE THE MINUTES OF AUGUST 11, 2015 SPECIAL AND REGULAR MEETINGS.

MOTION MADE: KRAUSE
SECONDED: LAMBERTH
APPROVED: UNANIMOUS

Discussion and action regarding an amendment to the Development Agreement pertaining to the Heath Golf & Yacht Club development and authorize the Mayor to execute the same.

The Mayor asked developer representatives Rob Whittle and Randall Noe if they had reviewed the proposed second amendment to the Master Developer agreement pertaining to the Heath Golf & Yacht Club development. Whittle and Noe each indicated that they had reviewed and were in agreement with the provisions of the proposed second amendment.

MOTION: APPROVE RESOLUTION 150825A AUTHORIZING THE MAYOR TO EXECUTE THE SECOND AMENDMENT TO THE MASTER DEVELOPMENT AGREEMENT WITH HGYC, LLC, HEATH GOLF AND YACHT CLUB, INC. AND CLUB MUNICIPAL MANAGEMENT DISTRICT NO 1.

MOTION MADE: BERRY
SECONDED: HOLLAND
APPROVED: UNANIMOUS

Discussion and action regarding the Club Municipal Management District No. 1 (Heath Golf & Yacht Club Development) Preliminary Capital Improvement Plan and Financial Plan.

The Mayor stated that the Preliminary Capital Improvement Plan and Financial Plan were prepared and submitted as required by the legislation that created the Club Municipal Management District No. 1 and had been reviewed by legal and financial consultants for the developer and the City. Whittle and Noe each indicated that they had reviewed and were in agreement with the Preliminary Capital Improvement Plan and Financial Plan.

MOTION: APPROVE RESOLUTION 150825B APPROVING A DRAFT CAPITAL IMPROVEMENT PLAN AND FINANCIAL PLAN FOR THE CLUB MUNICIPAL MANAGEMENT DISTRICT NO 1.

MOTION MADE: BERRY
SECONDED: KRAUSE
APPROVED: UNANIMOUS

Discussion and action regarding a Ridge Hollow owner construction agreement.

City Attorney Andy Messer stated that the proposed agreement releases the owner of Tracts 4, 5 and 6 from obligations specified in 2006 agreement with the developer of the Ridge Hollow addition subdivision to pay for road and infrastructure improvements provided that the 3 tracts are platted to form a single lot and that there will be no access provided from Ridge Hollow Road.

MOTION: APPROVE RESOLUTION 150825C AUTHORIZING THE MAYOR TO EXECUTE AN OWNER CONSTRUCTION AGREEMENT WITH ALLEN AND AMANDA THORNTON PERTAINING TO TRACTS 4, 5 AND 6 IN THE RIDGE HOLLOW ADDITION.

MOTION MADE: BROOKS
SECONDED: CHAMBERLAIN
APPROVED: UNANIMOUS

(Holland was recused at 7:00 p.m.)

Discussion and action regarding an amendment to the Developer Agreement pertaining to The Peninsula addition.

There was discussion regarding language to be included in an amendment to the Development Agreement pertaining to restricting public vehicular access and limiting public pedestrian access through The Peninsula addition. The consensus of the Council was that the agreement restrict vehicular access and will specify that the entry to Peninsula Court may be closed to public access provided that paved pedestrian access to Peninsula Court in between Lemley Drive and Terry Lane would be available from the time Terry Park opens until a half hour after the Park closes.

MOTION: APPROVE RESOLUTION 150825D AUTHORIZING THE MAYOR TO EXECUTE AN AMENDMENT TO THE DEVELOPER AGREEMENT PERTAINING TO THE PENINSULA ADDITION THAT SPECIFIES IN SECTION 5 THAT;

“Pedestrian access through the Property shall be available to the public from Lemley Drive to Terry Lane within and adjacent to Peninsula Court from the time Terry Park opens until 30 minutes after Terry Park closes. These times may be modified by agreement of the HOA and the City Manager or his designee. Developer may limit public vehicular traffic through the Property by means of entry gates as depicted on the Concept Plan. Nothing in this agreement shall affect the rights and obligations of the appropriate public agencies that provide law enforcement and emergency services to the Property from providing said enforcement and services.”

MOTION MADE: BERRY
SECONDED: CHAMBERLAIN
APPROVED: UNANIMOUS (Recused: Holland)

(Holland returned and resumed participating in the meeting at 7:06 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, 2015.

The Mayor stated that the proposed tax rate of \$0.4266 per \$100 valuation was the same as that adopted for the 2014-2015 fiscal year. Liechty opened the public hearing at 7:12 p.m. There being none present to provide input

regarding the proposed tax rate, Liechty closed the public hearing at 7:13 p.m. The Mayor stated that the City Council will consider and vote on the proposed tax rate at the September 22, 2015 meeting scheduled to begin at 6:30 p.m.

Application for a variance to §157.05(B)(3) of the Code of Ordinances (Code) that limits the height of a fence on an estate lot to 8' to allow an overhead gated entry arch detail of 14' on Tract 34-10 in the A. Rodriguez Survey A-0231 (2400 FM 740) - requested by Kevin and Andrea Dixon;

Presentation of request.

Kevin Dixon, 2400 FM 740, stated that subsequent to a permit being issued, it was realized that the 14' entry arch height would require a variance and work on the entry was suspended pending Council consideration. Dixon explained that the entry arch was designed to accommodate fire trucks. Director of Community and Economic Development Kim Dobbs stated that the staff recommended that the variance be granted.

PUBLIC HEARING to receive comments regarding the request.

Liechty opened the public hearing at 7:10 p.m. Kevin and Andrea Dixon expressed support for the requested variance. There being no others present to speak to the request, the Mayor closed the public hearing at 7:11 p.m.

Discussion and action regarding the request.

MOTION: APPROVE RESOLUTION 150825E GRANTING A VARIANCE TO §157.05(B)(3) OF THE CODE OF ORDINANCES (CODE) THAT LIMITS THE HEIGHT OF A FENCE ON AN ESTATE LOT TO 8' TO ALLOW AN OVERHEAD GATED ENTRY ARCH DETAIL OF 14' ON TRACT 34-10 IN THE A. RODRIGUEZ SURVEY A-0231 (2400 FM 740).

MOTION MADE: HOLLAND
SECONDED: LAMBERTH
APPROVED: UNANIMOUS

Application of Mark Granberry for variances to Chapter 157, Fences of the Code for Lot 1, Block 5, Buffalo Creek Country Club estates No. 5 (2216 Kings Pass), specifically 1.) To §157.02 (C) of the Code that limits fences in the side and rear yard abutting a street to a maximum height of 4' to allow a variable height 6'-7'4"board on board wood fence in the rear yard abutting Native Trail; and 2.) To §157.02 (I) that requires that fence posts face the interior side of the fence and are not visible from the public way to allow a fence with fence posts that face the exterior side of the fence and are visible from Native Trail;:

Presentation of request.

Mark Granberry, 2216 Kings Pass, presented and answered questions regarding the request for variances to fence regulations for an already installed fence of variable height in the rear yard abutting Native Trail and that has posts on the exterior side of the fence. Granberry stated that the extended height was necessary to keep his dog confined. Terry Shupp of Sunnyvale Fence stated that his employee believed the property was in Rockwall and failed to secure a permit from the City of Heath. Granberry and Shupp stated that should the height variance be granted, they would be willing to either flip the panels or enclose the metal posts.

PUBLIC HEARING to receive comments regarding the request.

The Mayor opened the public hearing at 7:16 p.m. Granberry expressed support for the requested variances. Harriet Anderson, President of the Buffalo Creek Country Club Estates Homeowners Association stated that the homeowner did not submit plans to the HOA Board. Anderson stated that deed restrictions limit fence height to 6' and require that posts be on the inside of fences. There being no others present to speak to the request, Liechty closed the public hearing at 7:18 p.m.

Discussion and action regarding the request.

There was discussion regarding the request.

MOTION: APPROVE RESOLUTION 150825F GRANTING VARIANCES TO §157.02 (C) TO ALLOW A VARIABLE HEIGHT 6'-7'4"BOARD ON BOARD WOOD FENCE IN THE REAR YARD ABUTTING NATIVE TRAIL; AND TO §157.02 (I) TO ALLOW A FENCE WITH FENCE POSTS THAT FACE THE

EXTERIOR SIDE OF THE FENCE AND ARE VISIBLE FROM NATIVE TRAIL PROVIDED THAT THE METAL POSTS ON THE EXTERIOR SIDE ARE ENCLOSED WITH CEDAR TO MATCH THE FENCE.

MOTION MADE: BROOKS
SECONDED: HOLLAND
APPROVED: UNANIMOUS

(Lamberth and Liechty were recused and Mayor Pro Tem Berry began presiding over the meeting at 7:21 p.m.)

Application of BSKJ Development Corporation for variances to Chapter 157, Fences of the Code for all lots within The Sanctuary addition, specifically: a.) to §157.02 (C) that limits fences in the side and rear yard abutting a street to a maximum height of 4' to allow wrought iron or ornamental iron fences in the side and rear yard abutting a street of 5' in height; b.) To §157.02 (F) that provides that fences on or behind the front building line, except side and rear yards abutting a street, may have a maximum height of 8'to restrict the height to a maximum of 5'; and c.) If a lot is adjacent to and has a portion of the subdivision perimeter fence as a part of the fence on the lot, that portion of subdivision perimeter fence is exempt from the five foot (5') height restriction.

Presentation of request.

Gene Lamberth presented the request for three variances to fence regulations for The Sanctuary addition. Lamberth stated that the variances, if granted, would standardize fence heights and materials and ensure that the City's fence requirements specific to The Sanctuary are consistent with the subdivision deed restrictions.

PUBLIC HEARING to receive comments regarding the request.

Mayor Pro Tem Berry opened the public hearing at 7:28 p.m. Lamberth expressed support of the requested variances. Nelson and Rosalind Modrall, 205 Hunters Run in Waco and owners of Lot 2 in Block B in The Sanctuary, stated that they were in support of the variances and, further stated that they would prefer that the maximum height for side and rear yard fences be 6' rather than 5' as requested. There being no others present to speak in support of or in opposition to the requested variances, Berry closed the public hearing at 7:28 p.m.

Discussion and action regarding the request.

There was discussion regarding the request. Staff clarified that the subdivision perimeter fence installed along FM 1140 (Smirl Drive) would be exempt from the 5' restriction.

MOTION: APPROVE RESOLUTION 150825G GRANTING VARIANCES TO CHAPTER 157, FENCES OF THE CODE OF ORDINANCES FOR ALL LOTS WITHIN THE SANCTUARY ADDITION, SPECIFICALLY:

- a) To §157.02 (C) that limits fences in the side and rear yard abutting a street to a maximum height of 4' to allow wrought iron or ornamental iron fences in the side and rear yard abutting a street of 5' in height;
- b) To §157.02 (F) that provides that fences on or behind the front building line, except side and rear yards abutting a street, may have a maximum height of 8'to restrict the height to a maximum of 5'; and
- c) If a lot is adjacent to and has a portion of the subdivision perimeter fence as a part of the fence on the lot, that portion of subdivision perimeter fence is exempt from the five foot (5') height restriction;

MOTION MADE: BROOKS
SECONDED: CHAMBERLAIN
APPROVED: UNANIMOUS (Recused: Lamberth, Liechty)

(Lamberth and Liechty returned and resumed participating in the meeting at 7:30 p.m.)

Discussion and action regarding a Resolution Authorizing the Mayor to Execute Change Order Number 4 to the Construction Contract for the CIP Street Repair Phase 1 Project.

Todd presented and answered questions regarding Change Order Number 4 to the Construction Contract with Estrada Concrete Company for the CIP Street Repair Phase 1 Project.

MOTION: APPROVE RESOLUTION 150825H AUTHORIZING THE MAYOR TO EXECUTE CHANGE ORDER NUMBER 4 TO THE CONSTRUCTION CONTRACT WITH ESTRADA CONCRETE COMPANY FOR THE CIP STREET REPAIR PHASE 1 PROJECT.

MOTION MADE: KRAUSE

SECONDED: CHAMBERLAIN
APPROVED: UNANIMOUS

Discussion and action regarding a Memorandum of Understanding regarding Development of a Regional Capacity, Management, Operation, and Maintenance (CMOM) Program.

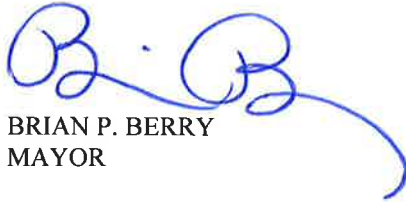
Director of Public Works David Herbert presented and answered questions regarding the North Texas Municipal Water District (NTMWD) recommendation that its member cities work together to prepare a regional Capacity, Management, Operation and Maintenance (CMOM) program to plan for and accomplish wastewater collection systems improvements required by the Environmental Protection Agency (EPA).

MOTION: APPROVE RESOLUTION 150811I AUTHORIZING THE CITY MANAGER TO SIGN A MEMORANDUM OF UNDERSTANDING REGARDING DEVELOPMENT OF A REGIONAL CAPACITY, MANAGEMENT, OPERATION, AND MAINTENANCE (CMOM) PROGRAM.

MOTION MADE: BROOKS
SECONDED: HOLLAND
APPROVED: UNANIMOUS


Liechty adjourned the meeting at 7:38 p.m.

APPROVED:



BRIAN P. BERRY
MAYOR

ATTEST:



STEPHANIE GALANIDES
CITY SECRETARY

