

**MINUTES
HEATH CITY COUNCIL
200 LAURENCE DRIVE - HEATH, TX 75032
REGULAR MEETING – PUBLIC HEARINGS - EXECUTIVE SESSION
TUESDAY, AUGUST 22, 2017 - 6:30 P.M.**

ATTENDING: BRIAN BERRY, MAYOR
KELSON ELAM, MAYOR PRO TEM
JOE CHAMBERLAIN
RICH KRAUSE
FRANK NEW
PAUL RUFFO
BRENT WEAVER

Mayor Brian Berry called the meeting to order at 6:30 p.m., delivered the invocation and led the Pledge of Allegiance.

DEPARTMENT and REPORTS - See Addendum. (Items posted on the addendum are for informational purposes. The addendum is a comprehensive list of issues and reports that are of interest to the City Council and may or may not be discussed as determined by Staff and Council.)

a) Monthly Update regarding Capital Improvement Program (CIP) projects.

CIP Project Manager, Chuck Todd, provided an update and answered questions regarding the status of the Capital Improvement Program projects.

b) Update regarding Park Board and HMBC-HEDC Board.

Council liaison Krause provided an update on the Park Board; Council liaison Elam provided an update on the HMBC/HEDC Board; Mayor Berry, representative to the Rockwall County Emergency Services Corp and Rockwall County Transportation Consortium, provided an update and announced that an ambulance contract was signed and formally executed July 25, 2017.

Discussion and action regarding the Minutes of August 8, 2017 – Special Meeting/Work Session.

MOTION: APPROVE MINUTES OF AUGUST 8, 2017 – SPECIAL MEETING.

MOTION MADE: CHAMBERLAIN
SECONDED: RUFFO
APPROVED: PASSED UNANIMOUSLY

Discussion and action regarding the Minutes of August 8, 2017 – Regular Meeting.

Council member Weaver stated that the vote on the Hub item was not unanimous and Weaver voted against it.

MOTION: APPROVE MINUTES OF AUGUST 8, 2017 – REGULAR MEETING.

MOTION MADE: CHAMBERLAIN
SECONDED: KRAUSE

MOTION: AMEND MOTION WITH CORRECTION TO MINUTES.

MOTION CHAMBERLAIN
SECONDED: KRAUSE
APPROVED: PASSED UNANIMOUSLY

PUBLIC HEARING - To receive input regarding the Proposed Tax Rate of \$0.417311 per \$100 valuation on all taxable property within the corporate limits of the City of Heath as of January 1, 2017.

Director of Finance, Laurie Mays, stated that this is the first of two required Public Hearings and the City is proposing a tax rate of \$0.417311 per \$100 of valuation. The proposed 2017 M&O and I&S tax rates are \$0.270086 and \$0.147225 per \$100 of valuation. Mays stated that the tax rate is same as the current year's tax rate and also announced that Council will vote on the tax rate at the September 26th Meeting.

PUBLIC HEARING to receive comments regarding the request.

Mayor Berry opened the public hearing at 7:00p.m. The following resident spoke in regards the request:

- Lorne Liechty, 502 Terry Lane – Mr. Liechty asked the Council to include a tax freeze to next year's budget for senior citizens over the age of 65 in the City of Heath.

There being no one else to speak regarding the request, Mayor Berry closed the public hearing at 7:01 p.m

Discussion and Action Regarding Approval of School Zone on Trophy Drive For RISD Elementary School # 14.

City Engineer, Richard Dormier, stated that the City of Heath has a new elementary school that will be opening this school year. Trophy Drive will be posted at a 30 mph speed limit and the speed limit for the school zone will be 20 mph during specified hours. The cost of the school zone materials and installation will be deducted from the reimbursement the City has agreed to pay the school district (related to the cost of the land for the school less City expenses). RISD will be responsible for establishing a school zone on Maverick Blvd located in Kaufman County and TxDOT is responsible for school zones on FM 740.

MOTION: APPROVE THE SCHOOL ZONE ON TROPHY DRIVE FOR RISD ELEMENTARY SCHOOL # 14.

MOTION MADE:	CHAMBERLAIN
SECONDED:	NEW
APPROVED:	PASSED SIX TO ONE
FOR:	BERRY, CHAMBERLAIN, ELAM, NEW, RUFFO, WEAVER
AGAINST:	KRAUSE

Work Session/Discussion of Sign Ordinance.

Director of Community Development, Robert LaCroix, stated the work session was to discuss the Sign Code and share thoughts and recommendations to potentially improve the City's Sign Ordinance. Council continued discussion and Mayor Pro Tem Elam stated he researched other cities and his concern is in the size of the perimeters governing in the size of the sign letters. The ordinance is too restrictive and allows sign variances to be requested easily and Council should be more consistent when allowing these variances. Council gave direction to staff to remove the (c) *Exception – The minimum/maximum letter/logo height limits shall not apply to buildings located within the Towne Center Overlay District*, and asked that this item return for future review.

Discussion and Action Regarding the request of Ash Currimbhoy and Molly McStravick, owners, for a special exception to §159.07(B)(1) of the Code of Ordinances that provides for exterior masonry construction requirements in Residential Zoning Districts (291 Lowe Road). (MIS-2017-02)

Director of Community Development, Robert LaCroix, stated that building permits in Residential Zoning Districts are required to have exterior walls constructed using a masonry covering at least 80% of each wall. The applicant has requested to use cement-fiber (Hardie-board) siding for the exterior materials of the house. This material can be used on 20% of the building facades however the owner is proposing to use 100% Hardie-board. Owners, Ash and Molly Currimbhoy, were present to answer any questions and stated they desire to construct a rural/farm styled home. Seven neighborhood notices were mailed and two notices were returned in favor and none returned in opposition to the request.

PUBLIC HEARING to receive comments regarding the request.

Mayor Berry opened the public hearing at 7:45 p.m. The following spoke in regarding the request:

- Lynn Fate, 361 Lowe Road – spoke in favor and stated that this would be a wonderful asset to the community. Lowe Road is a private road and this would not be an eye sore.
- Susan Thompson, 596 Lowe Road – spoke in favor and welcomed the Currmbhoys to the neighborhood.

There being no one else to speak, Mayor Berry closed the public hearing at 7:48 p.m.

Discussion and action regarding the request. Council continued discussion and Council Member Weaver stated that this might be a good opportunity to consider extending the neighborhood notice to more than the 200 foot radius.

MOTION: APPROVE A SPECIAL EXCEPTION TO §159.07(B)(1) OF THE CODE OF ORDINANCES AND ALLOW APPLICANT TO USE HARDIE-BOARD FOR THE EXTERIOR MATERIALS OF THE HOUSE.

MOTION MADE: CHAMBERLAIN
SECONDED: WEAVER
APPROVED: PASSED UNANIMOUSLY

Discussion and Action to Consider Approval of a Resolution regarding an application for variances to the following Sections of the Code of Ordinances; Section 157.02; (E) Fences in front of the front building line of the residence or structure on the subject lot shall be ornamental wrought iron or tubular steel and shall have at least 75% open area per linear foot, Section 157.02; (H) Fences shall be constructed of and repaired with new material of good quality including natural, decay-resistant wood, stained or unstained, for privacy fences, powder coated for metal fences, natural, decay-resistant wood, stained or unstained, for rail fences, applicant is requesting to install a 4' three rail heavy duty vinyl ranch fence, for Lot 1, Block A, Prothro Addition, City of Heath, Rockwall County Texas (230 Myers Road) and take any action necessary. (FV- 2017-04)

Director of Community Development, Robert LaCroix, stated that the applicant has requested a variance in order to construct a four foot three rail heavy duty PVC vinyl ranch plank white fence. The fence on the property across the street is built with this same material. Ten neighborhood notices were mailed out. Owner, Perry Bowen, 230 Myers Road, was present to answer any questions.

PUBLIC HEARING to receive comments regarding the request.

Mayor Berry opened the public hearing at 8:03p.m. The following residents spoke regarding the request:

- Bob Kurt, 180 Myers Road – spoke in support and stated the fence across the street has been there 20 years and still in great shape. There are 13 neighbors no one has opposed.

There being no one else to speak regarding the request, Mayor Berry closed the public hearing at 8:06 p.m

Discussion and action regarding the request. Council continued discussion and confirmed that this variance is for the material not the height.

MOTION: APPROVE RESOLUTION NO. 170822A ALLOWING FENCE VARIANCE AT 230 MYERS ROAD WITH THE CONDITION OF USING A CLAD METAL POST WITH HEAVY DUTY PVC VINYL PLANK FENCE.

MOTION MADE: CHAMBERLAIN
SECONDED: ELAM
APPROVED: PASSED UNANIMOUSLY

(Council Member Joe Chamberlain recused himself from the meeting at 8:15p.m.)

Discussion and Action Regarding a Facilities Agreement for the Le Ruisseau Addition (formerly known as the J.O. Ranch Addition).

Director of Community Development, Robert LaCroix, stated that this development is for seventeen single family residential lots meeting the SF-43 minimum one acre lot size requirement and that the Preliminary Plat for was approved at the June 13th City Council meeting with some conditions set on the Development Agreement. This request is for the Facilities Agreement that relates to the construction of the infrastructure in the Le Ruisseau Addition. Council discussed on site sanitary site trail requirements, cash in lieu of land part of park dedication, fee in lieu of sewer, sidewalks, sanitary sewer, and the two large lots on the north side where the applicant is asking to be exempted from sewer and asking for septic. Present were: City Engineer, Richard Dormier addressed the rough proportionality cost tied to road construction that will be assessed to each lot; City Attorney Andy Messer stated that the facilities agreement will be approved before final plat is presented; Builder, Michael Pollock, 1885 Broken Lance, Rockwall, TX – stated that one of the reasons that septic is requested on to lots is that the residents have requested to keep this property as rural as possible and also asked council to consider the project as a whole; and Todd Winters, representing the owners was also present to answer any questions. Council stated that some of their concerns are the request for septic on the two large lots and the trail connectivity and directed the developer to incorporate these concerns into the agreement and bring it back up at the next meeting.

MOTION: APPROVE TO TABLE THE ITEM UNTIL THE SEPTEMBER 12, 2017 CITY COUNCIL MEETING.

MOTION MADE: ELAM

SECONDED: NEW

Mayor Berry stated that if there are specific items that need to be incorporated back into the agreement, that we give this information to the developer. Council Member Krause stated that the applicant should have taken notes and the applicant asked when the recording would be available.

APPROVED: PASSED UNANIMOUSLY

(Council Member Joe Chamberlain returned to the regular meeting at 9:25 p.m.)

Discussion and action regarding an Ordinance amending Title V, “Public Works” to add Chapter 56, “Right-of-Way Management”, Division 2, “Use of Public Rights-of-Way by Network Providers (Right-of-Way Management)”, adopted pursuant to Chapter 284 of the Texas Local Government Code, providing a penalty not to exceed the sum of \$500 for each violation; providing for publication; and providing an effective date.

City Attorney, Andy Messer, stated that this ordinance is our compliance with what the legislature has passed in the last legislative session. In summary, the ordinance changes the way the Texas municipalities can regulate their right-of-ways. This law required that every city have set standards that apply to wire communications in our right of ways and adopt provisions for regulating the physical use, occupancy and maintenance of city rights-of-way by wireless network providers. Effective Sept 1, 2017, S.B. 1004 will become Chapter 284 of the Texas Local Government Code and this chapter limits the City’s ability to regulate and collect fees for the placement of wireless telecommunications infrastructure in the right-of-way of Network Providers.

MOTION: APPROVE ORDINANCE NO. 170822A AMENDING TITLE V, “PUBLIC WORKS” TO ADD CHAPTER 56, “RIGHT-OF-WAY MANAGEMENT”, DIVISION 2, “USE OF PUBLIC RIGHTS-OF-WAY BY NETWORK PROVIDERS (RIGHT-OF-WAY MANAGEMENT)”

MOTION MADE: CHAMBERLAIN

SECONDED: KRAUSE

APPROVED: PASSED UNANIMOUSLY

Discussion and action regarding an Ordinance amending Title V, “Public Works” to add Chapter 56, “Right-of-Way Management”, Division 3, “Design Manual” to adopt “The City of Heath, Texas Design Manual for the Installation of Network Nodes and Node Support Poles”, adopted pursuant to Chapter 284 of the Texas Local Government Code, providing a penalty not to exceed the sum of \$500 for each violation; providing for publication; and providing an effective date

City Attorney, Andy Messer, stated this ordinance is to adopt a Design Manual for Installation of Network and Node Support Poles. The Design Manual provides standards to regulate the installation of network notes and support poles by wireless network providers with the City’s right-of-way as a result of the passage S.B. 1004 by the Texas Legislature.

MOTION: APPROVE ORDINANCE NO. 170822B AMENDING TITLE V, “PUBLIC WORKS” TO ADD CHAPTER 56, “RIGHT-OF-WAY MANAGEMENT”, DIVISION 3, “DESIGN MANUAL” TO ADOPT “THE CITY OF HEATH, TEXAS DESIGN MANUAL FOR THE INSTALLATION OF NETWORK NODES AND NODE SUPPORT POLES”.

MOTION MADE: CHAMBERLAIN
SECONDED: ELAM
APPROVED: PASSED UNANIMOUSLY

EXECUTIVE SESSION

At 9:57p.m., Mayor, Brian Berry recessed the meeting to go into Executive Session (closed meeting) in accordance with Texas Government Code Chapter 551, Subchapter D, the City Council will recess into Executive Session (closed meeting) to discuss the following: § 551.071(1): Consultation with Attorney regarding pending litigation: Application of City of Heath to Amend a Certificate of Convenience and Necessity and to Decertify a Portion of Forney Lake Water Supply Corporation’s Service Area in Rockwall County, Public Utility Commission SOAH Docket No. 473-16-0193.WS; and, § 551.071(2): Consultation with Attorney on a matter 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 this chapter re: Short Term Rentals, off-site dedication and development issues.

At 10:46 p.m., Mayor Brian Berry closed Executive Session and reconvened the meeting into open session stating no action was taken in the Executive Session and no further actions were needed.

MOTION: TO INSTRUCT CITY STAFF TO SEND THE LETTER PROVIDED TO THE COUNCIL REGARDING SHORT TERM RENTALS TO RESIDENTS THAT ARE IN VIOLATION.

MOTION MADE: ELAM
SECONDED: NEW

Mayor Berry stated he is opposed against this based on the fact that this is against the people’s property rights for it to be restricted and the city is subject to extreme amount of exposure and the council should reconsider this.

APPROVED: PASSED FIVE TO TWO
FOR: ELAM, KRAUSE, NEW, RUFFO, WEAVER
AGAINST: BERRY, CHAMBERLAIN

Discussion and Action to set Joint Meeting Date with the Planning and Zoning Commission and City Council.

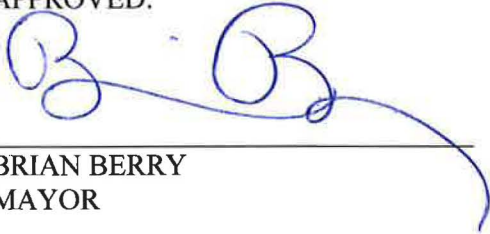
Director of Community Development, Robert LaCroix stated that the purpose of this item is to set a date for a Joint Meeting with the Planning and Zoning Commission and the City Council for the presentation of the final Draft of the 2017 Comprehensive Plan. This meeting is not a Public Hearing. Council continued discussion and instructed staff to schedule the meeting and recommended a meeting date of Thursday, September 14th.

Open Forum – Citizens’ Comments.

Mayor Brian Berry explained how the Open Forum would be conducted in allowing citizens to speak. No one was present to speak. Council member Elam requested that the Open Forum be moved up to earlier in the agenda so citizens do not have to wait to speak.

Mayor Berry adjourned the meeting at 11:01 p.m.

APPROVED:



BRIAN BERRY
MAYOR

ATTEST:



NORMA DUNCAN
CITY SECRETARY

