

**MINUTES
HEATH CITY COUNCIL
200 LAURENCE DRIVE - HEATH, TX 75032
REGULAR MEETING – PUBLIC HEARING – EXECUTIVE SESSION
TUESDAY, OCTOBER 24, 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 introduced Mayor for the Day Zackery Daiker who called the meeting to order at 6:31 p.m. and led the Pledge of Allegiance. Mayor Berry delivered the invocation.

2. Proclamations:

- a) Mayor Berry read loud a proclamation declaring Honorary Mayor for the Day Zachery Daiker for the City of Heath on October 24, 2017.

3. Discussion and Action to Appointment of Planning and Zoning Commission member.

Council reviewed fourteen “Applications for Appointments” from Heath residents that were interested in the open position for the Planning and Zoning Commission. The applicants were previously interviewed at the June 27, 2017 City Council Meeting. Mayor Berry stated that the discussion of selecting the appointment of the applicants would be put on hold for the time being and discussion would continue during the closed session at the end of the meeting. Council will take action following the Executive Session.

4. 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, HMBC-HEDC Board, Rockwall County Planning Consortium, and Emergency Services Corporation.

Council liaison Elam provided an update on the HMBC/HEDC Board and Council liaison Krause provided an update on the Park Board.

5. Discussion and action regarding the Minutes of October 10, 2017.

MOTION: APPROVE MINUTES OF OCTOBER 10, 2017 WITH CHANGES.

MOTION MADE: CHAMERLAIN
SECONDED: WEAVER
APPROVED: PASSED UNANIMOUSLY

6. Discussion and action to approve execution of Texas Water Code §13.255(a) Single Certification and Service Area Transfer Agreement between the City of Heath and Forney Lake Water Supply Corporation and authorization for signing of same.

City Engineer, Richard Dormier stated that on November 23, 2016, the City of Heath provided a draft agreement to Forney Lake Water Supply Corp regarding Forney Lake's CNN, customers (839), facilities, and easements within the city limits of Heath. Since that time, issues related to take or pay minimums, property to be transferred, and easements to be transferred have been identified and addressed satisfactorily. The process to purchase Forney Lake Water Supply Corp originally started approximately five to six years ago. The city will file the agreement with the Public Utility Commission of Texas (PUC) and request that the PUC issue its written approval that the terms of this agreement will be incorporated in the respective Certificate of Convenience and Necessity (CNN) followed by the closing of the property. City Manager, Ed Thatcher thanked council member Joe Chamberlain for his involvement and work in pushing through this long overdue process.

MOTION: APPROVE RESOLUTION NO. 171024B EXECUTING TEXAS WATER CODE §13.255(a) SINGLE CERTIFICATION AND SERVICE AREA TRANSFER AGREEMENT.

MOTION MADE: ELAM

SECONDED: NEW

Council member Krause stated that there are 84,000 feet of water line that will not support a fire hydrant but funds were added for the advancement of this procurement which will help relieve concern. Council member Chamberlain thanked staff for their patience and also thanked City Engineer, Richard Dormier for his hard work on this process.

APPROVED: PASSED UNANIMOUSLY

7. Discussion and Action Regarding an Ordinance to establish an ad valorem tax exemption for persons 65 years of age or older or disabled persons as allowed by the Texas Tax Code; and providing an effective date.

Council member Joe Chamberlain clarified that this item is for freezing the taxes for the disabled or citizens 65 years of age or older at their present rate on January 2018 and stated that presently less than 25% of heath citizen's qualify for this exemption.

PUBLIC HEARING to receive comments regarding the request.

Mayor Berry opened the public hearing at 6:57 p.m. and the following spoke regarding the request:

- Donna Rolater, 709 Avalon – spoke in opposition and stated that it is totally irresponsible to pass the tax freeze because it is irreversible. The tax freeze would hurt the city/budget/police and fire. Another solution would be to raise the homestead exemption.
- Brooks Nolan, 505 Loma Vista – speak neither in support or opposition and asked the council that whatever the decision, please be articulate and call it what it is.
- John Regan, 8 Raven Circle – spoke in support and stated that seniors are on a fixed income we could actually price the seniors out of the market without relief.
- Connie Nelson, 1407 Laurence Drive – spoke in support and stated that circumstances happen to seniors and they do not have ability to increase their income. We should take care of the seniors.
- Tiki Sherman, 702 Laurence Drive – stated that she has not made up her mind because she has concerns on the budgetary needs and not being able to fund the police officer position.
- June Boyd, 852 FM 740 – stated that she does not know what the answer is but that seniors will appreciate any tax relief given to them because they are a valuable asset to the city.
- Terry Turner, Meadowlake Drive – spoke in support and cannot see any reason not to give seniors a tax break.
- Gus Antos, 1032 Woodbridge – spoke in support stated it's our civil duty to take care of the seniors.

There being no one else to speak regarding the request, Mayor Berry closed the public hearing at 7:10 p.m.

Discussion and action regarding the request.

Director of Finance, Laurie Mays presented a power point presentation providing estimated numbers and impacts of the freeze and stated that the tax freeze is for Heath residents who disabled or 65 years of age or older and that once the ad valorem tax freeze is implemented it cannot be rescinded. Taxes that are calculated on the property are based on the assessed value of that year and the tax rate set by council of that year and that is the amount that is frozen. Presently there is a Homestead Exemption and the city allows a \$30,000 decrease in valuation. The recommendation is to remove the exemption and adopt the freeze. Council member Elam stated that although he does see the need to help seniors, his problem with the freeze was we are trying to do an equation and we don't know all the variables. Elam recommended using the exemptions because adopting the freeze will put a burden on the young people living in this community. Council member New stated that he supports looking at increasing the exemption and believes this help out the citizens that need it the most. Council member Weaver stated that we all want to help the seniors but not at the detriment of the city and stated that he could not support the freeze until had all the missing details and accurate full assessment of what the true financial impact would be. He also recommends exploring the exemption. Council member Krause stated that this decision should be put out to the residents at an election. Council member Chamberlain stated that the problem he sees with the exemption is that it is in the hands of current council members and can change year to year.

MOTION: APPROVE AN ORDINANCE TO ESTABLISH AN AD VALOREM TAX EXEMPTION FOR PERSONS 65 YEARS OF AGE OR OLDER OR DISABLED PERSONS WITHOUT THE \$30,000 HOMESTEAD EXEMPTION.

MOTION MADE: CHAMBERLAIN
SECONDED: BERRY
MOTION FAILED: TWO TO FIVE
FOR: BERRY; CHAMBERLAIN
AGAINST: ELAM; KRAUSE; NEW; RUFFO; WEAVER

8. Discussion and Action Regarding an Ordinance amending Chapter 159, Zoning, of the Code of Ordinances by authorizing a zoning change from (PD) Planned Development District and (A) Agricultural District to (PD) Planned Development District for Local Retail Use on a 28.62 acre tract of land being described as all of a 13.30 acre tract of land described in Special Warranty Deed with Vendor's lien to Heath Crossing, LTD. recorded in Instrument No. 20170000001806 of the Official Public Records, Rockwall County, Texas, and being part of that 13.65 acre tract of land described in Special Warranty Deed with Vendor's lien to Heath Crossing, LTD. recorded in Instrument No. 201600000017663 of said Official Public Records, and being all of that 1.06 acres tract of land described in Special Warranty Deed to Heath Crossing, LTD. recorded in Instrument No. 20160000000929 of said Official Public Records, and being part of that 0.62 acre tract of land described in Special Warranty Deed to Heath Crossing, LTD. recorded in Instrument No. 20160000001074 of said Official Public Records of Rockwall County, Texas, being a tract of land situated in the E. Teal Survey, Abstract No. 207, City of Heath, Rockwall County Texas, located at the northwest corner of FM 740 (Ridge Road) and FM 549. Applicant: Heath Crossing Limited (Case No. ZA-2017-03)

Director of Community Development Robert LaCroix stated that at the October 3, 2017 Planning and Zoning Commission meeting, the Commission approved the zoning request by a unanimous vote with a condition that a ten-thousand square foot open space with a future amenity to be determined at site plan approval and to be added to the 3.1 acre pad site as indicated on the approved Concept Plan. At the October 10, 2017 City Council Meeting, Council held a public hearing and tabled the request to a later work session. Mayor Berry stated that the October 24, 2017 Work Session was very productive and a lot of head way was made. Applicant, Steve Gregory, Vice President, Malouf Interests, Inc. was present and introduced his Design and Development Team: Good Fulton & Farrell Architects – Jonathan Krill; Kimley Horn Engineers – Joe Facaro; Winstead Attorneys - Tommy Mann and Brad Williams; Director of Real Estate of North Texas for Tom Thumb Safeway - David Harden. Gregory presented a summary of the items addressed at the Work Session and the changes to the Planning and Zoning Commission

Recommendations. City Attorney, Andy Messer was not comfortable approving the changes and asked for more time to review the items proposed. At 8:46 p.m. Messer and the Developer stepped out of the meeting to discuss and clarify some concerns. At 9:17 p.m. Messer returned to the meeting, distributed the revised proposed changes and stated that he and LaCroix fully approved revised changes. If the changes are approved, the red line version will be added to the zoning ordinance in the development standards. Council Member Weaver stated that a lot progress was made but he was still missing a central green space gathering area and Council Member New stated that he was not comfortable approving the request because and stated that the Gas Station should be approved with a Conditional Use Permit and not “by right”.

MOTION: APPROVE ORDINANCE 171024A AUTHORIZING A ZONING CHANGE FROM (PD) PLANNED DEVELOPMENT DISTRICT AND (A) AGRICULTURAL DISTRICT TO (PD) PLANNED DEVELOPMENT DISTRICT FOR LOCAL RETAIL LOCATED AT THE NORTHWEST CORNER OF FM 740 (RIDGE ROAD) AND FM 549 WITH CHANGES.

MOTION MADE: ELAM
SECONDED: CHAMBERLAIN

Council Member New stated that he continues to have an issue with giving something “by right” because the right belongs to the citizens; Council member Weaver stated that his concern is still with the missing open space gathering area.

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

9. Discussion and Action Regarding Award of the Construction Contract for the City of Heath Annual Street Repair 2017-2018 Phase 1 Project and Regarding a Resolution Authorizing the Mayor to Execute a Construction Contract for the City of Heath Annual Street Repair 2017-2018 Phase 1 Project.

Capital Improvements Project Manager, Chuck Todd stated that this is for our budgeted street maintenance program Phase 1 and the project is for the repair of pavement at various locations around the city. This is the second phase of an annual maintenance program and the work will be performed during the 2017-2018 fiscal year. The City received three bids and GROD Construction was the lowest bid at \$97,500.

MOTION: AWARD CONSTRUCTION CONTRACT FOR ANNUAL STREET REPAIR 2017-2018 PHASE 1 PROJECT AND APPROVE RESOLUTION NO. 171024A AUTHORIZING THE MAYOR TO EXECUTE A CONSTRUCTION CONTRACT.

MOTION MADE: KRAUSE
SECONDED: NEW
APPROVED: PASSED UNANIMOUSLY

11. Open Forum – citizens’ comments.

Mayor Brian Berry explained how the Open Forum is conducted and invited those who wished to speak to come forward.

- Chuck Dale, 804 Smirl Drive – stated that he was a long time resident of Heath and expressed his discouragement with Council when voting on items.

(Meeting recesses at 8:51 p.m. and resumed to regular meeting at 9:13 p.m.)

10. Discussion and Action regarding a Resolution adopting a process for providing council participation in preparing a city council agenda.

City Attorney, Andy Messer stated that this resolution is to adopt the following procedures in preparing city council agendas: Any city council member may submit an item for discussion action on a city council agenda which shall be placed on the city council agenda within two city council meetings; The agenda item may not be removed from the council agenda without the requesting city council member's consent; and, a city council agenda item must be submitted via email to the mayor, city manager and city secretary.

MOTION: APPROVE RESOLUTION NO. 171024C ADOPTING A PROCESS FOR PROVIDING COUNCIL PARTICATION IN PREPARING A CITY COUNCIL AGENDA.

MOTION MADE: ELAM
SECONDED: CHAMBERLAIN
APPROVED: PASSED UNANIMOUSLY

12. EXECUTIVE SESSION

At 9:25 p.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: §551.074: Deliberation regarding the appointment, evaluation, reassignment, duties, discipline or dismissal of public officer or employee: Planning & Zoning Commission appointments

At 9:36 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 further action is required on the appointment of the Planning & Zoning Commission member.

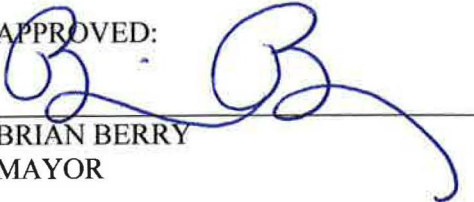
3. Discussion and Action to Appointment of Planning and Zoning Commission member.

MOTION: APPOINT DARREN KAMEYER TO THE PLANNING AND ZONING COMMISSION.

MOTION MADE: KRAUSE
SECONDED: ELAM
APPROVED: PASSED FIVE TO TWO
FOR: BERRY; ELAM; KRAUSE; RUFFO; WEAVER
AGAINST: CHAMBERLAIN; NEW

Mayor Berry adjourned the meeting at 9:38 p.m.

APPROVED:


BRIAN BERRY
MAYOR

ATTEST:


NORMA DUNCAN
CITY SECRETARY

