

**MINUTES
HEATH CITY COUNCIL
TUESDAY APRIL 12, 2022 at 6:30 PM**

ATTENDING: KELSON ELAM, MAYOR
 FRANK NEW, MAYOR PRO TEM
 JOHN BEAMAN
 DONNA ROLATER
 RICH KRAUSE
 BRENT WEAVER
ABSENT: PAUL RUFFO

Mayor Kelson Elam called to order the Regular meeting at 6:30 p.m. Councilman Beaman delivered the Invocation and led the Pledge of Allegiance.

Public Comment

No one signed up to speak in person during the Public Comment.

3. Proclamation

National Child Abuse Prevention Month – due to a scheduling conflict, this proclamation will be presented at the April 26, 2022 Council Meeting.

4. Consent Agenda

- 4.a** Action Regarding the Minutes of the March 22, 2022 Regular Meeting.
- 4.b** Authorize City Manager to sign Construction Materials Testing agreement with Team Consultants for testing material testing during construction of Rabbit Ridge Road.
- 4.c** Receipt of Annual Racial Profiling Report.

MOTION: APPROVE CONSENT AGENDA 4.a MARCH 22 MEETING MINUTES; 4.b RABBIT RIDGE ROAD CONSTRUCTION; 4.c ANNUAL RACIAL PROFILING REPORT.

MOTION MADE: NEW
SECONDED: BEAMAN
APPROVED: PASSED UNANIMOUSLY BY THOSE PRESENT
ABSENT: RUFFO
ABSTAINED: KRAUSE (*abstained on 4a, absent at March 22 Council Meeting*)

5.b Discussion and Review of Proposed Options to Expedite the Construction of Hubbard Drive.

Chris Cuny, Principal, Teague Nall and Perkins, Inc. stated that the main design reason for the 37' section of pavement along Hubbard Drive is to provide a continuous free left turn lane along the route which aids in allowing traffic to flow freely around potential left-turn lane movements. The proposed revised section along the causeway will provide an improved road-way width from the existing roadway 21' wide section (2-10.5' lanes) to a 31' wide section (2- 15.5' lanes); will provide 12' lane with 3.5' wide shoulder and will allow construction on causeway section to commence 12-18 months sooner due to elimination for Corp of Engineer's permit. The project could be ready to issue bids within 60 days and take less time to construct, approximately 6-9 months sooner, yielding a total time savings of 18-27 months. The trail is still part of the plan. This plan will: Save the City of Heath tax dollars by allowing this section to be bid and constructed at the same time as the city's section; Increase traffic safety by discouraging parking alongside roadway section; Increase safety for pedestrians as it moves trail away from Vehicular traffic; Slow traffic down along causeway by reduced lane size; Provide safer traffic transition by eliminating 37' transition to 31' section at City's section; Reduce patrol and DPS costs from parking and fishing along roadway; Provide a more appealing and longer trail system for the public including 1,500 LF additional trail; Save a 10' section of trees along southern section due to reduced section

through tree area on both sides of Roadway as it ties into Antigua Bay and old Seely property; and not provide developer with any cost savings given the additional trail section to be constructed as a part of this consideration. The project cost reductions to the developer are: \$99,000 for street width savings 1,500 feet X 6' X \$11.00/SF; \$40,000 for Box Culvert Length reduction 10' X 4,000/LF; \$83,325 for Causeway & Embankment widening 12'X 15' X 1000' = 1,111 CY X \$75.00/CY; for a total of \$222,325.00. The project cost additions paid by developer are: \$94,980 for trail cost, additional trail length (2,608'-1,025') = 1,583' X 10' X \$6.00/sf; \$150,000 for the Pedestrian Bridge feature at lake crossing; for a total of \$244,980.00. The approximate net additional Project Cost paid by developer will be \$ 22,655.00.

Mayor Pro Tem New stated that this plan is faster, cheaper, safer, provides more trails, will withstand the 100-year flood and is in full support. Mayor stated that this is a great plan, a seven-week shutdown period and its done and we get a better trail.

5.a Discussion and Action Regarding a Resolution Regarding the Towne Center District Overlay Plan.

Assistant City Manager Kevin Lasher stated this master plan that will guide not only planning decisions but investment decisions in the development of the new Towne Center. The Heath Municipal Benefits Corporation (HMBC) and Heath Economic Development Corporation (HEDC) have given public notice, conducted substantial studies, focus group meetings, several public hearings and work sessions, which included input from the contracted professional planning firm, city staff, and owners and developers of land within the Towne Center Overly District regarding the development of the Heath Towne Center Design Book. The HEDC and HMBC jointly funded the \$65,000 project. This has been a two-year process and involved the input of over 20 stakeholders and property owners and the review of several layouts and design options produced by the firm Kimley-Horn. The Project was developed in three phases: Phase 1: Project Initiation and Existing Conditions Assessment; Phase 2: Draft Design Concepts, and Phase 3: Final Vision Documentation and Adoption. At the end of each completed phase, the HMBC and HEDC provided staff with the direction "to proceed" or "not to proceed" with the Project. This direction was largely based on the amount of buy-in received from the stakeholders. The EDC's authorized staff and Kimley-Horn "to proceed" through the completion of each phase of the work. The design concepts would be utilized for marketing and planning purposes and would outline the process, provide background on how the project began, and highlight implementation considerations. The Heath Towne Center Design Book will be incorporated into appropriate City plans and ordinances as coordinated by Staff.

David Lane, HMBC/HEDC President stated that on March 23, 2022, the HMBC/HEDC voted to recommend approval of the Heath Towne Center Design Book by a vote of six to one. There was discussion regarding the proposed development intensity of the design vision and quantitative measure to evaluate it. Lane requested Abra Nusser with Peloton Land Solutions to prepare additional analysis and provide technical content regarding the proposed development intensity, including comparisons to other Texas town center developments and insight regarding commercial square footage per capita. The Study objectives were to analyze and compare the proposed intensity of the development and provide technical context regarding the potential commercial square footage per capital versus other measures; and provide analysis conclusions regarding HTC Design's proposed intensity of development. The project was in three steps and the payment to the consultant was contingent on the approval of each step. If there was no stakeholder buy-in or the landowner did not want to participate, the project could be shut down. Step one and step two were approved by EDC unanimously. Step three was approved with one nay vote because there was not data behind density and intensity and some confusion on what you see on a picture versus what it really is. Lane personally engaged with Abra and Peloton to provide data and presented the presentation. In conclusion, Lane stated that the Heath Town Center Design intensity is lower than much of the existing development in Heath. The building forms, footprint, scale, maximum height, and visuals within the Design Book illustrate the intended development intensity of the Heath Towne Center. The HTC Design intensity is lower than any other existing town center design in North Texas that was identified for comparison and designing for low intensity was the main objective for this project. This Plan is a twenty-year plan and a guidebook

Two citizens present to speak were:

- Garon Horton, 1912 Stevens Road, property owner in the Towne Center Overlay, thanked the EDC and Kimley-Horn for inviting property owners for their involvement in the process; the purpose for stakeholder involvement was to create a vision and not additional regulations to the property owner. Horton asked the council to please respect the process, it is a good plan.
- Beth Jackson, 305 Laurence Drive, property owner in the Town Center Overlay District, stated that she was part of the steering committee and thanked everyone for allowing her, as a property owner, to participate in the plan. This plan is a visual and a guide for development and will not put further restrictions on my land in further development.

Councilman Weaver, Council liaison to HMBC/HEDC, stated that he was in favor of this process with the intention to come out with a good visual. His concern from the beginning was the sheer quantity of potential Commercial/Retail development that could occur on such a large tract of land (109 acres). The issue at hand is not simply about intensity or Floor Area Ratio which is a measure of how much commercial square footage is placed on an acre. Instead, the real concern is the sheer total quantity of commercial square footage this is represented in this proposed design book. The footprint of square footage being proposed (footprint only, ground floor only) of 425,000 square feet is alarming. Once additional floors are added per this draft plan, we are looking at 700,000 square feet of multi-story commercial property. And that is just in the overlay district alone and doesn't include all the surrounding land and developments such as the Tom Thumb development and land along Chris Cuny Drive and Heath Hawk Drive. The goal from our citizen's and our Comprehensive Plan is to keep Heath a quaint bedroom community with limited Commercial development. This plan's proposed quantity of development will bring in significant additional traffic and attention from outside communities, in fact this additional outside traffic is exactly what the project's consultant said would be required to support such a large quantity of commercial development. This is exactly opposite of what the vast majority of our citizens want. The message from our residents is that they want a little bit of commercial development to service our citizens. Weaver will come back with a proposal that will reduce the 700,000 sq ft. Councilman Krause stated that the residents want unique boutique retail and this plan looks excessive. We don't want to count on other cities to sustain these new businesses. I am concerned with the amount of non-residential development being proposed. Mayor Pro Tem New expressed his concern with the 700,000 square feet and asked to table the item to allow additional time for him to learn more about the density/intensity calculation so he can make an educated decision. Beaman and Rolater indicated they were fine with the plan and the amount of proposed commercial development. The Mayor stated that we have to give EDC a plan that they can work from. This is a conceptual plan and landowner rights. He is in favor of approving this but now we need to improve our ordinances so that we get something that is cohesive and fair to the landowners and to the citizens.

MOTION TO TABLE ITEM TO A FUTURE COUNCIL MEETING.

MOTION MADE:	NEW
SECONDED:	WEAVER
APPROVED:	FOUR TO TWO
For:	MAYOR, KRAUSE, NEW, WEAVER
Against:	BEAMAN, ROLATER
ABSENT:	RUFFO

5.c Discussion and Action Regarding a Change Order for Antigua Bay Phase 2.

City Engineer Richard Dormier stated that the design for Phase 2 of the Antigua Bay water line improvements has been completed. This phase will complete construction of new water lines in the entire subdivision. We have been pleased with the current contractor that was low bidder for the first phase. In order to complete the project as soon as possible, we have negotiated a change order with the existing contractor for Phase 1 that will allow continuation of the project when Phase 1 is completed without changing contractors. We also do not need to pay for a new mobilization and demobilization as that is covered in the original contract. The performance bond has been increased to cover the change order amount and a new 1295 form has been obtained to cover the change order. This will save the cost of a second mobilization and demobilization and the cost of bidding the project and will result in the project being completed sooner than if the second phase is

taken through the bid process. Staff recommends approval of the change order for Phase 2 of the Antigua Bay water line improvements in the amount of \$372,215 and adding 90 days to the construction time for a total amount of \$958,673 and total construction days of 270.

Councilman Krause stated that this is an amazing improvement for the community and thanked the staff and everyone involved.

MOTION: APPROVE CHANGE ORDER FOR PHASE 2 OF THE ANTIGUA BAY WATERLINE IMPROVEMENTS.

MOTION MADE: KRAUSE
SECONDED: ROLATER
APPROVED: PASSED UNANIMOUSLY BY THOSE PRESENT
ABSENT: RUFFO

5.d. Update, Discussion and Action Regarding Application to Adopt Tom Thumb and Stoneleigh East Trails through the Adopt-a-Park/Trail Litter Control Plan.

Staff Liaison to the Park Board Suzanne Brooke stated that applicant D&D Commercial Landscape Management has requested to adopt the Tom Thumb and Stoneleigh East Trails through the Adopt-a-Park/Trail Litter Control Plan. The City Council approved a new Adopt-a-Park/Trail program in 2018. Adopted regulations included the requirement that organizations wishing to participate receive approval by the Park Board and the City Council. An application has been received by Donnie Watts of D&D Commercial Landscape Management to adopt the Tom Thumb and Stoneleigh East Trails. Donnie Watts is a Heath resident, and his firm serves the community of Heath. He has also adopted the new White Road Trail. The Park Board unanimously approved the application at its March 21, 2022, meeting. Staff recommends approval.

MOTION: APPROVE APPLICATION TO ADOPT TOM THUMB AND STONELEIGH EAST TRAILS THROUGH THE ADOPT- A-PARK/TRAIL LITTER CONTROL PLAN.

MOTION MADE: WEAVER
SECONDED: NEW
APPROVED: PASSED UNANIMOUSLY BY THOSE PRESENT
ABSENT: RUFFO

5.e Discussion and Action Regarding the Buffalo Creek Wastewater Interceptor Debt Schedule.

City Manager Aretha Adams stated that in January 2004, the City of Heath, the City of Rockwall and the City of Forney executed the Buffalo Creek Interceptor System Contract with North Texas Municipal Water District (NTMWD). Heath, Rockwall and Forney determined it was necessary to contract with NTMWD to provide treatment and disposal of their wastewater. The contract authorized the NTMWD to issue Bonds to acquire and construct the Interceptor System and limited maturity to no more than 20 years. Due to the growth in the region, this interceptor system has a parallel project, part of which is the Buffalo Creek Interceptor Tunnel. This tunnel will convey wastewater under the east fork of the Trinity River on its way to the treatment plant. NTMWD has a current commitment for financial assistance from Texas Water Development Board (TWDB) for \$39,615,000 in Clean Water State Revolving Fund (CWSRF) Funding. As of February 23rd, the estimated interest rate is 1.70% and the estimated savings to this System over the life of the bonds is approximately \$5 million. Since the Bonds that NTMWD is selling to TWDB are 30-year bonds the NTMWD is requesting the City of Heath's acknowledgment and approval of the terms of the Bonds which were provided in the meeting packet. The NTMWD estimates the savings over the life of the bonds sold to TWDB is approximately \$7,900,000. Adams stated that the City Attorney has reviewed and staff recommends approval.

Councilman Weaver asked for clarification regarding the main drivers in the savings of \$7.9 million from a 20-year bond to a 30-year bond. Adams indicated the interest rate as of the end of February was 1.7% plus working with the TWDB and getting the \$39.6 million. The only way they can get the funding is if they do the 30-year bond.

MOTION: ACKNOWLEDGE AND APPROVE THE THIRTY-YEAR TERM BOND AS OPPOSED TO THE TWENTY-YEAR TERM BOND.

MOTION MADE: MAYOR ELAM
SECONDED: NEW

Councilman Krause reiterated that we are moving from a 20-year bond to a 30-year bond and still saving money.

APPROVED: PASSED UNANIMOUSLY BY THOSE PRESENT
ABSENT: RUFFO

5.f Update on North Texas Municipal Water District Construction Easement and Tree Mitigation.

Assistant City Manager Kevin Lasher stated that this item is regarding the dedication of additional easements and a temporary construction easement for the extension of the sewer interceptor line that will be serving three cities. Council instructed staff, in terms of our negotiations, to factor in compliance with our tree mitigation ordinance regarding the new easements. The study has been completed and the number arrived was approximately \$2.6 million. North Texas Municipal Water District (NTMWD) will present their progress and review this amount in hopes of coming to a resolution.

Present with NTMWD were Mark Simon, Assistant Deputy Director of Engineering, Andrew Stevens, Wastewater Conveyance Program Manager and Attorney Lewis Isaacks. Simon provided some history of NTMWD and a presentation on the Buffalo Creek Parallel Interceptor stating that Heath joined the District in 2004 and the city's flow is 21% of the total. The original Interceptor was completed in 2006 and was fully funded by Heath, Rockwall and Forney. The expected completion date for new Parallel Interceptor Phase I is April 2023. The new Interceptor will meet 2040 flow projections due to population growth, 8.25 miles of new 42"/48" interceptor, manhole rehabilitation of existing interceptor to reduce wet weather inflow and infiltration and the \$30M project including engineering, right-of-way, construction, and inspection. The impact of the Tree Preservation Ordinance may be a potential additional cost of approximately \$2.6M. Additional costs would be paid by Heath, Forney and Rockwall and the project would be delayed until work can proceed in the City of Heath. Delaying construction could result in additional costs. NTMWD is looking for a path forward by asking the City to grant an easement or right of entry across City of Heath property and is asking for a waiver or deferral of discussion on the Tree Preservation Ordinance to avoid an additional delay.

6. Council/City Manager Comments

No Council/City Manager Comments.

7. Executive Session

At 8:35 p.m., Mayor Elam recessed the meeting to Executive Session (closed meeting). In accordance with Texas Government Code Chapter 551, Subchapter D, the City Council recessed into Executive Session (closed meeting) to discuss the following: Section 551.071: Consultation with the attorney regarding pending or contemplated litigation, or a settlement offer; or 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 the Texas Open Meetings Act, re: (i) Rockwall County Open Records Request; (ii) dispute of MUD request involving the Trilogy Development, including McLendon-Chisholm land use and comprehensive plan; and (iii) North Texas Municipal Water District easement and tree mitigation.

At 10:44 p.m., Mayor Elam closed Executive Session and reconvened the meeting into open session stating that no action was taken in the Executive Session, and no further actions would be needed.

**MOTION: APPROVE RIGHT OF ENTRY AGREEMENT FOR CONSTRUCTION
SUBJECT TO THE CITY MANAGER'S AND THE MAYOR'S FINAL APPROVAL.**

MOTION MADE: MAYOR ELAM
SECONDED: BEAMAN
APPROVED: PASSED UNANIMOUSLY BY THOSE PRESENT
ABSENT: RUFFO

Mayor Elam adjourned the meeting at 10:45 p.m.

APPROVED:



KELSON ELAM
MAYOR

ATTEST:



NORMA DUNCAN
CITY SECRETARY

