

**MINUTES  
REGULAR CALLED MEETING  
HEATH CITY COUNCIL  
TUESDAY, AUGUST 23, 2022 at 6:30 PM**

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

Mayor Kelson Elam called to order the Regular meeting at 6:31 p.m. Councilman Chester delivered the Invocation and led the Pledge of Allegiance.

**2. Public Comment**

No one signed up to speak at the open forum.

**3. Proclamations**

Mayor Elam read aloud two Proclamations of Appreciation for Service to the Heath Municipal Benefit Corp (HMBC) and Heath Economic Development Corp (HEDC) boards. Tom Johnson served eleven years and David Lang served eight years. Both were present to receive their proclamation. Mayor Elam thanked them each for their loyalty and dedication to the city.

**4. Consent Agenda**

- 4.a Action Regarding the Minutes of the August 9 Regular Meeting.
- 4.b Action Regarding an Ordinance Approving an Annual Update to the Service and Assessment Plan for the Haciendas Del Lago Public Improvement District; Providing a Severability Clause; Providing an Effective Date; and Ordaining Other Provisions Relating to the Subject.

**MOTION: APPROVE CONSENT AGENDA, ITEMS 4.a REGARDING AUGUST 9 MINUTES AND 4.b APPROVE ORDINANCE NO. 220823A REGARDING THE SERVICE AND ASSESSMENT PLAN FOR THE HACIENDAS DEL LAGO PID.**

MOTION MADE: NEW  
SECONDED: KRAUSE  
APPROVED: PASSED UNANIMOUSLY BY THOSE PRESENT  
ABSTAINED: WEAVER (*abstained 4.a, not present at the August 9<sup>th</sup> meeting*)  
ABSENT: RUFFO

- 5.a Case No. CUP-2022-02: Conduct a Public Hearing and act on an Ordinance for a Conditional Use Permit to construct a detached garage and exceed the maximum size for a single accessory structure by 300 square feet on a 1.5-acre lot in the (A) Agricultural District, being Lot 4 of Pecan Knoll Addition, City of Heath, Rockwall County, Texas and addressed as 1412 Hubbard Drive. A previous application for a Conditional Use Permit on this property was the subject of a public notice in April 2022 and withdrawn by the applicant on April 19, 2022. (Rockwall CAD ID No 33909).**

Director of Planning Aaron Adel stated that this item was for a Conditional Use Permit (CUP) to construct a 1,200 SF detached garage. The garage exceeds by 300 SF the maximum size for a single accessory structure on a lot under 2 acres so a variance will also be required. The current zoning is (A) Agricultural District. The property is located at the corner of Hubbard Drive and Victoria Place. Notice of Public Hearing was published in the Dallas Morning News and posted on the city website. Twelve notices were mailed, one notice was returned in favor and none were returned in opposition. The detached garage is a side-entry, 96.5' from the residence, four garage

doors, one story, 1,200 SF garage = 300 SF variance, cut stone, brick veneer, cedar posts, cedar trim, cedar brackets, and board and batten, setbacks conform to the (A) Agricultural District and more than 450 feet of Take Line Area behind the rear of the lot. In April 2022, the applicant submitted a request for larger garage and a pool house. P&Z recommended denial and the applicant withdrew and revised. The Commission considered this case at their meeting on August 2, 2022, and recommended approval with a unanimous vote by all commissioners that were present. Staff recommends approval of this CUP and the 300 SF variance for the size of the detached garage. This is consistent with other development in the immediate vicinity of 1412 Hubbard Drive.

**HEARING to receive comments regarding the request.**

Mayor Elam opened the public hearing at 6:46 p.m. and no one present to speak regarding this request, Mayor Elam closed the public hearing at 6:47 p.m.

**Discussion and action regarding the request.**

Mayor Pro Tem New expressed his support stating that the request is keeping consistent with the neighborhood. Aaron confirmed that it is unfinished attic space with no plumbing facilities.

**MOTION: APPROVE ORDINANCE NO. 220824B REGARDING A CONDITIONAL USE PERMIT TO CONSTRUCT A DETACHED GARAGE AT 1412 HUBBARD DRIVE.**

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

**5.b Case No. PP-2022-03: Consider and take action on the Preliminary Plat of Trahan Family Farm Addition consisting of 10.255 acres of land located in the City of Heath, Rockwall County, Texas, situated in the Edward Teal Survey Abstract 207, Tract 16, containing one (1) residential lot. (Rockwall CAD ID No. 12655).**

Director of Planning Aaron Adel stated that this item is for the approval of a Preliminary Plat of Trahan Family Farm Addition containing one single family residential lot that conforms to the area requirements of the (SF-43) Single-Family Residential zoning of the property. The Subdivision regulations call for a Preliminary Plat if the property is more than ten acres or five or more lots. The Development Review Committee (DRC) reviewed this plat and comments are addressed in tonight's submittal. Adel reviewed the Development Process and explained where the Preliminary Plat falls in that process stating that the Preliminary Plat approval is a ministerial function of the council when the plat conforms with the subdivision regulations and the zoning ordinance. We are within the 30-day shot clock period on this request, the plat application was received on July 5 and acted on by the P & Z on August 2, totaling 28 days. The subdivision will gain access from Hubbard Drive via an existing concrete driveway. The plat includes a 10' ROW dedication along Hubbard Drive to provide for future improvement of the roadway. Water is available from an existing 8" water line on the opposite side of Hubbard Drive. The property will be served by an on-site sewer facility. A Treescape Plan will be required with the building permit application and inspected prior to issuing a Certificate of Occupancy. Park Fees in the amount of \$3,540.13 will be due prior to filing the final plat (Fee-in-Lieu of Land Dedication \$2,246.94 per Dwelling Unit and \$1,293.19 per Dwelling Unit for Park Development Fees.

Councilman Weaver expressed concern regarding the flood plain near this area stating that a house in the Woodbridge Estates development in situated right in the middle of the 100-year flood plain and asked staff to confirm that this property is clear of the flood plain. Engineer Richard Dormier confirmed that a flood study was conducted and there is no danger with the subject property. Property owners Anthony and Alexandria Trahan were present for any questions. The Planning and Zoning Commission unanimously recommended approval. Staff recommends approval. Following approval of the preliminary plat, the applicant can apply for final plat approval.

**MOTION: APPROVE PRELIMINARY PLAT OF TRAHAN FAMILY FARM ADDITION SITUATED IN THE EDWARD TEAL SURVEY ABSTRACT 207, TRACT 16, CONTAINING ONE RESIDENTIAL LOT.**

MOTION MADE: WEAVER  
SECONDED: KRAUSE

Mayor Elam supported the request stating that this large estate lot is what we are looking for with our Comprehensive Plan and thanked the applicant.

APPROVED: PASSED UNANIMOUSLY BY THOSE PRESENT  
ABSENT: RUFFO

**5.c Discussion and Action Regarding the Proposed Tax Rate.**

Director of Finance Laurie Mays stated that we are required to hold a record vote approving the proposed tax rate. This is in addition to the vote to adopt the tax rate which will be held at September 27, 2022 meeting. The proposed tax rate of 29.1175 cents per \$100 of valuation was presented and discussed during the August 17th budget workshop. This rate represents a 4.8132 cent or 14.19% reduction when compared to last year's tax rate. Councilmember Rolater stated that the appraised property value for Rockwall County went up 29%. For homeowners who are homesteaded by state law can only be taxed on a 10% increase. To keep their tax this year the same as last year, she proposes that we reduce the tax rate by 11.6% (10% being M&O). Our goal is to keep homesteaded homeowners taxes the same every year. Weaver stated that this council had developed and implemented the method of equivalent tax rate for several years now with the fundamental purpose that as taxable property values increase over the years, we cut the tax rate by the same percentage so that it is a wash. Given that the taxable property value of a homesteaded resident can only increase by the 10% homestead cap, then reducing our tax rate by 10% instead of the proposed 14% would technically achieve the fundamental purpose of the equivalent tax rate. However, we have been very consistent and successful over the years using the equivalent tax rate method and I'm comfortable continuing to do so. The Council consensus was to keep the tax equivalency rate. Notification of the hearing on the proposed tax rate is required and will be posted in the paper, on the City's website and on the TNT website. The proposed tax rate will raise enough revenue to support the General Fund Budget and the Debt Service Budget. Weaver also indicated his frustration with a misleading state tax law and stated for the record that even though we are reducing the tax rate from 33 cents to 29 cents or 14.2%, state law requires that we state in our motion that it is an increased tax rate. This is misleading since this year's rate is lower than last year's tax rate by 4.8132 cents or 14.1854%.

**MOTION: I MOVE THAT THE COUNCIL PROPOSE THE 2022 INCREASED TAX RATE OF 29.1175 CENTS WITH A MAINTENANCE AND OPERATION RATE OF 19.2710 CENTS AND AN INTEREST & SINKING RATE OF 9.8465 CENTS PER \$100 OF ASSESSED VALUATION. THIS RATE IS LOWER THAN LAST YEAR'S TAX RATE BY 4.8132 CENTS OR 14.1854%.**

MOTION MADE: NEW  
SECONDED: MAYOR ELAM  
APPROVED: PASSED UNANIMOUSLY BY THOSE PRESENT (6-0)  
ABSENT: RUFFO

ROLL CALL VOTE:

For: CHESTER, WEAVER, ELAM, NEW, KRAUSE, ROLATER  
Against: None

**5.d Discussion And Action Regarding Resolution No. 220823A of The City Council of The City of Heath, Texas Finding that a Public Necessity Exists to Acquire Property in Fee Simple for Municipal Purposes to Install Public Utilities, Including But Not Limited to, a Pump Station, Ground Storage Tanks, Water Transmission Lines, Public Roadways, Drainage, Such Appurtenant Facilities as May Be Necessary, and Other Public Uses, Which Property is Generally Described as Being Located in The W.W. Ford Survey, Abstract No. 80, 4.644 Acres, Generally Located 4200 Feet Southeast of the Inter-Section Of Fm-549 and Jeff Boyd Road and Being More Particularly Described Herein; Providing Notice of an Official**

**Determination to Acquire Real Property for Municipal Purposes to Install Public Utilities, Including But Not Limited To, a Pump Station, Ground Storage Tanks, Water Transmission Lines, Public Roadways, Drainage, Such Appurtenant Facilities as May Be Necessary, and Other Public Uses; Authorizing the City Manager to Obtain the Necessary Appraisal Report(S) and the Making of Bona Fide Offers of Just Compensation for the Property; Ratifying Prior Documents Made for Acquisition of the Property; Authorizing Legal Counsel to Institute Eminent Domain Proceedings on Behalf of The City for the Acquisition of The Property if Negotiations are Unsuccessful; Appropriating Funds From a Lawful Source; and Providing for an Effective Date.**

City Attorney Marie Johnson stated that this Resolution is required to start condemnation proceedings for property needed for municipal purposes. The purpose may include Public Utilities that include a pump station, ground storage tanks, water transmission lines, public roadways, drainage, such appurtenant facilities as may be necessary, and other public uses. The proceedings include an appraisal, an initial offer leading to a final offer, and only if the negotiations fail, a condemnation suit proceeds. With this Resolution we can move forward. City Engineer Richard Dormier stated that we started negotiations with the original land owner but the property was sold and the new owners were not informed of the negotiations. Staff has an appraisal and will make an offer to the new property owner. Mayor Pro Tem New expressed his opposition to condemnation and asked staff to contact the property owner and make an offer and stated that he holds property rights very high. Johnson confirmed that the current property owners are aware of the situation with their property and the City. City Manager Adams stated that staff will make an offer to the property owners and bring back the item to the Council.

**MOTION: APPROVE RESOLUTION NO. 220823A REGARDING THE ACQUISITION OF PROPERTY TO INSTALL PUBLIC UTILITES.**

MOTION MADE:	MAYOR ELAM
SECONDED:	ROLATER
APPROVED:	MOTION FAILED DUE TO A TIE VOTE OF THREE TO THREE.
For:	MAYOR ELAM, ROLATER, WEAVER
Against:	CHESTER, KRAUSE, NEW
ABSENT:	RUFFO

## **6. Mayor, Council and City Manager Reports**

City Engineer Richard Dormier provided an update regarding the Rabbit Ridge project stating that the new water line is approximately halfway done and should be completed by three weeks and the next step will be the paving. Dormier also provided information regarding the bridge on Hubbard Drive stating that the bridge has been shut down and all traffic into and out of Antigua Bay has been rerouted through the Heath Golf & Yacht Club subdivision. The culvert under the bridge has broken due to the heavy rains. The situation is under review with the engineers and the project will be ready to bid at the second council meeting in October. The anticipated time for bridge closure is approximately 5 to 6 months. Mayor Elam instructed staff to keep the Council updated on these projects. City Manager Adams stated that the funding has been confirmed by Rob Whittle which will allow us to move forward.

## **7. Executive Session**

At 7:48 p.m., Mayor Elam recessed the meeting to Executive Session (closed meeting) stating that 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 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, regarding: (i) dispute of MUD request involving the Trilogly development in McLendon-Chisholm city limits and extraterritorial jurisdiction, including McLendon-Chisholm land use and comprehensive plan; (ii) North Texas Municipal Water District easement and tree mitigation; Section 551.071: Consultation with Attorney regarding pending or contemplated litigation or settlement offer re: (i) City of Heath vs McLendon-Chisholm regarding Trilogly development in McLendon-Chisholm city limits and extraterritorial jurisdiction, including McLendon-Chisholm

land use and comprehensive plan; (ii) North Texas Municipal Water District vs. City of Heath, Cause No.1-22-0704, regarding tree preservation ordinance; and Section 551.074: Deliberation regarding the appointment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee, regarding: (i) city manager evaluation.

At 8:35 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 that no action was taken in executive session.

Mayor Elam adjourned the meeting at 8:35 p.m.

APPROVED:



KELSON ELAM  
MAYOR

ATTEST:



NORMA DUNCAN  
CITY SECRETARY

