



City of Pflugerville

Minutes - Final - Final

City Council

Tuesday, March 26, 2019

7:00 PM

100 East Main Street, Suite 500

Regular Meeting

The City Council is scheduled to hold a Worksession starting at 6:00 p.m. Please see the Worksession Agenda for a list of items for discussion at the Worksession.

1. Call to order

Mayor Victor Gonzales called the regular meeting to order at 7:00 p.m. Mayor Pro Tem Omar Peña and Councilmembers Doug Weiss, Rudy Metayer, Mike Heath and Jim McDonald were in attendance. Councilmember Jeff Marsh was absent. City employees in attendance: Sereniah Breland, City Manager; Trey Fletcher, Assistant City Manager; Brian McDougal, Interim Assistant City Manager; Karen Thompson, City Secretary; Chad Wood, Interim Public Works Director; Jennifer Coffey, Library Director; Daniel Berra, Assistant Library Director; Emily Barron, Planning Director; Maggie Holman, Events Coordinator; Terri Toledo, Communications Director; Amy Good, Finance Director; Patricia Davis, Interim City Engineer; Wiley Webb, Utility Superintendent.

2. Opening

A. Pledge of Allegiance to the Flag of the United States of America

Mayor Gonzales led those in attendance in reciting the Pledge of Allegiance to the Flag of the United States of America.

B. Pledge of Allegiance to the Texas State Flag

Mayor Gonzales lead those in attendance in reciting the Pledge of Allegiance to the Texas State Flag.

C. Moment of Silence

Mayor Gonzales observed a moment of silence.

3. Items of Community Interest

Mr. Heath provided information on warncentraltexas.org and Nixle.

4. Presentations

- 4A. [2019-7404](#) Presentation of Texas Historical Commission Award of Merit to Daniel

Berra.

Mayor Gonzales provided comments and presented the award to Mr. Berra.

- 4B.** [2019-7485](#) Recognition presentation announcing the Pflugerville Community Development Corporation (PCDC) award of certificate of achievement for Economic Excellence by the Texas Economic Development Council (TEDC).

Mayor Gonzales provided information and presented the certificate to the Pflugerville Community Development Corporation representatives in attendance: Councilmember Doug Weiss, Place 3 PCDC Board of Directors; Amy Madison, Executive Director; Christian Kurtz, Director of Business Development; Matt Lara, Marketing Communications Manager and Crystal Connally, Executive Assistant.

- 4C.** [2019-7494](#) Mayor's Proclamation declaring Tuesday, March 26, 2019 as William Mullican Olympian Day in the City of Pflugerville.

Mayor Gonzales read and presented the proclamation to William Mullican, silver medalist in the Level 2 Unified Sports Alternate Shot Team Play Golf competition at the 2019 Special Olympics World Games.

5. Public Hearing and Ordinance First Reading

- 5A.** [ORD-0453](#) Conduct the third public hearing and consider approving on first reading of an annexation ordinance with the caption: An ordinance of the City of Pflugerville, Texas, annexing, for full purposes, a 149.96 acre tract of land, out of the Joseph Wehl Survey No. 8, Abstract No. 802, in Travis County, Texas of the Real Property Records of Travis County, and a tract of land encompassing Weiss Lane right-of-way generally located between East Pecan Street and Kelly Lane; extending the boundaries of the City to include the land; and to be zoned Agriculture/ Development Reserve (A); to be known as the Weiss High School 2019 Annexation; binding the land to all of the acts, ordinances, resolutions and regulations of the City; approving a service plan; and providing an effective date. (ANX1901-01)

Mayor Gonzales opened the public hearing and read the item to include the caption of the ordinance under consideration. Ms. Barron provided information. Mr. Weiss made a motion to close the public hearing. Mr. Heath seconded the motion. All voted in favor. The motion carried.

Mr. Weiss made a motion to approve item 5A. Mr. Heath seconded the motion. All voted in favor. The motion carried.

6. Public Comment

There were no requests to speak under the public comment item.

Reading of the Consent Agenda

Items 8A, 9A, 10B, 10C, 10D, and 10E were removed from the consent agenda. Ms. Thompson read the items to include the captions of the ordinances under consideration.

7. Approval of Minutes

- 7A. [2019-7476](#) Approval of the minutes of the March 12, 2019 Worksession and Regular Meeting.
The minutes were approved on the consent agenda.

8. Ordinances First Reading

- 8B. [ORD-0455](#) Approving an ordinance on first reading with the caption reading: An ordinance of the City of Pflugerville, Texas, adopting the first amendment to the Fiscal Year 2019 Budget for the City of Pflugerville; and providing an effective date. (replacement bus and additional funding - mobile stage).
The ordinance was approved on first reading on the consent agenda.

- 8C. [ORD-0457](#) Approving an ordinance on first reading with the caption reading: An ordinance of the City Council of the City of Pflugerville, Texas Code of Ordinances, by adopting a trademark usage fee policy; providing a cumulative clause; repealing all ordinances to the extent they are in conflict with the amended sections; providing for severability; and providing for an effective date.
The ordinance was approved on first reading on the consent agenda.

10. Other Actions

- 10A. [2019-7459](#) Approving an interlocal agreement to participate in the National Cooperative Purchasing Alliance.
The item was approved on the consent agenda.
- 10F. [2019-7483](#) Approving a contract between the Pflugerville Community Development Corporation (PCDC) and Avalanche Consulting for development of a Comprehensive Economic Development Strategy (CEDS 2.0) in the amount of \$99,500.
The item was approved on the consent agenda.

Action on the Consent Agenda

Mr. Heath made a motion to approve the consent agenda. Mayor Gonzales seconded the motion. All voted in favor. The motion carried.

Ordinances First Reading - Removed from the Consent Agenda

- 8A. ORD-0456** Approving an ordinance on first reading with the caption reading: An ordinance of the City of Pflugerville, Texas, amending the City of Pflugerville Code of Ordinances Title IX (General Regulations), Chapter 95 (Parks and Recreation), Sections 95.20 through 95.28 (Parks and Recreation Commission Ordinance) by amending provisions affecting the Parks and Recreation Commission's membership, organization, dismissal, meetings and duties; providing that this ordinance shall be cumulative and repealing all ordinances in conflict; providing for severability; and declaring an effective date.

Mayor Gonzales read the item to include the caption of the ordinance under consideration. Mr. McDonald stated that he had pulled the item for a couple of edits and provided suggestions for corrected numbering. Mr. Weiss stated that they had struck mayor as a person to call a Parks Commission meeting and he wanted to make sure that is okay. Discussion followed. Mr. Metayer stated that in Section 95.22C, that C2 was struck regarding submitting monthly receipts and disbursements. Ms. Breland explained that budgetary items are under staff level and recommendations come from the Parks Commission. Mr. Heath stated that it seems like they are reconstituting a board that was removed from the Charter. Mr. Fletcher provided information and explained that it was authorized to be removed from the Charter but has been preserved in the Code of Ordinances. Mayor Pro Tem Peña asked if it is fair to say that this is just clean up. Mr. Fletcher indicated yes. There was continued discussion. Mr. Metayer indicated that he would like to maintain the dismissal language in Section 95.25. There was continued discussion regarding the mayor being able to call a meeting. Mr. Metayer stated that he would be more comfortable leaving the mayor in Section 95.27. There was continued discussion. Mr. Fletcher stated he would bring a revised ordinance back for the Council's review.

Mr. Heath made a motion to postpone. Mr. Weiss seconded the motion. All voted in favor. The motion carried.

9. Resolutions - Removed from the Consent Agenda

- 9A. [RES-0611](#)** Approving a resolution accepting the fiscal year 2018 audit.

Mr. Heath asked for information regarding expenses to program revenues. Ms. Good provided information stating that the audit received an unmodified, clean opinion and referred readers to management's discussion and analysis. She further explained that the chart on page 22 shows only revenues attributed to programs and it does not include tax revenues, nor is that chart reflective of the City's budget status. She stated that the City is in great shape financially.

Mr. Heath made a motion to approve the fiscal year 2018 audit. Mr. Metayer seconded the motion. All voted in favor. The motion carried.

10. Other Actions - Removed from the Consent Agenda

10B. [2019-7478](#)

Authorizing the City Manager to approve the purchase agreement with Xylem Water Solutions USA, Inc. in the amount of \$699,500.00 for the ultraviolet equipment for Phase 1 of the Wastewater Treatment Plant (WWTP) expansion project.

Mayor Gonzales read and opened items 10B, 10C, 10D and 10E for consideration. Mr. McDonald stated that he asked to pull the items because he has a grievance with Article 9, Section 9.01(L) of the contract, "Seller represents and acknowledges that the Seller does not boycott Israel and will not boycott Israel during the term of this Agreement." He explained that he objects to the language and asks that it be removed from the contracts. Mr. Zech stated that it is required by the State of Texas and is currently being challenged by the ACLU. Council discussion followed. Mr. Weiss stated that he would be amenable to striking the language. Mr. McDonald asked if that was a second. Mr. Weiss asked if his was a motion to strike the language. Mr. McDonald indicated yes. Mr. Weiss indicated to second the motion. Mr. Heath stated that he thinks that these particular improvements have more impact to our citizens and withholding them as far as expansion of our wastewater for this particular purpose which is already under scrutiny within the courts is reckless and he does not think this is something that we should consider at this time. Mr. Heath, Mayor Gonzales, Mr. Metayer and Mayor Pro Tem Peña spoke in opposition to the amendment due to importance of the water and wastewater projects to the health and welfare of the public. Mr. McDonald stated that he thinks that eventually the courts will find this language unconstitutional. Mr. Metayer explained that he thinks that the language was done with good intent but that he understands the concerns. Mr. Zech stated that it is has been in effect since 2017 and it does not provide specifically that the contract would be voided. There was continued discussion. The vote on the motion was: Mr. Weiss-yes, Mayor Pro Tem Peña-no, Mr. Metayer-no, Mr. Heath-no, Mr. McDonald-yes, Mayor Gonzales-no. The motion failed.

Mr. Heath made a motion to approve item 10B as presented. Mayor Pro Tem Peña seconded the motion. Mr. Metayer asked regarding the wording "time is of the essence" on these items. Mr. Zech stated that it means with respect to the contract, there is a necessity for things to be delivered timely. All voted in favor. The motion carried.

10C. [2019-7479](#)

Authorizing the City Manager to approve the purchase agreement with Alfa Laval, Inc. in the amount of \$1,245,000.00 for the Automatic Backwash Disk Filter Equipment for Phase 1 of the Wastewater Treatment Plant (WWTP) expansion project.

Mayor Gonzales read and opened items 10B, 10C, 10D and 10E for consideration. Mr. McDonald stated that he asked to pull the items because he has a grievance with Article 9, Section 9.01(L) of the contract, "Seller represents and acknowledges that the Seller does not boycott Israel and will not boycott Israel during the term of this Agreement." He explained that he objects to the language and asks that it be removed from the contracts. Mr. Zech stated that it is required by the State of Texas and is currently being challenged by the ACLU. Council discussion followed. Mr. Weiss stated that he would be amenable to striking the language. Mr. McDonald asked if that was a second. Mr. Weiss asked if his was a motion to strike the language. Mr. McDonald indicated yes. Mr. Weiss indicated to second the motion. Mr. Heath

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Mr. Heath made a motion to approve item 10C. Mr. McDonald seconded the motion. All voted in favor. The motion carried.

10D. [2019-7480](#)

Authorizing the City Manager to approve purchase agreements with WesTech Engineering, Inc. for the Circular Clarifier Sludge Collector Equipment in the amount of \$241,459.00 for Phase 1 and \$439,135.00 for Phase 2 of the Wastewater Treatment Plant (WWTP) expansion project.

Mayor Gonzales read and opened items 10B, 10C, 10D and 10E for consideration. Mr. McDonald stated that he asked to pull the items because he has a grievance with Article 9, Section 9.01(L) of the contract, "Seller represents and acknowledges that the Seller does not boycott Israel and will not boycott Israel during the term of this Agreement." He explained that he objects to the language and asks that it be removed from the contracts. Mr. Zech stated that it is required by the State of Texas and is currently being challenged by the ACLU. Council discussion followed. Mr. Weiss stated that he would be amenable to striking the language. Mr. McDonald asked if that was a second. Mr. Weiss asked if his was a motion to strike the language. Mr. McDonald indicated yes. Mr. Weiss indicated to second the motion. Mr. Heath stated that he thinks that these particular improvements have more impact to our citizens and withholding them as far as expansion of our wastewater for this particular purpose which is already under scrutiny within the courts is reckless and he does not think this is something that we should consider at this time. Mr. Heath, Mayor Gonzales, Mr. Metayer and Mayor Pro Tem Peña spoke in opposition to the amendment due to importance of the water and wastewater projects to the health and welfare of the public. Mr. McDonald stated that he thinks that eventually the courts will find this language unconstitutional. Mr. Metayer explained that he thinks that the language was done with good intent but that he understands the concerns. Mr. Zech stated that it is has been in effect since 2017 and it does not provide specifically that the contract would be voided. There was continued discussion. The vote on the motion was: Mr. Weiss-yes, Mayor Pro Tem Peña-no, Mr. Metayer-no, Mr. Heath-no, Mr. McDonald-yes, Mayor Gonzales-no. The motion failed.

Mr. Heath made a motion to approve item 10D. Mr. McDonald seconded the motion. Mr. Metayer stated that he saw that it was in the State of Utah, but in the beginning of their recitals they stated that they had been doing business in California since 1973.

Mr. Zech stated that the information was submitted by the business and he does not think that it has a substantive effect on the bid.

All voted in favor. The motion carried.

10E. [2019-7481](#)

Authorizing the City Manager to approve purchase agreements with Ovivo USA, LLC. for the Biological Nutrient Removal Process Equipment in the amount of \$1,488,590.00 for Phase 1 and \$1,505,691.00 for Phase 2 of the Wastewater Treatment Plant (WWTP) expansion project.

Mayor Gonzales read and opened items 10B, 10C, 10D and 10E for consideration. Mr. McDonald stated that he asked to pull the items because he has a grievance with Article 9, Section 9.01(L) of the contract, "Seller represents and acknowledges that the Seller does not boycott Israel and will not boycott Israel during the term of this Agreement." He explained that he objects to the language and asks that it be removed from the contracts. Mr. Zech stated that it is required by the State of Texas and is currently being challenged by the ACLU. Council discussion followed. Mr. Weiss stated that he would be amenable to striking the language. Mr. McDonald asked if that was a second. Mr. Weiss asked if his was a motion to strike the language. Mr. McDonald indicated yes. Mr. Weiss indicated to second the motion. Mr. Heath stated that he thinks that these particular improvements have more impact to our citizens and withholding them as far as expansion of our wastewater for this particular purpose which is already under scrutiny within the courts is reckless and he does not think this is something that we should consider at this time. Mr. Heath, Mayor Gonzales, Mr. Metayer and Mayor Pro Tem Peña spoke in opposition to the amendment due to importance of the water and wastewater projects to the health and welfare of the public. Mr. McDonald stated that he thinks that eventually the courts will find this language unconstitutional. Mr. Metayer explained that he thinks that the language was done with good intent but that he understands the concerns. Mr. Zech stated that it is has been in effect since 2017 and it does not provide specifically that the contract would be voided. There was continued discussion. The vote on the motion was: Mr. Weiss-yes, Mayor Pro Tem Peña-no, Mr. Metayer-no, Mr. Heath-no, Mr. McDonald-yes, Mayor Gonzales-no. The motion failed.

Mr. Heath made a motion to approve item 10E. Mr. McDonald seconded the motion. All voted in favor. The motion carried.

11. Discuss and consider action

11A. [2019-7484](#)

Discuss and consider action to approve a Pflugerville Community Development Corporation (PCDC) Economic Development Performance Agreement (EDPA) with Rosendin Electric, Inc. (Project Electric Rose), a service company, not to exceed \$60,000, for the purpose of primary jobs.

Amy Madison, PCDC Executive Director, provided information. Ms. Madison and Ron Churchman, Rosendin Regional Controller, addressed questions of the Council. Mr. Heath made a motion to approve 11A. Mr. Weiss seconded the motion. All voted in favor. The motion carried.

11B. [2019-7433](#)

1.) Executive Session Item: Consultation with legal counsel pursuant to

Section 551.071 of the Texas Government Code for discussion regarding contractual issues relating to the Weiss Lane Roadway Project. 2.) Open Session Item: Discuss and consider action regarding the Weiss Lane Roadway Project.

There was no discussion or action on the item at the regular meeting. Discussion on the item took place in executive session during the earlier worksession.

12. Discuss only

12A. [2019-7482](#)

1.) Executive Session Item: Consultation with legal counsel pursuant to Section 551.071 of the Texas Government Code for discussion regarding City of Pflugerville vs. 735 Henna, LLC.

There was no discussion on the item at the regular meeting. Discussion on the item took place in executive session during the earlier worksession.

13. Adjourn

Mr. Heath made a motion to adjourn. Mr. Metayer seconded the motion. All voted in favor. The motion carried. The meeting was adjourned at 8:06 p.m.

Respectfully submitted,

**Karen Thompson
City Secretary**

Approved as amended on April 9, 2019.