



City of Pflugerville

Minutes - Final

City Council

Tuesday, April 11, 2017

7:00 PM

100 East Main Street, Suite 500

Regular Meeting

1. Call to order

Mayor Pro Tem Omar Peña called the regular meeting to order at 7:04 p.m. Councilmembers Doug Weiss, Jeff Marsh, Starlet Sattler and Mike Heath were in attendance. Mayor Victor Gonzales was absent. City employees attending: Brandon Wade, City Manager; George Hyde, City Attorney; Lauri Gillam, Assistant City Manager; Trey Fletcher, Assistant City Manager; Tom Word, Assistant City Manager; Amy Good, Finance Director; Jennifer Coffey, Library Director; Emily Barron, Planning Director; Blake Overmyer, Building Official; James Hemenes, Parks Director; Jessica Robledo, Police Chief; Jim McLean, Assistant Police Chief; Cindy Pierce, Development Engineering Director.

2. Opening

A. Pledge of Allegiance to the Flag of the United States of America: I pledge allegiance to the flag of the United States of America, and to the republic for which it stands: one nation under God, indivisible, with liberty and justice for all.

Mayor Pro Tem Peña 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: Honor the Texas flag; I pledge allegiance to thee, Texas, one state under God, one and indivisible.

Mayor Pro Tem Peña led those in attendance in reciting the Pledge of Allegiance to the Texas State Flag.

3. Presentations

3A. [2017-5740](#)

Proclamation declaring the week of April 9 to April 15, 2017 as National Public Safety Telecommunicators Week.

Mayor Pro Tem Peña provided comments and declared April 9 to April 15, 2017 as National Public Safety Telecommunicators Week. He presented the proclamation to the Police Dispatch employees and leadership in attendance.

3B. [2017-5712](#)

Black Pflugerville presentation and discussion regarding Colored Addition Cemetery and family reunion planning.

Sheldon Layme, President; and Marcus Jones, Boardmember; provided an overview of Black Pflugerville. They spoke on the history of the Colored Addition cemetery and explained that it is not maintained properly. They

stated that they have been assisted by several organizations. They discussed road and parking issues. They asked that the city provide funds in its budget for management of the property or for the city to take over the cemetery. They stated that they are working to get information on how to obtain a historical marker for the cemetery. Jim McDonald discussed the clean up schedule for the cemetery and noted that they are working on a regular schedule. Mr. Wade stated a need to do an infrastructure survey to see what is there and what should be done.

Mimi Styles, Vice President of Black Pflugerville, stated that diversity is increasing but there are a lack of cultural events reflecting that. She stated that it is the goal of Black Pflugerville to express culture. She provided information and discussed the Pfamily Reunion proposal. She stated that they would appreciate city collaboration. Mr. Wade discussed the list of city events that has been approved by council and consideration that would need to be made to add this event, and noted that there are no funds currently budgeted. Staff was to work with Ms. Styles on a cost estimate for possible city participation in the event.

4. Public Hearings

- 4A. [RES-0405](#) Conduct the first public hearing regarding the Community Development Block Grant (CDBG) program proposed amendment to the 2016 Action Plan.

Mayor Pro Tem Peña opened the public hearing item. Ms. Barron provided information. She stated that this item is to update the project lists, as the senior park was not approved, and therefore, they have a new proposed list and are seeking input from the public. She discussed the list of projects. The next public hearing and consideration was to take place at the April 25, 2017 regular council meeting. There were no requests to speak at the public hearing. Mr. Weiss made a motion to close the public hearing. Mr. Heath seconded the motion. All voted in favor. The motion carried.

5. Public Comment

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

Reading of the Consent Agenda

Items 7A and 7B were removed from the consent agenda. Ms. Gillam read the items under consideration.

6. Approval of Minutes

- 6A. [2017-5726](#) Approval of the minutes of the March 21, 2017 Special Meeting; March 23, 2017 Quorum; and March 28, 2017 Worksession and Regular Meeting.

The minutes were approved on the consent agenda.

8. Other Actions

- 8A.** [2017-5608](#) Authorizing the City Manager to execute an easement purchase agreement and associated conveyance documents between Melanie Elaine Samuelson, Russell Henry Kuempel, Marilyn L. Smith, Julia Hebbe, Nancy Temple Robertson, Robert Kuempel aka Robert H. Kuempel, Russell H. Kuempel, the Estate of Edmund Kuempel deceased, David K. Johnson, Mary K. Johnson Hackerman, Diane R. Johnson and the City of Pflugerville for wastewater and temporary construction easements for the Carmel Phase 1 Wastewater Interceptor Project.
- The item was approved on the consent agenda.**
- 8B.** [2017-5689](#) Authorizing the City Manager to execute a conditional purchase agreement and associated conveyance documents between Sivaramakrishnan Venkatraman and Durga Sethuraman and the City of Pflugerville as necessary to acquire real property interests for the Weiss Lane Roadway Project.
- The item was approved on the consent agenda.**
- 8C.** [2017-5692](#) Authorizing the City Manager to execute a Utility Joint Access Agreement between Manville Water Supply Corporation and the City of Pflugerville to relocate and consolidate Manville Water Supply Corporation facilities, along or across, and within or over such limits of the roadway right of way for the Weiss Lane Roadway Project.
- The item was approved on the consent agenda.**
- 8D.** [2017-5720](#) Approving the selection of HVJ Associates, Inc. for professional engineering services associated with the Grand Avenue Parkway Pavement Maintenance Project and authorizing the City Manager to enter into negotiations regarding a scope of work and fee proposal.
- The item was approved on the consent agenda.**
- 8E.** [2017-5731](#) Authorizing the City Manager to execute a Water Pipeline Easement Agreement with O'Reilly Auto Enterprises, LLC and the City of Pflugerville for a water pipeline associated with the Replat of H.E.B./ Pflugerville Subdivision No. 2 generally located at the northwest corner of Pecan Street East and Old Austin-Hutto Road.
- The item was approved on the consent agenda.**
- 8F.** [2017-5738](#) Authorizing the City Manager to execute a Partial Assignment of Electrical and Right-Of-Way Easement with ONCOR Electric Delivery Company, LLC and the City of Pflugerville for electric power and communication lines on the south side of East Pflugerville Parkway near 2615 East Pflugerville Parkway.
- The item was approved on the consent agenda.**

- 8G.** [2017-5736](#) Authorizing the City Manager to execute a Partial Assignment of Electrical and Right-Of-Way Easement with ONCOR Electric Delievery Company, LLC and the City of Pflugerville for electric power and communication lines on the south side of East Pflugerville Parkway near 3508 East Pflugerville Parkway.

The item was approved on the consent agenda.

- 8H.** [2017-5739](#) Authorizing the City Manager to execute a conditional purchase agreement, easement purchase agreement, and associated conveyance documents between Tony Friesen and Dena Friesen and the City of Pflugerville as necessary to acquire real property interests for the Weiss Lane Roadway Project.

The item was approved on the consent agenda.

Action on the Consent Agenda

Mr. Marsh made a motion to approve the consent agenda. Ms. Sattler seconded the motion. All voted in favor. The motion carried.

7. Resolutions - Removed from the Consent Agenda

- 7A.** [RES-0408](#) Approving a resolution with the caption reading: RESOLUTION BY THE CITY OF PFLUGERVILLE ("CITY") IN CONNECTION WITH THE APPLICATION TO INCREASE RATES SUBMITTED BY ONCOR ELECTRIC DELIVERY COMPANY LLC ON OR ABOUT MARCH 17, 2017; REQUIRING THE REIMBURSEMENT OF MUNICIPAL RATE CASE EXPENSES; AUTHORIZING PARTICIPATION IN THE COALITION OF SIMILARLY SITUATED CITIES; AUTHORIZING INTERVENTION AND PARTICIPATION IN RELATED RATE PROCEEDINGS; AUTHORIZING THE RETENTION OF SPECIAL COUNSEL; FINDING THAT THE MEETING COMPLIES WITH THE OPEN MEETINGS ACT; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE.

Mayor Pro Tem Peña read the item to include the caption of the resolution for consideration. Ms. Gillam provided information. Mr. Weiss stated that he pulled the item from the consent agenda to provide information to the public that this process lowered the rate increase by 2/3 the last time. He made a motion to approve the resolution as presented. Mr. Heath seconded the motion. All voted in favor. The motion carried.

- 7B.** [RES-0406](#) Approving a resolution with the caption reading: RESOLUTION OF THE CITY OF PFLUGERVILLE, TEXAS, CONSENTING TO THE ANNEXATION OF APPROXIMATELY 4.99 ACRES OF LAND INTO TRAVIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 17; IMPOSING CERTAIN CONDITIONS; AND PROVIDING THAT THIS

RESOLUTION SHALL BECOME EFFECTIVE FROM AND AFTER ITS PASSAGE AND ADOPTION.

Mayor Pro Tem Peña read the item to include the caption of the resolution for consideration. Ms. Barron provided information. She stated that the item was requested by the Sorento property owners to incorporate the property into the MUD. Mr. Fletcher and Mr. Wade provided information, explaining that the city and Sorento jointly acquired the land-locked lot and that Sorento is putting approximately 12 single family lots on their portion and the city received a portion of unimproved parkland adjacent to the other city land. Mr. Heath asked about the lighting. Mr. Fletcher stated that staff has met with the developer and there is a consensus to mitigate and to do a better job to address the standard. Mr. Weiss made a motion to approve. Ms. Sattler seconded the motion. Mr. Marsh asked to get the lights fixed as soon as possible. All voted in favor. The motion carried.

9. Resolutions

9A. [RES-0398](#)

Discuss and consider action to approve a resolution with the caption reading: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PFLUGERVILLE, TEXAS, DIRECTING THE CITY MANAGER OR THE CITY MANAGER'S DESIGNEE TO EXECUTE ALL DOCUMENTS TO INSTITUTE EMINENT DOMAIN PROCEEDINGS FOR THE ACQUISITION OF 0.8442 ACRES OF LAND IN FEE-SIMPLE FOR RIGHT OF WAY PURPOSES AND 0.1688 ACRES OF LAND FOR A PERMANENT PUBLIC UTILITY EASEMENT, CONSISTING OF FOUR PARCELS, OUT OF THE GEORGE M. MARTIN SURVEY NO. 9, ABSTRACT NO. 529, TRAVIS COUNTY, TEXAS AND BEING OUT OF THOSE TRACTS OF LAND DESCRIBED IN DOCUMENTS NOS. 2008040026 AND 2008040028 IN THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS; PROPERTY OWNED AND CLAIMED BY JACK AND JACKIE PAYNE; AND DIRECTING THE CITY ATTORNEY TO INITIATE CONDEMNATION PROCEEDINGS.

Mayor Pro Tem Peña read the item to include the caption of the resolution for consideration. Mr. Word stated that there are 21 parcels that the city needs to acquire for the Weiss Lane roadway project, with one awaiting its appraisal. He stated that they have successfully negotiated 16 of the 20 that have received offers. He stated that two parcels are held by the same family that they have not been able to complete negotiations. He stated that they have made progress in the negotiations but are still rather far apart and in the interest of time and keeping progress going, staff is asking Council to initiate eminent domain, but that they would continue to negotiate over the next week or two. Mr. Word stated that eminent domain can take 90 to 120 days, and the contractor needs the tract by August to maintain the construction schedule. Mr. Word discussed the negotiation process and the stalemate over the median break and stated that the median break would be unsafe. There was further discussion with input by Mr. Hyde.

Mr. Hyde read the required motion language as recommended by staff, "I move that the City of Pflugerville authorize the use of the power of eminent domain

to acquire the following units of property:

(a) 0.1880 acre (8,188 Square Feet (SF)) parcel in fee simple for right of way purposes and a 0.0574 acre (2,499 SF) parcel for public utility purposes, both out of the George M. Martin Survey No. 9, Abstract No. 529, Travis County, Texas, being out of a called 1.402 acre tract described as Exhibit "A-1", Tract 1, in a deed to Jackie Payne recorded in Document No. 2008040026, Official Public Records, Travis County, Texas; and

(b) 0.6562 acre (28,585 SF) parcel in fee simple for right of way purposes and a 0.1114 acre (4,851 SF) parcel for public utility purposes, both out of the George M. Martin Survey No. 9, Abstract No. 529, Travis County, Texas, being out of a called 5.794 acre tract described as Exhibit A, in a deed to Jack Payne recorded in Document No. 2008040028, Official Public Records, Travis County, Texas.

...As stated, all property to be acquired in fee simple or as easement interests for the public purpose and use of roadway right of way and public utility purposes associated with the Weiss Lane Road Widening Project."

Mr. Heath made a motion to approve as read by Mr. Hyde. Mr. Weiss seconded the motion. Mr. Marsh stated that he is anti- eminent domain, but the work of staff has been extraordinary and he understands the need for it. He stated that no one on the Council takes it lightly. All voted in favor. The motion carried.

9B. [RES-0412](#)

Discuss and consider action to approve a resolution with the caption reading: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PFLUGERVILLE, TEXAS, DIRECTING THE CITY MANAGER OR THE CITY MANAGER'S DESIGNEE TO EXECUTE ALL DOCUMENTS TO INSTITUTE EMINENT DOMAIN PROCEEDINGS FOR THE ACQUISITION OF 0.0268 ACRES OF LAND IN FEE-SIMPLE FOR RIGHT OF WAY PURPOSES AND 0.0092 ACRES OF LAND FOR A PERMANENT PUBLIC UTILITY EASEMENT, CONSISTING OF TWO PARCELS, OUT OF THE GEORGE M. MARTIN SURVEY NO. 9, ABSTRACT NO. 529, TRAVIS COUNTY, TEXAS AND BEING OUT OF THAT TRACT OF LAND DESCRIBED AS 12.104 ACRES IN A DEED TO DIAPER FULL OF LOVE, LLC, OF RECORD IN DOCUMENT NO. 2015179720 IN THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS; PROPERTY OWNED AND CLAIMED BY DIAPER FULL OF LOVE, LLC; AND DIRECTING THE CITY ATTORNEY TO INITIATE CONDEMNATION PROCEEDINGS.

Mayor Pro Tem Peña read the item to include the caption of the resolution for consideration. Mr. Word stated that they reached agreement on all monetary and other terms, except the median break. He stated that as with the other one, there has been much outreach and conversation, but that they have reached an impasse and therefore, staff recommends approval of eminent domain. He stated that the median break is not safe. Mr. Hyde noted that circuitry of travel is not a compensable issue in condemnation.

Mr. Hyde read the required motion language as recommended by staff, "I move that the City of Pflugerville authorize the use of the power of eminent domain

to acquire the following units of property:

(a) 0.0268 (1,167 SF) acre parcel in fee simple for right of way purposes and a 0.0092 (402 SF) acre parcel for public utility purposes, both out of the George M. Martin Survey No. 9, Abstract No. 529, Travis County, Texas, and being out of that tract described as 12.104 acres (Exhibit A), in a deed to Diaper Full of Love, LLC, of Record in Document No. 2015179720, Official Public Records, Travis County, Texas.

...As stated, all property to be acquired in fee simple or as easement interests for the public purpose and use of roadway right of way and public utility purposes associated with the Weiss Lane Road Widening Project.”

Ms. Sattler made a motion to approve as read by Mr. Hyde. Mr. Heath seconded the motion and stated to echo Mr. Marsh's statements on the earlier item; that the Council does not take eminent domain lightly. All voted in favor. The motion carried.

10. Discuss and consider action

- 10A. [2017-5721](#) Discuss and consider action to approve supplemental agreement #1 with RPS Klotz Associates, Inc. in the amount of \$107,875.50 for professional services associated with construction management and material testing for the Rowe Lane Safety Improvement Project and authorizing the City Manager to execute the agreement.
- Mr. Word provided information. He stated that this is for a joint Travis County and city project for safety improvements to Rowe Lane. He stated that the construction contract was awarded at the last Council meeting and they now need these services. He stated that the County has already approved this expenditure. Mr. Heath made a motion to approve. Ms. Sattler seconded the motion. All voted in favor. The motion carried.
- 10B. [2017-5749](#) Discuss and consider action to reschedule or cancel the May 23, 2017 Worksession and Regular Meeting.
- Mr. Wade stated that Mayor Gonzales had requested to consider cancelling or rescheduling the Council meeting on May 23, 2017 due to the conflict with the opening of the Pfield. Discussion followed. Mr. Weiss made motion to reschedule the May 23, 2017 regular Council meeting to May 30, 2017. The motion died for lack of a second. No action was taken.
- 10C. [2017-5729](#) Discuss and consider action regarding future agenda items.
- Mayor Pro Tem Peña asked for an item to review status of the Animal Shelter. Mr. Heath asked for an item regarding the citizen survey to suggest changes to make it better for prioritization. Mr. Marsh asked for the items regarding capital reserves and performance metrics to be brought back. Mr. Weiss asked for a presentation on water restrictions. Mr. Heath asked for an item to discuss traffic congestion in neighborhoods and commercial developments. Mr. Weiss requested future agenda items for discussing a plan for annexation of municipal utility districts, discussion regarding code of ethics and policies related to Charter changes, school location planning to coordinate with the 2030 plan, cultural festival, and discussion related to allowing concealed carry

in meetings.

11. Discuss only - Executive Session

Mayor Pro Tem Peña announced that the Council was retiring to executive session on items 11A and 11B. He read the items and retired to executive session. The time was 8:31 p.m.

11A. [2017-5727](#)

1.) Executive Session Item: Discussions regarding deliberations on economic development negotiations pursuant to Chapter 551.087 of the Texas Government Code and consultation with legal counsel pursuant to Chapter 551.071 of the Texas Government Code for legal advice concerning economic development negotiations.

Discussion on the item took place in executive session.

11B. [2017-5728](#)

1.) Executive Session Item: Consultation with legal counsel pursuant to Chapter 551.071 of the Texas Government Code and deliberation regarding real property pursuant to Chapter 551.072 of the Texas Government Code regarding the purchase, exchange, lease, transfer and/or sale of real property.

Discussion on the item took place in executive session.

12. Adjourn

Mayor Pro Tem Peña reconvened in open session at 9:06 p.m. Mr. Marsh made a motion to adjourn. Ms. Sattler seconded the motion. The vote was: Mr. Weiss-yes; Mr. Marsh-no; Ms. Sattler-yes; Mr. Heath-no; Mayor Pro Tem Peña-no. The motion failed. The Council exited the dais. The meeting was adjourned at 9:06 p.m.

Respectfully submitted,

Karen Thompson
City Secretary

Approved as presented on April 25, 2017.