



City of Pflugerville

Minutes - Final City Council

Tuesday, January 25, 2011

7:00 PM

100 East Main Street, Suite 500

Regular Meeting

1. Call to order

Mayor Jeff Coleman called the meeting to order at 7:03 p.m.

Councilmembers Wayne Cooper, Mike Marsh, Darelle White, Starlet Sattler and Victor Gonzales were in attendance. City employees attending: Brandon Wade, City Manager; Floyd Akers, City Attorney; Lauri Gillam, Assistant City Manager; Trey Fletcher, Managing Director of Operations; Karen Thompson, City Secretary; Jim McLean, Assistant Police Chief; Terri Waggoner, Public Information Officer; Felix Benavides, City Engineer; Chuck Hooker, Police Chief; Susan Word, Human Resources Administrator; Amy Atkins, Parks 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 Coleman led those in attendance in reciting the Pledge of Allegiance to the flag of the United States.

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 Coleman led those in attendance in reciting the Pledge of Allegiance to the Texas State flag.

3. Presentations

A. 2010-0390 Proclamation recognizing the Hendrickson Hawk Band as Grand National Champions.

Mayor Coleman welcomed Garth Gundersen, Director of Bands; Lauren Stowe, Assistant to the Director; Drum Majors Katie Herrick, Brandon Tate, and Bianca Young; and a group of band and colorguard leaders. Mayor Coleman provided comments on the achievements of the Hendrickson Hawk Band at the Fiesta Bowl and read and presented the proclamation. Mr. Gundersen provided comments.

- B. 2010-0418** Presentation of Employee Service Awards.

Mayor Coleman presented employee service awards to Kristal Krause for five years of service; Richard Hodgson, Christopher Parker, LeAnn Resendez, Jose Reyna, Kathryn Weiss, and Daryl Wilkes for ten years of service; and Javier Gonzalez, Stacy Pyle, and Matthew Woodard for fifteen years of service.

- C. 2010-0417** Presentation by Mr. Tony Ellis, President of the Pflugerville Citizens Police Academy Alumni Association on recent efforts to grow membership through outreach efforts to all Citizens Police Academy graduates.

Mr. Tony Ellis explained that the Alumni Association works in an advisory capacity and works most closely with Sgt. Jason Smith and Lt. Laura Wilkes on the Citizens on Patrol program which is overseen by the Police Chief. Mr. Ellis reported on Citizens on Patrol initiatives to improve image, create a website and enhance the training program. He invited the public to attend the Citizens on Patrol meeting on February 3, 2011 at 7:00 p.m. at the Justice Center. Ms. Sattler stated that she found the Citizens on Patrol training to be very informative and that she enjoyed it very much. Mayor Coleman recognized all Citizens on Patrol in attendance.

- D. 2010-0419** 2010 Racial Profiling Data Report as required by Texas Statute Code of Criminal Procedure, Chapter 2 General Duties of Officers, Art. 2.132 Law Enforcement on Racial Profiling.
- Assistant Chief McLean provided information on the report. He reported that the City of Pflugerville is in full compliance. He answered questions of the Council. Chief Hooker stated that the report looked good and has been consistent over the past nine years.**

4. Public Hearing and Ordinance First Readings

- A. **ORD-0040** Conduct a public hearing and consider approving an ordinance on first reading with the caption reading: AN ORDINANCE OF THE CITY OF PFLUGERVILLE, TEXAS AMENDING ORDINANCE NO. 874-07-04-10 OF THE CITY OF PFLUGERVILLE, TEXAS, AS AMENDED, BY APPROVING A SPECIFIC USE PERMIT FOR A BODY ART STUDIO AT THE EXISTING MULTI-TENANT BUILDING LOCATED ON LOTS 10-12 BLOCK A OF THE PFLUGERVILLE SUBDIVISION, LOCALLY KNOWN AS 101 E. PECAN STREET; TO BE KNOWN AS THE FREEDOM MACHINE TATTOO SPECIFIC USE PERMIT, (SUP1011-01), AND PROVIDING AN EFFECTIVE DATE.

The public hearing was held.

Mayor Coleman read the item along with the caption of the ordinance under consideration. Mr. Fletcher provided information on the request for a special use permit. He reported that staff and the Planning and Zoning Commission recommended approval. David Taylor, President of the Old Town Neighborhood Association, stated that he was not speaking on their behalf because they have not taken a stand on this. He stated that they did have a meeting when they were first notified of this. He stated that he did get some negative emails and met with the applicant and some members who were not excited about it. He stated that he thinks their fears were alleviated after speaking with the applicant. He stated that there were a lot of misconceptions in the past, but he thinks it has become mainstream. He stated that they discussed how this would be a good fit with little impact. He stated that he believes that the applicant has met the criteria for approval and asked Council to grant the ordinance.

Mara Kauff, stated she was here to speak against it. She stated that it is not about tattoos or who has tattoos. She stated her concern is that it is not a family-friendly business to downtown, and that more adult businesses will follow. She stated that they will not get family businesses that will want to come in next door. She stated that it is also a corridor going through Pflugerville and would produce an image of bars and adult-oriented businesses. She stated that the Police Department also does not have time to make sure this businesses closes at 9:00 p.m. per this permit. She stated that it is not supposed to be within 1000 feet of a daycare and asked why we would want to make this exception. She stated that maybe they could move it to a different location. She stated that she is concerned about the image and direction of downtown that we are taking. She stated concern that the business could also be passed on and change with time.

Rodney Blackburn, Planning and Zoning Commissioner, stated that he was here representing the positive votes from the Planning and Zoning Commission. He read some history regarding people having tattoos for thousands of years from Smithsonian.com. He stated that he thinks people are getting tattoos all over the world and read a list of people with tattoos. He stated that when we talk about a family-oriented business, this is by two bars and another a block away. He distributed a Barbie Totally Stylin' Tattoos advertisement. He stated that he thinks this is not an adult-oriented business.

Clark Meier, 1207 Mountain View Drive, stated that he believes they have an opportunity tonight to shape the character of downtown Pflugerville. He urged

Council to vote against the proposal. He stated that it is about the concentration of adult-oriented businesses in downtown. He stated that tattoos are limited to adults or to minors with adult consent, so it is an adult-oriented business. He stated that adding it would further establish an environment that would keep others from operating here. He stated that the owner of Ceramics and More could not wait to move her business out of downtown so she could be away from the bars. He stated that his concern is that we would lose more. He stated that the Old Town Vision statement is, "Old Town is a vibrant, community-oriented city center revered as the iconic heart of Pflugerville. Blending old and new, Old Town retains its historical charm through purposeful revitalization and a balance of opportunities to live, learn, work, and play. ..." He stated that the question tonight is how the tattoo parlor moves us toward that vision.

Kevin Pakenham, 1101 Swenson Farms, indicated that he did not wish to speak, but requested that the Mayor enter for the record his opposition to the body art studio.

Estalee Briceno, 1200 Settlers Valley Drive, of Leanns Cakes, stated that she is a merchant in downtown Pflugerville and had concern when moved here with the bars, but has not had any problems. She stated that she has called the police at night and each time they have been there within minutes. She stated that she has no problems with the tattoos, that it is another form of art. She stated that cake decorators are also tattooing on fondant. She stated that she can understand the concern for adult businesses, but she does not see how tattoos are seen as an adult business; that it is just another form of art.

Naji Norder, Planning and Zoning Commission, stated that when he considered this, he he looked at the consistency with neighboring businesses. He stated that he thought this fit with what was already there. He stated that he considered the result of the extensive work they did for a vision downtown, but found there was no consensus. He stated what was consistent was that people thought professional services were a good fit for downtown. He stated that he feels this fits in with that character and explained that there were no objections stated from the neighbors, the Old Town Neighborhood Association, or the daycare. He stated that it is irrelevant if he likes tattoos or not; that everything else about this fit and it would bring the business to downtown.

Rod Reyna, 1009 Rocky Creek Drive, stated that he usually agrees with Mr. Norder, but tonight disagrees. He stated that in all of the meetings they have had over the years, they have never heard someone ask for a downtown tattoo or piercing shop. He stated that they were trying to attract business professionals during the day. He stated that this certain type of business is a mark on the community. He stated that a cluster of a type of businesses will either attract or detract types of businesses. He stated that he thinks that there are other people out there that would have an opinion on this. He stated that if we are wanting people to stroll downtown, he does not think this is something that families will be walking to or taking their kids to. He stated that he does not think this is the landmark that we want.

Mr. Gonzales stated that initially he was nervous about considering a tattoo studio in downtown Pflugerville. He stated that he has seen Pflugerville from the beginning of time when Old Town was basically dead and all the buildings

were vacant. He stated that it has gone through a lot of transition and it continues to. He stated that part of the image for Pflugerville is that we want to see a robust community in all aspects. He stated that it is a family-oriented community, but one of the things that he has committed to himself as a lifelong resident is, that at his age, he does not want to be a dinosaur but instead to move to the future. He stated that he visited with the applicant at length and he was not sure; he was suspicious and cautious. He stated that the applicant has laid his fears to rest in what he wants for his business. He stated that he believes he deserves the opportunity and that he believes he will handle the business very professionally.

Brent Hurta, 3104 Murrelet Way, stated that he would rather have five tattoo studios and no bars. He stated then there would be no worry of drinking and driving. He stated that this is what typically is downtown and where the night life is. He stated that it is where the parents go without the kids. He stated that families will be brought to Pflugerville for the parks and amenities. He stated that downtown is the perfect place for nightlife and bars and that this fits.

Mr. Dodson, the applicant, stated that his business may not be considered family oriented by many, but he tattoos a lot of people that come in with their family members. He stated that it is a lot more family oriented than a bar would be.

There were no additional requests to speak at the public hearing. Mr. White made a motion to close the public hearing. Mr. Gonzales seconded the motion. All voted in favor. The motion carried.

The ordinance was approved on first reading.

Mayor Coleman opened the item for consideration on first reading.

Mr. Marsh stated that when this first came up he was against it because he does not understand it. He stated that this is new and different to him but is not new and different to others. He stated that he does not see a legal or moral threat to the community. He stated that the term adult-oriented business could fit a lot of different businesses and that he does not agree with the application of the term of adult-oriented business to this business. He stated that he will support this and does not see any compelling reason to deny.

Mr. Cooper made a motion to approve this item, the ordinance approving a specific use permit for the body art studio. Mr. Gonzales seconded the motion. The vote was: Mr. Cooper-aye, Mr. Marsh-aye, Mr. White-no, Ms. Sattler-aye, Mr. Gonzales-aye. The motion carried.

- B. **ORD-0041** Conduct a public hearing and consider approving an ordinance on first reading with the caption reading: AN ORDINANCE OF THE CITY OF PFLUGERVILLE, TEXAS AMENDING ORDINANCE NO. 874-07-04-10 OF THE CITY OF PFLUGERVILLE, TEXAS, AS AMENDED, CHANGING THE ZONING DESIGNATION FOR A 5-ACRE TRACT OF LAND OUT OF THE J. DAVIS SURVEY NO. 13, ABSTRACT NO. 231, WITHIN THE CITY OF PFLUGERVILLE, TEXAS, LOCALLY KNOWN AS 2711 KELLY LANE, FROM AGRICULTURE / CONSERVATION (A) TO RETAIL (R) DISTRICT; TO BE KNOWN AS THE BLACKHAWK COMMERCIAL REZONING, (REZ1011-03), AND PROVIDING AN EFFECTIVE DATE.

The public hearing was held. No action was taken on the ordinance.

Mayor Coleman read the item along with the caption of the ordinance. Mr. Fletcher provided information on the request for rezoning, answered questions and discussed with Council. Mr. Paul Lineham, representing the applicant, stated that the issue is that there is a 16,000 square foot building that was tied to the golf course. He explained that they are trying to reuse the building and Retail does not allow for uses that would be compatible with the building. He stated that they would like to be rezoned to GB1 with limited uses. He stated that they intend to try to work something out with the homeowners association, but would rather work something out with the City such as a conditional overlay. He stated that they are hoping to postpone tonight. Mr. Lineham answered questions of Council. He stated that he is interested in zoning the eastern portion GB1 to allow for the reuse of the storage shed and Retail on the other side of the tract. He provided additional comments and noted that they would be requesting a median cut when Kelly Lane is expanded. He answered additional questions of Council.

Mark Klonower, 19217 Luedke Lane, stated he was representing the Blackhawk Homeowners Association and was here to request that the Council postpone and delay consideration of this until they have had time to see if they can come up with a better solution. He stated that he thinks there is enough trust and common ground that they can come up with something better. He stated that they would like to explore and to work with the applicant as far as they can go to find a solution that they both can agree on.

Rainer Ficken, of Newland Communities (Falcon Pointe developer), stated that at this time, if it is to move forward tonight, they would support the recommendation of Retail. He stated that if the item is tabled, they would like to be part of that conversation and would like to work with the applicant.

Naji Norder, Planning and Zoning Commission Chair, stated that they wanted to save the building; it was there first, and there were some GB1 uses that would have worked fine at that location, but he was concerned about a lot of the other uses that would not work well in that area. He noted a concern for traffic. He stated that most of the uses did not seem to fit in that property. He stated that we do not have conditional overlays in Pflugerville. He stated his best idea was to add this area to the Falcon Pointe ALUR and to create the uses that we want to see on this property. He stated that other than that, within the confines, he did not feel that GB1 was appropriate. He stated that is why he voted for Retail.

There were no additional requests to speak at the public hearing.

Mr. Marsh made a motion to close the public hearing. Mr. Gonzales seconded the motion. All voted in favor. The motion carried.

Mayor Coleman indicated that the Council would not be considering the ordinance on first reading tonight.

5. Public Comment

Brent Hurta, 3104 Murrelet Way, did not wish to speak but requested that the Mayor enter for the record his support for a skatespot in Pflugerville. Mr. Wade stated to Mr. Hurta that he needs to make that presentation to the Parks and Recreation Commission.

Les Wall, 1614 Dove Haven, stated he was here to address the behavior of the Council to people who give comment. He stated that his daughter at the end of watching the tape asked him why the Council are being rude. He stated that he also saw it here tonight. He stated that the people in favor got laughs and those standing against got stone cold faces. He stated that people should not have to worry if they agree or disagree, if they come before the Council, they should not be ridiculed. He stated that if someone stands in opposition, it is coming across that the Council has already made up their minds. He stated that the Council is the face of the City all the time and the face of the community is in this room. He stated that he does not want to have to explain and make up a reason why the Council is showing disrespect.

Break

Mayor Coleman called for a break at 9:03 p.m. He reconvened the meeting at 9:17 p.m.

11. Discuss only

- c. 2010-0249 1.) Executive Session Item: Deliberation regarding economic development negotiations pursuant to Chapter 551.087 of the Texas Government Code regarding a Chapter 380 economic development agreement and use of 4B funds with Pecan Street Plaza, LLC or its affiliates for the Pacana ALUR Development. 2.) Open Session Item: Discussion regarding a Chapter 380 economic development agreement and use of 4B funds with Pecan Street Plaza, LLC or its affiliates for the Pacana ALUR Development.

Mayor Coleman stated that the City Council would not be taking up this item at this point. He stated that the landowner has requested and dropped moving forward on this development.

4. Public Hearing and Ordinance First Readings

- C. **ORD-0042** Conduct a public hearing and consider approving an ordinance on first reading with the caption reading: AN ORDINANCE AMENDING THE CITY OF PFLUGERVILLE CODE OF ORDINANCES TITLE XV LAND USAGE, CHAPTER 157 UNIFIED DEVELOPMENT CODE AMENDING SUBCHAPTER 2, SUBSECTION (A)(B) AND (D) BY REASSIGNING THE AUTHORITY OF THE ARCHITECTURAL REVIEW BOARD TO THE PLANNING AND ZONING COMMISSION AND REMOVING ANY REFERENCES OF THE ARCHITECTURAL REVIEW BOARD; AMENDING SUBCHAPTER 9, SUBSECTION (F) (5) AND (G)(5) BY REASSIGNING THE RESPONSIBILITIES OF THE ARCHITECTURAL REVIEW BOARD TO THE PLANNING AND ZONING COMMISSION; AND AMENDING SUBCHAPTER 20, SUBSECTION (C) TO REMOVE THE DEFINITION OF PRELIMINARY ARCHITECTURAL PLAN; REPLACING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE AND DECLARING AN EFFECTIVE DATE.

The public hearing was held. There were no requests to speak.

Mayor Coleman opened the public hearings and ordinance first reading items 4C (ORD-0042) and 4D (ORD-0043), and read the items and captions of the ordinances under consideration. Mr. Fletcher provided information. He stated that the Planning and Zoning Commission and Architectural Review Board are aware and in support of these changes. There were no requests to speak at the public hearings. Mr. Gonzales made a motion to close the public hearings. Mr. Cooper seconded the motion. All voted in favor. The motion carried.

The ordinance was approved on first reading.

Mr. Marsh made a motion to approve the ordinance on first reading. Mr. White seconded the motion. Mr. Marsh amended his motion to approve both ordinances (ORD-0042) and (ORD-0043) on first reading. Mr. White seconded the amendment. All voted in favor. The motion carried.

- D. **ORD-0043** Conduct a public hearing and consider approving an ordinance on first reading with the caption reading: AN ORDINANCE AMENDING THE CITY OF PFLUGERVILLE CODE OF ORDINANCES TITLE XV LAND USAGE, CHAPTER 155 SITE DEVELOPMENT CODE, SUBCHAPTER B CENTRAL BUSINESS DISTRICT, AMENDING SUBSECTIONS 155.1202 SITE ACCESS AND CIRCULATION (E)(3), 155.1206 LANDSCAPING AND SCREENING (C)(1)(F), 155.1207 (D)(3)(D), 155.1305 SIGNS (O)(2)(J) BY REASSIGNING THE RESPONSIBILITIES OF THE ARCHITECTURAL REVIEW BOARD TO THE ADMINISTRATOR; AMENDING SUBSECTION 155.1306 PUBLIC ART BY REASSIGNING THE RESPONSIBILITIES OF THE ARCHITECTURAL REVIEW BOARD TO THE PLANNING AND ZONING COMMISSION; AMENDING SUBSECTIONS 155.1501 REVIEW BODIES, 155.1502 GENERAL REVIEW PROVISIONS, 155.1504 MAJOR PERMIT REVIEW, 155.1505 CRITERIA FOR APPROVAL, AND 155.1507 MODIFICATIONS TO APPROVED PERMITS BY REESTABLISHING GENERAL PROCESSES AND PROCEDURES FOR PLAN APPROVAL; AND AMENDING SUBSECTION 155.1601 DEFINED TERMS, PRELIMINARY ARCHITECTURAL PLAN; REPLACING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE AND DECLARING AN EFFECTIVE DATE.

The public hearing was held. There were no requests to speak.

Mayor Coleman opened the public hearings and ordinance first reading items 4C (ORD-0042) and 4D (ORD-0043), and read the items and captions of the ordinances under consideration. Mr. Fletcher provided information. He stated that the Planning and Zoning Commission and Architectural Review Board are aware and in support of these changes. There were no requests to speak at the public hearings. Mr. Gonzales made a motion to close the public hearings. Mr. Cooper seconded the motion. All voted in favor. The motion carried.

The ordinance was approved on first reading.

Mr. Marsh made a motion to approve the ordinance on first reading. Mr. White seconded the motion. Mr. Marsh amended his motion to approve both ordinances (ORD-0042) and (ORD-0043) on first reading. Mr. White seconded the amendment. All voted in favor. The motion carried.

Reading of the Consent Agenda

Ms. Thompson read the items under consideration.

6. Approval of Minutes

- A. **2010-0408** Approval of the minutes of the January 11, 2011, Worksession and Regular Meeting.

The minutes were approved on the consent agenda.

7. Resolution

- A. **RES-0018** Approving a resolution with the caption reading: RESOLUTION BY THE CITY OF PFLUGERVILLE, TEXAS ("CITY") SUSPENDING THE EFFECTIVE DATE FOR NINETY DAYS IN CONNECTION WITH THE RATE INCREASE FILING OF ONCOR ELECTRIC DELIVERY COMPANY LLC ON JANUARY 7, 2011; FINDING THAT THE MEETING COMPLIES WITH THE OPEN MEETINGS ACT; MAKINIG OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE
- The resolution was approved on the consent agenda.

8. Other Actions

- A. **2010-0412** Approval of the use of 4B funds for a Bankshot basketball court, Recreation Center exercise equipment and Pfluger Heights Pocket Park for the City of Pflugerville Park and Recreation Department.
- The item was approved on the consent agenda.
- B. **2010-0411** Appointing Ms. Marta Gregory as a regular member of the Library Board for an unexpired term ending December 31, 2011 and Ms. Kaye Jividen as an alternate member of the Library Board for a term ending December 31, 2011.
- The item was approved on the consent agenda.

Action on the Consent Agenda

The consent agenda was adopted.

Mr. Cooper made a motion to approve the consent agenda. Mr. White seconded the motion. All voted in favor. The motion carried.

9. Discuss only

- A. **2010-0185** Discussion regarding MY-35 Segment 3 Recommendations.
- Mr. Fletcher provided comments regarding the final recommendations and distributed copies of the report. He stated that the report is available to the public at the Library and a limited numbers of copies are available in the Planning Department. Council discussion followed with Mr. Fletcher. No action was taken.**

10. Discuss and consider action

- A. 2010-0416 Discuss and consider action regarding future agenda items.

Mr. Cooper requested a future agenda item to revisit the Comprehensive Plan.

Executive Session Held

Mayor Coleman announced that the Council was retiring to executive session on items 10B (2010-0392), 10C (2010-0288), 10D (2010-0356), 11A (2010-0413), and 11B (2010-0414). He read the items and stated that the Council would first discuss items 11A (2010-0413), and 11B (2010-0414). The time was 9:29 p.m.

- B. 2010-0392 1.) Executive Session Item: Discussion of personnel matters pursuant to Chapter 551.074 of the Texas Government Code for performance evaluation of the Municipal Judge. 2.) Discuss and consider action regarding performance evaluation of the Municipal Judge.

Discussion on the item was to take place in executive session. No action was taken.

- C. 2010-0288 1.) Executive Session Item: Discussion of personnel matters pursuant to Chapter 551.074 of the Texas Government Code for performance evaluation of the City Attorney. 2.) Open Session Item: Discuss and consider action regarding the performance evaluation of the City Attorney.

Discussion on the item was to take place in executive session. No action was taken.

- D. 2010-0356 1.) Executive Session Item: Discussion of personnel matters pursuant to Chapter 551.074 of the Texas Government Code for performance evaluation of the City Manager. 2.) Open Session Item: Discuss and consider action regarding performance evaluation of the City Manager.

Discussion on the item was to take place in executive session. No action was taken.

Discuss only

- A. 2010-0413 1.) Executive Session Item: Consultation with legal counsel regarding agreements with Manville Water Supply Corporation pursuant to Chapter 551.071 of the Texas Government Code. 2.) Open Session Item: Discussion regarding agreements with Manville Water Supply Corporation.

Discussion on the item was to take place in executive session. No action was taken.

- B. 2010-0414** 1.) Executive Session Item: Deliberation regarding economic development negotiations pursuant to Chapter 551.087 of the Texas Government Code concerning development agreements between Terrell Timmermann and the City of Pflugerville for the Greenview and Pfluger Crossing developments. 2.) Open Session Item: Discussion concerning development agreements between Terrell Timmermann and the City of Pflugerville for the Greenview and Pfluger Crossing developments.

Discussion on the item was to take place in executive session. No action was taken.

Executive Session Closed

Mayor Coleman reconvened in open session at 12:55 a.m. on January 26, 2011. No action was taken.

12. Adjourn

The meeting was adjourned at 12:55 a.m. on January 26, 2011.

Mr. Cooper made a motion to adjourn. Mr. White seconded the motion. All voted in favor. The motion carried.

Respectfully submitted,

**Karen Thompson
City Secretary**

Approved as _____ on February 8, 2011.