



City of Pflugerville

Minutes - Final City Council

Tuesday, May 8, 2012

7:00 PM

100 East Main Street, Suite 500

Regular Meeting

1. Call to order

Mayor Jeff Coleman called the meeting to order at 7:08 p.m. Councilmembers Wayne Cooper, Brad Marshall, Darelle White, Starlet Sattler and Mayor Pro Tem Victor Gonzales were in attendance. City employees attending: Brandon Wade, City Manager; George Hyde, City Attorney; Karen Thompson, City Secretary; Lauri Gillam, Assistant City Manager; Tom Word, Assistant City Manager; Trey Fletcher, Assistant City Manager; Terri Waggoner, Public Information Officer; Leann Resendez, Recreation Center Superintendent; James Bowlin, Parks and Recreation Director; Dan Franz, City Engineer; Amy Good, Assistant Finance Director; Chuck Hooker, Police Chief; Lisa Charbonnet, Library 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.

Items were addressed in the order as recorded in the minutes.

3. Presentations

3D. 2012-1198 Proclamation declaring May 2012 as Motorcycle Safety and Awareness Month in the City of Pflugerville.

Mayor Coleman read the proclamation and presented it to representatives of the Coalition of Independent Riders.

3A. 2012-1160 Presentation of the Fiscal Year 2011 Popular Annual Financial Report.

Ms. Gillam presented the Popular Financial Annual Report. Mayor Coleman provided comments.

- 3B. 2012-1180** Update on the Library Expansion project and presentation of color scheme board.
Mr. Fletcher presented on the item.
- 3C. 2012-1201** Presentation on stormwater water quality measures in Pflugerville.
Mr. Fletcher presented on the item. He introduced Patrick Wells, Stormwater Specialist, who will oversee the City's MS4 Program.

4. Public Hearing and Ordinance First Reading

- 4A. ORD-0100** Hold a public hearing and consider an ordinance on first reading with the caption reading: AN ORDINANCE AMENDING THE CITY OF PFLUGERVILLE CODE OF ORDINANCES TITLE IX GENERAL REGULATIONS, CHAPTER 95 PARKS AND RECREATION ADDING SUBCHAPTER 95.50 YOUTH PROGRAMS STANDARDS OF CARE; REPLACING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE AND DECLARING AN EFFECTIVE DATE.
Mayor Coleman read the item to include the caption of the ordinance and opened the public hearing. Mr. Word presented on the item and answered questions of the Council. There were no requests to speak at the public hearing. Mr. Cooper made a motion to close the public hearing. Ms. Sattler seconded the motion. All voted in favor. The motion carried.
Mr. Cooper made a motion to approve the ordinance on first reading. Mr. Gonzales seconded the motion. All voted in favor. The motion carried.

5. Public Comment

Brent Hurta, 3104 Murrelet Way, did not wish to speak but asked that the Mayor announce for the record his support for a skate spot or skate park in Pflugerville.

Al Welborn, 224 Lidell Street, Hutto, TX, stated that he was here to publicly recognize Blanca Lares, Manager of the Taco Bell on Pecan Street, for receiving the honor of Outstanding Manager of the Year by Taco Bell. He spoke on her efforts to become educated and successful.

Reading of the Consent Agenda

Ms. Thompson read the items along with the captions of the ordinances under consideration.

6. Approval of Minutes

- 6A. 2012-1189** Approval of the minutes of the April 24, 2012 Worksession and Regular Meeting.

The minutes were approved on the consent agenda.

7. Ordinances First Reading

- 7A. **ORD-0108** 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 2011-2012 BUDGET FOR THE CITY OF PFLUGERVILLE; AND PROVIDING AN EFFECTIVE DATE.

The ordinance was approved on first reading on the consent agenda.

- 7B. **ORD-0107** Approving an ordinance on first reading with the caption reading: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PFLUGERVILLE, TEXAS, DESIGNATING THE METHOD OF DETERMINATION OF THE AMOUNT OF THE TAX INCREMENT FOR REINVESTMENT ZONE NO. ONE, CITY OF PFLUGERVILLE, TEXAS; PROVIDING A CUMULATIVE CLAUSE; PROVIDING FOR SEVERABILITY; PROVIDING FOR PROPER NOTICE AND MEETING; AND PROVIDING FOR AN EFFECTIVE DATE.

The ordinance was approved on first reading on the consent agenda.

8. Ordinances Second Reading

- 8A. **ORD-0102** Approving an ordinance on second 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 CHANGING THE ZONING DESIGNATION OF ALL LOTS IN THE PFLUGER CROSSING SOUTH, PHASE 1 SUBDIVISION, CONSISTING OF 22.78 ACRES OF LAND AT THE SOUTHWEST CORNER OF FM 685 AND E. PFLUGERVILLE PKWY, FROM CORRIDOR URBAN LEVEL 4 (CL4) TO GENERAL BUSINESS 1 (GB1) DISTRICT; AND ALL LOTS IN THE PFENNIG LANE-FM 685 COMMERCIAL SUBDIVISION AND SUBSEQUENT RESUBDIVISION, CONSISTING OF APPROXIMATELY 28.792 ACRES OF LAND AT THE NORTHWEST CORNER OF FM 685 AND PFENNIG LN, FROM CORRIDOR URBAN LEVEL 4 (CL4) TO GENERAL BUSINESS 1 (GB1) DISTRICT; TO BE KNOWN AS THE PFLUGER CROSSING REZONING (REZ 1203-01), AND PROVIDING AN EFFECTIVE DATE.

The ordinance was approved on second and final reading on the consent agenda.

9. Other Actions

- 9A. 2012-1187** Receive report on City Council, Commission, Board and Committee expenditures for April 2012.
The item was approved on the consent agenda.
- 9B. 2012-1182** Authorizing the City Manager to enter into a Facility Use Agreement for the Kayak/Canoe Rental Concession at Lake Pflugerville.
The item was approved on the consent agenda.
- 9C. 2012-1150** Authorizing the City Manager to execute the Amended and Restated Water Utility Access Easement Agreement with Waste Management of Texas, Inc. to allow the installation of two (2) gas vents within the City of Pflugerville's forty (40) ft. waterline easement, which contains a 30-inch water main.
The item was approved on the consent agenda.
- 9D. 2012-1179** Approving a three-year extension to the City of Pflugerville's contract for Information Technology (IT) services with Net Sales Direct (NSD) and authorizing the City Manager to execute same.
The item was approved on the consent agenda.

Action on the Consent Agenda

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

10. Discuss and consider action

Roll Call

Mayor Coleman stepped down from the dais due to a conflict of interest on item 10A. Mayor Coleman was the sole responsive bidder for purchase of the property in question. Mayor Coleman filed a conflict of interest affidavit with the City Secretary earlier in the day. Mayor Pro Tem Victor Gonzales was presiding. The time was 7:35 p.m.

- 10A. 2012-1199** Discuss and consider action regarding sale of real property located at 102 South Third Street to the highest responsive bidder.
- Ms. Gillam provided background information. She stated that the City received one bid for the property from Mr. Jeff Coleman in the amount of \$165,250 and the City Attorney reviewed the documents and found the bid to be responsive. She answered questions of the Council.
- Mayor Pro Tem Gonzales stated that the Council has received comments regarding this property via email and several individuals have signed up to speak. Mr. Hyde provided information on the conflict of interest affidavit filed by Mayor Coleman and stated that Mayor Coleman is restricted from speaking and the Mayor's actions have been legitimate according to state law.

Mrs. Shannon Coleman, 19608 Mallard Pond Trail, bidder on the property, read a statement and asked Council to approve the sale. She indicated that the property is currently zoned as retail and proposed that the city approve the sale and proactively zone as Office 1. She addressed concerns regarding the impact that their business would have on traffic, stating that they would have all employees park in the parking spaces, and that they have, on average, less than ten visitors a day. She stated that their office hours are 8:30 a.m. to 5:00 p.m. and as employees, sometimes they are there 7:30 a.m. to 7:00 p.m. She stated that typically they would not be there when the neighbors are home. She stated that if they were to zone the property residential, that they would be allowing the residential to encroach into the business district. She stated that in the other zoning cases where the rezoning to commercial failed, the other properties were already zoned residential. She stated that the difference is that this property is already zoned commercial. She stated that one neighbor expressed fear that the building would be torn down. She stated that they have bid on the property because it is zoned commercial, and they anticipate spending \$40,000 to \$50,000 on renovations. She stated that they would not want to move there if did not like the look and feel of the building. She stated that they would maintain the outward appearance of the building as it is. She stated that one thing to consider is if it is zoned residential what would happen. She stated that she believes the building would sell for less to an investor, the owner would do minimal improvements and would rent it out as residential. She stated that their purchase would increase the property values in the area, and if sold as a residence, the values could actually decrease. She stated that many have submitted emails and are here to speak in favor of their purchasing the property. She asked the Council to allow the sale and proactively zone the property to Office 1.

Chuck Lesniak, 203 W. Walnut, stated that he is a member of the Old Town Neighborhood Association and a downtown resident. He stated that they are in a tough spot tonight and he hopes they understand the tough spot they are in. He stated that they did not come to a consensus on this and he thinks there were good arguments on both sides. He stated that most agree that the Coleman's business would be a good neighbor, but they are concerned with the next owner and also with the other owners on Hall Street asking for their properties to be rezoned to commercial. He stated that they have been here a number of times in the last eight years to ask for the boundaries of the CBD (Central Business District) to be changed. He stated that the future is uncertain. He asked that they reject the bid and rezone the property as residential and then rebid it and to also address the CBD boundaries.

Lorie Cox, 203 W. Hall Street, stated that she lives directly across from the property in question. She stated that she has lived there ten years and has had a happy coexistence with the engineering office. She stated that her concerns were for traffic, strangers and disruption. She stated that she would prefer that it be office or residential and would be happy either way. She stated that she talked with Mr. Coleman and he relieved her fears, and that it does not sound like it will be an issue. She stated that she is hoping for a good neighbor. She stated that Mr. Coleman would be investing in the property and that sounds very attractive to her. She stated that there are several rental properties that are not maintained very well. She stated that she believes the Mayor would be a good neighbor.

Justin Cox, 203 W. Hall Street, stated that he lives across the street. He asked that they please change the zoning to office or residential. He stated that he would hate to not be able to play basketball and ride his bike.

Bill Fischer, 300 W. Walter Avenue, stated that he has never been inconvenienced by the library or engineering building. He stated that his biggest concern is if it is changed to residential, that he thinks the neighborhood would go down. He stated that there is a residential rental home near his house and indicated concerns for traffic and crime there. He stated that he is more concerned about what Justin Cox will run into with rental property than office.

J. Scott Johnson, 306 N. 1st Street, stated he would like to support the Colemans and he hopes the city will let the sale go through. He stated that he would like the values to increase in the area. He stated that he thinks it is a qualified bid and that he is okay with the zoning as it is, although the office zoning would be an improvement for the area. He stated that the improvements to the building that Mr. Coleman is going to do will improve the neighborhood.

David Taylor, 403 S. 3rd, stated that he is the President of the Old Town Neighborhood Association, but is only speaking as a neighbor right now. He stated that initially he spoke against this property being sold as commercial when he did not know what would happen with the property. He stated that he has thought about this since the Old Town Neighborhood meeting and he still wants to see the CBD boundary moved. He stated regarding the zoning and purchase of the building, if they can rezone to Office 1, he thinks that is preferable. He stated that he thinks this Council has been friendly to Old Town, but stated concerns for the future with a new Council. He stated to support the sale contingent on the rezoning to Office 1 and the CBD boundaries being moved to the alley north of Hall Street.

Mike Martin, 100 E. Hoopes Avenue, stated to admire Mayor Coleman's willingness to meet with the Old Town Neighborhood Association. He stated that he thinks their plan is a good plan; that it is well thought out, and a good compromise for the Mayor and the neighborhood. Mr. Martin stated that he has consistently voiced his opposition to the encroachment of the commercial into the residential. He stated that he wants the CBD boundary to be moved. He stated that he previously thought that it was a directive that was to occur. He stated that in order to be consistent, he must oppose this. He asked that the Council reject the bid, rezone residential and then rebid as residential.

Mayor Pro Tem Gonzales indicated that the rezoning and moving of the CBD boundaries would need to be discussed at a different time. Mr. Cooper asked how long it would take to rezone the property. Mr. Fletcher indicated 60 days, the same amount of time it would take to change the CBD boundary. Mr. Hyde provided information on zoning and nonconforming use.

Mr. Fletcher recommended the Office 1 district for the property. Mr. Cooper asked Mrs. Coleman if the Council opted to rezone to Office 1 and tabled the purchase until the zoning was complete, if that would be a hardship. Mrs. Coleman indicated that it would. She stated that their current lease is up in September and the delay would make it difficult to prepare the property. Mrs. Coleman asked that the Council proactively rezone the property to Office 1. Mr.

Hyde stated that he thinks the most appropriate action would be voluntary application from the property owner for rezoning to Office 1. He stated the voluntary application would need to be in writing to the City Secretary. Mrs. Coleman stated that she would like to file that request.

Mr. White stated that he does not want to tell anyone that they cannot purchase a piece of property if they have gone through the proper channels. He stated that he is open to the office use and to the CBD boundary being moved to the alleyway on Hall Street. He stated that he thinks office is an appropriate use but he does not want to cross that line if the neighborhood is totally against it.

Mr. Wade directed Mr. Fletcher to bring forward an item regarding the entire CBD boundary for Planning and Zoning Commission consideration. He stated a need to have a public hearing on that.

Mr. Marshall stated that he does not want to discount the concerns for a business at that location, but he has been keeping a tally of comments and emails, and the better of 60% have been in favor of Coleman's State Farm business moving in there. He stated that some are contingent on the Office 1 zoning. He stated that it seems there is a potential in the sale going through and it being zoned residential, so that if there is a lapse in the office use of six months, it would lose its nonconforming use status and would revert to residential. He asked if that might provide a safety net and compromise for the neighborhood. Discussion followed.

Mr. White verified with Mr. Wade that he had directed staff to bring forward an item to review the CBD boundaries.

Mr. Cooper made a motion to table the item to give Mrs. Coleman time to prepare a written request to rezone the property to Office 1. Ms. Sattler seconded the motion. All voted in favor. The motion carried.

10B. 2012-1197

Discuss and consider action regarding a request for a variance to Section DG8.1C of the Engineering Design Guidelines to allow the extension of overhead utilities to serve portions of the Renewable Energy Park Subdivision, also known as 130 Commerce Center, a 167-acre mixed use development by the Pflugerville Community Development Corporation located at the southwest corner of Pecan Street and SH 130.

Mr. Fletcher provided information. Darren Strozewski, DCS Engineering, was in attendance representing the Pflugerville Community Development Corporation (PCDC). Mr. White stated that he serves on the PCDC board and feels it difficult to go against the staff's recommendation. Mr. Strozewski provided information and discussed the options with Council. Mr. Wade noted that on the southern boundary where there is not a roadway, it seems okay, but not along the actual perimeter of the site along the roadways. He stated that he has told staff he wants to be very cautious on the approach with these. The staff recommendation to deny the overhead lines extending along Pecan Street and south along the SH 130 frontage road and to approve the overhead lines at the south corner of the parcel in the vicinity of the lift station was discussed. Mr. Cooper made a motion to approve the variance request per the staff recommendation only to allow overhead lines on the south portion of the

property and to deny all of the other overhead lines. Mr. Marshall seconded the motion. All voted in favor. The motion carried.

10C. 2012-1034

Discuss and consider action regarding the locations for the electric vehicle charging stations proposed and allocate funds from the FY 12 general capital reserve fund.

Mr. Fletcher provided information. He stated that there are ten electrical vehicle stations remaining. He proposed that the city install four at the expanded library and four at the Stone Hill Town Center across from the movie theater and to return two. He stated that the Capital Reserve Budget indicated \$48,000 for this project. Mr. Gonzales stated that the theater parking spots do not seem practical at the busy theater. Mr. Fletcher explained that this is the only location that the property owner was amenable to. Mr. Marshall stated that in front of the theater or the gym would seem to make the most sense. Discussion followed. Mr. White made a motion to proceed as proposed. Mr. Marshall seconded the motion. All voted in favor. The motion carried.

2012-1199

Discuss and consider action regarding sale of real property located at 102 South Third Street to the highest responsive bidder.

Mr. White made a motion to remove the item from the table. Mr. Cooper seconded the motion. All voted in favor. The motion carried.

The Council received the written request from Mrs. Coleman to rezone the property to Office 1 and to waive the rezoning fees. Mr. Wade stated that he does not have a problem with waiving the fees under these circumstances. Mr. Wade indicated as a reminder that the city advertised this property as a commercial property and they are placing an additional layer of requirement on them. He stated that is why he thinks it is reasonable.

Mr. Marshall indicated he would make that motion to approve the sale to the Colemans for the purpose of acquiring it for their business.

Mr. Cooper asked if they need to add the condition of the rezoning. Mr. Hyde stated that the letter requesting the rezoning from Retail to Office 1 has been received from Mrs. Coleman and has created an expectation that that is their intention.

Mr. Wade stated that he has been made aware that the Old Town Neighborhood Association may have come to a consensus. Chuck Lesniak indicated to represent the Old Town Neighborhood Association. He stated that they have talked about it more and wish the Council to go through with the sale, but to go through with rezoning it to residential, so that if it stops being used for the office purpose for six months, it will revert to residential. He stated that he would like to have a win win, to get the Colemans in there and have the property rezoned residential. Mr. White asked if the interim step would be zoning it to Office 1. Mr. Lesniak stated that would be an improvement, but he would prefer that the city move forward with a residential rezoning. Mayor Pro Tem Gonzales stated that even with the process of the rezoning request of Office 1, it could be rezoned to residential by the Council. Mr. White recommended moving forward with the sale to the buyer at this time and then also as soon as possible, moving the CBD boundary.

Mr. Wade stated he would like to revisit how many votes a supermajority would

take with four voting members of the Council. Mr. Hyde stated it would depend on how the number of Council is computed in the Charter. Mr. Cooper asked if Mr. White is asking that they tie the movement of the CBD boundary to this. Mr. White indicated no. Mr. Fletcher indicated that he would plan to initiate both at the June Planning and Zoning Commission meeting. Mr. Wade indicated that they will need to advise the Council later regarding the supermajority.

Mayor Pro Tem Gonzales stated that they have a motion to approve the sale.

Mr. White provided comments. He stated that he thinks all of the parties have been acting in good faith and thinks this would be an improvement. He stated that he thinks that measures are being taken for the neighborhood. He stated that he is okay with seconding the motion. Mrs. Coleman stated that they would be very hesitant to purchase the property if it were to be changed to residential. She stated that they do not know how that would affect their financing and appraisal. Mr. Cooper recommended that the Colemans table their offer and figure out the zoning before they buy it. Mr. Wade stated that it appears that the closing would occur prior to the completion of the rezoning and would be grandfathered to the retail zoning use. He stated that he could direct staff to bring forward the Office 1 zoning request on behalf of the city, even if the Colemans were to withdraw their zoning request. Discussion followed.

Mayor Pro Tem Gonzales stated that they have a motion and a second. He stated that the motion is to approve the sale as it is. Discussion followed. Mr. Wade stated that his direction to staff is to go forward with a zoning request to Office 1 and if the Coleman's withdraw the rezoning request, it is still his direction to move forward with it. Mrs. Coleman asked if the Council does vote to proceed with the sale, if they have a number of days to look at it; if their bid is retractable. Mr. Hyde stated if the Council wants to allow a certain number of days to revoke the bid, then it would be retractable.

Mr. White stated if they vote yes with this and move forward with the office zoning and were to change the zoning to residential later after they are in there, it would be a non-conforming use and they would have that use privilege. Mr. Fletcher confirmed and provided information.

Mr. Marshall withdrew his original motion. Mr. Marshall made a motion to approve the sale contingent on the city initiating a rezoning change to Office 1 and providing the ability for the buyer to have until 5:00 p.m. Friday, May 11, 2012 to reconsider their bid and withdraw it. Mr. White seconded the motion. Mr. Hyde asked about the treatment of the earnest money. Mr. Wade recommended that it be returned to the bidder if they withdraw by 5:00 p.m. on Friday. Mr. Marshall was in agreement with that. Mr. Hyde provided explanation to the bidder. All voted in favor. The motion carried.

10D. 2012-1188 Discuss and consider action regarding future agenda items.

None were stated.

10E. 2012-1192 1.) Executive Session Item: Deliberation regarding the sale of real property pursuant to Chapter 551.072 of the Texas Government Code.
2.) Open Session Item: Discuss and consider action regarding the sale

of real property.

There was no discussion or action on the item.

Executive Session

Mayor Pro Tem announced that the City Council was retiring to executive session on items 10F and 10G and he read the items. Mayor Coleman reentered the meeting at this time. The Council retired to executive session. The time was 9:47 p.m.

- 10F. 2012-1191** 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 and consider action regarding agreements with Manville Water Supply Corporation.

Discussion on the item was to take place in executive session.

- 10G. 2012-1193** 1.)Executive Session Item: Consultation with legal counsel pursuant to Chapter 551.071 of the Texas Government Code for legal advice regarding the provision of public utilities within the City of Pflugerville. 2.)Open Session Item: Discuss and consider action regarding the provision of public utilities within the City of Pflugerville.

Discussion on the item was to take place in executive session.

11. Adjourn

Mayor Coleman reconvened in open session at 10:13 p.m. No action was taken on the items discussed in executive session. Mr. Gonzales made a motion to adjourn. Mr. Marshall seconded the motion. All voted in favor. The motion carried. The meeting was adjourned at 10:13 p.m.

Respectfully submitted,

Karen Thompson
City Secretary

Approved as _____ on May 22, 2012.