



City of Pflugerville

Minutes - Final City Council

Tuesday, April 10, 2012

7:00 PM

First Baptist Church,
801 W. Pecan Street, Pflugerville, TX

Regular Meeting

1. Call to order

Mayor Jeff Coleman called the meeting to order at 7:00 p.m. Councilmembers Wayne Cooper, Brad Marshall, Darelle White and Victor Gonzales were in attendance. Councilmember Starlet Sattler 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; Terri Waggoner, Public Information Officer; Karen Thompson, City Secretary; Chuck Hooker, Police Chief; James Wills, Public Works Director; Tracy Hibbs, Utility Billing Operations Manager. Floyd Akers, Director of the Pflugerville Community Development Corporation, was also in attendance.

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. Discuss and consider action

3A. 2012-1148

Discuss and consider action regarding an Agreement Between the City of Pflugerville and Monarch Utilities I, L.P. Dismissing All Administrative Proceedings Between Them and Committing to Collaborate to Establish Regionalized Long Term Water Solutions for the Pflugerville, Texas Area.

Mayor Coleman provided background information on the STM proceeding and application by Monarch to increase rates. He provided information on the estimated rate increases and possible increases to the rate due to legal costs being recovered and passed on to the customers. Mayor Coleman provided information regarding the proposed agreement to work with Monarch over the course of the next year to reach long-term solutions. Mayor Coleman took questions and comments from the audience. Mayor Coleman, Mr. Wade and Mr. Hyde provided information during this time.

Darrell Birdwell, 16203 Malden Dr, stated that at the last meeting the City had discussed taking over. Mayor Coleman explained that this agreement would stop the City from filing condemnation proceedings for a year.

Bruce Calvin, 16508 Framingham Cir, stated that the last meeting was terrific; we were going to take them over, but now we are keeping the enemy close. He stated that the rate increase was not going to go through. He stated that the City needs to do something about the current rates and get those people out of town. He stated that negotiating politics with them is the wrong way to go. He asked about the sludge trucks going through their neighborhood. Mr. Wade stated that they would discuss that with them and provided additional information.

Tamara Edwards, 16420 Parkway Dr, stated that she thinks this makes sense. She stated that she wants the Council to hold to not doing a "band-aid" fix; that she wants a long-term solution.

Ria Garza, 4012 Cisco Valley Dr, stated that she is a wastewater customer. She stated to applaud the Council for their actions and thanked the Council. She stated that she really does not agree with the course of action of the settlement; that she thinks that they were in a good position to fight this thing.

Marc Choquette, 1114 Batavia Dr, stated that he does not know if anyone has done research into this company. He stated that he does not want them in his neighborhood. He stated that he applauds what the Council is trying to accomplish, but they are not welcome.

Atlan J. Eschberger, 910 Ramble Creek Dr, stated that he wants the City to buy them out. He stated that he hopes that the subject is on the agenda for every negotiation meeting between the City and Monarch.

J. Linnen, 16911 Copperhead Dr, stated that \$35 was his total water bill when he first moved here. He stated that they are suffering and that he wants them out of the City.

Steven Schmidt, 16353 Edgemere Dr, stated that he has researched them and they have a very poor reputation. He stated that others have driven them out. He stated regarding the numbers in the Mayor's presentation slides, that they do not make sense.

Teresa Blaha, 16215 Windermere Dr, asked who they could contact regarding their unfair practices. Southwest Water Company Vice President Chuck Profilet stated that they have implemented a new billing system which has resulted in difficulties. He apologized. He asked that they call customer service with any issues.

Dale Boswell, 17212 Guana Cay Dr, stated that they had a long-term solution in February and now they only have a patchwork solution. He stated that it seems that the City should hold a bond election and increase property taxes to pay for the litigation costs and purchase of Windermere or the City should subsidize those customers paying higher rates.

Mark VonBargen, 405 Sage Boot Dr, asked if the money charged to Southwest by the City of Austin was added to their bills. He indicated concerns for the water companies' lobbyists and actions that could take place at the state level at the next legislative session. He asked if the increases go forward if the utility would be spending money locally or only in the other areas.

Chris Falsone, 17208 Guana Cay Dr, stated that they would like information on where the numbers came from and asked what the estimated litigation costs are over time. Mr Hyde explained that the customer has to pay the litigation costs of both sides and estimated that the litigation costs would be in the single or tens of millions of dollars, which would not include the actual acquisition costs. He stated that the rate case expense is to be borne by the customers of that utility.

Charmayne Ortegon, 16503 Colwyn Bay Cv, urged everyone to contact their legislative representatives for change to state water laws.

Paul Henley, 16919 Simsbrook, noted that the Councilmembers are volunteers and indicated that they are great public servants. He stated he would enjoy it if there is a way to work this out. He stated that it is important to keep the rates down and the quality up.

Riki Graves, 1503 Amarylis Dr, stated to appreciate the Council. She reported on billing issues.

Demba Diawara, 17412 Dashwood Ck, reported on billing issues and stated that they should improve the water quality.

Michael J. Goin, 1111 Disraeli Cir, spoke on the differences in a municipal-owned utility and a privately-owned utility and stated that the municipal-owned utility benefits the customer.

Don Faughn, 16106 Stoneham Cir, indicated concern for high rates and asked if the utility has considered selling to the City of Pflugerville. Mr. Profilet stated that they are entering into this agreement with the intent on collaborating on long-term solutions and that everything is on the table.

Joe Greene, 17218 Guana Cay Dr, stated that he does not see a good solution until the City owns the water utility. He stated that they are still paying more than anyone else.

Marcia Proulx, 17102 Northhavens Cv, voiced concerns for the rates and inability for the City to protect them from the extravagant rates after they were annexed. Mr. Hyde provided information. Ms. Proulx stated that she thinks that if the City bought them out that they would be protected.

Cheryl Mangelsdorf, 1210 Ivy Bridge Dr, asked if Southwest would consider not raising rates due to the poor water quality. She encouraged the City to buy them out.

Stephen Hughes, 1107 Ramble Creek Dr, stated that the rate increase slide is misleading. He stated that they pay more than \$50 currently. He stated that he knows of people in the country that have had their own wells dug deeper to access water. He asked why we spend so much when we could dig deeper wells. He reported on billing and water meter issues that he has experienced. He stated that he is getting billed for water he is not using. He stated that he thinks that the City could sell water to Windermere and Windermere could add their mark up and sell to the customers and still decrease the rates. Mr. Wade indicated that they will be considering that as an option. Mr. Hyde stated that the Texas Commission on Environmental Quality (TCEQ) is the arbitrator over billing issues.

Francia Baez, 1418 Suzi Ln, reported on billing issues. She stated that they only came to Texas because they did not think we would be a challenge. She stated that water quality and customer services is ridiculous. She stated that they need to provide better quality service and better quality water.

Heidi Skelton, 1012 Disraeli Cir, stated to appreciate everyone and thanked Lauri Gillam. She stated that she would like to see something on the City website explaining their rate structure. She stated that she is unsure if she is being billed correctly. She stated that she would like to know that everyone is getting the same rate.

Jolee Pekarek, 17308 Dashwood Ck, asked Mr. Profilet his position. Mr. Profilet indicated Vice President. She stated she wanted to see how important the City's meeting was to them.

Sheila White, 1600 Jigsaw Cv, indicated that there are 15,000 customers and asked where they were. She asked regarding the contract who the other utilities are mentioned in section E. Mr. Hyde provided information.

Sharon Irvin, 1404 Lochaline Loop, stated that her heart is not settled with everything going on. She stated that she has suffered with the high bills. She stated that they need better water quality. She stated that she just wants to sell her house. She stated to appreciate what the Council is doing.

Keith Keily, 1404 Haley Gray Dr, stated that the Council is doing a good job and the only way to get it settled is through negotiations. He suggested that people test their water meters with a five-gallon bucket and call the utility if it is not reading correctly. He asked if there is a reason why they cannot get their actual water use instead of rounding. Mr. Profilet indicated that he would get an answer. Ms. Gillam was to post it on the City website.

Boyd Lawrence, 16303 Bates Cv, stated that there is no reward for conservation with the current water rate structure. He suggested lowering the

tap fees and increasing rates for use. He asked that Southwest consider it.

Kenneth Kalu, 17105 Copperhead Dr, stated that he is pessimistic. He stated that Southwest is for profit and that the only good can come from the City supplying them water.

Doug Weiss, 18932 Canyon Sage Ln, urged everyone to write their Legislative representatives and the TCEQ. He spoke regarding the numbers provided on the slide regarding rate increase and legal fees that the red portion does not seem to reflect the costs that will be passed on to the customers. Mr. Hyde provided information.

Claudia Crislip, 17102 Tortoise St, asked what things would be brought to the table in the negotiations. Mayor Coleman stated that some ideas are for the City to find a way to take the system over; to look at different ways to supply water; to look at alternative supply systems and sources. He stated that creative ideas need to be worked through.

Mayor Coleman closed public comment on the item.

The following people did not wish to speak, but requested that the Mayor announce for the record their support for the interests of the Pflugerville customers of Windermere/Monarch/Southwest Water Utilities:

Ricky G. Crislip, 17102 Tortoise St

Sandy Flora, 807 Ramble Creek Dr

Jeremy Frazzell, 17626 Loch Linnhe Loop

Tammy Goldstein, 16409 Malden Dr

Jack Hatton, 17211 Dashwood Creek Dr

Helen Hayter, 1504 Suzi Ln

Michael Hinojosa, 17210 Dashwood Creek Dr

Nelson Irvin, 1404 Lochaline Loop

Valerie Krueger, 17208 Dashwood Creek Dr

Kathie Olsen, 807 Ramble Creek Dr

Terry Struble, 1524 Freestone Dr

Mr. Gonzales and Mr. White provided comments. Mr. White made a motion to approve item 3A, to approve the proposed agreement with Southwest Water. Mr. Marshall seconded the motion. Mr. Cooper provided comments and asked for an audit process to see if there is an issue with their meters and billing. All voted in favor. The motion carried. Mayor Coleman provided comments.

4. Public Comment

Steven Schmidt, 16353 Edgemere Dr, thanked the Council. He stated that he is sincere in his desire to help people with what is going on.

Jolee Pekarek, 17308 Dashwood Creek, stated that her road is in bad shape. Mr. Word was to talk with her regarding the issue.

Deanna Huff, 16501 Edgemere Dr, asked regarding the water meter and billing audit. She stated that she also had concerns and called TCEQ and they told her that the meters are new and that there is no need to check them. She stated if Southwest wants to act in good faith, then ask for the trucks to slow down on their way to and from the wastewater plant. She explained that it is a dangerous situation. She stated that the road in front of the treatment plant is also in bad shape.

J. Linnen, 16911 Copperhead Dr, thanked the Police Department and stated that he thinks the City is doing a fantastic job.

Stephen Hughes, 1107 Ramble Creek Dr, stated that he would like for the City to consider a noise ordinance. He explained issues with car stereo noise on the street.

Francia Baez, 1418 Suzi Ln, asked if something is available for citizens dealing with a tree growing into the water or wastewater line. Mr. Wills was to talk with her regarding the issue.

Reading of the Consent Agenda

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

5. Approval of Minutes

- 5A. **2012-1137** Approval of the minutes of the March 24, 2012 Worksession; March 25, 2012 Quorum; and March 27, 2012 Worksession and Regular Meeting.

The minutes were approved on the consent agenda.

6. Ordinances First Reading

- 6A. ORD-0103** Approving an ordinance on first reading with the caption reading: AN ORDINANCE OF THE CITY OF PFLUGERVILLE, TEXAS REPEALING ORDINANCE NO. 1096-12-01-10, GRANTING THE CONVEYANCE OF A 10' PRIVATE WASTEWATER EASEMENT ON CITY PROPERTY JOINTLY TO HW CARMEN INVESTMENTS AND DPS MEGACENTER 2000, LTD. ON A 10.51-ACRE TRACT OF LAND OUT OF THE L.C. CUNNINGHAM SURVEY, NO. 63, ABSTRACT NO. 163; AND MORE SPECIFICALLY DESCRIBED IN A DEED TO THE CITY OF PFLUGERVILLE, OF RECORD IN DOCUMENT NO. 2003293775 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS.

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

7. Ordinances Second Reading

- 7A. ORD-0099** Approving an ordinance on second reading with the caption reading: AN ORDINANCE AMENDING THE CITY OF PFLUGERVILLE CODE OF ORDINANCES TITLE XV LAND USAGE, CHAPTER 157 UNIFIED DEVELOPMENT CODE FOR PURPOSES OF ADDING REFERENCE TO CHAPTER 158 STORM WATER POLLUTION CONTROL ORDINANCE: AMENDING SUBCHAPTER 3 TO ADD SUBMITTAL REQUIREMENTS FOR SITE DEVELOPMENT; AMENDING SUBCHAPTERS 5, 6 AND 16 TO ADD REFERENCE TO CHAPTER 158; AND AMENDING SUBCHAPTER 15 TO ADD SUBMITTAL REQUIREMENTS FOR PRELIMINARY PLAT AND CONSTRUCTION PLANS; REPLACING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE AND DECLARING AN EFFECTIVE DATE. (CA1201-01)

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

8. Other Actions

- 8A. 2012-1146** Approving and authorizing the City Manager to enter into a Wastewater Easement Agreement by and between DPS Megacenter 2000, Ltd. and the City of Pflugerville generally located at the northeast corner of the intersection of E. Wells Branch Parkway and S. Heatherwilde Boulevard on Lot 1, Block A of the Carmen Subdivision.

The item was approved on the consent agenda.

- 8B. 2012-1145** Approving the selection of K-Friese and Associates, Inc. of Austin, Texas for engineering design services in conjunction with the Colorado Sand Drive Street, Drainage, and Utility Improvement project and authorizing the City Manager to enter into negotiation for professional engineering services and execute same.
- The item was approved on the consent agenda.
- 8C. 2012-1136** Receive report on City Council, Commission, Board and Committee expenditures for March 2012.
- The item was approved on the consent agenda.
- 8D. 2012-1149** Awarding the contract for the Mountain Creek Trail project to the lowest responsive bidder, Westar Construction, Inc., in the amount of \$101,153.16 and authorizing the City Manager to execute same. This project is being funded through a grant from the Texas Recreational Trails Fund administered by the Texas Parks and Wildlife Department, a grant from the Pflugerville Community Development Corporation, City of Pflugerville Parks Escrow, City of Pflugerville In-Kind Labor, and the 2012 General Capital Reserve.
- The item was approved on the consent agenda.

Action on the Consent Agenda

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

9. Discuss and consider action

- 9A. 2012-1143** Discuss and consider action regarding future agenda items.
- No future agenda items were noted.

Executive Session

Mayor Coleman announced that the City Council was retiring to executive session on items 9B, 9C, 9D, and 9E. He read the items to be discussed. He retired to executive session at 9:25 p.m.

- 9B. 2012-1139** 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. No action was taken.

- 9C. 2012-1138** 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. No action was taken.**
- 9D. 2012-1155** 1.) Executive Session Item: Deliberations regarding economic development negotiations pursuant to Chapter 551.087 of the Texas Government Code. 2.) Open Session Item: Discuss and consider action regarding economic development negotiations.
- Discussion on the item was to take place in executive session. No action was taken.**
- 9E. 2012-1156** 1.) Executive Session Item: Deliberations regarding economic development negotiations pursuant to Chapter 551.087 of the Texas Government Code regarding an economic development agreement with North Forest Office Space, LLC. 2.) Open Session Item: Discuss and consider action regarding an economic development agreement with North Forest Office Space, LLC.
- Discussion on the item was to take place in executive session. Action took place later in the meeting.**

Executive Session Closed

Mayor Coleman reconvened in open session at 10:00 p.m.

- 9E. 2012-1156** 1.) Executive Session Item: Deliberations regarding economic development negotiations pursuant to Chapter 551.087 of the Texas Government Code regarding an economic development agreement with North Forest Office Space, LLC. 2.) Open Session Item: Discuss and consider action regarding an economic development agreement with North Forest Office Space, LLC.
- Mr. Gonzales made a motion to move forward with the economic development agreement. Mr. White seconded the motion. All voted in favor. The motion carried.**

10. Adjourn

Mr. Cooper made a motion to adjourn. Mr. Marshall seconded the motion. All voted in favor. The motion carried. The meeting was adjourned at 10:01 p.m.

Respectfully submitted,

Karen Thompson
City Secretary

Approved as _____ on April 24, 2012.