

Minutes of Regular Meeting

City Council

City of Dripping Springs

A Regular Meeting of the City Council of the City of Dripping Springs was held Tuesday, January 14, 2014, beginning at 5:30 PM in the 511 Mercer Street, Dripping Springs, Texas.

I. CALL TO ORDER AND ROLL CALL - 5:30 p.m.

Mayor & City Council Members/Board of Adjustment

Mayor Todd Purcell

Mayor Pro Tem Bill Foulds

Council Member Santos Alba

Council Member Charles Busbey

Council Member Wade King

Council Member John Kroll

City Staff/Appointed Officials

City Administrator Michelle Fischer

Deputy City Administrator Ginger Faught

Planning Director Jon Thompson

Planning and Zoning Chair Larry McClung

City Secretary Jo Ann Touchstone

City Attorney Alan Bojorquez

City Treasurer Gina Gillis

Mayor Purcell calls meeting to order at 5:30 p.m. All present except Gina Gillis and Larry McClung. Also present Special Counsel Susan Zachos and Financial Advisor Chris Lane.

II. WORKSHOP

No action to be taken. Staff Reports regarding Consent, Site Developments, Subdivisions, Zoning, On Site Sewage Facilities, Signs, Variances, Waivers, Special Exceptions, Annexations, Alternate Standards, Business, and Other Agenda Items listed below.

III. EXECUTIVE SESSION

The City Council for the City of Dripping Springs has the right to adjourn into executive session at any time during the course of this meeting to discuss any matter as authorized by Texas Government Code Sections 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices), and 551.086 (Economic Development).

Convened to Executive Session at 5:33 p.m. Those present: Mayor Purcell, Mayor Pro Tem Foulds, Councilman Alba, Councilman Busbey, Councilman King, Councilman Kroll, City Administrator Michelle Fischer, Deputy City Administrator Ginger Faught, Planning Director Jon Thompson, City Secretary Jo Ann Touchstone, Alan Bojorquez and Susan Zachos. Reconvened to Workshop at 6:51 p.m.

- A. Consultation with City Attorney Regarding Franchise Agreement Between the City of Dripping Springs and Vaquero Waste and Recycling for Solid Waste Services (551.071 Consultation with City Attorney)
- B. Consultation with City Attorney regarding the City's South Regional Wastewater Treatment Plant contract operations, regulatory issues and reporting (551.071 Consultation with City Attorney)

The following Business Items were moved to Executive Session:

Consideration of the proposed Development Agreement between the City of Dripping Springs and Development Solutions CAT, LLC for the Caliterra Subdivision, located at 26465 Ranch Road 12 (also known as, 591 acres +/- out of the Philip A. Smith Survey, Abstract 0415, Hays County, Texas, approximately 1.3 miles south of the US 290/RR12 intersection on RR12), addressing land use; infrastructure; parkland and open space; impervious cover; watershed protection; and variances on lot dimensions and setbacks; streets, driveways and sidewalks; cut, fill and slopes; lighting; and fiscal guarantees

Wastewater Service and Impact Fee Agreement Between City of Dripping Springs and Development Solutions CAT, LLC and Hays County Development District No. 1 for the Caliterra Subdivision, located at 26465 Ranch Road 12 (also known as, 591 acres +/- out of the Philip A. Smith Survey, Abstract 0415, Hays County, Texas, approximately 1.3 miles south of the US 290/RR12 intersection on RR12)

Presentation on Proposed Use of a Public Improvement District for Scenic Greens Development (681.5088 acres located northwest of the intersection of US Hwy 290 and McGregor Lane), *SunCal*

Reconvened to Executive Session at 9:19 p.m. Those present: Mayor Purcell, Mayor Pro Tem Foulds, Councilman Alba, Councilman Busbey, Councilman Kroll, Councilman King, City Administrator Michelle Fischer, Deputy City Administrator Ginger Faught, City Secretary Jo Ann Touchstone, Alan Bojorquez, Susan Zachos and Chris Lane.

Reconvened to Regular Session at 9:32 p.m.

IV. RECESS

V. RECONVENE AT 7:00 p.m.

VI. PLEDGE OF ALLEGIANCE

A. Pledge of Allegiance – Boy Scout Troop 585 leads the pledge.

VII. PRESENTATION OF CITIZENS

Floor open to discussion on any subject. No action may be taken by law. Citizens wishing to speak shall do so after being recognized by the Mayor. The Mayor and City Council may establish a time limit as necessary.

Mayor Purcell reads letter from the Texas Municipal Clerks Association congratulating City Secretary Jo Ann Touchstone for completion of the Texas Municipal Clerks Certification Program.

VIII. CONSENT ITEMS

The following items are anticipated to require little or no individualized discussion due to their nature being clerical, ministerial, mundane or routine. In an effort to enhance the efficiency of City Council meetings, it is intended that these items will be acted upon by the City Council with a single motion because no public hearing or determination is necessary. However, a City Council Member or citizen may request separate deliberation for a specific item, in which event those items will be removed from the consent agenda prior to the City Council voting on the consent agenda as a collective, singular item. Prior to voting on the consent agenda, the City Council may add additional items that are listed elsewhere on the same agenda.

- A. Approval of Regular Meeting Minutes, December 10, 2013
- B. Approval of Treasurer's Report for December 2013
- C. Approval of Appointment of Karl Seelbach to Founders Commission to Fill Unexpired Term (At Large) and Appointment of Ted Lehr as Alternate
- D. Approval of Lease Agreement Between the City of Dripping Springs and James and Nancy Glosson for 1042-B DS Ranch Road (Dripping Springs Ranch Park House)
- E. Approval of Utility Easement Granted by the City of Dripping Springs to Pedernales Electric Cooperative for the Purpose of an Underground Electric Distribution Line at Dripping Springs Ranch Park for Electrical Service to Recreational Vehicle Locations
- F. Approval of Underground Electric Distribution System Agreement between the City of Dripping Springs and Pedernales Electric Cooperative for Underground Electric Line at the Dripping Springs Ranch Park Event Center Recreational Vehicle Locations

Councilman Alba motions to approve consent agenda. Councilman Busbey seconds. Motion passes, 5-0.

Mayor Purcell asks Council to move Business Item A. Councilman Busbey motions to approve moving the item. Councilman Alba seconds. Motion passes,

5-0.

IX. SITE DEVELOPMENTS/SUBDIVISIONS/ZONING/ON SITE SEWAGE FACILITIES/SIGNS/VARIANCES/WAIVERS/ALTERNATE STANDARDS/ANNEXATIONS

Consideration and Possible Action On:

- A. Special Exceptions from the Zoning Ordinance - Lots 5 and 6, Shops at the Springs, 333 US Hwy. 290 E., *David Browne, BCL Walker, LLC, Owner*
1. Presentation – Applicant available for questions.
 2. Planning Director's Report – Planning Director Jon Thompson, report on file.
 3. Planning & Zoning Commission Report – Commissioner McClung states the Commission recommended approval 5-1-0.
 4. Public Hearing – Bruce Turbow, states a four story building on that site is oversized and would encourage applicant to acquire additional land and build out rather than up.
 5. Special Exception to Exceed Maximum Building Height (Code of Ordinances, Chapter 30, "Zoning," Section 3.12.3(a)) - Commissioner Kroll motions to approve per staff recommendations. Mayor Pro Tem Foulds seconds. Council discusses. Motion passes, 5-0-0.
 6. Special Exception to Exceed Number of Stories Allowed (Code of Ordinances, Chapter 30, "Zoning," Section 3.12.3(a)) – Councilman Kroll motions to approve staff recommendations. Councilman Alba seconds. Motion passes, 5-0-0.
- B. Consideration of the proposed Development Agreement between the City of Dripping Springs and Development Solutions CAT, LLC for the Calterra Subdivision, located at 26465 Ranch Road 12 (also known as, 591 acres +/- out of the Philip A. Smith Survey, Abstract 0415, Hays County, Texas, approximately 1.3 miles south of the US 290/RR12 intersection on RR12), addressing land use; infrastructure; parkland and open space; impervious cover; watershed protection; and variances on lot dimensions and setbacks; streets, driveways and sidewalks; cut, fill and slopes; lighting; and fiscal guarantees
1. Presentation – Mr. Andy Barrett, states history of project and introduces Bob Richardson, Robbie Callegari, Felix Manka and Kevin Kendrick. Mr. Richardson reviews plan.
 2. Staff Report – City Administrator Michelle Fischer, report on file.
 3. Parks & Recreation Commission Report - City Administrator Michelle Fischer, report on file.
 4. Planning & Zoning Commission Report - Commissioner McClung states the Commission held two meetings to review the development agreement. The Commission recommended approval with exception of any recommendation related to annexation.

5. Public Hearing – Bruce Turbow, states support for the project. Mr. Turbow states the developer is doing a very responsible development that supports responsible growth in Dripping Springs.

Janice Campbell, adjacent landowner, states concern for open campground area and potential use of ground fires.

6. Variances & Alternative Standards addressing administrative approval authority for final Plats and constructions plans, building setbacks, lot widths and depths, minimum lot area, lighting, approach roads and access, frontage on residential collector streets, residential block lengths, intersection streets, minimum lots sizes, sidewalks, performance guarantees, cuts, fills, irregular shaped lots, design speed, minimum centerline radius, minimum tangent length, minimum lot frontage, minimum drive spacing, width of shoulder, cul-de-sac right-of-way/pavement radius, knuckles, and side slopes on swales – See motion for Development Agreement (item 7).

Councilman Busbey recuses himself.

7. Development Agreement – Mayor Pro Tem Foulds inquires of applicant regarding Exhibit C and Exhibit F. Mr. Manka reviews. Staff reviews proposed changes related to annexation, slope protection, administrative approval of final plats and construction plans, fencing by Phillips Cemetery, density of the commercial portion of the property, adding the sign variance in Section 4.3.2 to Exhibit C, and amending Section 6.12. Mayor Pro Tem Foulds motions to approve subject to within the next six months the Owner and the City will enter into an agreement regarding future annexation of land within the District, and will reach a conforming agreement with the District on a Dissolution Agreement to be executed by the City and the District. During those six months, the City agrees that it will not annex or attempt to commence annexation of Land within the District prior to execution of the annexation and dissolution agreements. Mayor Pro Tem Foulds states motion also includes the following: removing Exhibit F and inserting “170 Units” in the blank in Section 3.2.3 (b); removing text of 4.4 and replacing with language provided in this motion regarding annexation; requiring a building permit for the fencing required in Section 4.6 as well as a letter of support for the building permit fencing from the Phillips Cemetery’s board; accepting the applicant’s language for slope protection; accepting the inclusion of the sign variance in Section 4.3.2 that was omitted from the variance chart along with staff recommendations; removing all references to administrative approvals for final plats and construction plans; adding language to section 3.9.1 to allow for “City Administrator’s designee”; and adding staff recommended changes on Section 6.12. Councilman Alba seconds. Motion passes, 4-0-1. Councilman Busbey abstains.

8. Agreement between the City and Coyote Ranch, Ltd., regarding annexation, fees, taxes, utilities, and related matters involving 561.49 acres of land (executed in 1999, amended in 2002) - No action taken.

X. REPORTS OF AGENCIES, COMMISSIONS AND STAFF

- A. Farmers Market Report - Market Manager Jo Ann Touchstone – Report on file.

XI. BUSINESS

Consideration and Possible Action On:

- A. Draft Transportation Plan, *Transportation Plan Committee* (***no action to be taken***)

1. Presentation – Planning Director Jon Thompson, report on file.
2. Planning & Zoning Commission Report – Commissioner McClung states the Commission had many people speak at the public hearing. Commission approved with reverting Butler Ranch Road back to 2008 plan.
3. Public Hearing –

Mara Cardwell, comments on file.

Viktor Kopponen, comments on file.

Don Doyle, states concern for construction entrance for Counts Estates on Butler Ranch Road. States he does not support plan due to site problems and safety of children who use bus service.

Jennifer Ziegler – Resident on Butler Ranch. States support for growth to be done responsibly to preserve rural area and quiet life. Does not support a “freeway” in the area.

Kevin Franta – resident on Butler Ranch Road. States data has not been provided to warrant this plan.

No action taken.

- B. Ordinance No. 1250.26 - An Ordinance of the City of Dripping Springs Amending the City's Sign Ordinance

1. Staff Report – City Administrator Michelle Fischer, report on file.
2. Public Hearing – No one speaks.
3. Ordinance No. 1250.26 – Mayor Pro Tem Foulds motions to approve. Councilman Alba seconds. Motion passes, 4-0-0. (Councilman Kroll exits meeting).

C. Ordinance No. 1230.09 - An Ordinance Amending the Subdivision and Site Development Ordinances to Allow for Administrative Approval Authority for Final Plats and Construction Plans by Amending Chapter 28, Article 28.04, and Exhibit A; of the Dripping Springs Code of Ordinances; Revising the Provisions for Site Plan and Final Plat Approvals; Removing Final Approval Authority from the City Council; and Providing for the Following: Findings of Fact; Enactment; Repealer; Severability; Codification; Effective Date; and Proper Notice And Meeting (*Sponsor: Councilman Alba*)

1. Staff Report – Planning Director Jon Thompson, report on file.
2. Planning & Zoning Commission Report - Commissioner McClung states the Commission recommended administrative approval with authority to pass for final approval to the Planning & Zoning Commission.
3. Public Hearing – Bruce Turbow, states he is unclear on the item and that he does not support administrative approval.
4. Ordinance No. 1230.09 – Councilman Kroll motions to enact ordinance 1230.09 with modifications: 1. Substantial compliance also includes vehicular access and water quality; 2. Final plats and construction plans that do not substantially comply with the preliminary plat must go back to the Planning and Zoning Commission and City Council for final approval; 3. Site development procedures remain as is; 4. The ordinance applies to final plats and construction plans and; 5. The notes provisions all stay the same. Mayor Pro Tem Foulds seconds. Motion passes, 5-0-0.

D. Resolution No. 2014-10 - A Resolution of the City of Dripping Springs to Join with Other Central Texas Communities to Form a New Utility Development Corporation that concentrates on Assuring Water Availability for the Future (*Sponsor: Mayor Purcell*) – Mayor Pro Tem Foulds motions to approve the City's draft of resolution. Councilman Alba seconds. Motion passes, 5-0-0.

E. Wastewater Service and Impact Fee Agreement Between City of Dripping Springs and Development Solutions CAT, LLC and Hays County Development District No. 1 for the Caliterra Subdivision, located at 26465 Ranch Road 12 (also known as, 591 acres +/- out of the Philip A. Smith Survey, Abstract 0415, Hays County, Texas, approximately 1.3 miles south of the US 290/RR12 intersection on RR12) (*Sponsor: Mayor Pro Tem Foulds*) – Councilman Alba motions to approve. Mayor Pro Tem Foulds seconds. Motion passes, 4-0-1. Councilman Busbey abstains.

F. Wastewater Service and Impact Fee Agreement between the City of Dripping Springs and Sunvstrs 2TX, LLC for The Burrows Tract (9.93 Acres Out of the Philip A. Smith Survey No. 26, A-415 and Lots 1,2 & 3 of The Burrows Subdivision) (*Sponsor: Mayor Pro Tem Foulds*) – Mayor Pro Tem Foulds motions to approve staff and city attorney finalizing exhibits. Councilman Alba seconds. Motion passes, 5-0-0.

- G. Authorization for the Mayor to Sign on Behalf of the City, and Have Filed at the Texas Commission on Environmental Quality, the City's Application to Amend it's Texas Pollutant Discharge Elimination System Permit No. WQ0014488001, prepared by CMA Engineering, Inc. (CMA) Pursuant to the December 10, 2013 Contract Between CMA and the City – Mayor Pro Tem Foulds motions to approve. Councilman Alba seconds. Motion passes, 5-0.

(Mayor Purcell recuses himself.)

- H. Consider and possibly take action to approve Change Order # 2 to the construction contract between Myers Concrete Construction and the City of Dripping Springs for the CAMPO sidewalk project CSJ 9014-36-065 (Mercer Street Pedestrian Improvement Project) for the removal of 4 light poles (to be purchased by the City). The project cost will be reduced by \$21,916.00 – Mayor Pro Tem Foulds motions to approve. Councilman Busbey seconds. Motion passes, 5-0-0.

- I. Consider and possibly take action to approve Change Order # 3 to the construction contract between Myers Concrete Construction and the City of Dripping Springs for the CAMPO sidewalk project CSJ 9014-36-065 (Mercer Street Pedestrian Improvement Project) for the modification to the construction plans to include trench grates for the drainage conditions at San Marcos Street. The project construction cost will be adjusted by \$3,057.88 – Councilman Busbey motions to approve. Councilman King seconds, motion passes, 5-0-0.

(Mayor Purcell reenters meeting.)

- J. Presentation on Proposed Use of a Public Improvement District for Scenic Greens Development (681.5088 acres located northwest of the intersection of US Hwy 290 and McGregor Lane), *SunCal* – Mr. Bill McLean reviews power point presentation. No action taken.

XII. ADJOURN -

Mayor Pro Tem Foulds motions to adjourn. Councilman Alba seconds. Motion passes, 5-0. Meeting adjourned at 9:33 p.m.