

**MINUTES
AUGUST 18, 2009
HEATH CITY COUNCIL
200 LAURENCE DRIVE - HEATH, TEXAS
PUBLIC HEARINGS - STATED MEETING – EXECUTIVE SESSION**

ATTENDING: JOHN RATCLIFFE, MAYOR
JULIANNA ZUREK, MAYOR PRO TEM
ROBERT HILLE
RICHARD KRAUSE
LORNE LIECHTY
STEVE McKIMMEY
ABSENT: KAREN LEWIS

Mayor Ratcliffe called the stated meeting to order and delivered the invocation at 7:33 p.m.

Department and Committee Reports

The reports were included in the Council packet. Director of Public Safety Terry Garrett introduced Rockwall County District Attorney Kenda Culpepper. Culpepper presented information regarding the partnership of all law enforcement agencies in the County to conduct a “No Refusal Weekend” pilot program from September 3 through September 8. Culpepper answered questions regarding the program that provides authorization and procedures for officers to obtain search warrants for blood samples in the instance that a driver who is stopped for probable cause of driving while intoxicated refuses to provide a chemical sample by breathalyzer. The Council expressed support for the pilot program.

Approval of the Minutes of August 4, 2009.

Page 1 of the minutes was revised to correct a typographical error and distributed prior to the meeting.

MOTION: APPROVE THE MINUTES OF AUGUST 4, 2009.

MOTION MADE: HILLE
SECONDED: KRAUSE
APPROVED: UNANIMOUS (Absent: Lewis)

PUBLIC HEARING – To Receive Input Regarding the Proposed Tax Increase for the City for the Year 2009.

The Mayor noted that the term “increase”, as required by the Property Tax Code refers to an increase in revenue due to factors including new building, increased property appraisals and annexation. Ratcliffe stated that the property tax rate would remain .3433 cents per \$100 valuation for the 18th consecutive year. Ratcliffe opened the public hearing and invited comments regarding the proposed tax increase at 7:42 p.m. There being none present to speak in support of or in opposition to the proposed tax increase, Ratcliffe closed the public hearing at 7:43 p.m. Ratcliffe stated that a second public hearing would be conducted on September 1.

PUBLIC HEARING – Request for a Conditional Use Permit for the Installation of Lights on a Tennis Court on Lot 16 in Block B of the Wyndemere Phase II Addition to the City of Heath, Rockwall County, Texas (421 Wyndemere Boulevard)- Requested by Mike Regan on behalf of Britt Patterson.

Ratcliffe opened the public hearing and invited comments regarding the request at 7:44 p.m. Mike Regan presented and answered questions regarding the proposal to install light on a tennis court at 421 Wyndemere Boulevard. Regan noted that the lights were designed with reflectors to shine down and that due to the configuration and trees on the lot, the lights would be not be visible from the street. There being no others present to speak in support of or in opposition to the request, Ratcliffe closed the public hearing at 7:45 p.m.

Discussion and Action Regarding Request for a Conditional Use Permit for the Installation of Lights on a Tennis Court on Lot 16 in Block B of the Wyndemere Phase II Addition to the City of Heath, Rockwall County, Texas (421 Wyndemere Boulevard).

Director of Public Works Pedram Farahnak reported that the Planning and Zoning Commission voted unanimously (5/0/2 absent) to recommend approval of the request at the August 11, 2009 meeting. Staff noted that the City’s Code of Ordinances included time restrictions for tennis court lights.

MOTION: APPROVE ORDINANCE 090818A GRANTING A CONDITIONAL USE PERMIT FOR THE INSTALLATION OF LIGHTS ON A TENNIS COURT ON LOT 16 IN BLOCK B OF THE WYNDEMERE PHASE II ADDITION TO THE CITY OF HEATH, ROCKWALL COUNTY, TEXAS (421 WYNDEMERE BOULEVARD).

MOTION MADE: KRAUSE
SECONDED: HILLE
APPROVED: UNANIMOUS (Absent: Lewis)

PUBLIC HEARING – Proposed Ordinance Amending Chapter 158; Subdivision Regulations of the Code of Ordinances pertaining to Administrative Approval of Certain Plats.

The Mayor opened the public hearing at 7:46 p.m. and invited comments in support of or in opposition to the proposed revision to the Subdivision Regulations. There being none, Ratcliffe closed the public hearing at 7:46 p.m.

Discussion and Action Regarding Ordinance 090818B Amending Chapter 158; Subdivision Regulations of the Code of Ordinances pertaining to Administrative Approval of Certain Plats.

Staff presented the proposed ordinance drafted per Council recommendation at the July 21 meeting. There was discussion regarding the reference included in the proposed ordinance to Section 212.016 and Section 212.0145 of the Texas Local Government Code (“LGC”). The Council directed staff to revise the draft in Section 2, paragraph A to limit administrative approval of amended plat to items 1 through 9 in subsection (a) of LGC Section 212.016 and to delete the proposed section labeled Section 158.072 in its entirety. A revised draft will be included on the September 1 agenda. No action was taken by the Council.

Discussion and Action Regarding a Request for a Variance to Fire Code Requirement to Install Fire Sprinklers at 515 Smirl Drive – Ray Paolucci.

Shannon Cain, contractor for Ray Paolucci, presented and answered questions regarding the request for a variance to the International Fire Code requirement to install a sprinkler system in the addition under construction at 515 Smirl Drive. Justifications for a variance requested by Cain and Paolucci included lack of risk to neighboring properties, lack of ignition source and burn sustainability, planned use of 6000 square feet of the addition as a trophy room rather than a living space and installation costs of alternate methods of fire suppression. Director of Public Safety Terry Garrett provided background regarding staff meetings with Cain and Paolucci to address Fire Code issues and concerns regarding risks to the contents of the planned trophy room. Garrett stated that the property owner and builder had indicated that they would research other options and submit to staff for review. There was discussion regarding insurance requirements, structural components and uses and Insurance Services Offices rating implications related to variances. Additional discussion included the future uses of the structure and a hold harmless agreement to be filed in the County property records. Public Safety Officer/Fire Inspector Jim Simmons and Building Official Tommy McDanel participated in the discussion. The Council suggested that Cain submit, for staff review, plans for an alternate method of fire suppression. The Mayor summarized the items that the applicant will provide for staff review:

- Fire suppression plans for the entire structure.
- Elevator plans.
- Specifications regarding the proposed foam product to be used.
- Certification from a fire suppression expert that the proposed alternate fire suppression plan is equivalent to or exceeds Fire Code requirements and that a variance as determined by Insurance Service Offices, Inc. is not required.

No action was taken by the Council. The request will be scheduled for consideration again for the September 1 or a late Council meeting depending on the submission of the items listed.

Discussion and Action Regarding Resolution 090818A Authorizing the Mayor to Execute a Construction Agreement with Underground Coalition, Inc. for Reconstruction of the Cove Ridge Lift Station.

Director of Public Works Pedram Farahnak presented and answered questions regarding the 5 bids received for the project to build a new Cove Ridge Lift Station. Krause expressed concern regarding disparities in costs of various components of the project. Farahnak confirmed that the bids had been thoroughly reviewed and qualified by a registered professional engineer.

MOTION: APPROVE RESOLUTION 090818A AUTHORIZING THE MAYOR TO EXECUTE A CONSTRUCTION AGREEMENT WITH UNDERGROUND COALITION, INC. FOR RECONSTRUCTION OF THE COVE RIDGE LIFT STATION.

MOTION MADE: HILLE
SECONDED: LIECHTY
APPROVED: FOR: HILLE, LIECHTY, McKIMMEY, RATCLIFFE, ZUREK
OPPOSED: KRAUSE (Absent: Lewis)

Discussion and Action Regarding Ordinance 090818C Amending Chapter 73 in Schedule 1, subparagraphs (B) and (C) to Correct Specifications pertaining to Parking Regulations for Terry Lane.

Assistant City Manager Kim Dobbs stated that the ordinance was drafted to correct street and location references pertaining to parking restrictions on Terry Lane in Schedule 1 of Chapter 73 of the Code of Ordinances. Dobbs noted that staff will continue to review parking schedules in Chapter 73.

MOTION: APPROVE ORDINANCE 090818C AMENDING CHAPTER 73 IN SCHEDULE 1, SUBPARAGRAPHS (B) AND (C) TO CORRECT SPECIFICATIONS PERTAINING TO PARKING REGULATIONS FOR TERRY LANE.

MOTION MADE: LIECHTY
SECONDED: ZUREK
APPROVED: UNANIMOUS (Absent: Lewis)

Ratcliffe adjourned the stated meeting to go into executive session as authorized by the Texas Open Meetings Act, Section 551.072: Deliberations Regarding Real Property pertaining to sanitary sewer infrastructure and Section 551.071: Consultation with attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Ch. 551, Government Code at 8:51 p.m. Ratcliffe re-convened the stated meeting at 9:34 p.m. and stated that no action was taken in executive session. Ratcliffe stated that the discussion pertained to sanitary sewer easements

Discussion and Action Regarding Developer Requests pertaining to Buffalo Creek Country Club Estates Phase 10 and Phase 11 – Rob Whittle, Whittle Development.

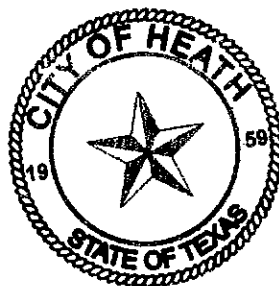
Rob Whittle requested that the Council grant waivers of specific items on the Department of Public Works punch list pertaining to Phase 10 and Phase 11 of the Buffalo Creek Country Club Estates subdivision in order that the plats be released for filing with the office of the County Clerk. There was discussion regarding Whittle's requests and regarding an amendment to the developer's agreement for the two phases that specifies the stipulations as negotiated.

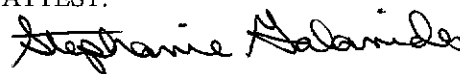
MOTION: 1.) APPROVE THE REQUEST FROM WHITTLE DEVELOPMENT TO RELEASE AND AUTHORIZE STAFF TO ISSUE BUILDING PERMITS FOR UP TO 6 LOTS IN BUFFALO CREEK COUNTRY CLUB ESTATES PHASE 10 AND PHASE 11 SUBJECT TO EXECUTION OF AN AMENDMENT TO THE 2007 DEVELOPER AGREEMENT THAT INCLUDES THE DEPARTMENT OF PUBLIC WORKS PUNCH LIST OF ITEMS TO BE COMPLETED WITHIN THIRTY (30) DAYS AND WITHIN TWELVE (12) MONTHS AS EXHIBIT "A", 2.) AUTHORIZE FILING OF THE PLATS OF BUFFALO CREEK COUNTRY CLUB ESTATES PHASE 10 AND PHASE 11 WITH THE AMENDED DEVELOPER AGREEMENT IN THE OFFICE OF THE ROCKWALL COUNTY CLERK AND 3.) INCLUDE A PROVISION PERTAINING TO THE RELEASE OF THE AMENDMENT TO THE DEVELOPER AGREEMENT UPON COMPLETION OF THE PUNCH LIST ITEMS SPECIFIED IN EXHIBIT "A" OF SAID AGREEMENT.

MOTION MADE: LIECHTY
SECONDED: ZUREK
APPROVED: UNANIMOUS (Absent: Lewis)

Ratcliffe adjourned the stated meeting at 10:55 p.m.

APPROVED: 
JOHN RATCLIFFE
MAYOR



ATTEST:

STEPHANIE GALANIDES
CITY SECRETARY