

MINUTES
REGULAR CITY COUNCIL MEETING
CITY COUNCIL CHAMBERS
124 Old San Antonio Road
Boerne, TX 78006
February 26, 2019 – 6:00 PM

Minutes of the Regular Called City Council Meeting of February 26, 2019 at 6:00 p.m.

Present: 5 - Mayor Mike Schultz, Council Member Ty Wolosin, Mayor Pro Tem Nina Woolard, Council Member Ron Cisneros, and Council Member Tim Handren.

Vacant: Council Member District 3

Staff Present: Ron Bowman, Siria Arreola, Paul Barwick, Dan Blankenship, Pam Bransford, Lori Carroll, Nick Colonna, Jerry Hopf, Jim Kohler, Robert Lee, Mike Mann, Sandy Mattick, Antony Moy, Steve Perez, Mike Raute, Laura Talley, Jeff Thompson, Mitch Scoggins, Molly Solis, Larry Woods, Linda Zartler and Danny Zincke.

Recognized/Registered Guests: Robert Imler, Milan J. Michael, Mike Luckey, Kelly Dawly, Cody Eifufa, Jeff English, Quinten Scott, Paul Giguere, Brian Fowler, Steve Schiffman, Bob Grassie, S. Denise Lindemann, Susan Brooks, Mary Ann Baxter, Nancy Rogers, Brad McFarland, Dan Weis, Ralph Mayo, Wes Mayor, William Uecker, Randy Mayo, James Allerkamp, Bryhn Simmons, Dawn Elder, Christina Peese, Bonnie Clanin, Steve Butler, Bob Webster, Jennifer McCall, and Phil Bakke.

1. CALL TO ORDER – 6:00 PM

Mayor Schultz called the City Council meeting to order at 6:00 p.m.

Mayor Schultz asked for a Moment of Silence and led the Pledge of Allegiance to the United States Flag and the Texas Flag.

2. CONFLICTS OF INTEREST

No conflicts were declared.

3. PUBLIC COMMENTS:

Mike Luckey, 110 Walters Road spoke on the proposed WCID No. 3. He stated that the state of Texas is a property rights state. He supports the landowner and developers right and if the City were to consent to the WCID No. 3, it will give the City control. It could be a win/win for the City and the developer.

Bob Webster, 325 Hwy 46 West and on the Board of Cow Creek Water District spoke on the proposed WCID No. 3. He feels if the City does not consent to the WCID No. 3 and the City gets the message to the State representatives it could go away.

Jennifer McCall, 412 West San Antonio spoke against the proposed WCID No. 3. She stated that the City and County have known about the WCID for a couple of years, but the public is just now finding out about it. If an agreement is not reached between the City and the Developer, it would go to TCEQ. She stated that the City Council needs to listen to the public's concerns and not listen to relationships with developers.

Phil Bakke, 3511 Broadway Street San Antonio and developer of the property where the proposed WCID No. 3 will be located, stated he is willing to work with the City.

4. CONSENT AGENDA:

4.A. [2019-212](#) CONSIDER APPROVAL OF THE MINUTES OF THE REGULAR CALLED CITY COUNCIL MEETING OF FEBRUARY 12, 2019.

THE MINUTES WERE APPROVED.

4.B. [2019-208](#) CONSIDER ON SECOND READING ORDINANCE NO. 2019-04; AN

ORDINANCE AMENDING ORDINANCE NO. 2012-47; ESTABLISHING A SPEED LIMIT ON CASCADE CAVERNS ROAD AND A PORTION OF RANCH DRIVE; AND PROVIDING FOR A PENALTY NOT TO EXCEED \$200 FOR EACH VIOLATION OF THIS ORDINANCE. (Add speed limit of 35 MPH on Cascade Caverns Road and Ranch Dr. within the City Limits)

THE ORDINANCE WAS APPROVED.

4.C. [2019-197](#) CONSIDER RESOLUTION NO. 2019-R16; A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT BETWEEN THE CITY OF BOERNE AND SHADEPRO FOR THE PURCHASE OF A SHADE STRUCTURE FOR THE ANIMAL SHELTER EXERCISE AREA.

THE RESOLUTION WAS APPROVED.

MAYOR PRO TEM WOOLARD MADE A MOTION, SECONDED BY COUNCIL MEMBER HANDREN TO APPROVE THE CONSENT AGENDA AS PRESENTED. THE MOTION CARRIED BY THE FOLLOWING VOTE:

YEAH: 4 - COUNCIL MEMBER WOLOSIN, MAYOR PRO TEM WOOLARD, COUNCIL MEMBER CISNEROS, AND COUNCIL MEMBER HANDREN.

5. [2019-199](#) RECOGNIZE GREY FOREST UTILITIES AND PRESENT PROCLAMATION FOR ASSISTING WITH GAS SERVICE DURING THE PLANNED, MANDATORY PIPELINE OUTAGE FOR MAINTENANCE.

Mayor Schultz called on Mr. Jeff Thompson, Deputy City Manager. Mr. Thompson stated last year the City received a 60 day notice that the natural gas supply would be cut off due to necessary maintenance. Grey Forest Utilities assisted the City by back-feeding natural gas through their utility system, thereby supplying gas during the maintenance period. Mr. Thompson stated that this is the second time that Grey Forest Utilities has provided this service, at no cost, to the City of Boerne. Mr. Thompson introduced Grey Forest Utilities General Manager Jeff English, Assistant General Manager Kelly Dawley, Director of Operations and Maintenance Cody Erfurth. Mr. Thompson also recognized City of Boerne employees from the Gas Department. Mayor Schultz read aloud the proclamation.

6. EXECUTIVE SESSION IN ACCORDANCE WITH THE TEXAS GOVERNMENT CODE:

Mayor Schultz convened the City Council into Executive Session at 6:19 p.m.

6.A. [2019-205](#) SECTION 551.071 - CONSULTATION WITH ATTORNEY AND SECTION 551.087 DELIBERATION REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS. (WCID No. 3 and BoerneBak Development)

No action was taken.

7. RECONVENE INTO OPEN SESSION AND TAKE ANY NECESSARY ACTION RELATING TO THE EXECUTIVE SESSION AS DESCRIBED ABOVE.

Mayor Schultz reconvened the City Council into Open Session at 7:30 p.m.

7.A. [2019-209](#) CONSIDER THE UNTABLING OF RESOLUTION NO. 2019-R13 AS DESCRIBED BELOW. (Tabled on 2/12/2019)

A MOTION WAS MADE BY MAYOR PRO TEM WOOLARD, SECONDED BY COUNCIL MEMBER WOLOSIN, TO UNTABLE RESOLUTION NO. 2019-R13 AS DESCRIBED BELOW. (TABLED ON 2/12/2019). THE MOTION CARRIED BY THE FOLLOWING VOTE:

Yeah: 4 - Council Member Wolosin, Mayor Pro Tem Woolard, Council Member Cisneros, and Council Member Handren

Mayor Schultz read aloud a statement regarding the proposed WCID No. 3. "The City Council has before it Petitions filed by Boernebak, LLC related to WCID No. 3 and 3A. These petitions are legally insufficient and therefore are rejected. This action should not be considered in any way as granting consent to the formation of any district pursuant to Senate Bill 914, Section 9072.004. The City and Developer can continue to negotiate a mutually satisfactory

development agreement that will mitigate impacts of the Boernebak development within the processes provided by SB914. Should negotiations result in a proposed development agreement favorable to the Boerne Community the City Council may reconsider the agenda item at that time."

- 7.B. [2019-206](#) **CONSIDER RESOLUTION NO. 2019-R13; A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BOERNE, TEXAS DENYING OR CONSENTING TO THE CREATION OF KENDALL COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 3, 3A, 3B AND PETITIONS FILED FOR THE CREATION OF WCID NO. 3, 3A, 3B AND ANNEXATION OF APPROXIMATELY 42 ACRES INTO THE WCID'S AND PROVISION OF CITY WATER AND SEWER SERVICES TO THE WCID NO. 3, 3A, AND 3B AS REQUIRED BY SPECIAL DISTRICT LOCAL LAWS CODE CHAPTER 9072.004 (SENATE BILL 914, 85TH LEGISLATIVE SESSION EFFECTIVE JUNE 9, 2017).**

A MOTION WAS MADE BY COUNCIL MEMBER WOLOSIN, SECONDED BY MAYOR PRO TEM WOOLARD, TO TABLE INDEFINITELY RESOLUTION NO. 2019-R13; A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BOERNE, TEXAS DENYING OR CONSENTING TO THE CREATION OF KENDALL COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 3, 3A, 3B AND PETITIONS FILED FOR THE CREATION OF WCID NO. 3, 3A, 3B AND ANNEXATION OF APPROXIMATELY 42 ACRES INTO THE WCID'S AND PROVISION OF CITY WATER AND SEWER SERVICES TO THE WCID NO. 3, 3A, AND 3B AS REQUIRED BY SPECIAL DISTRICT LOCAL LAWS CODE CHAPTER 9072.004 (SENATE BILL 914, 85TH LEGISLATIVE SESSION EFFECTIVE JUNE 9, 2017). THE MOTION CARRIED BY THE FOLLOWING VOTE:

Yeah: 4 - Council Member Wolosin, Mayor Pro Tem Woolard, Council Member Cisneros, and Council Member Handren

8. [2019-202](#) **CONSIDER ON FIRST READING ORDINANCE NO. 2019-05; AN ORDINANCE AMENDING ORDINANCE NO. 2007-63, AMENDING THE REQUIREMENTS FOR THE COMPLETION OF A TRAFFIC IMPACT ANALYSIS PRIOR TO THE APPROVAL OF DEVELOPMENT RELATED PROCESSES; SETTING DEFINITIONS; PROVIDING CRITERIA FOR TYPES OF ANALYSIS; SETTING FORTH MITIGATION PARAMETERS AND LIMITATIONS ON MITIGATION; SETTING**

MINIMUM VALUES FOR LEVEL OF SERVICE; PROVIDING FOR EXEMPTIONS; PROVIDING FOR A VARIANCE; AND ESTABLISHING A PROCESS FOR DETERMINING ROUGH PROPORTIONALITY.

Mayor Schultz called on Ms. Laura Talley, Planning and Community Development Director to discuss the proposed ordinance pertaining to the Traffic Impact Analysis. Ms. Talley stated that the City's consultant is in the audience to assist with any questions. Ms. Talley stated that Staff and the City Council has been discussing options on how best to manage the impact of new development on the City's transportation network. She reminded the City Council that a traffic impact fee is an option, but can only be assessed within the City limits. The developments outside the City or ETJ would not have to pay the impacts created by the development and the burden would fall to the City. Staff determined that the use of proportionality would be the best approach which can be applied to all development within the City and ETJ. The consultant has finalized a Transportation Criteria Manual and the worksheets. Discussion ensued regarding grandfathering and the process.

A MOTION WAS MADE BY COUNCIL MEMBER HANDREN, SECONDED BY COUNCIL MEMBER WOLOSIN, TO APPROVE ON FIRST READING ORDINANCE NO. 2019-05; AN ORDINANCE AMENDING ORDINANCE NO. 2007-63, AMENDING THE REQUIREMENTS FOR THE COMPLETION OF A TRAFFIC IMPACT ANALYSIS PRIOR TO THE APPROVAL OF DEVELOPMENT RELATED PROCESSES; SETTING DEFINITIONS; PROVIDING CRITERIA FOR TYPES OF ANALYSIS; SETTING FORTH MITIGATION PARAMETERS AND LIMITATIONS ON MITIGATION; SETTING MINIMUM VALUES FOR LEVEL OF SERVICE; PROVIDING FOR EXEMPTIONS; PROVIDING FOR A VARIANCE; AND ESTABLISHING A PROCESS FOR DETERMINING ROUGH PROPORTIONALITY. THE MOTION CARRIED BY THE FOLLOWING VOTE:

Yeah: 4 - Council Member Wolosin, Mayor Pro Tem Woolard, Council Member Cisneros, and Council Member Handren

9. [2019-196](#) RECEIVE BRIEFING ON THE BOERNE POLICE DEPARTMENT 2018 ANNUAL REPORT TO INCLUDE THE ANNUAL REPORT ON RACIAL PROFILING.

Mayor Schultz called on Police Chief Jim Kohler to review the Police Department 2018 Annual Report and Racial Profiling. Chief Kohler stated that the Police Department is required to report on an annual basis to the City

Council. The Report is also sent to the State. Mayor Schultz stated that it has been a pleasure and he is proud to be associated with the Boerne Police Officers. They always conduct themselves in a professional manner.

A MOTION WAS MADE BY COUNCIL MEMBER HANDREN, SECONDED BY MAYOR PRO TEM WOOLARD, TO RECEIVE AND APPROVE THE THE BOERNE POLICE DEPARTMENT 2018 ANNUAL REPORT TO INCLUDE THE ANNUAL REPORT ON RACIAL PROFILING. THE MOTION CARRIED BY THE FOLLOWING VOTE:

Yeah: 4 - Council Member Wolosin, Mayor Pro Tem Woolard, Council Member Cisneros, and Council Member Handren

10. [2019-201](#) CONSIDER ON FIRST READING ORDINANCE NO. 2019-06; AN ORDINANCE ESTABLISHING A 35 MILE PER HOUR SPEED LIMIT ON HERFF ROAD BETWEEN RIVER ROAD (SH-46) TO MAIN STREET (US-87); AND PROVIDING FOR A PENALTY NOT TO EXCEED \$200 FOR EACH VIOLATION OF THIS ORDINANCE.

Mayor Schultz called on Mr. Mike Mann, Utilities Director to discuss the proposed speed limit on Herff Road from Main Street to SH-46. Mr. Mann displayed a map of the area. It is Staff's recommendation that the speed be 35 mph from River Road to Main Street. Discussion ensued regarding TxDOT's method of determining speed limits and being proactive knowing the area will be developing soon.

A MOTION WAS MADE BY MAYOR PRO TEM WOOLARD, SECONDED BY COUNCIL MEMBER WOLOSIN, TO APPROVE ON FIRST READING ORDINANCE NO. 2019-06; AN ORDINANCE ESTABLISHING A 35 MILE PER HOUR SPEED LIMIT ON HERFF ROAD BETWEEN RIVER ROAD (SH-46) TO MAIN STREET (US-87); AND PROVIDING FOR A PENALTY NOT TO EXCEED \$200 FOR EACH VIOLATION OF THIS ORDINANCE. THE MOTION CARRIED BY THE FOLLOWING VOTE:

Yeah: 3 - Council Member Wolosin, Mayor Pro Tem Woolard, and Council Member Handren

Nay: 1 - Council Member Cisneros

11. [2019-200](#) **CONSIDER RESOLUTION NO. 2019-R17; A RESOLUTION AUTHORIZING THE CITY MANAGER TO PROCEED WITH PURCHASES AS PER SECTION 6.08 OF THE CITY OF BOERNE'S HOME RULE CHARTER. (Purchase and installation of access control and IT communications equipment for the Boerne Visitors Center)**

Mayor Schultz called on Mr. Paul Barwick, Special Projects Director to discuss the purchase and installation of the access control and I.T. communications equipment for the new Boerne Visitors Center. Mr. Barwick stated that during the construction of the building, it was discovered that an allowance for I.T. access control and communications equipment was not included in the overall Boerne Visitors Center budget. With the very minimal project contingency (1%), there is no money in the budget available to fund the needed equipment. The I.T. Department contacted three vendors to solicit bids. Two proposals were received, GVTC and Texas Electronic Systems Specialists, Inc. (TESS). The proposal from TESS was incomplete. It was Staff's recommendation to accept the proposal from GVTC in the amount, not to exceed \$34,323.00. Discussion ensued regarding using the Convention and Visitors Bureau funds and the possibility to get others to bid due to the high cost. I.T. Director explained that time is of the essence and doesn't feel delaying the project was an option.

A MOTION WAS MADE BY COUNCIL MEMBER CISNEROS, SECONDED BY MAYOR PRO TEM WOOLARD, TO APPROVE RESOLUTION NO. 2019-R17; AUTHORIZING THE PURCHASE AND INSTALLATION OF ACCESS CONTROL AND I.T. COMMUNICATIONS EQUIPMENT FOR THE BOERNE VISITORS CENTER FROM GVTC, NOT TO EXCEED \$34,323.00. THE MOTION CARRIED BY THE FOLLOWING VOTE:

Yeah: 4 - Council Member Wolosin, Mayor Pro Tem Woolard, Council Member Cisneros, and Council Member Handren

12. [2019-210](#) **CONSIDER A ONE TIME READING OF ORDINANCE NO. 2019-07; AS PERMITTED BY THE CITY OF BOERNE'S HOME RULE CHARTER, SECTION 3.11.A. (See agenda Item 13)**

A MOTION WAS MADE BY COUNCIL MEMBER CISNEROS, SECONDED BY COUNCIL MEMBER HANDREN, TO APPROVE A ONE TIME READING OF ORDINANCE NO. 2019-07; AS PERMITTED BY THE CITY OF BOERNE'S HOME RULE CHARTER, SECTION 3.11.A. (SEE AGENDA ITEM 13). THE MOTION CARRIED BY THE FOLLOWING VOTE:

Yeah: 4 - Council Member Wolosin, Mayor Pro Tem Woolard, Council Member Cisneros, and Council Member Handren

13. [2019-211](#) **CONSIDER ORDINANCE NO. 2019-07; AN ORDINANCE AMENDING ORDINANCE NO. 2018-29, CAPTIONED "AN ORDINANCE ADOPTING THE ANNUAL CAPITAL AND OPERATING BUDGETS FOR THE CITY OF BOERNE, TEXAS FOR THE FISCAL YEAR 2018-2019, BEGINNING OCTOBER 1, 2018 AND ENDING SEPTEMBER 30, 2019."**

Mayor Schultz called on Ms. Sandy Mattick, Finance Director. Ms. Mattick stated the budget amendment relates to the expenditure just approved for the access control and I.T. communication equipment for the new Boerne Visitors Center.

A MOTION WAS MADE BY COUNCIL MEMBER CISNEROS, SECONDED BY MAYOR PRO TEM WOOLARD, TO APPROVE ORDINANCE NO. 2019-07; AN ORDINANCE AMENDING ORDINANCE NO. 2018-29, CAPTIONED "AN ORDINANCE ADOPTING THE ANNUAL CAPITAL AND OPERATING BUDGETS FOR THE CITY OF BOERNE, TEXAS FOR THE FISCAL YEAR 2018-2019, BEGINNING OCTOBER 1, 2018 AND ENDING SEPTEMBER 30, 2019." THE MOTION CARRIED BY THE FOLLOWING VOTE:

Yeah: 4 - Council Member Wolosin, Mayor Pro Tem Woolard, Council Member Cisneros, and Council Member Handren

14. [2019-204](#) **CONSIDER RESOLUTION NO. 2019-R18; A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BOERNE, TEXAS, ACCEPTING THE PETITION AND SETTING THE DATE, TIME AND PLACE FOR TWO PUBLIC HEARINGS ON THE PROPOSED ANNEXATION OF CERTAIN PROPERTY BY THE CITY OF BOERNE, TEXAS; AUTHORIZING AND DIRECTING THE PUBLICATION OF NOTICE OF SUCH PUBLIC HEARINGS. (8.352 acres located at 15A Upper Balcones Rd. and a**

portion of Upper Balcones Rd. at the request of Morningside Ministries)

A MOTION WAS MADE BY COUNCIL MEMBER HANDREN, SECONDED BY COUNCIL MEMBER WOLOSIN, TO APPROVE RESOLUTION NO. 2019-R18; A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BOERNE, TEXAS, ACCEPTING THE PETITION AND SETTING THE DATE, TIME AND PLACE FOR TWO PUBLIC HEARINGS ON THE PROPOSED ANNEXATION OF CERTAIN PROPERTY BY THE CITY OF BOERNE, TEXAS; AUTHORIZING AND DIRECTING THE PUBLICATION OF NOTICE OF SUCH PUBLIC HEARINGS. (8.352 ACRES LOCATED AT 15A UPPER BALCONES RD. AND A PORTION OF UPPER BALCONES RD. AT THE REQUEST OF MORNINGSSIDE MINISTRIES). THE MOTION CARRIED BY THE FOLLOWING VOTE:

Yeah: 4 - Council Member Wolosin, Mayor Pro Tem Woolard, Council Member Cisneros, and Council Member Handren

15. COMMENTS FROM COUNCIL/ STAFF – No discussion or action may take place.

Assistant City Manager Dan Blankenship stated that Staff has received notification from FEMA that they have completed the preliminary Flood Plain Study and mapping for the City of Boerne. There is a 90 day inspection period for the public. A notice will be added to the City's website. Hard copies will be available at City Hall for the public.

Police Chief Jim Kohler stated the K9 program has been going very well and recently a citizen reached out to him wanting to provide a second K9. Hopefully in another month or two the department will have two K9's. The Police Foundation has helped cover costs of training of the K9's. Chief Kohler also stated that the Police Department earlier had an awards ceremony awarding the Officer of the Year, Dispatcher of the Year, Fit for Duty, Top Gun, and Life Saving Awards. He acknowledged Steve Perez in the audience who was recently promoted from Lieutenant to Captain and also Sgt. Mitch Scoggins who completed a nine week Leadership Academy.

City Attorney Molly Solis provided a Legislative update focusing on City related proposed bills. She stated that anyone interested can access the legislative proceeding by going to Texas Legislature Online.

16. ADJOURNMENT

A MOTION WAS MADE BY MAYOR PRO TEM WOOLARD, SECONDED BY COUNCIL MEMBER WOLOSIN, TO ADJOURN THE CITY COUNCIL MEETING AT 8:39 P.M. THE MOTION CARRIED BY THE FOLLOWING VOTE:

Yeah: 4 - Council Member Wolosin, Mayor Pro Tem Woolard, Council Member Cisneros, and Council Member Handren

Approved:

Mayor

Attest:

City Secretary