

# CITY OF ROSENBERG

## WORKSHOP CITY COUNCIL MEETING MINUTES

On this the 27th day of September, 2016, the City Council of the City of Rosenberg, Fort Bend County, Texas, met in a Workshop Session, in the Rosenberg City Hall Council Chamber, located at 2110 4th Street, Rosenberg, Texas.

Present: Cynthia A. McConathy, Mayor  
William Benton, Councilor at Large, Position 1  
Amanda J. Barta, Councilor at Large, Position 2  
Jimmie J. Pena, Councilor, District 1  
Susan Euton, Councilor, District 2  
Alice Jozwiak, Councilor, District 3  
Lynn Moses, Councilor, District 4

Staff Present: Scott M. Tschirhart, City Attorney  
Linda Cernosek, City Secretary  
John Maresh, Interim City Manager  
Joyce Vasut, Executive Director of Administrative Services  
Travis Tanner, Executive Director of Community Development  
Charles Kalkomey, City Engineer  
Tonya Palmer, Building Official  
Lori Remington, Human Resources Director  
Dallis Warren, Police Chief  
Wade Goates, Fire Chief  
Randall Malik, Economic Development Director  
Rigo Calzoncin, Public Works Director  
Melissa Pena, Program Manager  
Jenny Pavlovich, Communications Manager  
Daniel Kelleher, Main Street Manager  
Isaac Badu, Director of Information Technology  
Danyel Swint, Executive Assistant  
Kelly Crow, Municipal Court Judge  
Angelia Hayes, Court Administrator  
Steven Trevino, Information Technology Specialist  
Justin Rodgers, Police Officer  
Nicole Emidy, Police Officer

**Call to order: City Hall Council Chamber**  
Mayor McConathy called the meeting to order at 6:01 p.m.

**Introduction and Administration of Oath of Office for New Municipal Court Judge Kelly Crow.** Mayor McConathy administered the Oath of Office to Municipal Court Judge Kelly Crow.

### AGENDA

1. **Review and discuss Animal Control operations, and take action as necessary to direct staff.**

#### **EXECUTIVE SUMMARY**

This item has been included to provide an opportunity for City Council to discuss the City's Animal Control operations.

#### **KEY DISCUSSION POINTS**

- Dallis Warren provided an update on the Animal Control Operations:
  - Software for tracking the animals that are accepted into the facility was purchased and implemented.
  - Finalizing software for volunteers on policies and Standard Operating Procedures.

- Hired the Animal Control Technician to start October 17, 2016.
  - Have scheduled and planned one or two events per month for animal adoptions.
  - Interviewing volunteers and scheduling training sessions for them.
  - Experiencing an increase in interest of new rescue groups to remove animals from our facility to new homes.
  - Beginning a mix of eight (8) to ten (10) hour shifts to allow volunteers to help with extended hours at the facility.
  - Planning additional educational events in the Community.
  - Working on an Eagle Scout project to put an open play area behind the facility for the animals.
  - Increase outreach through local media.
- Mayor McConathy thanked Dallis Warren, Tracie Dunn, and Lori Remington for their assistance in getting this program running to address operational challenges.

2. **Review and discuss MUD No. 144 (Summer Lakes / Summer Park) Planned Unit Development (PUD), and take action as necessary to direct staff.**

**EXECUTIVE SUMMARY**

Fort Bend County MUD No. 144, also known as Summer Lakes and Summer Park, has been developed under a "Planned Unit Development" (PUD) most recently approved by City Council in November 2011 under Resolution No. R-1403. The subject PUD/Resolution is attached for City Council's review.

Sam Yager, developer, has proposed changes to the PUD, in particular related to the planting of trees in the rights-of-way. City staff has recently begun more proactively enforcing the City's Ordinance related to trees in the rights-of-way based in part on direction from City Council at the May 24, 2016 Workshop meeting. A copy of the Ordinance (Code of Ordinances, Chapter 24, Article VI) is attached for review. Mr. Yager would like to continue the use of trees in the rights-of-way in this development and would propose to mitigate it with "root barriers" to keep the trees from affecting nearby sidewalks. Staff has suggested that Mr. Yager gain direction from City Council on this issue in particular before any further negotiations with City staff.

For reference, a list of City approved trees in proximity to overhead utilities is attached. Should Council choose to permit trees in the City's rights-of-way at some point in the future, similar trees would be suggested as opposed to larger trees that could potentially conflict with City infrastructure.

Therefore, this item has been placed on the Agenda to allow Mr. Yager to present his plan, and for City Council to provide direction, prior to any changes in MUD No. 144 (Summer Lakes/Summer Park).

**KEY DISCUSSION POINTS**

- Travis Tanner shared some points from the Executive Summary.
- Sam Yager III, of Sam Yager, Inc., shared a power point presentation with Council showing the original plan for the Planned Unit Development (PUD) for the MUD 144, also known as Summer Lakes and Summer Park. He proposed changes to the PUD relating to the planting of trees in the right-of-way, and suggested using a root barrier to restrict the life of the tree. The barrier would be 16" high and 24" wide.
- The entire Council expressed their displeasure of large trees, such as oaks, being planted in the rights-of-way.
- Mayor McConathy shared the definition between primary trees and secondary tree categories. The primary trees should be restricted to a park or a place with a significant space of 25' easements. The large tree roots tear up the sidewalks and sprinkler systems as they mature. She suggested a secondary tree list be created with native and adaptable trees to this area.
- The general consensus of Council was to direct staff to compose a list of trees that would be allowed in rights-of-way.
- The general consensus of Council was against the use of tree root barriers.
- Sam Yager asked to bring this item back to Council with a solution to mitigate the problem of trees in this development and MUD 144.

**Mayor McConathy recessed the meeting at 7:17 p.m. and reconvened the meeting at 7:26 p.m.**

3. **Review and discuss adoption of the 2015 International Energy Conservation Code as required by H.B. No. 1736, and take action as necessary to direct staff.**

**EXECUTIVE SUMMARY**

On June 16, 2015, Governor Abbott signed House Bill 1736 into law, thus adopting a new energy code in Texas. The law moves Texas's energy code requirement for single family construction to the 2015 International Energy Conservation Code (IECC). All local jurisdictions must comply with the new code by September 1, 2016. Texas law, in conjunction with state administrative action, also approved the 2015 IECC as the energy code for all other residential and commercial buildings, of which the administration and enforcement shall be effective November 1, 2016.

On August 31, 2016, the Building Standards Board met to discuss the adoption of the 2015 International Energy Conservation Code. By unanimous vote, the Board recommended approval of the adoption of the 2015 IECC. This item provides an opportunity for City Council to discuss the change and direct staff accordingly. An ordinance

adopting the 2015 IECC will be brought forward for consideration on a future Agenda.

#### **KEY DISCUSSION POINTS**

- Tonya Palmer read the Executive Summary.
- Councilor Pena confirmed the 2015 International Energy Conservation Code is State mandated and asked if anything was critical to the changes being implemented.
- Tonya Palmer stated the main difference in the code is the new requirement to prove thorough testing that the builders comply with the new code.
- Mayor McConathy asked if there were any hardships with going to this new code.
- Tonya Palmer stated the hardship is with the third party inspectors that will be required to purchase the new equipment required for this type of inspection.
- Mayor McConathy said this item would be reviewed at a future Regular Council Meeting.

4. **Review and discuss an Ordinance providing for a policy of the City of Rosenberg with regard to refunding the existing and future indebtedness of a District, and take action as necessary to direct staff.**

#### **EXECUTIVE SUMMARY**

Chapter 29, Division 2, Section 29-240 of the Code of Ordinances addresses the issuance of bonds by Municipal Utility Districts (Districts) for certain infrastructure needs. The Ordinance fails to address the issuance of refunding bonds by such Districts. The proposed Ordinance as attached provides the necessary guidelines, restrictions and approval process for the issuance of refunding bonds by Districts within the City and the Extraterritorial Jurisdiction (ETJ).

Attorney Jeanne McDonald will be present to discuss the Ordinance.

#### **KEY DISCUSSION POINTS**

- Joyce Vasut read the Executive Summary and asked Jeanne McDonald to give an overview of the Ordinance.
- Jeanne McDonald explained this refunding Ordinance would require Municipal Utility Districts to comply with any refunding policy adopted by the Council in the future based on the criteria in this Ordinance.
- The consensus of the Council was supportive for the Municipal Utility District Refunding Bond Ordinance presented.

5. **Review and discuss the City's Hotel Occupancy Tax (HOT) Policy, and take action as necessary to direct staff.**

#### **EXECUTIVE SUMMARY**

At the July 26, 2016 Workshop Meeting, City Council directed staff to prepare a Hotel Occupancy Tax (HOT) Policy which would allow external entities to apply for HOT funds. This item has been added to the Agenda to allow City Council the opportunity to provide input on the draft HOT Policy.

#### **KEY DISCUSSION POINTS**

- Randall Malik updated Council on statutory requirements for funding expenditures and use of Hotel Occupancy Tax (HOT) revenues by the City of Rosenberg.
- Randall Malik explained the "Two-Part test." Part 1 - every expenditure of hotel occupancy revenues must do the following two things: directly promote tourism; and directly promote the convention and hotel industry. Part 2 - expenditure must fit into one of the following 9 categories:
  1. Funding the establishment, improvement, or maintenance of a convention center or visitor information center.
  2. Paying the administrative costs for facilitating convention registration.
  3. Paying for advertising, solicitations, and promotions that attract tourists and convention delegates to the city or its vicinity.
  4. Expenditures that promote the arts.
  5. Funding historical restoration or preservation programs.
  6. Funding certain expenses, including promotional expenses directly related to a sporting event.
  7. Funding the enhancement or upgrading of existing sports facilities or sports fields for certain municipalities.
  8. Funding transportation systems for tourists from hotels in and near major destinations.
  9. Signage directing tourists to sights and attractions that are visited frequently by hotel guests in the municipality.
- Randall Malik also explained the key requirements of the HOT fund policy. There are six suggested in the draft:
  1. \$50,000 Maximum Grant.
  2. On-going operating costs would be ineligible.
  3. Applications would be open one time per year through a formal application process.
  4. Applications would be reviewed by an Evaluation Committee, who would recommend the awarding of grants to Council.
  5. Each grant awarded by Council would be contingent upon the applicant entering into a funding agreement with Council.

- 6. All grants would be in the form of a reimbursable grant.
- Randall Malik explained the draft HOT application timeline beginning the first week in July when the City would call for applications with a September 30th deadline. The Evaluation Committee would review and determine the proposed funding recommendation for City Council in October. The Council would approve the funding in November and funds would be available through December with an executed funding agreement. Any unexpended HOT funds would revert back to the City on September 30.
- Randall Malik finalized his presentation by explaining how the HOT revenue funded projects should be awarded by priorities, such as, the awarded project would generate more overnight stays at Rosenberg hotels, provide a significant benefit to the City, community, and the Rosenberg hotel, convention, and tourism industry, and finally, funding requests that propose matching funds.
- The consensus of the Council was to have Randall Malik bring this item to a future Regular Meeting for the next steps in appointing an Evaluation Committee and approval of the Hotel Occupancy Tax Policy.

6. **Review and discuss Right-of-Way, Rough Cut, Finish Cut, Open Acreage and Wastewater Treatment Plant Mowing Contract, and take action as necessary to direct staff.**

**EXECUTIVE SUMMARY**

This item has been placed on the Workshop Agenda to offer City Council the opportunity to discuss the Right-of-Way, Rough Cut, Finish Cut, Open Acreage and Wastewater Treatment Plant Mowing Contract (Contract). A copy of the current Contract and Technical Specifications are included in the packet. Staff has also provided an updated Right-of-Way Mowing Location List. The open acreage areas that are currently included in hay production lease are not included on the list.

The Contract was initially awarded to Rios Tree Service, Inc., on February 2, 2016, for a one (1) year term with the option to renew for two (2) additional one (1) year terms. At this time staff does not recommend to renew or extend the terms of this Contract, and requests the Contract go through the bidding process.

Staff is seeking City Council concurrence to proceed with the bidding process. An item to award the Contract would be placed on a future City Council Agenda for consideration.

**KEY DISCUSSION POINTS**

- Rigo Calzoncin read the Executive Summary.
- The consensus of the Council was to direct staff to proceed with the bidding process at the end of the contract term.

7. **Review and discuss the Texas Department of Transportation (TxDOT) overpass project on US Highway 90A, generally located between Lane Drive and FM 3155, and take action as necessary to direct staff.**

**EXECUTIVE SUMMARY**

At the August 23, 2016 City Council Workshop Meeting, Texas Department of Transportation (TxDOT) representatives were present to discuss the Overpass Project (Project) between Lane Drive and FM 3155 and answer any questions that City Council may have. At that time, TxDOT representatives were requested to return with additional maps and models to better show the scope of the Project.

This Agenda item provides an opportunity to revisit the discussion with TxDOT regarding the Overpass Project between Lane Drive and FM 3155.

**KEY DISCUSSION POINTS**

- John Maresh read the Executive Summary and reported that more information from the last workshop is provided in the current packet.
- John Maresh introduced Eliza Paul, TxDOT Deputy Engineer to present information for the overpass project on US Highway 90A.
- Eliza Paul summarized the overpass bridge project from 1998 to today. The existing underpass on Lane Drive was built in 1932 and the design is functionally obsolete. There is no pedestrian access, and the clearance does not meet today's design criteria. The underpass has flooded many times this past year. The funding is now available and TxDOT has already spent approximately three million (\$3,000,000) on this project in right-of-way and design costs. Both Richmond and Rosenberg have also expended funds to purchase right-of-way property for this project.
- Eliza Paul presented the landscape architect rendering of the bridge design and the landscape on either side of the bridge.
- Eliza Paul stated the project is about \$25-\$35 million in construction costs and is scheduled to let in December 2016.
- Councilor Euton said the Council is concerned more with the degree of the slope, the traffic over the bridge and people stopped on the bridge when people cannot see the traffic is stopped on the bridge. With the major corridors under construction at this time, it seems like this is rushing to start a project planned sixteen years ago.
- Eliza Paul stated TxDOT has been working on the project through the years. She stated the slope of the bridge is running about 4.5% which is a typical slope for the TxDOT slope on a bridge. This is four feet (4') for every one hundred feet (100'). Eliza Paul also said TxDOT is looking into how they can improve FM 3115 to make it less congested; possibly adding additional turn lanes.

- Councilor Pena would appreciate seeing a rendition to true scale on the bridge. Councilor Pena also asked if the twenty-three (23) foot clearance met the railroad requirements.
- Kimlinh Nguyen, Engineer for TxDOT, confirmed the rendition presented to this Council is not a true scale because the vertical scale is not the same as the horizontal scale. She stated TxDOT has to design for a future railroad track, but there are no current plans to add any railroad tracks at this time.
- Pat Henry, Engineer for TxDOT, explained this design meets the requirement for clearance from the railroad specifications.
- Councilor Jozwiak asked about the delay in the past.
- Kimlinh Nguyen stated the lack of funding was an issue. Presently, the requirements for the railroad have changed and they require a higher bridge with more clearance.
- Councilor Jozwiak also had concern with most main corridors being under construction. She suggested an additional pump to move the water out. She was also concerned for the businesses during construction projects.
- Eliza Paul suggested TxDOT could coordinate closures to make traffic flow better during the construction projects.
- Councilor Barta was concerned that the overpass bridge was not as needed as the FM 762 widening, as well as the Triple Fork area. Councilor Barta also suggested purchasing a new pump rather than this project.
- Eliza Paul said TxDOT is also looking at the Triple Fork area. She explained a pump is not a good idea because the only way to pump the water out depends on the pipe that takes it to the outfall. The bridge makes access easier to the hospital or to the restaurants. TxDOT has determined the underpass is not safe, and with the clearance requirements, it is not acceptable. The funding for this project is now available, but there is also a need to replace the bridge.
- Councilor Benton questioned the number of lanes planned in this location.
- Kimlinh Nguyen said there would be space to increase the number of lanes in the future, but presently it will be two lanes in each direction.
- Councilor Benton asked if TxDOT would consider paving Avenue H and Avenue I at the Triple Fork area which is FM 1640 and Highway 90A to build good faith between the City and TxDOT.
- Eliza Paul said she would ask TxDOT staff to look into that request.
- Mayor McConathy added a perspective that had not been mentioned yet. She said the Council is concerned about so many Rosenberg corridors being under construction by TxDOT at the same time, but the opposite perspective is that TxDOT is spending those tax dollars here in Rosenberg. The City does appreciate TxDOT expanding Highway 36 South and expanding FM 723 North because when these projects are completed, it will be good for Rosenberg.
- Mayor McConathy is also concerned about the negative impact this project would have on the local businesses.
- Councilor Barta asked for data on the number of accidents in the Highway 90A area.
- Dallis Warren said he could pull the data from the State and would ask for that information.
- Mayor McConathy thanked the TxDOT staff for coming to answer the Councilor's questions.

8. **Hold Executive Session to consult with City Attorney to seek or receive advice on legal matters regarding pending or contemplated litigation regarding Texas Department of Transportation v. City of Rosenberg condemnation proceedings, dispute with Imperial Performing Arts, Inc., and pending condemnation matters pursuant to Section 551.071 of the Texas Government Code.**

**ACTION**

Motion by Councilor at Large, Position 2 Amanda J. Barta, seconded by Councilor at Large, Position 1 William Benton to adjourn into Executive Session.


**VOTE:** 7 - 0 Carried - Unanimously

9. **Adjourn Executive Session, reconvene Workshop Session, and take action as necessary as a result of Executive Session.**

Mayor McConathy adjourned the Executive Session and reconvened into Workshop Session.

10. **Adjournment.**

There being no further business, Mayor McConathy adjourned the meeting at 9:13 p.m.

  
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 Linda Cernosek, TRMC, City Secretary