CITY OF FREDERICKSBURG

MINUTES OF CITY COUNCIL REGULAR MEETING OCTOBER 18, 2021

The City of Fredericksburg City Council held their regular session on Monday, October 18, 2021 at 6 p.m. This meeting was held in person at the Law Enforcement Center and live streamed on the Fredericksburg YouTube Channel.

Members Present:
Mayor Charlie Kiehne
Councilmember Jerry Luckenbach
Councilmember Tom Musselman
Councilmember Kathy O'Neill
Councilmember Bobby Watson

Members Absent:
None

City Staff Present:
Kent Myers, City Manager
Clinton Bailey, Assistant City Manager/Director of Public Works and Utilities
Daniel Jones, City Attorney
Steve Wetz, Police Chief
Braxton Roemer, Police Lt.
Eric Whiting, Information Technology Director
Lea Feuge, Public Information Officer
Andrea Schmidt, Parks and Recreation Director
Jason Lutz, Development Services Director
Kris Kneese, Assistant Public Works Director
Garret Bonn, Assistant City Engineer
Leslie Ball- Embrey, Administrative Assistant

1. CALL TO ORDER
Mayor Kiehne called the regular meeting of the Fredericksburg City Council to order at 6:00 p.m. on Monday, October 18, 2021.

2. INVOCATION
Mary Studor, City resident led the Invocation.

3. PLEDGE OF ALLEGIANCE
Moe Saiidi led the Pledge of Allegiance.

4. EMPLOYEE RECOGNITIONS
Kent Myers, City Manager, provided the following recognitions:
- Officer Rivero for his professionalism and for going above and beyond to assist a visitor.

- Jason Lutz, Development Services Director, for his hard work on the Short-Term Rental changes.

5. PUBLIC COMMENTS

Randy Briley, City resident, stated the STR Alliance is offering to fund an Economic Impact Study and scope. He also provided an Executive Summary of the STRs located within the City.

Jerry McCorkle, City resident, spoke regarding an invasion rally that he attended in Kerrville.

Kathy Lux, County resident, provided data related to the COVID vaccine and the deaths related to the vaccine.

Ruben Aguilar, City resident, spoke regarding the American people living in poverty and how the decisions made in Washington D.C. affect people.

Bill Seltzer, City resident, thanked Jason Lutz, Shelby Collier, and Shelley Goodwin for their help with getting his Open Records Request filed related to STRs.

Debra Holbeck, City resident, read a story written by Laura Logan regarding Afghanistan. She also inquired why the City is spending money on 5G towers.

Mary Lee Marschall, City resident, stated she feels COVID is a distraction from what is going on. She also spoke regarding how government works for the people.

Jesse Gonzales, County resident, spoke regarding the need to illuminate Smith Road. He also inquired whether Smith Road will be part of the Post Oak annexation.

George Studor, City resident, spoke regarding the need to solve the STR issues and feels the City should support the family unit.

Sonia Rivera, City resident, encouraged the City Council not to approve any type of funding or accept any strings attached funding.

Jeannette Hormuth, City resident, spoke regarding the American Rescue Funds.

Tom Marschall, City resident, stated he feels the City Council is not following the Oath of Office they each took.

6. CONSENT

THE FOLLOWING ITEMS MAY BE ACTED UPON IN A SINGLE MOTION. NO SEPARATE DISCUSSION OR ACTION ON ANY OF THESE ITEMS WILL BE HELD UNLESS PULLED AT THE REQUEST OF A MEMBER OF CITY COUNCIL.

A. Consider approval of the October 4, 2021 City Council Regular Meeting Minutes (Shelley Goodwin, City Secretary)

Motion: A motion was made by Councilmember Musselman, seconded by Councilmember Watson, to approve Consent Agenda items 6. A. The City Council voted five (5) for, and none (0) opposed. The motion carried unanimously.

7. PUBLIC HEARINGS

A. Consider a public hearing to receive citizen comments for or against an Involuntary Annexation for approximately 82.36 acres of land, generally located on the West and

East sides of Post Oak Road, from W. Live Oak to 2,800 feet North of S. Bowie Street; this Involuntary Annexation will not increase or extend the City's Extraterritorial Jurisdiction, first of two hearings (Jason Lutz, Development Services Director).

Motion: A motion was made by Councilmember Musselman, seconded by Councilmember Luckenbach, to go out of the Regular Meeting into the public hearing at 6:45 p.m. The City Council voted five (5) for, and none (0) opposed. The motion carried unanimously.

Edward Rode spoke regarding the annexation process and the annexation statutes passed by the legislature.

Jeffery Hutson read the annexation procedures and feels the City is not using the correct procedures to annex.

Susan King stated she is opposed to the annexation. She inquired how the City was going to pay for the annexation.

George Studor stated he feels the City does not have enough data to move forward with this annexation.

Tom Marschall stated he feels people are looking for answers to why the City is following old annexation procedures.

Russ York, Ambleside School, spoke in opposition to the annexation due to the lack of information.

Steve Allen stated he doesn't have enough information about the Service Plan to make an informed decision.

Jesse Gonzales inquired about tapping into City waterlines if the annexation were to pass.

Garret Bonn, Assistant City Engineer, reviewed the procedures for tapping into the City's waterlines.

Motion: A motion was made by Councilmember Musselman, seconded by Councilmember Luckenbach, to go out of the public hearing into the Regular Meeting at 7:04 p.m. The City Council voted five (5) for, and none (0) opposed. The motion carried unanimously.

B. Consider a public hearing to receive citizen comments for or against a proposed amendment to Section 8.100 - Temporary Use Types, to add a definition for "Event Center", to allow temporary structures (tents) for "event centers" and establish regulations regarding the proposed use (#Z-2119) (Jason Lutz, Development Services Director).

Motion: A motion was made by Councilmember Luckenbach, seconded by Councilmember Musselman, to go out of the Regular Meeting into the public hearing at 7:04 p.m. The City Council voted five (5) for, and none (0) opposed. The motion carried unanimously.

Robin Cowsar spoke regarding some of the changes that are proposed to the Ordinance. She stated the concerns Planning and Zoning Commission previously had have now been addressed.

George Studor spoke regarding tents for events used on Marktplatz and encouraged the City Council to look at all events.

Motion: A motion was made by Councilmember Luckenbach, seconded by Councilmember Musselman, to go out of the public hearing into the Regular Meeting at 7:12 p.m. The City Council voted five (5) for, and none (0) opposed. The motion carried unanimously.

C. **Consider a public hearing to receive citizen comments for or against a request by John Needham of Seco Enterprises LLC, to consider an amendment to the Planned Unit Development Zoning District (PUD) to allow building heights to exceed the maximum height of 38 feet, for approximately 32.53 acres of land located at the SW Intersection of Friendship Lane and S. Eagle Street (Z-2117)) (Jason Lutz, Development Services Director).**

Motion: A motion was made by Councilmember Luckenbach, seconded by Councilmember Musselman, to go out of the Regular Meeting into the public hearing at 7:13 p.m. The City Council voted five (5) for, and none (0) opposed. The motion carried unanimously.

George Studor spoke regarding the height regulations.

Motion: A motion was made by Councilmember Luckenbach, seconded by Councilmember O'Neill, to go out of the public hearing into the Regular Meeting at 7:14 p.m. The City Council voted five (5) for, and none (0) opposed. The motion carried unanimously.

D. **Consider a public hearing to receive comments for or against a request by Stuart Barron, for the following items for approximately 0.647 acres of land located on the north side of Friendship Lane, approximately 700 feet east of the intersection of Friendship Lane and S. Washington Street.(Z-2116): (Jason Lutz, Development Services Director):**
   i. **To consider a requested Zoning Change from Neighborhood Commercial (C1) to Medium Commercial (C1.5).**
   ii. **To consider a Conditional Use Permit Per Section 3.205, of the City's Zoning Ordinance to allow "Drive Through or Drive-In Facilities".**

Motion: A motion was made by Councilmember Musselman, seconded by Councilmember O'Neill, to go out of the Regular Meeting into the public hearing at 7:14 p.m. The City Council voted five (5) for, and none (0) opposed. The motion carried unanimously.

Stuart Barron reviewed his request and the reasons he is requesting a Zoning Change and Land Use Change.

Motion: A motion was made by Councilmember Luckenbach, seconded by Councilmember Watson, to go out of the public hearing into the Regular Meeting at 7:18 p.m. The City Council voted five (5) for, and none (0) opposed. The motion carried unanimously.

8. ORDINANCES AND RESOLUTIONS

A. **Consider the approval of Ordinance 2021-26 amending Section 8.100 – Temporary Use Types, of Appendix B – Zoning Ordinance, of the Code of Ordinances; to amend the permitted temporary uses of tents for the Historic Overlay (HO) Zoning District in the City; and providing for an effective date (Z-2119) (1st of two readings; City Council may waive 2nd reading) (Jason Lutz, Development Services Director).**

Jason Lutz, Development Services Director, reviewed the changes and the process for setting up and taking down tents.

The City Council discussed the tent criteria for exceptions and weather. They also discussed the concerns of the Planning and Zoning Commission and whether the tents can be seen from Main Street.

Motion: A motion was made by Councilmember Musselman, seconded by Councilmember Luckenbach, to bring back Ordinance 2021-26 for a second reading and to include the recommended language of the Planning and Zoning Commission. The City Council voted five (5) for, and none (0) opposed. The motion carried unanimously.

B. Consider the approval of Ordinance 2021-27 amending the Zoning Ordinance of the City to approve an amendment to the Planned Unit Development pertaining to 32.55 acres of land located at the Southwest corner of a Friendship Lane and South. Eagle Street situated in the City of Fredericksburg, Texas (Z-2117)) (1st of two readings; City Council may waive 2nd reading) (Jason Lutz, Development Services Director).

Jason Lutz, Development Services Director, reviewed the request and stated the maximum height is 38', and the requestor is asking for 44". He also noted there are currently two different maximum height requirements in the City Code.

The City Council discussed the height requirements and the cost for requesting a variance to the Zoning Ordinance.

Motion: A motion was made by Councilmember Watson, seconded by O'Neill, approve Ordinance 2021-27 amending the Zoning Ordinance of the City to approve an amendment to the Planned Unit Development pertaining to 32.55 acres of land located at the Southwest corner of a Friendship Lane and South. Eagle Street is situated in the City of Fredericksburg, Texas, and waive the second reading. **Amendment to the Motion:** A motion to amend was made by Councilmember Watson, seconded by O'Neill, to include the refund of the $400 to the requester. The City Council voted five (5) for, and none (0) opposed. The motions carried unanimously.

C. Consider the approval of Ordinance 2021-28 amending the Zoning Ordinance of the City and changing the Zoning District as to approximately 0.647 acres of land located on the North side of Friendship Lane, approximately 700 feet east of the intersection of Friendship Lane and S. Washington Street, situated in the City of Fredericksburg, Texas; changing said property from C-1 Neighborhood Commercial to C-1.5 Medium Commercial; and providing for an effective date (Z-2116) (1st of two readings; City Council may waive 2nd reading) (Jason Lutz, Development Services Director).

Jason Lutz, Development Services Director, reviewed the history and the map of the property. He also reviewed the reasons why the zoning request was necessary.

The City Council discussed the zoning request and driveway location to the property.

Motion: A motion was made by Councilmember Watson, seconded by Councilmember Musselman, to approve Ordinance 2021-28 amending the Zoning Ordinance of the City and changing the Zoning District as to approximately 0.647 acres of land located on the North side of Friendship Lane, approximately 700 feet east of the intersection of Friendship Lane and S. Washington Street, situated in the City of Fredericksburg, Texas; changing said property from C-1 Neighborhood Commercial to C-1.5 Medium Commercial; and providing for an effective date and waive the second reading. The City Council voted five (5) for, and none (0) opposed. The motion carried unanimously.

D. Consider the approval of Ordinance 2021-29 amending Article 4.000-Animal Fees and Charges, of Appendix A-Fee Schedule, of the Code of Ordinances, to update and

amend the Fees for adoption of animals from the City Animal Shelter (1st of two readings; City Council may waive 2nd reading) (Braxton Roemer, Police Lt. Special Services).

Braxton Roemer, Police Lt. Special Services, reviewed the proposed amended fees.

Motion: A motion was made by Councilmember Musselman, seconded by Councilmember O'Neill, to approve Ordinance 2021-29 amending Article 4.000-Animal Fees and Charges, of Appendix A-Fee Schedule, of the Code of Ordinances, to update and amend the Fees for adoption of animals from the City Animal Shelter and waive the second reading. The City Council voted five (5) for, and none (0) opposed. The motion carried unanimously.

E. Consider the approval of Resolution 2021-13R allowing for submittal of the full application to the Texas Water Development Board for project funding through the Flood Infrastructure Funds (N. Llano Storm Sewer Project) (Garret Bond, Assistant City Engineer).

Garret Bonn, Assistant City Engineer, reviewed the project and noted that the Resolution authorizes an application to the Texas Water Development Board seeking financial assistance for the N. Llano Storm Sewer Project not to exceed $2,602,931. He reviewed the process for applying for this funding.

Motion: A motion was made by Councilmember O'Neill, seconded by Councilmember Musselman, to approve Resolution 2021-13R allowing for submittal of the full application to the Texas Water Development Board for project funding through the Flood Infrastructure Funds (N. Llano Storm Sewer Project). The City Council voted five (5) for, and none (0) opposed. The motion carried unanimously.

9. OTHER ACTION ITEMS AND UPDATES

A. Consider the approval of a request by Stuart Barron for a Conditional Use Permit Per Section 3.205, of the City's Zoning Ordinance to allow "Drive Through or Drive-In Facilities" for approximately 0.647 acres of land located on the north side of Friendship Lane, approximately 700 feet East of the Intersection of Friendship Lane and S. Washington Street (Jason Lutz, Development Services Director).

Jason Lutz, Development Services Director, reviewed the request for a Conditional Use Permit. He also reviewed the concerns the Planning and Zoning Commission had. He also noted that he had not reviewed the site plan.

Stuart Barron, requester, stated originally, he had requested two Drive Through windows but corrected his request to one window and added additional green space and parking.

Motion: A motion was made by Councilmember O'Neill, seconded by Councilmember Musselman, to approve the Conditional Use Permit Per Section 3.205, of the City's Zoning Ordinance to allow one "Drive Through or Drive-In Facilities" for approximately 0.647 acres of land located on the north side of Friendship Lane, approximately 700 feet East of the Intersection of Friendship Lane and S. Washington Street, with the condition that the site plan and pedestrian safety plan go back to the Planning and Zoning Commission for review. The City Council voted five (5) for, and none (0) opposed. The motion carried unanimously.

B. Consider the approval and award bids for Lease/Purchase Financing to Signature Public Funding Corporation for the following (Laura Hollenbeak, Finance Director):

i. Fire Pumper Tanker for the Fire Department in the amount of $550,000.

Laura Hollenbeak, Finance Director, reviewed the bid process and stated that staff is recommending awarding the bid to Signature Public Funding Corporation. She noted that the interest rate is 1.56% for the Fire Pumper Tanker.

Motion: A motion was made by Councilmember Musselman, seconded by Councilmember Luckenbach, to award bid for Lease/Purchase Financing to Signature Public Funding Corporation for Fire Pumper Tanker for the Fire Department in the amount of $550,000 and with a 1.56% interest. The City Council voted five (5) for, and none (0) opposed. The motion carried unanimously.

ii. Vehicles and Equipment for various City Departments in the amount of $1,409,690.38.

Laura Hollenbeak, Finance Director, reviewed the bid process and stated that staff is recommending awarding the bid to Signature Public Funding Corporation. She noted that the interest rate is .9875% for vehicles and equipment for various City Departments in the amount of $1,409,690.38.

Motion: A motion was made by Councilmember Watson, seconded by Councilmember O'Neill, to approve awarding the bid to Signature Public Funding Corporation for vehicles and equipment for various City Departments in the amount of $1,409,690.38 and with an interest rate is .9875%. The City Council voted five (5) for, and none (0) opposed. The motion carried unanimously.

B. Consider the Request for Proposals (RFP) to update the City's Comprehensive Plan (Jason Lutz, Development Services Director).

Jason Lutz, Development Services Director, reviewed the draft RFP and the process.

Kent Myers, City Manager, reviewed the process for public input and the proposed timelines. He also reviewed the regulations and the different actions the City Council will need to make during the process.

Motion: A motion was made by Councilmember Watson, seconded by Councilmember Luckenbach, to approve the Request for Proposals (RFP) to update the City's Comprehensive Plan. The City Council voted five (5) for, and none (0) opposed. The motion carried unanimously.

10. CITY MANAGER REPORT

A. STR Update

Kent Myers, City Manager, reported that RFP for STR, HOT Collection, and Code Compliance had been released. He also noted that an STR Fact Sheet is being created. The Noise and Fire Pit Ordinances will be coming back to City Council in November for amendments.

B. COVID Update

Kent Myers, City Manager, reported 49 active cases in Gillespie County and two in the hospital. He also reviewed the number of residents that have been vaccinated.

C. October 25th Council Work Session

Kent Myers, City Manager, reviewed the Agenda Items for the Work Session. He reminded everyone that the meeting would be held at the Lady Bird Johnson Golf Course – Cardinal Room and begin at 9 a.m.

11. ITEMS FOR FUTURE AGENDA

Kent Myers, City Manager, reviewed the Future Agenda Items.

12. COUNCIL COMMENTS

Councilmember Musselman spoke about the roles of City and County governments and how they differ.

Mayor Kiehne stated he is a mentor for FISD, and if anyone is interested they are looking for mentors, contact FISD.

13. EXECUTIVE SESSION

The City Council will recess its open meeting and reconvene in Executive Session pursuant to Texas Government Code Section 551.071 (Consultation with Attorney)

A. Receive legal advice on Texas case law concerning short term rental regulation by municipalities, application of conditional use permits to short term rental uses, and application of caps to short term rental uses (551.071).

Motion: A motion was made by Councilmember Luckenbach, seconded by Councilmember Musselman, to go out of Regular Meeting into Executive Session at 8:50 p.m. The City Council voted five (5) for, and none (0) opposed.

Motion: A motion was made by Councilmember Watson, seconded by Councilmember Luckenbach, to go out of Executive Session into the Regular Meeting at 9:25 p.m. The City Council voted five (5) for, and none (0) opposed.

14. BUSINESS ITEM

No action was taken.

15. ADJOURN

Motion: A motion was made by Councilmember Watson, seconded by Councilmember O'Neill, to adjourn the Monday, October 18, 2021, City Council Regular Meeting at 9:26 p.m. The City Council voted five (5) for and none (0) opposed. The motion carried unanimously.

Charlie Kiehne
Mayor

Shelley Goodwin, TRMC
City Secretary