



Corpus Christi

1201 Leopard Street
Corpus Christi, TX 78401
cctexas.com

Meeting Minutes

City Council

Tuesday, November 1, 2016

11:30 AM

Council Chambers

Public Notice - - THE USE OF CELLULAR PHONES AND SOUND ACTIVATED PAGERS ARE PROHIBITED IN THE CITY COUNCIL CHAMBERS DURING MEETINGS OF THE CITY COUNCIL.

A. Mayor Nelda Martinez to call the meeting to order.

Mayor Martinez called the meeting to order.

B. Invocation to be given by Pastor David Kelly, Trinity Worship.

Pastor David Kelly gave the invocation.

C. Pledge of Allegiance to the Flag of the United States to be led by Pat Persohn - Administrative Manager, Police Department.

Police Department Administrative Manager Pat Persohn led the Pledge of Allegiance.

D. City Secretary Rebecca Huerta to call the roll of the required Charter Officers.

City Secretary Rebecca Huerta called the roll and verified that a quorum of the City Council and the required Charter Officers were present to conduct the meeting.

Charter Officers:

City Manager Margie C. Rose, City Attorney Miles K. Risley and City Secretary Rebecca Huerta.

Present: 9 - Mayor Nelda Martinez, Council Member Rudy Garza, Council Member Michael Hunter, Council Member Chad Magill, Council Member Colleen McIntyre, Council Member Lucy Rubio, Council Member Brian Rosas, Council Member Mark Scott, and Council Member Carolyn Vaughn

E. Proclamations / Commendations

1. Proclamation declaring November 4, 2016, "Texas Arbor Day".
Proclamation declaring November 7, 2016, "CRPS/RSD Awareness Day: Color the World Orange".

Mayor Martinez presented the proclamations.

N. REGULAR AGENDA: (ITEM 13)**13. Resolution recognizing the Importance of Municipal Courts
(Requires 2/3 vote)**

Resolution recognizing the importance of Municipal Courts, the Rule of Law, and the Fair and Impartial Administration of Justice.

Mayor Martinez deviated from the agenda and referred to Item 13. Mayor Martinez read the resolution recognizing the importance of Municipal Courts and "Municipal Court Week" from November 7 - 11, 2016. There were no comments from the Council or the public.

Council Member McIntyre made a motion to approve the resolution, seconded by Council Member Rubio. This Resolution was passed and approved with the following vote:

Aye: 9 - Mayor Martinez, Council Member Garza, Council Member Hunter, Council Member Magill, Council Member McIntyre, Council Member Rubio, Council Member Rosas, Council Member Scott and Council Member Vaughn

Abstained: 0

Enactment No: 031001

G. CITY MANAGER'S COMMENTS / UPDATE ON CITY OPERATIONS:

Mayor Martinez deviated from the agenda and referred to City Manager's Comments. City Manager Margie C. Rose reported on the following topics:

a. OTHER

1) The J.C. Elliott Collection Center recently experienced one of the busiest weeks ever. A record 3,023 customers passed through the gates of the transfer center from October 17, 2016 through October 23, 2016. A record 944 customers visited the J.C. Elliott Landfill on Saturday, October 22, 2016. Staff believes that the mild temperatures contributed to the record-setting week. 2) The Parks and Recreation Department is requesting volunteers for the Dr. H.C. Dillworth Park Kaboom! Playground Community Build Day to be held Saturday, November 5, 2016 at 300 Elgin Street. The new upgrades will include a playground, shade structures, picnic tables, benches and planters. Citizens are encouraged to volunteer to help make this new playground a reality. For more information, contact Parks and Recreation at 361-826-3464.

H. MINUTES:**2. Regular Meeting of October 25, 2016.**

Mayor Martinez deviated from the agenda and referred to approval of the minutes. Council Member Garza made a motion to approve the minutes, seconded by Council Member Magill and passed unanimously.

I. BOARD & COMMITTEE APPOINTMENTS: (NONE)**J. EXPLANATION OF COUNCIL ACTION:****CONSENT AGENDA: (ITEMS 3 - 7)****Approval of the Consent Agenda**

Mayor Martinez referred to the consent agenda. There were no comments from the Council or the public.

A motion was made by Council Member McIntyre, seconded by Council Member Rubio, to approve the Consent Agenda. The consent agenda items were approved by one vote as follows:

Aye: 9 - Mayor Martinez, Council Member Garza, Council Member Hunter, Council Member Magill, Council Member McIntyre, Council Member Rubio, Council Member Rosas, Council Member Scott and Council Member Vaughn

Abstained: 0

**3. Reimbursement Resolution for Utility System Revenue Bonds
(Requires 2/3 vote)**

Resolution relating to establishing the City's intention to reimburse itself in an amount not to exceed \$115,000,000 for the prior lawful expenditure of funds from the proceeds of one or more series of obligations to be issued by the City for authorized purposes relating to constructing improvements to the City's Combined Utility System; authorizing matters incident and related thereto; and providing an effective date.

This Resolution was passed on the Consent Agenda.

Enactment No: 030997

**4. Contract for Professional Services for Wesley Seale Dam
Instrumentation Testing and Replacement Project (Requires 2/3
vote)**

Motion authorizing the City Manager, or designee, to execute a contract for professional services with Freese and Nichols, Inc. of Corpus Christi, Texas in the amount of \$447,020 for the Wesley Seale Dam Instrumentation Testing and Replacement project.

This Motion was passed on the Consent Agenda.

Enactment No: M2016-146

5. Engineering Construction Contract for Lift Station Repairs

Citywide 2016 (Requires 2/3 vote)

Motion authorizing the City Manager, or designee, to execute a construction contract with Associated Construction Partners, LTD of Boerne, Texas in the amount of \$1,359,000 for the Lift Station Repairs Citywide 2016 for the Total Base Bid.

This Motion was passed on the Consent Agenda.

Enactment No: M2016-147

6. Second Reading Ordinance - Rezoning property located at 1013 E. Lakeside Drive (1st Reading 10/25/16) (Requires 2/3 vote)

Case No. 0916-02 Dawn Melancon: A change of zoning from the "RS-6" Single-Family 6 District to the "CG-1" General Commercial District. The property to be rezoned is described as being a 0.344-acre tract of land out of Lot 16, Section 56, Flour Bluff and Encinal Farm and Garden Tracts, located on the northeast corner of South Padre Island Drive (Hwy 358) and East Lakeside Drive.

Planning Commission and Staff Recommendation (September 21, 2016):

Approval of the change of zoning from the "RS-6" Single-Family 6 District to "CG-1" General Commercial District.

Ordinance:

Ordinance amending the Unified Development Code ("UDC"), upon application of Dawn Melancon ("Owner"), by changing the UDC Zoning Map in reference to 0.344-acre tract of land out of Lot 16, Section 56, Flour Bluff and Encinal Farm and Garden Tracts, from the "RS-6" Single-Family 6 District to the "CG-1" General Commercial District; amending the Comprehensive Plan to account for any deviations; and providing for a repealer clause and publication.

This Ordinance was passed on second reading on the Consent Agenda.

Enactment No: 030998

7. Second Reading Ordinance - Rezoning property located at 7401 Holly Road (1st Reading 10/25/16) (Requires 2/3 vote)

Case No. 0916-03 Palm Land Investments, Inc.: A change of zoning from the "RS-4.5" Single-Family 4.5 District to the "RS-TH" Townhouse District. The property to be rezoned is described as an 8.63-acre tract of land out of the north portion of Lot 3, Section 27, Flour Bluff and Encinal Farm and Garden Tracts, located on the south side of Holly Road, approximately 1,307 feet east of Rodd Field Road.

Planning Commission and Staff Recommendation (September 21, 2016): Approval of the change of zoning from the "RS-4.5" Single-Family 4.5 to the "RS-TH" Townhouse District.

Ordinance:

Ordinance amending the Unified Development Code ("UDC"), upon application by Palm Land Investments, Inc. ("Owner"), by changing the UDC Zoning Map in reference to an 8.63 acre of Flour Bluff and Encinal Farm and Garden Tracts Section 27, Lot 3, from the "RS-4.5" Single-Family 4.5 District to "RS-TH" Townhouse District; amending the Comprehensive Plan to account for any deviations; and providing for a repealer clause and publication.

This Ordinance was passed on second reading on the Consent Agenda.

Enactment No: 030999

- F. PUBLIC COMMENT FROM THE AUDIENCE ON MATTERS NOT SCHEDULED ON THE AGENDA WILL BE HEARD AT APPROXIMATELY 12:00 P.M. PLEASE LIMIT PRESENTATIONS TO THREE MINUTES. A recording is made of the meeting; therefore, please speak into the microphone located at the podium and state your name and address. If you choose to speak during this public comment period regarding an item on the agenda, you may do so. You will not be allowed to speak again, however, when the Council is considering the item. If you have a petition or other information pertaining to your subject, please present it to the City Secretary.**

Mayor Martinez deviated from the agenda and referred to comments from the public. City Attorney Miles K. Risley read the Rules of Decorum for the Council Chambers. Rick Milby, 4412 High Ridge; Danny Isom, 13902 Riverway Drive; Laura Ballew, 10730 Atlanta; Alan Guggenheim, 8157 Marseille Drive; Suzanne Guggenheim, 8157 Marseille Drive; and Butch Escobedo, 4902 Saratoga, spoke in support of the petition to remove Council Member Mark Scott from the City Council. Shely Sells, 5014 Wingfoot Lane, spoke regarding the charges associated with Public Information Act requests. Claude Axel, 741 Crestview, and Abel Alonzo, 1701 Thames, commended Police Chief Mike Markle and police officers for the great job in protecting the citizens of Corpus Christi. Linda Gibeaut, 410 Southern, spoke regarding the improvements at Animal Care Services under the management of the Corpus Christi Police Department. Shirley Thornton, 1917 Woodcrest, provided an update on the process being made by the Flour Bluff Citizens Council. Margareta Fratila, 3606 Tripoli, spoke regarding the repeal of the civil penalty for red light camera violations.

M. PUBLIC HEARINGS: (ITEMS 11 - 12)

- 11. Public Hearing and First Reading Ordinance - Rezoning property located at 3838 Acushnet Drive (Requires 3/4 vote)**

Case No. 1016-02 Jose and Hector Sanchez: A change of zoning from the "CG-2" General Commercial District to the "IL" Light Industrial District. The property to be rezoned is described as Block 7, Lot 13, Saratoga Weber Plaza, located on the north side of Acushnet Drive between Weber Road and Jefferson Street.

Planning Commission and Staff Recommendation (October 5, 2016): Approval of the change of zoning from the "CG-2" General Commercial District to the "IL" Light Industrial District.

Ordinance:

Ordinance amending the Unified Development Code ("UDC"), upon application by Jose and Hector Sanchez ("Owners"), by changing the UDC Zoning Map in reference to Saratoga Weber Plaza, Block 7, Lot 13 from the "CG-2" General Commercial District to the "IL" Light Industrial District; amending the Plan CC to account for any deviations; and providing for a repealer clause and publication.

Mayor Martinez deviated from the agenda and referred to Item 11. Interim Director of Development Services Daniel McGinn stated that the purpose of this item is to rezone the subject property to allow for the construction of an automotive repair facility. Mr. McGinn stated that the Planning Commission and staff are in favor of the zoning change. Mr. McGinn explained that opposition of more than 20% was received and approval of the zoning change would require a three-fourths vote of the council.

Mayor Martinez opened the public hearing. John Kendall, 5566 S. Staples, stated that the applicant is requesting the rezoning to construct an automobile repair facility with expanded services to include heavy vehicle services. Mayor Martinez closed the public hearing.

Council members spoke regarding the following topics: construction of a new facility; opposition from property owners; and the buffer and screening requirements.

Council Member Rubio made a motion to approve the ordinance, seconded by Council Member Garza. This Ordinance was passed on first reading and approved with the following vote:

Aye: 9 - Mayor Martinez, Council Member Garza, Council Member Hunter, Council Member Magill, Council Member McIntyre, Council Member Rubio, Council Member Rosas, Council Member Scott and Council Member Vaughn

Abstained: 0

12. Public Hearing and First Reading Ordinance - Rezoning property located at 701 East Port Avenue (Requires 2/3 vote)

Case No. 1016-03 Durrill Farms, LLC: A change of zoning from the "IH" Heavy Industrial District to the "CI" Intensive Commercial District. The property to be rezoned is described as a 2.6-acre tract of land out of Port

Addition, Block 2, Lot 1, located between Port Avenue and Brewster Street and between Tancahua Street and Broadway Street.

Planning Commission and Staff Recommendation (October 5, 2016):

Approval of the change of zoning from the "IH" Heavy Industrial District to the "CI" Intensive Commercial District.

Ordinance:

Ordinance amending the Unified Development Code ("UDC"), upon application by Durrill Farms, LLC ("Owner"), by changing the UDC Zoning Map in reference to a 2.6-acre tract of land out of Port Addition, Block 2, Lot 1, from the "IH" Heavy Industrial District to the "CI" Intensive Commercial District; amending the Plan CC to account for any deviations; and providing for a repealer clause and publication.

Mayor Martinez referred to Item 12. Interim Director of Development Services Daniel McGinn stated that the purpose of this item is to rezone the subject property to allow for the development of a seven-story hotel with office and meeting space along with a restaurant facility. Mr. McGinn stated that the Planning Commission and staff are in favor of the zoning change.

Mayor Martinez opened the public hearing. Abel Alonzo, 1701 Thames, thanked the applicant for the project that will increase sales tax and is good for the community. Mayor Martinez closed the public hearing.

Council Member Rubio made a motion to approve the ordinance, seconded by Council Member Rosas. This Ordinance was passed on first reading and approved with the following vote:

Aye: 9 - Mayor Martinez, Council Member Garza, Council Member Hunter, Council Member Magill, Council Member McIntyre, Council Member Rubio, Council Member Rosas, Council Member Scott and Council Member Vaughn

Abstained: 0

N. REGULAR AGENDA: (ITEMS 13 - 14)

14. Certification of 2016 Tax Levy (Requires 2/3 vote)

Motion approving the 2016 Property Tax Levy of \$114,816,809.63 based on the adopted property tax rate of \$0.606264 per \$100 valuation, in accordance with Section 26.09 (e) of the Texas Property Tax Code.

Mayor Martinez deviated from the agenda and referred to Item 14. Director of Financial Services Constance Sanchez stated that the purpose of this item is to approve the 2016 certified tax levy. There were no comments from the public.

Council members discussed whether there was a policy that addresses where excess revenue collected over the conservative collection rate would be budgeted.

Council Member McIntyre made a motion to approve the motion, seconded by

Council Member Garza. This Motion was passed and approved with the following vote:

Aye: 7 - Mayor Martinez, Council Member Garza, Council Member Magill, Council Member McIntyre, Council Member Rubio, Council Member Rosas and Council Member Scott

Nay: 1 - Council Member Hunter

Absent: 1 - Council Member Vaughn

Abstained: 0

Enactment No: M2016-148

O. FIRST READING ORDINANCES: (ITEMS 15 - 16)

15. First Reading Ordinance - Accepting and appropriating grant funds for the Violence Against Women Act (VAWA) Program within the Police Department (Requires 2/3 vote)

Ordinance authorizing the City Manager or designee to execute all documents necessary to accept a grant from the State of Texas, Criminal Justice Division in the amount of \$46,226.82 for the Violence Against Women (VAWA) Program within the Police Department with a cash match of \$20,000.52 and an in-kind match of \$6,900.00 for a total project cost of \$73,127.34; appropriating the \$46,226.82 in the No. 1061 Police Grants Fund for the VAWA grant in the Police Department; and authorizing the transfer of \$20,000.52 from the No. 1020 General Fund to the No. 1061 Police Grants Fund and appropriating the same for a total project cost of \$73,127.34.

Mayor Martinez referred to Item 15. Police Chief Mike Markle stated that the purpose of this item is to accept a grant from the State of Texas for the Violence Against Women (VAWA) Program with a cash match of \$20,000.52 and an in-kind match of \$6,900 for a total project cost of \$73,127.34. There were no comments from the Council or the public.

Council Member Rubio made a motion to approve the ordinance, seconded by Council Member Garza. This Ordinance was passed on first reading and approved with the following vote:

Aye: 9 - Mayor Martinez, Council Member Garza, Council Member Hunter, Council Member Magill, Council Member McIntyre, Council Member Rubio, Council Member Rosas, Council Member Scott and Council Member Vaughn

Abstained: 0

16. First Reading Ordinance - Approving the 2017 Annual Audit Plan (Requires 2/3 vote)

Ordinance to Approve the 2017 Annual Audit Plan.

Mayor Martinez referred to Item 16. City Auditor Arlena Sones stated that the purpose of this item is to request approval of the 2017 Annual Audit Plan. The plan was developed based on areas considered to be the highest risk to the City. The proposed audit plan was approved by the Audit Committee on October 11, 2016. There were no comments from the Council or the public.

Council Member Rubio made a motion to approve the ordinance, seconded by Council Member Scott. This Ordinance was passed on first reading and approved with the following vote:

Aye: 9 - Mayor Martinez, Council Member Garza, Council Member Hunter, Council Member Magill, Council Member McIntyre, Council Member Rubio, Council Member Rosas, Council Member Scott and Council Member Vaughn

Abstained: 0

L. EXECUTIVE SESSION: (ITEMS 8 - 10)

Mayor Martinez deviated from the agenda and referred to the day's executive sessions. The Council went into executive session at 12:48 p.m. The Council returned from executive session at 4:58 p.m. Council Member Scott recused himself from the discussion on Items 8, 9 and 10.

8. **Executive Session pursuant to Texas Government Code § 551.071** and Texas Disciplinary Rules of Professional Conduct Rule 1.05 to consult with attorneys concerning legal issues related to potential economic development agreement(s) with entities that are considering the construction, expansion, and/or ownership of industrial facilities that will be consumers of water and wastewater services and pursuant to **Texas Government Code § 551.087** to discuss confidential commercial or financial information pertaining to the aforesaid business prospect(s) that the City seeks to have locate, stay or expand in or near the territory of the City and with which the City may conduct economic development negotiations and/or deliberate possible economic development issues concerning said business prospect(s).

This E-Session Item was discussed in executive session.

9. **Executive Session pursuant to Texas Government Code § 551.071** and Texas Disciplinary Rules of Professional Conduct Rule 1.05 to consult with attorneys concerning legal issues related to Article II of the Charter of the City of Corpus Christi, including, but not limited to, City Council terms, City Council term limits, membership on City Council, elections, eligibility for election for Council Member, City Council rules, meeting attendance, potential removal of City Council Member Mark Scott and documentation and procedures related thereto, vacancies and procedures and documentation related thereto, potential employment of independent counsel regarding the aforementioned matters and future potential litigation related thereto, effects of past elections and ballots, prior and other opinions of attorneys regarding the aforementioned

matters, and potential causes of action and/or future litigation related to the aforementioned matters, City Council duties and matters related to compensation, future City Charter elections and matters related to terms and term limits, administrative actions, City Council actions, and other matters related to any of the aforementioned issues and possible direction to employ attorneys and prepare documents regarding potential removal proceedings pursuant to Article II, Section 11 of the Charter of the City of Corpus Christi.

Mayor Martinez referred to Item 9 and read the following resolution for consideration:

City Council Resolution of Reprimand for Council Member Mark Scott.

Mayor Martinez made a motion to approve the resolution, seconded by Council Member Magill. This Resolution was passed and approved with the following vote:

Aye: 8 - Mayor Martinez, Council Member Garza, Council Member Hunter, Council Member Magill, Council Member McIntyre, Council Member Rubio, Council Member Rosas and Council Member Vaughn

Abstained: 1 - Council Member Scott

Enactment No: 031000

- 10. Executive Session pursuant to Texas Government Code § 551.074**
to discuss the discipline or dismissal of a public officer or employee or hear a complaint or charge against an officer, including but not limited to, matters related to the potential removal of City Council Member Mark Scott pursuant to Article II, Section 11 of the Charter of the City of Corpus Christi.

This E-Session Item was discussed in executive session.

P. FUTURE AGENDA ITEMS: (ITEMS 17 - 18)

Mayor Martinez deviated from the agenda and referred to Future Agenda Items. City Manager Margie C. Rose stated that staff did not have any planned presentations. A council member requested information on Item 18.

- 17. Approving a supply agreement for the purchase of fire hydrants for new and replacement installations (Requires 2/3 vote)**

Motion approving a supply agreement with HD Supply Waterworks, Ltd., a Florida limited partnership, with a branch in Corpus Christi, Texas as HD Supply Waterworks, for fire hydrants in accordance with Request for Bid No.126 based on the lowest, responsive responsible bid for an estimated annual expenditure of \$178,690.00, of which \$148,908.34 will be funded in FY2016-2017. The term of the agreement is for one year with an option to extend for up to two additional one year periods, subject

to the approval of the supplier and the City Manager or designee.

This Motion was recommended to the consent agenda.

**18. Developer's Agreement for Downtown Streets - Chaparral project
(Bond 2008, Proposition 1) (Requires 2/3 vote)**

Motion authorizing the City Manager, or designee, to execute a developer's agreement with Cosmopolitan Corpus, LLC. of Corpus Christi, Texas in the amount of \$142,235.89 for work associated with the Downtown Streets - Chaparral project. (BOND 2008 Proposition 1).

This Motion was recommended to the consent agenda.

Q. BRIEFINGS: (NONE)

R. ADJOURNMENT

The meeting was adjourned at 5:06 p.m.