



Corpus Christi

1201 Leopard Street
Corpus Christi, TX 78401
cctexas.com

Meeting Minutes

City Council

Tuesday, October 25, 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 Betty Vestal, Church of Acts.

Pastor Betty Vestal gave the invocation.

C. Pledge of Allegiance to the Flag of the United States to be led by Mark Van Vleck, Assistant City Manager.

Assistant City Manager Mark Van Vleck led the Pledge of Allegiance.

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

Assistant City Secretary Paul Pierce 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:

Assistant City Manager Mark Van Vleck, City Attorney Miles K. Risley, and Assistant City Secretary Paul Pierce.

Present: 8 - 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, and Council Member Carolyn Vaughn

Absent: 1 - Council Member Mark Scott

E. Proclamations / Commendations

1. Proclamation declaring October 25, 2016, "Corpus Christi Crime Stoppers 35th Anniversary".
Proclamation declaring October 23-29, 2016, "Corpus Christi Live Week".
Proclamation declaring November 5, 2016, "Face-to-Face Walk for Memory".

Proclamation declaring November 5, 2016, "National Weather Service Day".

Mayor Martinez presented the proclamations.

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

Mayor Martinez deviated from the agenda and referred to City Manager's Comments. Assistant City Manager Mark Van Vleck reported on the following topics:

a. OTHER

1) The Development Services Department will be at limited operations beginning Thursday, October 27, 2016 through Monday, October 31, 2016. Online permitting will be down beginning Friday, October 28, 2016. During the limited operations, emergency permits can still be obtained via phone number 361-826-3240. The limited operations are due to the replacement of software, transfer of data to the new software, and training of staff. New enhancements will include: online submittals; tracking and commenting; and upgraded payment processing 2) The Santa Fe Street Grand Opening, previously postponed due to weather, is rescheduled for 9:00 a.m. on Thursday, November 3, 2016 in the Gaslight Square Parking Lot located at the corner of Santa Fe and Buford Streets.

H. MINUTES:

2. Regular Meeting of October 18, 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 McIntyre and passed unanimously.

I. BOARD & COMMITTEE APPOINTMENTS: (NONE)

J. EXPLANATION OF COUNCIL ACTION:

K. CONSENT AGENDA: (ITEMS 3 - 10)

Approval of the Consent Agenda

Mayor Martinez referred to the Consent Agenda. A citizen requested that Item 3 be pulled for individual consideration.

Council Member McIntyre made a motion to approve the consent agenda, seconded by Council Member Rubio. The consent agenda items were passed and approved by one vote as follows:

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

Absent: 1 - Council Member Scott

Abstained: 0

4. Infor Software Subscription Agreement for the City's Enterprise Software Solution (Requires 2/3 vote)

Motion authorizing the City Manager or designee to approve the execution of a Software Subscription agreement with Infor, Inc. for five years for a total expenditure of \$3,775,000 with annual payments of \$755,000. Funds are available in the Information Technology Department FY2016-2017 budget.

This Motion was passed on the Consent Agenda.

Enactment No: M2016-140

5. Engineering Design Contract for Padre Island Water and Gas Pipeline Extension Phase 3 (Requires 2/3 vote)

Motion authorizing the City Manager, or designee, to execute an engineering design contract with Urban Engineering of Corpus Christi, Texas in the amount of \$197,833 for the Padre Island Water and Gas Pipeline Extension Phase 3 for design, bid and construction phase services.

This Motion was passed on the Consent Agenda.

Enactment No: M2016-141

6. Construction Contract for Commodores Drive at Park Road 22 Left Turn Lane Improvements (Bond 2014, Proposition 2) (Requires 2/3 vote)

Motion authorizing the City Manager, or designee, to execute a construction contract with A. Ortiz Construction & Paving, Inc. of Corpus Christi, Texas in the amount of \$245,069 for the total base bid for Commodores Drive at Park Road 22 Left Turn Improvements project. (Bond 2014 Proposition 2 - Traffic Signals and Lighting Improvements City-Wide).

This Motion was passed on the Consent Agenda.

Enactment No: M2016-142

7. Engineering Services Amendment No. 1 for Chaparral Street Phase 2 Downtown Development Master Plan (Bond 2014, Proposition 2) (Requires 2/3 vote)

Motion authorizing the City Manager, or designee, to execute Amendment No. 1 to a contract for professional services with HDR

Engineering, Inc. of Corpus Christi, Texas in the amount not to exceed \$657,649 for a restated fee not to exceed \$707,544 for the Chaparral Street Phase 2 Downtown Development Master Plan project. (BOND 2014 Proposition 2).

This Motion was passed on the Consent Agenda.

Enactment No: M2016-143

8. Service Agreement for Pressure Washing of Trucks for the Solid Waste Department (Requires 2/3 vote)

Motion authorizing City Manager, or designee, to execute a service agreement with HERO Pressure Washing, LLC of Corpus Christi, Texas, for pressure washing of trucks services, in accordance with Bid Event No. 130, based on lowest, responsive and responsible bid. The annual agreement will be for \$46,010.00, of which \$42,175.83 will be funded in FY2016-2017. The term of the agreement is for one year with option to extend for up to four additional one year periods, subject to the approval of the Contractor and the City Manager, or designee.

This Motion was passed on the Consent Agenda.

Enactment No: M2016-144

9. Second Reading Ordinance - Amending the Urban Transportation Plan map by removing the proposed extension of Mustang Trail between McArdle Drive and South Padre Island Drive (SPID) (1st Reading 10/18/16) (Requires 2/3 vote)

Ordinance amending the Corpus Christi Urban Transportation Plan map, an element of the Comprehensive Plan of the City of Corpus Christi, Texas, by eliminating the proposed extension of Mustang Trail Drive between McArdle Drive and SPID (SH 358); amending related elements of the Comprehensive Plan of the City; providing for severance; and providing for publication.

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

Enactment No: 030995

10. Second Reading Ordinance - Lease Agreement for 2017 Fiesta de la Flor event (1st Reading 10/18/16) (Requires 2/3 vote)

Ordinance authorizing the City Manager or designee to execute a lease agreement with the Corpus Christi Convention and Visitors Bureau (CCCVB) for 2017 Fiesta de la Flor event and related activities to be held on March 24, 2017 and March 25, 2017, and allow use of streets bounded by Power Street, N. Water Street, Resaca Street and Shoreline Blvd. and including the Bayfront Park located along

Shoreline Blvd. between Resaca Street and Power Street.

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

Enactment No: 030996

3. Purchase of playground equipment and installation at Manuel Q. Salinas Park (Requires 2/3 vote)

Motion approving the purchase of playground equipment and installation for a play for all playground being developed at Manuel Q. Salinas Park from Exerplay, Inc., of Cedar Crest, New Mexico for a total amount not to exceed \$299,537.81. The award is based on the evaluation of multiple proposals reviewed for phase 1 of this project. Funding for this playground is from the Community Development Block Grant B-15-MC-48-0502 for program year 2015-2016.

Mayor Martinez referred to Item 3, the purchase and installation of playground equipment Manuel Q. Salinas Park. Crystal Levine, 918 Francesca; Richard Balli, Chairperson for the Committee for Persons with Disabilities; and Margareta Fratila, 3606 Tripoli, spoke in support of the playground that will be beneficial to all children, including those with disabilities.

In response to a council member, Interim Director of Parks and Recreation Stacie Talbert Anaya stated that the material on the ground will be a poured-in-place fall zone.

Council Member McIntyre made a motion to approve the motion, seconded by Council Member Rubio. This Motion 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

Absent: 1 - Council Member Scott

Abstained: 0

Enactment No: M2016-139

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. Abel Alonzo, 1701 Thames, expressed thanks regarding the following topics: the positive comments made regarding Agenda Item 3, the purchase

and installation of playground equipment for children with disabilities at Manuel Q. Salinas Park; Police Chief Mike Markle and the police officers for a recent drug bust; and Council Member Rudy Garza for recusing himself from the discussion on the regional youth sport complex. Bob White, 4502 Congressional, spoke regarding the intent of the 2008 Charter Revision Ad Hoc Committee who decided on term limits for council members. Mr. White said the intent was to bring diversity to the City Council by ensuring no one could serve again and again thereby excluding others from serving. Mr. White asked the City Council to instruct the City Attorney to amend the rule and state that if the Mayor or any member of the City Council serves part of a term, regardless of the time period, and then resigns, that person shall be deemed to have served a full and complete term. Shery Sells, 5041 Wingfoot Lane, thanked the City Council for approving Agenda Item 3, the ADA park for children and the Corpus Christi Police Department for the improvements made to the response time on ADA issues. Ms. Sells spoke regarding the Development Services Department and the permit for a property located at 6410 Weber. Kelly Sells, 5041 Wingfoot Lane, spoke regarding the permit for the property located at 6410 Weber; the construction and permitting of a property located at 4022 Weber and the Development Services Department's procedures for permitting to ensure that ADA compliance is being met. Gloria Scott, 4422 Alameda, thanked the City Council for taking action at last week's Council meeting on the rezoning for the Christus Spohn System. Rick Milby, 4412 High Ridge Drive, spoke regarding the issue of a council member resigning with a month and a half left in the term and encouraged the City Council to have Mr. White as a witness during the executive session item on the Charter Commission's intent for term limits. Margareta Fratila, 3606 Tripoli, spoke regarding the red light camera system and provided a copy of a judgment for the City of Richardson to remove the red light cameras. Bob Algeo, 15629 Three Fathoms Bank Drive, spoke regarding the removal of sticker burrs at Billish Park and the status of the 2014 Bond Project improvements to Beach Access Road 3A.

M. PUBLIC HEARINGS: (ITEMS 12 - 13)

12. Public Hearing and First Reading Ordinance - Rezoning property located at 1013 E. Lakeside Drive (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.

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 commercial development. Mr. McGinn stated that the Planning Commission and staff are in favor of the zoning change.

Mayor Martinez opened the public hearing. There were no comments from the Council or the public. Mayor Martinez closed the public hearing.

Council Member McIntyre 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: 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

Absent: 1 - Council Member Scott

Abstained: 0

13. Public Hearing and First Reading Ordinance - Rezoning property located at 7401 Holly Road (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.

Mayor Martinez referred to Item 13. Interim Director of Development Services Daniel McGinn stated that the purpose of this item is to rezone the subject property to allow construction of residential townhouses. Mr. McGinn stated

that the Planning Commission and staff are in favor of the zoning change.

Mayor Martinez opened the public hearing. There were no comments from the Council or the public. Mayor Martinez closed the public hearing.

Council Member McIntyre 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: 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

Absent: 1 - Council Member Scott

Abstained: 0

N. REGULAR AGENDA: (ITEM 14)

**14. Service Agreement for Uniformed Security Guard Services
(Requires 2/3 vote)**

Motion approving a service agreement for uniformed security guard services with BasE Security and Fire Consultants, LLC, of Rosenberg, Texas, in accordance with request for proposal No. 152, based on best value, for a total estimated expenditure of \$586,828.75, of which \$537,926.35 will be funded in FY2016-2017. The term of the agreement shall be for one year with options to extend for up to two additional one year periods, subject to the approval of the contractor and the City Manager or designee.

Mayor Martinez referred to Item 14. Assistant Director of Financial Services Kim Baker stated that the purpose of this item is to approve a service agreement for uniformed security guard services with BasE Security and Fire Consultants, LLC in the amount of \$586,828.75. The term of the agreement is for one-year with the option to extent for up to two additional one-year periods. Ms. Baker stated that agenda material includes: a definition of the Frost Bank Facility, which includes Development Services and the Fire Department; information on the funds spent on security over the past year; and the evaluation matrix. There were no comments from the public.

Council members spoke regarding the following topics: the inclusion of the O. N. Stevens Water Treatment Plant; questions regarding the inclusion of the Corpus Christi - Nueces County Public Health District (Public Health District); that security for the Public Health District was approved as a decision package in the FY17 Operating Budget; the status of the consolidation of the Public Health District; and providing City Council with a copy of the agreement between the City and Nueces County which details each entity's responsibilities for the Public Health District.

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: 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

Absent: 1 - Council Member Scott

Abstained: 0

Enactment No: M2016-145

O. FIRST READING ORDINANCES: (NONE)

P. FUTURE AGENDA ITEMS: (ITEMS 15 - 18)

Mayor Martinez referred to Future Agenda Items. Assistant City Manager Mark Van Vleck stated that staff had planned presentations on Items 15 and 16.

15. 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.

This Motion was recommended to the regular agenda.

16. 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 recommended to the consent agenda.

17. 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 recommended to the consent agenda.

18. 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 recommended to the consent agenda.

Q. BRIEFINGS: (ITEM 19)**19. City Council Terms, Term Limits, and related City Charter issues**

Mayor Martinez referred to Item 19, a briefing on the City Council terms, term limits and related City Charter issues.

MOTION OF DIRECTION

Mayor Martinez made a motion directing City Attorney Risley, with the concurrence of the City Council, to discuss the City Council terms, term limits and related City Charter issues in open session and provide a briefing on the two opinions received from outside legal counsel, Charles Zech with Denton, Navarro, Rocha, Bernal, Hyde & Zech; and upon completion of the briefing, the two opinions be released to the public and the media for transparency and the benefit of their knowledge, seconded by Council Member Vaughn and passed unanimously.

City Attorney Risley summarized the two legal opinions as follows: 1) a city council member holds over in his office of council member until his successor is qualified and takes office; 2) a council member who has resigned may not avoid the application of the term limits provision of the City Charter by resigning, unless the City Council appoints a successor prior to the end of the term of the council member who has resigned. City Attorney Risley provided an assumption that was clarified at the request of City Council and is particular to Council Member Scott as follows: due to the City's change of election dates in 2010, Council Member Scott's second term of office, which began in May of 2011 and ended in November of 2012, was a shortened term of one and one-half years and does not count toward the City Charter's term limits which prohibit serving consecutive two-year terms.

City Attorney Risley stated that should the Council wish to talk to Mr. Zech, he is available to address follow-up questions in executive session. In response to Mayor Martinez, City Attorney Risley stated that in Mr. Zech's opinion, Council Member Mark Scott continues to be a city council person, as a holdover, until someone is appointed or he is replaced otherwise.

With the concurrence of the City Council, Bob White, Chairman of the 2008 Charter Review Ad Hoc Committee (Committee), stated that the intent of the committee was to ensure that there was constantly new blood being added to the Council. Mr. White stated that that was what the public wanted. Mr. White added that the discussion on the change of the election from May to November was not discussed by the Committee.

Council members discussed the following topics: the legal opinion that

Council Member Scott's second term of office does not count toward his term limit due to the change in the election from May to November; the City Charter specifying the that term limits apply to consecutive two-year terms; whether the votes made by Council Member Scott count if the shortened term limit does not count; City Attorney Risley not providing a legal opinion to address the questions on this matter because of the potential political divide this type of opinion could bring and seeking outside independent counsel in this matter; City Charter, Article II, Section 11. Removal (a)(6) stating "a council member shall be subject to the removal by the council or by any other means authorized by law for absence from three consecutive regular council meetings without leave of absence first had, except due to circumstances over which the council member had no control" and (e) stating "a member who is removed from office, whether pursuant to this section, by recall or other legal proceedings, or who resigns after any such proceedings have been initiated, shall not be eligible to be appointed to or run as a candidate for city office for two years from the date of removal, recall or resignation"; research from City Attorney Risley as to whether City Charter, Article II, Section 11(6)(e) would prohibit Council Member Scott, if he were removed from office, from being eligible to run in two years from the date of removal; the intent of the 2008 Charter Review Ad Hoc Committee regarding term limits; the intent of the voters who supported the term limits; changing the language in the City Charter to specify that term limits are served regardless of the length of time in office; whether there were any discussions or recommendations during the most recent Charter Commission regarding term limits; clarification on what is considered a full two-year term; precedence that Council Members John Marez and Priscilla Leal termed out with the shortened term of one and one-half years; the current council members cannot serve a complete two-year term because they were sworn in on January 13, 2015; City Charter, Article II, Section 11. Removal (b) regarding the removal action by council; the distinction between term of and tenure in office; the change in the election date causing the problem on term limits; the intent of Council Member Scott to resign from office to run for the position of Mayor based on existing term limits language; evaluation of the entire section on term limits; removal of a council member to specifically disqualify him from running for office; whether the law is limited to verbiage with intent; whether intent is allowed in the rule of law; the cost associated with outside legal counsel; how the Charter Committee could clarify or verbally state their intent if they could not have foreseen that the City Council would decide to move the election from May to November; and the need to make a determination on this item and take the best action moving forward so there is not a scenario in two years that could challenge Council Member Scott's ability to serve.

Council Member Rubio commented for the record that she was offended by statements made by Council Member McIntyre. Council Member Rubio stated that council members are entitled to ask questions and have their opinions and when comments or opinions are made, other council members tend to say pretty offensive things. Council Member McIntyre clarified that she has no problem with questions from council members, however, she does question invoking impeachment proceedings specifically for the purpose of making Council Member Scott ineligible to run for mayor.

L. EXECUTIVE SESSION: (ITEM 11)

Mayor Martinez deviated from the agenda and referred to the day's executive session. The Council went into executive session at 1:51 p.m. The Council

returned from executive session at 3:57 p.m.

11. **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.

This E-Session Item was discussed in executive session.

R. **ADJOURNMENT**

The meeting was adjourned at 3:58 p.m.