

MINUTES
CITY COUNCIL OF THE CITY OF UNIVERSAL CITY, TEXAS
Regular Meeting, Tuesday, August 20, 2019

1. CALL TO ORDER: Mayor John Williams at 6:30 p.m.
2. QUORUM CHECK: Kristin Mueller, City Clerk

Present:

Mayor John Williams
Mayor Pro Tem Richard Neville
Councilmember Bear Goolsby
Councilmember Tom Maxwell
Councilmember Paul Najarian
Councilmember William Shelby
Councilmember Beverly Volle

Present:

Kim Turner, City Manager
Habib Erkan, City Attorney
Manuel Casarez, Fire Chief
Michael Cassata, Dev Services Director
Pat Collins, Finance Director
Randy Luensmann, Public Works Director
Kristin Mueller, City Clerk
Gary Speer, Police Chief

Mayor Williams noted a quorum was present.

3. INVOCATION: Mayor John Williams gave the invocation.
4. PLEDGE OF ALLEGIANCE TO THE U.S. AND TEXAS FLAG: Led by Mayor Williams.
5. VOTE TO CONSIDER THE EXCUSE OF ABSENT MAYOR/COUNCILMEMBERS:

No action was necessary; all members were present.

6. AWARDS/PROCLAMATION/INTRODUCTION OF GUESTS:

Mayor Williams mentioned that there was a proclamation for *Stevens Johnson Syndrome Awareness Month* but the family accepting the proclamation was not present so he announced he will postpone reading it until the family is present.

7. CITIZENS TO BE HEARD: None.
8. CONSENT AGENDA:

Mayor Pro Tem Neville moved to approve the following consent agenda items:

- a) Consider City Council Minutes for the Monday, July 29, 2019 Special Meeting and the Tuesday, August 6, 2019 Regular Meeting.
- b) Consider acceptance of 20' Water Easement through the Seibel Crossing Subdivision.
- c) Consider Ordinance 149-M-33-2-2019: An Ordinance of the City of Universal City, Texas, amending Ordinance 149 Fee Schedules (Reconnection Fee); repealing all ordinances or parts of ordinances in conflict; and amending the Universal City Code of Ordinance accordingly. (2nd Reading).
- d) Consider Ordinance 149-M-33-1-2019: An Ordinance of the City of Universal City, Texas, amending Ordinance 149 Fee Schedules (Water Meter Connection Fee); repealing all ordinance or parts of ordinances in conflict; amending the Universal City Code of Ordinances accordingly. (2nd Reading).
- e) Consider Ordinance 149-M-31-8-2019: An Ordinance of the City of Universal City, Texas, amending Ordinance 149 Fee Schedules (Water/Wastewater Rates); amending Ordinance 149-

M-31-7-2017 and repealing all ordinances or parts of ordinances in conflict; and amending the Universal City Code of Ordinances Accordingly. (2nd Reading)

- f) Consider Ordinance 149-M-32-08-2018: An Ordinance of the City of Universal City, Texas, amending Ordinance 149 Fee Schedules (Sewer Fees); amending Ordinance 149-M-32-07-2017; repealing all ordinances or parts of ordinances in conflict; and amending the Universal City Code of Ordinances accordingly. (2nd Reading).
- g) Consider Ordinance 641-A-2019: An Ordinance amending Part III, Activities Regulated, Chapter 3 of the City of Universal City's Code of Ordinances by revising regulations governing smoking and setting the smoking age limit to 21 in the City of Universal City; providing penalties for violations of said ordinance; and setting an effective date. (2nd Reading).

Councilmember Najarian seconded the motion.

Vote: Yeas: Neville, Najarian, Goolsby, Maxwell, Shelby Volle
Nays: None

Motion to approve carried.

9. NEW BUSINESS:

A. PUBLIC HEARING on the Proposed 2019 Tax Rate to Support the Fiscal Year 2020 Budgets.

Finance Director Pat Collins gave a presentation on the proposed 2019 Tax Rate. She stated that the proposed total tax rate is 0.601444 (M&O rate of 0.486109 and Debt Service Rate of 0.115335).

Mayor Williams opened the public hearing at 6:40 p.m.

There being no comments, Mayor Williams closed the public hearing at 6:41 p.m. He announced that the vote on the Tax Rate will occur at the Tuesday, September 3, 2019 City Council meeting.

B. Consider Economics Services Agreement between City of Universal City and AECOM Technical Services, Inc. for services related to the East Aviation District Revitalization Plan.

City Manager Kim Turner reminded City Council that funds were reserved this budget year for the City to complete a market feasibility study on the East Aviation District. She asked Development Services Director to elucidate.

Mr. Cassata stated that the City submitted a Request for Proposal for a market feasibility analysis of the East Aviation District. 9 firms responded to the request and 4 of the firms were interviewed. City Staff unanimously selected AECOM to complete the study. The study will include a market feasibility analysis, traffic impact analysis, and a land use plan. The timeline to complete the project is approximately 6 months.

Councilmember Maxwell moved to approve the Economics Services Agreement between the City of Universal City and AECOM Technical Services, Inc. Councilmember Volle seconded the motion.

Vote: Yeas: Maxwell, Volle, Neville, Goolsby, Najarian, Shelby
Nays: None

Motion to approve carried.

C. Consider Community Development Block Grant (CDBG) Intergovernmental Cooperative Agreement for West Byrd Drainage Project (Project # B-19-UC-48-0500).

Mrs. Turner described that this agreement will allow the City to use the \$300,000 of grant money awarded to the City by the Bexar County for use on the West Byrd Drainage Project.

Mayor Pro Tem Neville moved to approve the CDBG Intergovernmental Cooperative Agreement. Councilmember Shelby seconded the motion.

**Vote: Yeas: Neville, Shelby, Goolsby, Maxwell, Najarian, Volle
Nays: None**

Motion to approve carried.

D. Consider Resolution 880: Resolution of the City Council of the Universal City, Texas authorizing Representation in an Internal Revenue Service (IRS) matter and delegating authority to execute Form 2848 IRS Power of Attorney.

Mrs. Turner clarified that Texas Municipal League (TML) failed to report health insurance information of the cities it served to the IRS for the last two years. TML had to hire an attorney to resolve the issue with the IRS. This Resolution gives them Power of Attorney to represent Universal City in resolving the issue only. TML will cover the attorney fees, not Universal City.

Councilmember Maxwell moved to approve Resolution 880. Councilmember Goolsby seconded the motion.

**Vote: Yeas: Maxwell, Goolsby, Neville, Najarian, Shelby Volle
Nays: None**

Motion to approve carried.

E. Consider Resolution 881: A development Agreement among City of Universal City, Texas, Cibolo Farms, LLC, and Mosaic Land Development, LLC.

Mrs. Turner explained that the City has been working with Mosaic Land Developmen, LLC and Cibolo Farms, LLC for over two years trying to get a single-family residential development in the City's extraterritorial jurisdiction. They now have the approval of Joint Base San Antonio – Randolph to develop. This responsibility of the developer would be to provide all infrastructure and the responsibility of the City would be to bring a waterline to the property and to maintain an easement.

Councilmember Maxwell moved to approve Resolution 881. Councilmember Volle seconded the motion.

**Vote: Yeas: Maxwell, Volle, Neville, Goolsby, Najarian, Shelby
Nays: None**

Motion to approve carried.

F. PUBLIC HEARING: P.C. 523 (CU 151)—A request for a Conditional Use Permit at 8096 Agora Parkway (CB 5047HH BLK 70 LOT 108 Forum at Olympia PKWY UT-6) to allow Health Care Office use in C2-Retail District, per zoning ordinance 581.

Mr. Cassata explained that a physical therapy business that is currently located in the Forum petitioned the Planning and Zoning Commission for a Conditional Use Permit at 8096 Agora Parkway to allow Health Care Office use in a space that is zoned C2-Retail District. P&Z approved the request with a 3-2 vote. Mr.

Mayor Williams opened the public hearing at 6:58 p.m.

Andrew Bennett, owner of the physical therapy office, stated that he has been in business for 15 years. They would like to occupy 8096 Agora Parkway because it would allow their office to grow as well as provide for better parking and access into his practice. He noted that while a physical therapy office may not provide the City with sales tax revenue, it will provide healing and improve the quality of life for many Universal City residents.

Martin Brown, Brown Architect Group, mentioned that he was the architect on the project and was present to answer any questions that Council may have regarding the design of the facility.

Christina Nissen, Leasing Agent for the Forum, stated she would like to see the conditional use permit granted because historically that building has been difficult to lease because it is in the back of the shopping center and does not have good visibility.

Brian Hayden, 702 Balboa, spoke out against granting the conditional use permit. He mentioned that while a physical therapy office could provide healing for some Universal City residents, the sales tax revenue will benefit all residents. With the recent property tax revenue cap legislation, he believes that it is important to keep the only retail building Universal City has in the Forum zoned as retail.

Steven Clark, Clinic Director at 8335 Agora Parkway, read a letter from a client in support of the conditional use permit.

Jennifer Ellis, 121 Lemonwood, stated her support for the conditional use permit. Her mom is a patient of the clinic and would benefit from the move. In her opinion, history shows that the location is not suited for retail.

Brenda Mallory, 221 E. Byrd, said that the physical therapy she received from Dr. Bennett has saved her life. She is in favor of the conditional use permit.

There being no other comments, Mayor Williams closed the public hearing at 7:15 p.m.

G. Consider P.C. 523 (CU 151)—A request for a Conditional Use Permit at 8096 Agora Parkway (CB 5047HH BLK 70 LOT 108 Forum at Olympia PKWY UT-6) to allow Health Care Office use in C2-Retail District, per zoning ordinance 581.

Mrs. Turner stated that the facility mentioned is not at the back of the Forum Shopping Center, it is actually in the front.

Mayor Pro Tem Neville asked if we had the total amount of sales tax collected from that facility in the last year. Mrs. Turner stated that information is not available. He also asked Mr. Bennett how many patients they see daily. Mr. Bennett answered approximately 83. Finally, Mr. Neville asked if they accepted TriCare or Medicare and Mr. Bennett confirmed that they did.

Councilmember Maxwell asked Mr. Bennett if they had considered other locations in Universal City because he believes that location needs to be a retail or restaurant location. His thought was that the property owner does not do a good job of marketing the location. Due to traffic counts abutting the property, he believes that location could be a retail mecca. Mr. Bennett

confirmed they did look at other locations but none of the other locations served his office as well as the one they selected. Furthermore, he has an existing relationship with the leasing agent and is currently in a lease with them now. Staying within the Forum would keep him from paying penalties for breaking a lease.

Councilmember Najarian stated that he believes the building is zoned properly and that the City needs to be careful with what it does with its resources. He agrees that the property is not marketed to its fullest potential.

Councilmember Goolsby enunciated that he loves the physical therapy business and wishes them success but feels like the only reason that the Universal City portion of the Forum is not successful is because it isn't maintained by the owner as well as the rest of the shopping center.

Councilmember Shelby asked if the Conditional Use Permit is tied to the property address. Mrs. Turner confirmed that it was. Even if this physical therapy office leaves in 3 years, a new health office use tenant could occupy the space.

Councilmember Volle mentioned that she also believes the Universal City side of the Forum is the beginning of the Forum. She said this would be a tough decision to make.

Councilmember Maxwell moved to deny the Conditional Use Permit at 8096 Agora Parkway. Councilmember Najarian seconded the motion.

**Vote: Yeas: Maxwell, Najarian, Neville, Goolsby, Shelby, Volle
Nays: None**

Motion to approve carried.

- H. Discuss & Consider Ordinance 655-B-2019 (PC 523 CU 151) (8096 Agora Parkway): An Ordinance approving a Conditional Use Permit for Health Care Office use in a C2-Retail District on property located at 8096 Agora Parkway, Universal City, Texas (CB 5047HH BLK 70 Lot 108 Forum at Olympia Pkwy UT-6); providing for non-severability; and establishing an effective date. (First Reading).**

Mayor Williams announced that because the Conditional Use Permit at 8096 Agora Parkway was denied, this ordinance is not needed and will not be considered.

- I. Discuss & Consider Ordinance 655-A-2019 (PC 522 CU 150) (810 Kitty Hawk Rd): An Ordinance approving a Conditional Use permit for a commercial communication tower in a C-5 Highway Commercial District on property located at 810 Kitty Hawk Rd, Universal City, Texas (CB 5053 Blk Lot 2 St. Matthews Subdivision); providing for non-severability; and establishing an effective date. (First Reading).**

Mrs. Turner stated that City Council voted to approve the Conditional Use Permit at 810 Kitty Hawk at the last City Council Meeting. This ordinance ratifies that decision.

Councilmember Shelby moved to approve Ordinance 655-A-2019. Mayor Pro Tem Neville seconded the motion.

**Vote: Yeas: Shelby, Neville, Goolsby, Maxwell, Najarian, Volle
Nays: None**

Motion to approve carried.

J. Discuss & Consider Ordinance 361-X-2019: An Ordinance amending Ordinance 361-K-2019 and Article IV. – Fees and Charges for Licenses, Permits, Inspections, Certificates, Services, Appeals and Other Official Action, Sec. 1-4-40 – Schedules, of the Code of Ordinances, revising certain sections and paragraphs accordingly, providing severability, and setting an effective date (First Reading).

Mrs. Turner informed City Council that in the last legislative session, the State changed the law prohibiting the City from collecting permit fees based on home values. She and Development Services Director Michael Cassata worked to develop a new method for collecting permit fees. The new method consolidated 41 fees down to 9 fees and each fee is based on what it cost the City to issue that permit.

Councilmember Najarian moved to approve Ordinance 361-X-2019. Councilmember Maxwell seconded the motion.

**Vote: Yeas: Najarian, Maxwell, Neville, Goolsby, Shelby, Volle
Nays: None**

Motion to approve carried.

K. Consider FY18-19 Financial Report – Third Quarter.

Finance Director Pat Collins presented the FY18-19 Financial Report – Third Quarter and answered questions accordingly.

Councilmember Shelby moved to approve the FY18-19 Financial Report – Third Quarter. Councilmember Maxwell seconded the motion.

**Vote: Yeas: Shelby, Maxwell, Neville, Goolsby, Najarian, Volle
Nays: None**

Motion to approve carried.

10. OLD BUSINESS: None.

11. CITY MANAGER COMMENTS:

Mrs. Turner thanked City Council for their professionalism while debating the Conditional Use Permit at 8906 Agora Parkway.

12. COUNCILMEMBER COMMENTS:

Mayor Pro Tem Neville thanked Mrs. Collins and City Staff for their great work on the budget.

Councilmember Najarian mentioned that while the road construction may be a little inconvenient now, it will look great when the project is finished. He also stated that while denying the Conditional Use Permit at 8906 Agora Parkway was a tough decision, he feels it is the best one for Universal City.

Councilmember Maxwell made no comments.

Councilmember Volle requested an update on junk yard progress. Also, she announced the pumpkins for the Pumpkin Patch will be here soon.

Councilmember Goolsby agreed that denying the Conditional Use Permit at 8906 was a tough decision but he could not support changing the only Universal City retail space at the Forum into anything that is not retail.

Councilmember Shelby agreed that making a decision that affects someone's business and livelihood is not an easy decision to make.

13. MAYORAL COMMENTS:

Mayor Williams:

1. Announced that the Northeast Partnership Luncheon is Thursday, September 12th and at that meeting they will be discussion intergovernmental support agreements which allow for cooperative relationships;
2. Mentioned that there has been discussion in support of an intercity passenger rail service between San Antonio and Austin;
3. Shared that TxDot hosted a public hearing on the proposed elevated lanes on IH-35; and
4. Agreed that denying the Conditional Use Permit at 8906 was a tough decision but thanked councilmembers and the Planning and Zoning Commission for handling it professionally and for protecting the retail space in Universal City.

14. ADJOURNMENT: Mayor Williams adjourned the meeting at 8:12 p.m.

ATTEST:

John Williams, Mayor

Kristin Mueller, City Clerk