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Mayor
 Michelle Pittman
 Di Credico

City Council

**Mayor Pro-Tem,
 Place 3**
 Elaine Priest

Place 1
 Josh McCabe

Place 2
 Kenny Crenshaw

Place 4
 Sam Eason

Place 5
 Leeanne
 Mackowski

**City
 Administrator**
 Cynthia Northrop

City Attorney
 Carvan Adkins

City Secretary
 Shannon
 Montgomery

Fire Chief
 Darrell Fitch

Police Chief
 Sam Love

**Public Works
 Director**
 Lance Petty

MINUTES OF REGULAR SESSION OF THE RHOME CITY COUNCIL

Meeting Date: Thursday, February 13, 2020

Location: Rhome Community Center, 261 North School Road

MEETING START TIME: 6:30 PM

Mayor Pittman Di Credico called the meeting to order at 6:30pm and announced a quorum of Council Members present.

Council Members Present:

Mayor Michelle Pittman Di Credico
 Mayor Pro Tem Elaine Priest
 Council Member Josh McCabe

Council Member Kenny Crenshaw
 Council Member Sam Eason
 Council Member Leeanne Mackowski

Council Member Absent:

Council Member Kenny Crenshaw

City Staff Present:

City Attorney Carvan Adkins
 City Administrator Cynthia Northrop
 City Secretary Shannon Montgomery
 Fire Chief Darrell Fitch

Police Chief Sam Love
 Police Sergeant Brody Brown
 Public Works Director Lance Petty

Invocation

Mayor Pittman Di Credico gave the invocation.

Pledge of Allegiance to the American and Texas Flags

Council Member Eason led both the Pledge of Allegiance to the American Flag and Texas Flag.

Introduction of new City Administrator, Cynthia Northrop

Mayor Pittman Di Credico introduced the new City Administrator Cynthia Northrop and welcomed her to the City of Rhome.

TOASE Training for All City Appointed or Elected Officials including Roles and Responsibilities

City Attorney Adkins provided a refresher on the roles and responsibilities of both appointed and elected officials. Adkins also brief Council, Staff, and the audience on the Texas Public Information Act and Open Meetings Act.

(City Secretary Note: Presentation included at the end of minutes.)

Public Presentations and Input

The following addressed the Mayor and Council:

- Jo Ann Wilson, 240 West First Street, Rhome, Texas
- Ashley Majors, 200 South Dogwood, Rhome, Texas
- Deborah BeCraft, 360 West Second Street, Rhome, Texas
- Tommie Eason, 1107 Mount Lane, Rhome, Texas

Announcements from Mayor and Council Members

Mayor Pittman Di Credico announced that City Hall was closed Monday, February 17, 2020 in observance of President's Day and asked residents to begin scheduling appointments with City Staff.

Council Member McCabe stated that he and Sergeant Brown are working on a Neighborhood Watch Program in the Old Town/Crown Point area and if interested, please contact either Sergeant Brown or himself.

Executive Session

Pursuant to the following designated section of the Texas Government Code, Annotated, Chapter 551 (Texas Open Meetings Act), the Council may convene into executive session to discuss the following:

- A. Section 551.071 Consultation with Attorney - pending or contemplated litigation, settlement offer or to seek advice from attorney***
- B. Section 551.072 Deliberation regarding Real Property - purchase, exchange, lease or value of real property if deliberation in an open meeting would have detrimental effect on position of the governmental body in negotiations with a third person***
- C. Section 551.074 Personnel – discuss appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee, or hear complaint or charge against officer or employee in executive session unless officer or employee requests public hearing***
- D. Section 551.087 – Deliberations regarding Economic Development Negotiations – to discuss or deliberate regarding commercial or financial information that the City has received from a business prospect that the City seeks to locate, stay or expand in or near the City and with which the City is conducting economic development negotiations***

Council did not convene into Executive Session.

Reconvene into Regular Session

- E. Discussion and any necessary action as a result of Executive Session***

Council did not convene into Executive Session; no action taken.

Public Hearing

- F. City Council to conduct a Public Hearing to hear citizen input regarding adoption of impact fees on Thursday, February 13, 2020. The amount of the maximum impact fee is \$3,163.95 per service unit for water and \$9,049.14 per service unit for wastewater.***

Mayor Pittman Di Credico opened the Public Hearing at 7:44pm.

The following individuals spoke in regards to the Public Hearing:

- Jo Ann Wilson, 240 West First Street, Rhome, Texas – Impact Fees are too high; pricing the city out of future development
- Shirley Mize, 170 Russell Street, Rhome, Texas – Impact Fees are too high; needs to be compatible with surrounding cities

City Attorney Adkins stated that provided rates are the maximum rates the City can impose, not what the City has to charge.

- Deborah BeCraft, 360 West Second Street, Rhome, Texas – Impact Fees are too high

Mayor Pittman Di Credico closed the Public Hearing at 7:48pm.

G. City Council to conduct a Public Hearing to hear citizen input regarding a proposed Final Plat for 3.364 acres of property located in the 200-300 Block of Morris St and currently legally described as Lots 3 through 10, Block 19, Lots 1 through 5, Block 28, parts of the abandoned streets of "E" Street and "F" Street, and internal alleys, Original Townsite of Rhome, Texas, as requested by Structured Building Group, Inc. The proposed legal description is Belle Heights, Block 1, Lots 1-6. The zoning of this property is SF-10, Single Family Residential.

Mayor Pittman Di Credico opened the Public Hearing at 7:48pm.

The following individuals spoke in regards to the Public Hearing:

- Ashley Majors, 200 South Dogwood, Rhome, Texas – questioned the fencing of the proposed lots and stated that she is happy with the single-family development
- Deborah BeCraft, 360 West Second Street, Rhome, Texas – stated she is happy to see the single-family development
- Shirley Mize, 170 Russell Street, Rhome, Texas – questioned the drainage and stated she is happy with the single-family development

Mayor Pittman Di Credico closed the Public Hearing at 7:52pm.

Consent Agenda

H. Minutes of City Council Regular Session Minutes dated January 9, 2020

I. Notification of Rate Adjustment from Waste Connections Lone Star, Inc. as provided for in Current Agreement

J. Ratification of University of Texas at Arlington's Master Park Plan Agreement

K. Resolution approving Finance Contract for procuring Police Department items as part of 2020-2021 budget (Financing previously approved by City Council at October 10, 2019 meeting)

L. Interlocal Cooperation Contract with Department of Public Safety of State of Texas for Failure to Appear (FTA) System

M. Agreement for Permit and Code Compliance Management Software

N. Ordinance calling the May 2, 2020 General Election for two-year terms for Mayor, Council Member – Place 4, and Council Member – Place 5

O. Budget Planning and Schedule for Fiscal Year 2020-2021

Agenda Items H, I, J, and K were removed from the Consent Agenda. Mayor Pittman stated that Agenda Item M had nothing to consider and Agenda Item K had a clerical error, it should state the 2019-2020 budget. Di Credico also stated that new legislation has caused the budget process to start in March as the budget needs to be completed and approved by August 15, 2020.

Motion made by Council Member McCabe, seconded by Council Member Eason to approve the remaining Consent Agenda Items K, L, and N as presented. Motion carried unanimously.

H. Minutes of City Council Regular Session Minutes dated January 9, 2020

Motion made by Mayor Pro Tem Priest, seconded by Council Member Mackowski, to approve the City Council Regular Session Minutes dated January 9, 2020 as amended. Motion carried unanimously.

I. Notification of Rate Adjustment from Waste Connections Lone Star, Inc. as provided for in Current Agreement

Brian Culhane, Site Manager for Waste Connections stated that the rate increase is being pushed out by the City of Denton's rate increase to Waste Connections.

Council Member McCabe asked Mr. Culhane to clarify what Waste Connections will and will not pickup. Mr. Culhane stated they will pickup anything non hazardous waste. They will pick up freon-free refrigerators that have been stickered with a licensed contractor.

Mayor Pittman Di Credico asked Mr. Culhane to provide an information flyer that will be distributed both on the City's website and Facebook page.

There is no action to take on Consent Agenda Item I; discussion was clarification only.

J. Ratification of University of Texas at Arlington's Master Park Plan Agreement

Council Member Eason asked if the Parks Master Plan Steering Committee would be able to meet the compressed timeline to complete the project. Mayor Pittman Di Credico stated that the Committee will be making their own schedule to accommodate the timeline.

Motion made by Council Member Eason, seconded by Council Member Mackowski, to approve the ratification of the University of Texas at Arlington's Master Plan Agreement. Motion carried unanimously.

K. Resolution approving Finance Contract for procuring Police Department items as part of 2020-2021 budget (Financing previously approved by City Council at October 10, 2019 meeting)

Mayor Pittman Di Credico requested Council to move forward with the financing for the new computers, mobile laptops, and vehicle for the Police Department for the fiscal year 2019-2020 budget.

Motion made by Council Member McCabe, seconded by Council Member Eason, to approve Resolution No. 2020-03 as presented. Motion carried unanimously.

**CITY OF RHOME, TEXAS
RESOLUTION NO. 2020-03**

A RESOLUTION REGARDING A FINANCE CONTRACT FOR THE PURPOSE OF PROCURING "VEHICLES & COMPUTERS" FOR THE RHOME POLICE DEPARTMENT

Monthly Staff Reports

P. Departments: Administration, Building & Development, Fire Rescue, Municipal Court, Police, and Public Works

Q. Boards: No January 2020 Meetings

R. Water Quality Assurance Letter dated January 24, 2020

Mayor Pittman Di Credico read the Water Quality Assurance Letter dated January 24, 2020:

This letter is to address the misleading information being presented to residents of the City of Rhome through social media and solicitation.

The information is taken from the Texas Drinking Water Watch website. This site is a great source of information for those who understand the context, but when taken out of context, the public can be easily misled. The following are responses to some of the incorrect and/or potentially misleading claims to the citizens of Rhome which have been brought to the City's attention.

- a. *It has been alleged that after "executive sessions and you (the City) stopped issuing public warning notices."*
 - *The council does not have any power over the issuance of TCEQ notices.*
 - *All notices required to be issued by the City have been issued.*
 - *The City does not have any violations with the state for Public Notices.*

- b. *It has been alleged that "TCEQ website data suggest that the contamination of the City's water remains unresolved; the City was cited for failing to notify the public.*
- *This allegation is frightening, but is out of date and therefore terribly misleading. This comment seems to be referring to item 2019-683 10-1-2017 – 12-31-2017, a public notice linked to radon/gross alpha well 6. This well has been out of service since 2017.*
 - *Because this well remains unusable, it will remain on the web site as unresolved until the well is put back in service.*
 - *There are currently no plans to put this well back into service because of those outstanding issues.*
 - *The City's water is not contaminated and there are no outstanding issues regarding the City's water.*
- c. *It has been alleged that, "as recently as November 2019, TCEQ records show high levels of TTHM that far exceed the allowable maximum considered safe for consumption and pose a serious health risk".*
- *The City of Rhome is required by TCEQ to submit an Operational Evaluation Report to the state to monitor the levels of TTHM and Haa5.*
 - *The report confirms that the City of Rhome did not violate levels of either TTHM or Haa5 for the running average.*

In conclusion, it is unfortunate that misinformation is being spread about something as important as the safety of the City of Rhome's water supply. The City of Rhome water system is entirely safe. [Mr. Lance Petty] personally spoke with TCEQ representatives, as recently as January 22, 2020, and the City of Rhome does not have any outstanding violations against its water system. If you have any concerns or questions about the quality of your water, please do not hesitate to submit those questions to [Mr. Lance Petty, Public Works Director].

Mayor Pittman Di Credico stated that the City of Rhome's water is SAFE.

Council Member Eason asked if the City had any legal recourse against those that posted the incorrect information that caused fear to the residents. City Attorney Adkins advised the City to counter with the correct information, just as it had with posting the Water Quality Assurance letter. Mayor Pro Tem Priest stated that the City does aggressively stated to contact City Staff with questions.

Regular Agenda – Old Business

S. Discussion and any necessary action regarding agreement for next phase of design by Quorum for municipal complex

Mayor Pittman Di Credico stated that the City received a proposal for the design costs for the municipal complex in the amount of \$149,000. This includes the design plans that would be used for the construction bids. She stated \$172,000 had been set aside for the complex with the 2017 tax note.

Motion made by Council Member McCabe, seconded by Council Member Mackowski, to authorize the Mayor to enter into an agreement for the next phase of design by Quorum for the municipal complex. Motion carried unanimously.

T. Discussion and any necessary action regarding closing city impound lot

Motion made by Council Member Eason, seconded by Council Member McCabe, authorizing Staff to work with City Attorney Adkins to move towards closing the City's impound lot. Motion carried unanimously.

U. Discussion and any necessary action regarding revisions to residential parking ordinance and moratorium on same

Mayor Pittman Di Credico asked Council to lift the moratorium and to go back to the existing residential parking ordinance, give City Administrator Northrop time to review the current Ordinance, and to work with City Attorney Adkins and bring back amendment recommendations.

Di Credico stated that street jurisdiction belongs to the Police Department. Council Member McCabe echoed Mayor Pittman Di Credico requesting her to instruct Code Enforcement to leave Streets to the Police Department and to advise Code to deal with matters in residential and commercial yards.

Police Chief Love interjected that it is up to the Officer's discretion on whether to enforce street issues by ticket or warning.

Motion made by Council Member McCabe, seconded by Mayor Pro Tem Priest, to lift the existing moratorium. Motion carried unanimously.

V. Discussion and any necessary action regarding Flag Retirement Drop Box located at Veteran's Park and approved by City Council on February 14, 2019

Mayor Pittman Di Credico provided a brief background stating that Staff found a suitable location for the Flag Retirement Drop Box based on Council's action at the February 14, 2019 Meeting.

Council Member Mackowski stated that box needs to be put to the side, marked accordingly, and weatherproofed.

Mayor Pro Tem Priest stated that the Heritage Girls did a fantastic job on the box, but it is in the wrong place. She appreciated the portable flower boxes, but the flag box is not portable, nor weatherproofed, and its placement needs to be reviewed. The current location is not proper for other events held in the Park, she wants the flag box to be kept in the Veterans Park and the City needs to publicize its purpose and location.

Council Member McCabe agreed with Mayor Pro Tem Priest, asking for an enclosure to protect the box and asked for a better location.

Council Member Eason stated that this needed to go back to the Parks and Recreation Board and have the Board work with Public Works Director to come back to Council with a recommendation and cost estimate.

Motion made by Council Member McCabe, seconded by Mayor Pro Tem Priest, to have the Parks and Recreation Board come back to Council with a recommendation on the flag box location and cost estimate. Motion carried unanimously.

Regular Agenda – New Business

W. Discussion and any necessary action regarding a proposed Final Plat for 3.364 acres of property located in the 200-300 Block of Morris St and currently legally described as Lots 3 through 10, Block 19, Lots 1 through 5, Block 28, parts of the abandoned streets of "E" Street and "F" Street, and internal alleys, Original Townsite of Rhome, Texas, as requested by Structured Building Group, Inc. The proposed legal description is Belle Heights, Block 1, Lots 1-6. The zoning of this property is SF-10, Single Family Residential

Motion made by Council Member Eason, seconded by Council Member Mackowski, to approve the Final Plat for 3.364 acres of property located in the 200-300 Block of Morris St and currently legally described as Lots 3 through 10, Block 19, Lots 1 through 5, Block 28, parts of the abandoned streets of "E" Street and "F" Street, and internal alleys, Original Townsite of Rhome, Texas, as requested by Structured Building Group, Inc. The proposed legal description is Belle Heights, Block 1, Lots 1-6. Motion carried unanimously.

X. Discussion and any necessary action regarding a proposed Site Plan for a new residential home proposed to be legally described as being Belle Heights, Block 1, Lot 1, as requested by Structured Building Group, Inc.

Motion made by Council Member Eason, seconded by Council Member Mackowski, to approve the Site Plan for a new residential home proposed to be legally described as being Belle Heights, Block 1, Lot 1, as requested by Structured Building Group, Inc. Motion carried unanimously.

Y. Discussion and any necessary action regarding a proposed Site Plan for a new residential home proposed to be legally described as being Belle Heights, Block 1, Lot 3, as requested by Structured Building Group, Inc.

Motion made by Council Member Eason, seconded by Council Member McCabe, to approve the Site Plan for a new residential home proposed to be legally described as being Belle Heights, Block 1, Lot 3, as requested by Structured Building Group, Inc. Motion carried unanimously.

Z. Discussion and any necessary action regarding Ordinance Section 12.07.063(a) to Designate Commercial Truck Routes within the City

Mayor Pittman Di Credico stated that there is no Commercial Truck Route designated within the City and asked Council to designate a Commercial Truck Route. Di Credico stated that Staff is proposing to designate Denton Street and Randall Street from Denton Street up to Aurora Street as the Designated Truck Route.

Motion made by Council Member McCabe, seconded by Council Member Mackowski, to approve the proposed Commercial Truck Route as presented. Motion carried unanimously.

AA. Discussion and any necessary action regarding Request for Proposal for Police Dash and Body Cameras

Mayor Pittman Di Credico reminded Council that they approved financing a few big budget items in October 2020. Di Credico stated that the cameras are close to \$70,000 and requested using the City's Buyboard Contract to purchase the police dash and body cameras instead of requesting proposals.

Motion made by Council Member Eason, seconded by Council Member Mackowski, approving the use of the City's Buyboard contract to purchase the police dash and body cameras. Motion carried unanimously.

BB. Discussion and any necessary action regarding proposed budget amendment for funding additional staff to handle requests for information under the Public Information Act

Mayor Pittman Di Credico provide a brief history of the many requests for information being submitted and stated that the requests are so voluminous that additional staff may be necessary to complete.

Motion made by Mayor Pro Tem Priest, seconded by Council Member McCabe, approving a budget amendment, up to \$5,000, from General Fund Savings to be used for additional staff to handle requests for information under the Public Information Act.

CC. Discussion and any necessary action regarding term limits for elected or appointed officials

City Attorney Adkins stated that there is no legal provision instituting term limits for a General Law A city.

Future Agenda Items

No agenda items were requested. Mayor Pittman Di Credico asked Council to forward any requests to the City Secretary.

Adjourn

Motion made by Council Member McCabe, seconded by Council Member Mackowski, to adjourn. Meeting adjourned at 9:29pm.

Minutes approved the 27th day of February 2020.

Michelle Pittman Di Credico _____ *Shannon Montgomery*
Michelle Pittman Di Credico, Shannon Montgomery, TRMC
Mayor City Secretary





TAYLOR·OLSON·ADKINS·SRALLA·ELAM
L.L.P.
ATTORNEYS & COUNSELORS

CITY OF RHOME COUNCIL AND BOARD MEMBER TRAINING

February 13, 2020

By City Attorney
Carvan E. Adkins

1

Topics

- PERSONAL LIABILITY
- OPEN MEETINGS ACT
- CONFLICTS OF INTEREST
- PUBLIC INFORMATION ACT

2

Personal Liability

- No personal civil liability for actions taken within the scope of your duties
- If sued for damages for official actions, you will be defended by the City at no cost to you
- If a judgment is rendered against you, the City will pay the judgment
- Does not include criminal or intentional acts, payment of punitive damages or other specified situations

3

Texas Open Meetings Act

Chapter 551 of the
Texas Government Code

4

When Does the Open Meetings Act Apply?

- When a quorum (simple majority unless a rule or statute indicates otherwise) of the governmental body discusses or exchanges information about public business.
- Applies to meetings of City council, City boards and commissions.
- Does not apply to purely social gatherings, attendance by public officials at regional, state or national conventions or workshops, ceremonial events, or press conferences where formal action is not taken and any discussion of public business is incidental to such events.



5

Posting of the Agenda

“The notice of a meeting of a governmental body must be posted in a place readily accessible to the general public at all times for *at least 72 hours before the scheduled time of the meeting. . . .*”

--Section 551.043

PUBLIC NOTICE.

6

What notice must be given?

- You must give written notice of the date, hour, place, and the subjects of each meeting held by the governmental body.
- The courts have ruled that the more important a particular issue is to the community, the more specific the posted notice must be.



7

Exception to Specificity Requirement

Section 551.0415—"A quorum of a governmental body may receive from municipal staff and a member of the governing body may make a report about an "item of community interest" without having given notice of the subject of the report if: (1) no action is taken and (2) possible action is not discussed regarding the information provided in the report."

8

What is an “Item of Community Interest?”

- Expressions of thanks, congratulations or condolence;
- Information regarding holiday schedules;
- An honorary or salutary recognition of a public official, public employee or other citizen which does not involve a change in the status of the person’s public office or public employment;
- A reminder about an upcoming event organized or sponsored by the governing body;
- Information regarding a social, ceremonial or community event organized or sponsored by an entity other than the governing body that was attended or is scheduled to be attended by a member of the governing body or an official or employee of the municipality; and
- Announcements involving an imminent threat to the public health and safety of people in the municipality that has arisen after the posting of the agenda.

9

What if an Unposted Issue is Raised at an Open Meeting?

You may not deliberate or make any decision about an unposted issue at the meeting. If an unposted item is raised, you have four options:

- 1) respond with a statement of specific factual information or recite the governmental body’s existing policy on the issue
- 2) direct the person making the inquiry to visit with staff
- 3) offer to place the item on the agenda at a future meeting
- 4) post the matter as an emergency item if it meets the criteria



10

Can You Change the Date/Time of an Open Meeting Without Posting a Corrected Notice for 72 hours?



No.

The Texas Open Meetings Act requires literal compliance. A governmental body generally does not have authority to change the date/time of its meeting without posting the new date for at least 72 hours in advance of the meeting.

11

Can We Change the Location of the Meeting Without Posting a Corrected Notice for 72 hours?

No.

On the day of the meeting, you may be able to move to a bigger room within the same building to accommodate a large crowd. However, it is not clear whether such a change would constitute literal compliance with the Act.



12

Can We Continue a Meeting to the Next Day Without Reposting?

- A governmental body can recess an open meeting to the following regular business day provided the action is taken in good faith and not to circumvent the Open Meetings Act.
- § 551.0411—if a “catastrophe” (e.g., fire, riot, act of God, power failure) prevents a meeting from being convened, the meeting may be convened in a convenient location within 72 hours provided the action is taken in good faith and not to circumvent the Act.



13

Can less than a quorum of a board or City Council visit over the phone without violating the Open Meetings Act?



- The mere fact that two (2) members of a governmental body visit over the phone or through e-mail does not in itself constitute a violation of state law.
- *However*, if the members are using individual telephone conversations or e-mails to poll the members on an issue or are making such telephone calls or e-mails to conduct their deliberations about public business, there may be a potential criminal violation.
- *No walking quorums*

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Walking Quorums



- S.B. 1640 attempts to address the walking quorum issue
- “Deliberation” now means a verbal or written exchange between a quorum of a governmental body, or between a quorum and another person, concerning an issue within the jurisdiction of the governmental body.
 - now specifically includes written communications
 - removed qualifications that deliberations only occur during a meeting and regarding public business

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Civil and Criminal Penalties

- 551.141 : Void any final action taken.
- 551.142 : Mandamus or injunctive relief.
- *551.143 : *Updated* walking quorum violation - fine \$100 to \$500 and/or one to six months confinement in the county jail.
- 551.144 : Unauthorized closed meeting - fine \$100 to \$500 and/or one to six months confinement in the county jail.
- 551.145 : Fail to keep a certified agenda or tape recording of a closed meeting -class C misdemeanor.
- 551.146 : Release of a certified agenda or tape of a closed meeting - class B misdemeanor.

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Conflicts of Interest

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Conflict of Interest: LGC 171

- A member has a conflict of interest, pursuant to Section 171.001 of the Texas Local Government Code, if:
 - Business Entity: the action will have a special economic effect on a business entity in which the member has a “substantial interest” that is distinguishable from the effect on the public . . .

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Conflict of Interest

- A member is considered to have a “substantial interest” if any of the following persons have a substantial interest
 - father, mother, son or daughter
 - spouse
 - spouse’s father, mother, son or daughter
 - includes ex-spouse if a child of the marriage is still living

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Conflict of Interest

- If a person has a conflict of interest, the person must:
 - file, before a vote or decision on any matter involving the business entity or real property, an affidavit with the City Secretary stating the nature and extent of the interest
 - abstain from further participation

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Conflict of Interest

- A person who knowingly violates Chapter 171 commits a criminal offense
 - class A misdemeanor
 - maximum fine of \$4,000 or up to one year in jail, or both

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City's Ethics Ordinance

The City's Code of Ethics is found in Section 1.07 of the Code of Ordinances. The ordinance prohibits unethical behavior and prohibits an officer, official or employee from engaging in certain specific acts.



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What do I do if I have a Conflict of Interest?

Three things must occur:

- 1) File an Affidavit
- 2) Abstain from Discussion on the Item
- 3) Abstain from Voting on the Item

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Conflict of Interest: Practice Pointers

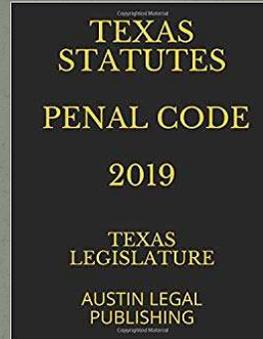
- Should not vote on matters regarding the subdivision where the City official resides
 - We advise that, if you are within the 200 foot area that receives notice of a zoning issue, file the affidavit and do not vote on it!
- Should never abstain merely to avoid a controversial issue

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Gift to a Public Servant

Penal Code Sec. 36.08:

A public servant who exercises discretion in connection with contracts, purchases, payments, claims, or other pecuniary transactions of government commits an offense if he solicits, accepts, or agrees to accept any benefit from a person the public servant knows is interested in or likely to become interested in any contract, purchase, payment, claim, or transaction involving the exercise of his discretion.



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Gift to a Public Servant



Exceptions:

- Gifts less than \$50.00 (City ord. \$25.00) if not given in exchange for any exercise of official discretion
- Gifts from family or personal friends independent of status as a public official
- Gifts from individuals with whom you have an independent business relationship
- Campaign contributions

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Public Information Act

- Makes every form of information that the City (or its officials or employees maintain) public records if the information concerns official City business.
- 10 day deadline to seek a ruling from the Office of the Attorney General regarding whether the information must be withheld or released.
- Forward information responsive to a request to the City Secretary's Office promptly.



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Public Information Act

- Temporary custodian – past/present officer or employee who, while transacting official business, creates or receives public information that is not provided to the municipality's public information officer.
- A temporary custodian who fails to provide the records is subject to disciplinary action by the municipality or any other applicable penalties provided by the Public Information Act or other law.

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Zoning Authority

- Cities have the power to enact zoning ordinances for the purpose of promoting the public health, safety, morals, or general welfare and protecting and preserving places and areas of historical, cultural, or architectural importance and significance. (§211.001, LGC)

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Comprehensive Plan

- Zoning regulations must be adopted in accordance with a comprehensive plan (211.004, LGC)
- Actual plan not required in Texas
 - Chapter 213, Local Government Code
- If adopted, zoning matters should comply with comprehensive plan

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Comprehensive Plan

What is it?

- Long range plan intended to direct the growth and physical development of a community over time
- Comprehensive planning should be:
 - Future oriented
 - Continuous
 - Based on present and projected conditions
- May be multiple documents

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Zoning Powers

- Cities may regulate
 - Height, number of stories, and size of buildings and other structures
 - Percentage of a lot that may be occupied
 - Size of yards, courts, and other open spaces
 - Population density
 - The location and use of buildings, other structures, and land

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Role of Planning & Zoning Commission

- Platting v. planning
- Tools: Zoning and Subdivision Ordinances, Comprehensive Master Plan
- Hear requests and make recommendations to council
- Final report required

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Zoning Discretion

- General Rule: broad discretion is afforded to local governments in zoning matters
- Presumption of validity
- Unconstitutional only if shown to bear no relationship to securing public safety, health, morals or welfare and clearly arbitrary and unreasonable

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Standards for Zoning Changes

- Texas Supreme Court has identified four guidelines:
 - **Respect the Comprehensive Plan**
 - Do not re-determine the City's policies and goals
 - Do not cause substantial detriment to surrounding properties
 - Consider impact on surrounding properties
 - Consider suitability of land as presently zoned
 - Consider relationship to public health, safety, morals or general welfare
 - Protect or preserve historical, architectural, or cultural places
 - Substantial change in conditions

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Zoning Practice

- City or property owner may request zoning change
- Do not rezone property so that it cannot be economically developed
- No requirement that property be zoned for highest and best use
- No right of landowner to have property zoned for greatest profitability
- Underlying theory of zoning is compatibility

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Platting

- Platting is a geographical description that aids in recording and property description
- Zoning regulates how land is used
- Platting serves to divide land into marketable parcels
- Purpose is to “promote the health, safety, morals, or general welfare of the municipality and the safe, orderly, and healthful development of the municipality”. (§ 212.002, LGC)

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Plat Content

- Dedication of streets and easements
- Donation of public facilities
- Parkland dedication
- Public street frontage for all lots
- Building setback lines
- Metes and bounds description of property

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Platting Process

- Plats **must** be acted on within 30 days after filing
 - What is “filing”?
 - If Commission does not act on plat within 30 days, it is deemed approved
- “Continuance” requires consent (on the record or in writing)
- Plats must be approved if all applicable standards are met – ministerial function

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When are Plats Required?

- General rule: A plat is required when “An owner of a tract of land located within the limits or in the extraterritorial jurisdiction of a municipality . . . divides the tract in two or more parts:”
 - To lay out a subdivision
 - To lay out suburban or building lots
 - To lay out streets, parks, squares, etc. to be dedicated to the public

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HB 3167 – New Platting Bill

- (a) The municipal authority responsible for approving plats shall **approve, approve with conditions, or disapprove** a plan or plat within 30 days after the date the plan or plat is filed.

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HB 3167 – New Platting Bill

- the parties may extend the 30-day period for a period not to exceed 30 days if:
 - (1) **the applicant requests the extension in writing; and**
 - (2) **the municipal authority or governing body, as applicable, approves the extension request.**

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