

MINUTES
CITY COUNCIL OF THE CITY OF UNIVERSAL CITY, TEXAS
Special Meeting, Tuesday, 11 April 2023

1. **CALL TO ORDER:** Mayor John Williams at 6:00 P.M.
2. **QUORUM CHECK:** Kristin Mueller, City Clerk

Present:

Mayor John Williams
Mayor Pro Tem Richard Neville
Councilmember Steven Buck
Councilmember Bear Goolsby
Councilmember Paul Najarian
Councilmember William Shelby
Councilmember Phil Vaughan

Staff Present:

Kim Turner, City Manager
Megan Santee, City Attorney
Clay Binford, Attorney
Rose Kanusky, Attorney
Kristin Mueller, City Clerk
Katie Rein, Olympia Hills Golf Course
Michael Cassata, Development Services Director
Randy Luensmann, Public Works Director
Regina Carmona, Community Relations Specialist
Joshua Lantz, EMT and Camera Assistant
Maribel Garcia, Deputy City Clerk

Mayor Williams noted a quorum was present.

INVOCATION and PLEDGE OF ALLEGIANCE:

Mrs. Turner gave the invocation. The Pledge of Allegiance to both the United States and Texas flags were led by Mayor Williams.

3. CITIZENS TO BE HEARD:

- Kim Igleheart, 737 Golden Meadow, expressed concern about giving the golf course a fixed percentage of sales tax every year rather than considering their needs before giving an amount. She stated the golf course is receiving more money than they need with an ever-increasing source of funding in the sales tax. She expressed that she wants the golf course to present a business plan. She supported a ballot proposition eliminating the venue tax and creating a streets maintenance tax in its place. She would also like the streets plan to be on the website for the sake of accountability. She commented that if Mr. Luensmann is spread too thin to keep up with streets maintenance, the Council should address this.
- Ashton Bulman, 12807 El Dorado, expressed her preference for Citizens to Be Heard to be held after the discussion items so that citizens would be able to respond to the presentations tonight. However, being that Citizens to Be Heard was held before the discussion, she reiterated previously held wishes that the Venue Tax be placed on the ballot. She wanted Council to consider citizens in their deliberations, keeping in mind that many citizens could not attend the meeting.
- Christina Fitzpatrick, 206 Quail, appreciated the workshop being scheduled. She emphasized that there is time to thoroughly consider the Venue Tax and further action given that the deadline to place it on the ballot is in August. She asked that each member of Council be thorough in their consideration given that the Venue Tax funds points of economic growth in the form of tourism and recreation. She agreed with the Venue Tax's current use given that other alternatives proposed are already funded through other avenues.

- Carol Butler, 501 Kimberly Dr., expressed disagreement with some comments on Nextdoor. She believed the golf course is seen as a business and stated it is being treated as someone on welfare. She further explained the golf course, being given 'welfare', has not been taught to work hard to be self-sufficient, and cited American ideals of working hard in her belief. She expressed that the City should still pay for current obligations.
- Ken Mitts, 13401 Adonis, gave background of the Venue Tax, stating that last year the City was legally required to give the golf course \$1.6 million due to the result of the 2002 Venue Tax ballot item which only allows the percentage allotment to go to the golf course. He gave history of the golf course development being defeated in 1993 and approved in 1997 under the impression it would bring revenue to the City. In 2002, the Venue Tax ballot item was passed with low turnout. He said Mayor Williams in the past when he was Mayor Pro Tem, moved for the City Manager to put the golf course's lease up for bid because he knew it was a bad financial decision, but that measure failed. He would like this issue on the ballot and wants accurate financial reports to the public.
- Diane Woods, 13415 Muses, argued the Venue Tax has served its purpose and should be returned to the City budget so that Council can decide what to do with the money.
- Bernard Rubal, 635 Balboa Drive, stated the City is repeating its pattern of asking where the business plan for the golf course is. He believed the problem is the tax burden being shifted to citizens every time. He would like the Venue Tax to be disbanded so that it can address streets and other needs and wants the City to address needs instead of wants.
- Duane Ryan, 107 Oak Circle, believed the golf course is a business and should not be subsidized by the City. He also does not want the Tax to be taken away from the City anymore and would like it to be returned to citizens. He asserted that when another need arises when the tax is needed to fund something else, citizens can vote on a recommendation proposed on a ballot.
- Tom Maxwell, 1251 Cibolo Trail, emphasized the gravity of the decision Council must make on this. He stressed that Council has been elected by the citizens and therefore have a duty to the people.
- Becky Ryan, 107 Oak Circle, disagreed about putting the Venue Tax on a ballot. She expressed frustration that Citizens to be Heard was before discussion because Citizens to Be Heard should be about feedback which cannot be given without being informed first. She inquired what the process would be going forward with this item.

4. PURPOSE OF SPECIAL MEETING:

A. Workshop to present and discuss Venue Tax projects and options.

Mayor Williams explained that this would be a discussion item only and there would be no action taken.

Mrs. Turner went over what the Council had agreed on before this session, which can be found in a presentation as Exhibit A of these minutes. She also went over what Council had not agreed on yet. She emphasized the need to memorialize these discussions and the need to understand the complex history of the golf course, which can also be found in Exhibit A. She clarified the balloon debt payments, though they are associated with the golf course, are still the City's debt payments not the golf course's regardless of if the City runs the golf course or not. She also emphasized that, due to the language of the ballot, once the golf course is paid off, it would

remain a venue project. She went over what she believed the goals of the Council are, seen in Exhibit A. She asked them to keep a few questions in mind, including whether Council could accomplish their goals without going to an election and if an election will create items needing to be addressed.

Mr. Binford went over the process of attorneys in reviewing law and potential action with law. He stated he and his colleagues went over the history of adoption and the language used in the ballot. He gave an overview of the ballot language, explaining that each clause and word in the ballot language must be interpreted as a different thing according to standards of legal review. Given that, he explained the ballot language provides for a more flexible use of the Venue Tax than previously thought. The Venue Tax may be used for different infrastructure under "related infrastructure." He then listed what he believed should be priorities of Council when addressing this issue. He stated the top priority should be repayment of the Golf Course Interfund Loan, which if not paid would have negative consequences financially for both the City's bond rating and to the General Fund. His next priority was listed as General Fund Transfers, meaning the Venue Tax could be transferred to the General Fund to pay for administrative costs of the golf course. Priority three was listed as golf course repairs and improvements. He stated there were obvious needs at the golf course that needed to be addressed and his belief was that as long as the City has an asset, such as the golf course, the City has an obligation to maintain their asset. He listed priority four as exercising Council discretion to use the Venue Tax as provided in the ballot language for parks and open spaces, which could evolve as needed. He explained how these options have a trickle-down effect through repayment of the General Fund leading to a General Fund surplus which could pay for needs cited by both citizens and Councilmembers.

Mayor Williams stated he believed the golf course is a great asset. He addressed Mr. Rubal's mention of his action in moving to open the golf course to bids for sale, stating that he did do this but restricting the bidding process to only have the land as a golf course. He also clarified that most of the golf course land was deeded to the City under the provision that it be used for a golf course. He addressed Ms. Ryan's concern about the steps moving forward, stating this was not the end of the process. He emphasized that Council must look toward the present and future when considering this decision and must carefully consider this decision as it will affect future generations. He opened the floor to discussion.

Councilmember Buck asked legal counsel how much it would cost to have an election in November.

Mr. Binford answered that it depended how many people decided to hold an election at the same time through Bexar County because the total cost of elections would be divided between the amount of entities holding elections through the County in November.

Councilmember Buck referred to a 2004 Attorney General opinion to argue the City entered into a contract with its citizens when they voted to pass the Venue Tax. Part of this contract included the number one priority of the Venue Tax being the golf course. He argued that now that the golf course venue project has been paid off, moving the money around to different uses, though legal, would be a loophole and not true to the original contract with the citizens. He reiterated his belief that there should be a ballot measure asking citizens what should be done with the Venue Tax. He asserted that the golf course should be placed on the same level as other facilities that receive discretionary spending from the General Fund such as the library.

Mrs. Turner asked for clarification on what questions Councilmember Buck asked.

Councilmember Buck clarified his questions to be whether the Venue Tax could be moved to the

General Fund and still pay for the golf course, and about whether the ballot language made the golf course the number one priority of the Venue Tax.

Mr. Binford explained the Interfund Transfer is a borrowing that is in addition to the bonds themselves, and is debt incurred by the City which he strongly advised to pay back the Interfund Transfer before addressing other expenses.

Mrs. Turner asked whether the City could legally use sales tax to support a venue project, and if they could use ad valorem tax for a venue project.

Mr. Binford responded that a sales tax can be used to support a venue project. Ad valorem taxes cannot be used to support a venue project unless it is specifically voted on through a ballot measure, or if the project has been incorporated into the parks system.

Councilmember Buck asked for clarification on what ad valorem tax is.

Mr. Binford clarified ad valorem tax is property tax. He also clarified that a street maintenance tax can not be used for debt repayment and believes the same is true for sales tax transfers though he needed to verify.

Councilmember Buck asked whether sales tax that goes to the General Fund can be used to fund the golf course as it may go to City operations.

Mr. Binford stated he did not want to confirm that legally at this point, but that he would check.

Councilmember Vaughan asked whether the golf course could just be designated as a park.

Mr. Binford stated it was not as simple considering the contract with the voters was a venue project. He said the change to a park would have to be a ballot measure, and there are still concerns about the legal ramifications of repealing the prior ballot measure making the golf course a venue project. Furthermore, once the golf course becomes a park if that vote passes, the City would not be able to easily sell it off if that were the plan because the sale of parks land must be a ballot measure as well.

Councilmember Vaughan asked whether a street maintenance tax could be used to secure debt even though he knows it cannot be used to pay debt.

Mr. Binford clarified that, according to the Attorney General, the prohibition of using a street maintenance tax to pay debt also means a prohibited use of securing debt by pledging funds.

Councilmember Vaughan cited the 2021 audit of the golf course fund and stated the money available to pay back the Interfund Transfer. He asked whether this knowledge changed Mr. Binford's opinion.

Mr. Binford answered yes and no because the Interfund Transfer is still his number one priority.

Councilmember Vaughan asked for clarification on whether the use of the Venue Tax for linear parks required linear parks to be in existence at the time of the ballot.

Mr. Binford stated it depended on whether the City had linear parks in plans at the time. He said if there was a parks plan at the time that included linear parks, the word "linear parks" could be effectively used to fund those projects. If these were not in the works, then "linear parks"

becomes ineffective in justifying funding through the Venue Tax.

Mrs. Turner asked for clarification on the difference between open spaces and linear parks.

Mr. Binford clarified that open spaces are looser in definition than parks. Open spaces are spaces generally open to the public such as soccer fields. He stated it would be tricky and possibly illegal to still charge fees for purposes of revenue to access open spaces, indicating that the golf course would face problems for charging fees if they were designated as an open space.

Councilmember Vaughan asked about the strategy of charging the golf course for overhead administration costs to enable transfers to the General Fund.

Mr. Binford stated he believed this should have been done since inception. He shared his opinion that the golf course's estimated debt to the General Fund should probably be higher due to the administrative overhead and cost of services for management of the asset.

Councilmember Vaughan thanked the residents for their participation. He asserted that this issue is not about the golf course but rather how the City spends its sales tax. He argued for a streets maintenance tax stating that the golf course is a want, not a need, and the City should be funding its needs through the sales tax. He said the golf course is doing well and creating surplus which could pay for capital improvements need there, and if they can not afford to pay for their capital improvements with their surplus, those larger expenditures can be funded through ballot measures. He believed the Venue Tax should be returned to the General Fund so that funds may go through the budget process rather than being automatically assigned to the golf course.

Mayor Pro Tem Neville stated the Council was not able to foresee the emergencies that happened to the golf course causing it to go more into debt. He stated that it was important to not look at this issue with hindsight, and instead try to look toward the future and help the present situation.

Councilmember Goolsby reiterated the Mayor's comments stating that no action would be taken that night. He stated his original plan was to continue the Venue Tax for a few years to fund capital improvements at the golf course, and then do away with it or put it to a vote. He addressed concerns that the golf course was not inclusive, asserting that it is a place for everyone. He said the presentations were eye-opening and he believed the Venue Tax can support many other things, and that the alternative of returning the tax to the General Fund could be a good solution as well. He emphasized Council's need to thoroughly consider options and not rush. He would like to understand more about the Interfund Transfer.

Mr. Binford suggested Council look more into the background of parks and statements that were made at the time about parks.

Mrs. Turner asked Mr. Luensmann to confirm there was a Parks Master Plan in 2002. He answered yes.

Mayor Williams emphasized the need to pay off the Interfund Loan.

Councilmember Shelby asked what the sales tax rate was in 2002 before the Venue Tax.

Mrs. Turner clarified that the Venue Tax was an additional half of 1% added to the state sales tax. She explained cities had the option to raise sales tax by 2%.

Councilmember Shelby asked what uses were anticipated for the golf course at its inception. Mrs. Turner clarified that the only use for the golf course at that time was golfing. It had a convention center/clubhouse but that was about it. Its uses have gone up to hosting community events, weddings, happy hours, and other events.

Councilmember Shelby said the golf course must pay back the Interfund Loan. He urged Council to not decide on this hastily. He stated the golf course is a multimillion-dollar business and should be treated as such. He shared his opinion that the City has the opportunity to vastly increase its revenue with the golf course and supported the golf course making transfers to the General Fund for administrative overhead. He cautioned against the Council or citizens rushing into decisions and urged citizens on social media to calm down.

Councilmember Najarian shared his belief that the Council and City should look well into the future when making these decisions. He believed these decisions would affect generations to come. He stated the City and Council did this when planning the Aviation District. He said the golf course should be treated similarly. He said the golf course has potential to bring more tourism revenue when the Aviation District is finished due to golfers and attendees wanting to visit the District after golfing. He referred to the golf course as an asset that should continue to be funded. He cautioned against letting the golf course go bankrupt or unkempt and used Northcliffe as an example of what could happen. He urged people to consider that if the golf course closed, a dilapidated golf course would decrease property values. He also stated that since the golf course is in a floodplain, there is not much else that could be developed there other than a park, which would still require maintenance. He stated that the golf course is at capacity right now with how much revenue it can make, and if capital improvements are made, they have the potential to make more revenue. He shared his opposition to cutting off the golf course but stated he was not against changing the Venue Tax.

Councilmember Goolsby asked what the rest of this process looked like.

Mayor Williams stated there would be more workshop sessions to become more informed. He stated legal counsel will be there along the way to guide them legally. He stated that following Council Meetings could have discussion as well.

Mrs. Turner asked Council to give Staff direction on how to move forward and stated they could provide options.

Councilmember Shelby asked that Council review what Mr. Binford presented, specific to the options and priorities he laid out. He reiterated that the golf course owes money to the City and should pay that off. He asked for more details on golf course accounts specific to their surplus; he asked the amount of the surplus and if the golf course should have emergency funds in savings with this surplus. He requested the City provide specifics on accounts and debt.

Councilmember Najarian would also like more detail on the amount of money owed by the golf course to the City. He wanted all debt to be paid before moving toward other options.

Mayor Williams requested Council review priorities presented by Mr. Binford so they could discuss and come to a consensus on the priorities. He agreed with priority one being the Interfund Loan repayment. He reminded the public that Council does not discuss business outside of the meetings in accordance with the Open Meetings Act.

Councilmember Buck agreed with not making hasty decisions. He requested multiple ballot item possibilities to be prepared, including drafting ballot language for multiple options for the

November 2023 election. He received confirmation that this ballot item could be on either a May or November election.

Mayor Williams reminded Council the ballot item would be effective in 2024, not 2023, and that the May 2023 election ballot is already set. He stated that May 2024 would allow Council to receive more input.

Councilmember Najarian asked if May elections would still be available in 2024, or if May elections would be done away with due to the Guadalupe County elections issue.

Mrs. Turner gave history of the Guadalupe County issue for the public present. Her and Mayor Williams stated that this would be a separate issue to discuss later. She warned that ballot language may not be able to be prepared by the May 2nd meeting due to the complexity of the ballot language and the prohibition of a multiple-choice ballot.

Mayor Williams thanked everyone for attending and thanked Staff for the information. He reiterated the provisions of the Open Meetings Act and reminded everyone that Council does not discuss these items outside of public meetings.

5. ADJOURNMENT: Mayor Williams adjourned the meeting at 8:04 P.M.

APPROVED:

Attest:

John Williams, Mayor

Kristin Mueller, City Clerk