

MINUTES
CITY COUNCIL OF THE CITY OF UNIVERSAL CITY, TEXAS
Regular Meeting, Tuesday, 01 August 2023

1. **CALL ORDER:** Mayor John Williams at 6:30 P.M.
2. **QUORUM CHECK:** Kristin Mueller, City Clerk

Present:

Mayor John Williams
Mayor Pro Tem Goolsby
Councilmember Steven Buck
Councilmember Ashton Bulman
Councilmember Christina Fitzpatrick
Councilmember Paul Najarian
Councilmember Phil Vaughan

Staff Present:

Kim Turner, City Manager
Megan Santee, City Attorney
Kristin Mueller, City Clerk/Economic Dev. Director
Christine Green, Finance Director
Michael Cassata, Development Services Director
Randy Luensmann, Public Works Director
Regina Carmona, Community Relations Specialist
Robert Sam, Media Marketing Assistant
Maribel Garcia, Deputy City Clerk
Janet Pitman, Accountant/Auditor

Mayor Williams noted a quorum was present.

3. **INVOCATION and PLEDGE OF ALLEGIANCE:**

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

4. **VOTE TO CONSIDER THE EXCUSE OF ABSENT MAYOR/COUNCILMEMBERS:**

No action was necessary; all Councilmembers were present.

5. **AWARDS/PROCLAMATION/INTRODUCTION OF GUESTS:**

Mayor Williams commended children who donated \$102 in proceeds from their lemonade stand to the Animal Shelter. He later recognized students from Calvary Chapel Christian Academy (CCA) who have collectively completed over 2,000 hours of community service within Universal City.

6. **CONSENT AGENDA:**

Councilmember Najarian moved to approve the Consent Agenda. Mayor Pro Tem Goolsby seconded the motion.

Vote: Yeas: Najarian, Goolsby, Buck, Bulman, Fitzpatrick, Vaughan
Nays: None

Motion to approve carried.

7. **CITIZENS TO BE HEARD:** None.

8. BUSINESS:

Mayor Williams pulled N.T. 1 from the agenda, stating that rates had not been received prior to the meeting. He said once rates were received, Council could have a special meeting or have the tax rate on the following regular meeting's agenda.

B. Discuss and Consider the Financial Audit Report for Fiscal Year (FY) 2021-2022.

Mrs. Turner thanked Ms. Green and Ms. Pitman for their work on the audit.

Ms. Pitman presented from a slideshow regarding the FY 2022 Audit. She shared the purpose of the audit, and standards used when conducting the audit. She gave an overview of financial highlights.

Councilmember Buck gained confirmation that the City's "Net Position" was based on the City's total assets exceeding liabilities, leaving the City in a net positive position.

Councilmember Vaughan inquired about the Capital Projects Fund balance.

Mr. Luensmann informed him the fund balance comes from \$3.1 million for National/E. Langley and the remaining balance from bonds issued to fund more of the E. Aviation project.

Councilmember Vaughan received clarification that the remaining \$2 million are also restricted and were issued through bonds. He asked whether funds received from repayment of bonds and money acquired from grant reimbursement would be unrestricted funds.

Procedures regarding allocation of funds and restrictions were discussed.

Ms. Pitman continued her presentation with an overview of other funds. She gave an overview of the Compliance section and Letter of Conduct both included in the audit. She noted comments and findings within the audit. She noted comments on the Compliance of Public Funds Investment Act regarding securities pledged and funds collateralized.

Councilmember Buck gained clarification on whether the City or bank were responsible for this oversight.

Ms. Pitman stated this responsibility falls under the bank through the Bank Depository Agreement, and it seems TexStar did not monitor the collateralization of funds correctly. When the City switched from TexStar to American Bank, these grievances were fixed immediately. The City had been assured the bank would continue to correctly collateralize funds, and the City had pledged to consistently verify that the correct procedures were being done. She mentioned one more comment regarding a policy that had already been implemented within the City.

Councilmember Buck and Mayor Williams thanked Ms. Pitman, Ms. Green, and Staff for their work on the audit.

Councilmember Vaughan moved to approve the Financial Audit Report for FY 2021-2022. Councilmember Buck seconded the motion.

**Vote: Yeas: Vaughan, Buck, Goolsby, Bulman, Fitzpatrick, Najarian
Nays: None**

Motion to approve carried.

C. Discuss and Consider Memorandum of Understanding (MOU) with Reunion Development Partners, LLC.

Mrs. Turner gave an overview of the Reunion Development project along 1604 in the Northlake area. She reminded Council of progress that had been reported. She said Reunion may go to present next steps for the project soon. However, their MOU was expiring and needed renewal.

Councilmember Vaughan moved to approve the MOU. Mayor Pro Tem Goolsby seconded the motion.

**Vote: Yeas: Vaughan, Goolsby, Buck, Bulman, Fitzpatrick, Najarian
Nays: None**

Motion to approve carried.

D. Discuss and Consider the Presentation on Proposed Street Bond Packages.

Mrs. Turner reminded Council of the prior meeting's presentation regarding Street Bond Packages. She stated that in one-on-one meetings, several Councilmembers had questions regarding economic development projects in relation to this item. She cautioned Council that any economic development projects that had only been discussed in Closed Session must continue to only be discussed in Closed Session. Therefore, if Council wished to discuss these projects in relation to the item, they must ask the Mayor to open Closed Session.

Mayor Pro Tem Goolsby stated there were projects he would like to discuss in Closed Session.

Closed Session: pursuant to Tex. Gov't Code Sec. 551.072 regarding the purchase and value of real property if deliberation in open session would have a detrimental effect on the position of the corporation in negotiations with a third party; and for attorney consultation pursuant to Sec. 551.071(2); regarding economic development projects, having only been discussed in Closed Session, which may be affected by the streets bond package proposals.

Mayor Williams began Closed Session at 7:01 P.M.

Mayor Williams convened into Closed Session with City Council, City Manager Kim Turner, City Clerk/Economic Development Director Kristin Mueller, Development Services Director Michael Cassata, and City Attorney Megan R. Santee.

Mayor Williams reconvened the Council Meeting into Open Session at 7:40 P.M. No action was taken during Closed Session.

Councilmember Buck moved to postpone the approval of proposed Street Bond Packages. Mayor Pro Tem Goolsby seconded the motion.

**Vote: Yeas: Buck, Goolsby, Bulman, Fitzpatrick, Najarian, Vaughan
Nays: None.**

Motion to approve carried.

E. Discuss and Consider Fence Requirements.

Mr. Cassata gave an overview of the International Building Code (IBC), International Residential Code (IRC), and the International Property Maintenance Code (IPMC). He clarified that the IBC is the parent code for all other codes. He stated that the IBC requires a permit for all fences above 7 feet. The City added an amendment to require permits for all fences and implemented other requirements in an Ordinance passed in 2022.

Councilmember Buck and Mrs. Turner had discussion regarding when permits were required and adopted. Mrs. Turner stated that, to her knowledge, they had been required for all fences for well over 20 years.

Mr. Cassata continued his presentation and went over the specifics of the current fence code. He stated that the City does not enforce certain rules, such as HOA rules. He noted some areas have special conditions regarding fences.

Councilmember Buck asked for elaboration on special conditions.

Mr. Cassata noted special conditions created through HOA rules and neighborhood covenant rules.

Mrs. Turner further noted special conditions included in plats of subdivision which may require specific fence requirements due to land or utilities. She used the examples of Olympia Hills along the golf course and Collingwood over sewer easements.

Mr. Cassata continued with statistics of fence permits issued and explaining the variance process. He shared the breakdown and justification of fence permit costs, including cost of labor and inspection. He explained the reasoning behind certain limitations. He explained several options Council could choose regarding fence permits:

1. No zoning or building requirements meaning no permit, inspection, or fee required.
2. Permit required for the official record for all fence repairs and construction, but no requirement for a registered contractor, and no fees or inspections required.
3. Permit requirement with no fee. However, an inspection would be required.
4. No permit requirement for maintenance only, providing a definition for what constitutes maintenance of a fence. All other permit requirements would stand.

He listed considerations, including health, safety, and EMS considerations, for each of these options and stated that if no permits were issues, there would only be reactive code compliance. Furthermore, the City would be left to mediate neighbor disputes which would increase with lack of inspection prior to building the fence.

Mrs. Turner noted that most variances that go to the Board of Adjustment are for the height of fences. She shared that the applicant is often someone who has been caught with a taller fence than the code allows.

Councilmember Bulman received clarification on the amendment given by the City to the IBC that sets the maximum height of a residential fence to 6 feet.

Councilmember Vaughan asked why the IBC does not require a permit for a fence below 7 feet.

Mayor Pro Tem Goolsby stated this is most likely due to structural issues that arise from fences over 7 feet tall.

Mrs. Turner added that these structures must then take into consideration the wind load and other physics to be structurally sound.

Mr. Cassata continued with possible consequences of taking away fence permits. He stated that aesthetic differences should be considered seeing as current regulation requires the smooth side of the fence to be facing toward the public viewshed.

Councilmember Bulman received clarification that houses with pre-existing fences prior to regulations and ordinances creating these rules are grandfathered in and only face regulation through changing the fence.

Councilmember Vaughan gained clarification that there are two parts of the code, one regulating fences and the other requiring a permit to make changes to a fence. Section 105.2 of the IBC requires permits to fix or construct a fence.

Councilmember Vaughan moved to approve the removal of Section 105.2 of the IBC from the Code. Councilmember Bulman seconded the motion.

Ms. Santee expressed concern that removal of Section 105.2 of the IBC addresses more than fence permits and expands the scope of discussion past what was listed in the posted agenda.

Councilmember Vaughan amended his motion to state that he moved to instruct Staff to bring an Ordinance to Council in a following agenda to add the "above 7-foot" exemption for fence permits to the City's building code. Councilmember Bulman seconded the motion.

After gaining clarification that Councilmember Vaughan's motion included repealing the requirement for permits for fences below 7 feet, but still wanting to follow the IBC regulation for permits, Mr. Cassata warned that there would be an increase in code compliance issues. He gained further clarification that Councilmember Vaughan's motion included no requirement for inspections or using a registered contractor.

Mrs. Turner added that there would be an increase in 7-foot fences that would create a height uniformity issue in neighborhoods.

Mr. Cassata continued that the City's code for 6-foot fences would still stand, in which case the City would have to inform residents that their 7-foot fences are out of compliance and need to be fixed after they have already been installed. He also warned of issues with utilities services regarding fences.

Mr. Luensmann elaborated on drainage easements and sewer easements and how fences impact those. He added that there would be an increase in lawsuits due to property disputes

arising from a lack of monitoring where fences are placed. He stated that some cost would fall on the City. Furthermore, there would be massive aesthetic differences with the use of varied materials that would not be caught until a complaint is filed.

Mrs. Turner continued that fence height differences for properties with hilly terrain would increase due to lack of oversight from City services in ensuring the height of the fence is measured in conformity with the land. This would lead to certain areas of the fence going over 7 feet and could lead to structural issues that impact neighbors.

Mr. Luensmann added that with the City allowing chicken coops, fences could have an increase in chicken wire and other added features that would impact surrounding wildlife and public health. He urged Council to keep the permits and inspections even if they repealed the fee for permits and inspections.

Mayor Pro Tem Goolsby shared his support for Councilmember Vaughan's motion with the added stipulation of revisiting the issue in a year to review consequences of said motion. He stated that he would also be in favor of increasing the number of pickets or amending the code to allow for more maintenance of a fence without a permit. He proposed allowing for a certain number of meters of a fence before requiring a permit. He gained answers for questions regarding back-to-back fences with properties bordering commercial properties and asked about the impact of fence requirements on code compliance.

Mr. Cassata explained the code compliance process including multiple ways of reaching out and finally taking the resident to court. He shared how long this process could take.

Councilmember Najarian opined that residents mainly have grievances with paying for permits to only do regular maintenance on their fence. He clarified for Mr. Cassata that anything involving putting up a new structure, changing the current structure, or replacing posts, would go beyond "maintenance" and require a permit, inspections, and registered contractor. He stated he believes that permits are a necessity but there should be lenience when it comes to maintenance.

Mr. Cassata urged Council to concretely define "maintenance" to avoid Staff having to argue with residents about what constitutes "maintenance."

Councilmember Najarian stated "maintenance" could be defined as only replacing pickets with the same size and material. Any size differences would go beyond "maintenance" to require a permit. No structural changes would be made under "maintenance."

Councilmember Fitzpatrick shared her support for the definition of "maintenance" given. She opined that permits should continue to be required especially considering this is a proactive way to ensure compliance rather than telling someone their investment is out of compliance. She shared that many BOA meetings have been over fence issues. She believed that above 30 pickets would go beyond "maintenance" and that even with charging no fee for permits, there should still be a permit requirement for anything more than "maintenance" to ensure structural integrity.

Councilmember Buck asked whether there was methodology for determining the pre-existence of a fence on a property. He proposed adding an exemption for maintenance or refurbishment

of existing fences, no matter how long, if all work is done in the same place, while requiring a permit for new installations only. He also stated there could be an adjusted fee schedule based on the proposed work. He asked how this would impact the inspector.

Mr. Cassata stated there would be difficulty determining where structures previously existed, and they would default to the word of the resident.

Mrs. Turner said there could be the option of having residents sign a form stating their intended maintenance so that if there are discrepancies later, the form is there to fall back on. This would register the maintenance or work being done.

Councilmember Buck clarified that Mrs. Turner's proposal is a required permit for "maintenance" and a form signed listing the intended maintenance that would forgo an inspection, and the full permit process being required for new installations. He opined that if permits are required, there should be an inspection for which the City does not charge.

Mayor Williams shared his strong support for continuing to require permits. He asked Council to consider for keeping permits as they are for the initial permit and a lesser fee for further maintenance.

Councilmember Vaughan restated his motion to add the permit requirement exemption for fences being built under 6 feet in Section 105.2 of the IBC and City building code. Councilmember Bulman had seconded this motion.

**Vote: Yeas: Vaughan, Bulman, Goolsby
Nays: Buck, Fitzpatrick, Najarian**

Mayor Williams broke the tie by voting Nay.

Motion to approve failed.

Mrs. Turner stated Staff would come back with further options based on Council feedback.

F. Discuss and Consider License Agreement between the City and American Bank (600 Pat Booker).

Mrs. Turner explained that American Bank would like to move their sign into the City's right-of-way and lower the sign a bit. They would need a right-of-way licensing agreement. The agreement before Council would give American Bank access to the right-of-way where they would like to put their sign with the stipulation that the City can use the meter for their electronic sign at any point. This includes holiday decorations.

Mayor Pro Tem Goolsby was assured that the location of the sign would not be in the 30-foot triangle or any other easements in that area.

Councilmember Bulman received confirmation the new sign would be smaller than the existing sign to conform to surrounding signage.

Councilmember Buck received confirmation that the City would not have to reimburse American

Bank for electricity used by holiday decorations.

Councilmember Bulman moved to approve the License Agreement between the City and American Bank. Councilmember Najarian seconded the motion.

**Vote: Yeas: Bulman, Najarian, Goolsby, Buck, Fitzpatrick, Najarian
Nays: None.**

Motion to approve carried.

NO TAB 1: Presentation and Discussion on FY 2023 Tax Rates – WITHDRAWN

G. Discuss and Consider Resolution 956-A-2023: A resolution establishing Code of Conduct Policy for elected and appointed officials.

Mrs. Turner explained that both the Code of Conduct in this item and the Rules and Procedures in the next item would apply to Boards and Commissions as well as Council. She stated there are policies followed by all Boards and Commissions and Council as well, but that they have not been updated or written in a specific policy for over 20 years. She stated the Code of Conduct provides minimum professional standards while the Rules and Procedures would only put in writing what is already being done.

Mayor Pro Tem Goolsby asked for clarification on what “postpone” requires.

Mrs. Turner and Mayor Williams clarified that the item could come back at the request of Council.

Mayor Pro Tem Goolsby had the Conflict-of-Interest affidavit explained to him and received clarification that this process would occur before the meeting or immediately in response to a discovered conflict of interest. It was explained that the procedure of recusing oneself after realizing a conflict of interest is State law and this would only be adding an affidavit to the procedure.

Councilmember Buck explained that his reasoning for voting to postpone is that he believed Texas’s robust definitions of what constitute ethical behavior are enough for Council to function under. He believed the Code of Conduct proposed would be an unnecessary additional regulation.

Councilmember Fitzpatrick opined that it could be good in a changing environment and culture to define what Council believes is appropriate behavior. She used the example of social media conduct being a new factor in considering what is appropriate conduct for a Councilmember.

Councilmember Bulman expressed her disagreement and emphasized that the proposed Code of Conduct was not made by Council through Council discussion. She opined that Council should make their own Code of Conduct if they were to make one but added that all points Councilmember Fitzpatrick made are already in State law and ethical procedures. Furthermore, to pass something at the City level would be superseding State law.

Mrs. Turner clarified that the policies before them in this and the next items are resulting for

Council direction and discussion. She emphasized that the policies are for them and not for Staff to enforce upon them.

Mayor Pro Tem Goolsby gained clarification that it is stated that Council follows Robert's Rules of Order in the 1987 personnel memo which also included some codes of conduct. She stated the next item addressed Rules and Procedures. Ordinances and Resolutions were explained as well.

Mrs. Turner cautioned that Robert's Rules of Order are not set in stone unless the City has a designated parliamentary enforcing them. Otherwise, the Mayor may function as parliamentarian and enforce rules as they please. Robert's Rules are often loosely followed.

Councilmember Vaughan stated that he believed their frustration came from not knowing what avenue to go through to get an item on the agenda. Furthermore, when an item is put on an agenda, Councilmembers are not consulted for how to present the agenda item. He stated that Item H on this agenda would be where the Robert's Rule of Order and procedure for agenda items and how to present them would be.

Councilmember Bulman moved to postpone this item indefinitely. Councilmember Buck seconded the motion.

**Vote: Yeas: Bulman, Buck, Goolsby, Fitzpatrick, Najarian, Vaughan
Nays: None.**

Motion to approve carried.

H. Discuss and Consider Resolution 956-B-2023: A resolution of the City Council of the City of Universal City creating and establishing Rules of Procedure; and providing for severability and an effective date.

Mayor Pro Tem Goolsby gained clarification from Ms. Santee that an abstention would count as a no vote whereas a recusal would not count a vote at all and would be as if the member is absent. He asked whether the City must change the appointment criteria for appointing a City Attorney considering the 1987 memo requires the attorney to have an office within the City.

Mrs. Turner explained that Ms. Santee's time consulting in City offices counts as her having practice in the City. Considering the size of many cities require their city to contract their City Attorneys from outside their City, a regularly scheduled consultation time can constitute having an office in the City.

Ms. Santee added that many of the regulations in the memo are outdated and need updating as they no longer comply with State law.

Councilmember Bulman passed out a packet that reviewed other similarly sized cities' procedures for adding agenda items to the agenda.

Councilmember Buck asked to discuss items in the Rules of Procedure prior to the September 5th meeting to have a more finalized draft of the document presented for a vote by Council. He asked whether Rule 4 could have an addition of a maximum time between Council meetings. He

mentioned that though the City or Mayor may not have official business, there may be official business that other Councilmembers would like to discuss.

Mrs. Turner reminded Council that the City Charter already has similar requirements: Council must meet at least once every month.

Councilmember Buck continued with concerns for Rule 6 regarding whose attendance is required in Closed Sessions.

Mrs. Turner stated there is room for flexibility due to having relevant presenters in the sessions as well as requiring the City Clerk to be in the session to create certified agendas. She also explained that the City Attorney is not required to be in the sessions for cases that may involve them or where they are not required.

Councilmember Buck asked to add an allowance of a Councilmember to open agenda item discussion if they proposed the agenda item under Rule 8. He clarified that the Mayor would give the floor to whichever Councilmember proposed a new business item for the agenda before other presentations were made. He gained clarification on Rule 9 language stating “agenda items that they own” meaning agenda items they proposed. He also verified that a citizen to be heard could request to speak before the specific item of consideration that they wish to speak on. He was assured that the Mayor could make the adjustment at will.

Mrs. Turner stated the adjustment for a citizen to be heard before a specific item only needs to follow the City’s ordinance regarding rules of decorum for the public to not exceed speaking 3 minutes outside of a public hearing or meeting.

Councilmember Bulman asked whether all Councilmembers could redline the proposed document with all their notes to hand in to the City Clerk to be included in an agenda packet so that Councilmembers could be aware of each member’s opinion prior to the September meeting. This would be to save time during the meeting.

Councilmember Fitzpatrick expressed support for individual redlined documents by each councilmember.

Ms. Santee warned Council that this could constitute a rolling quorum if they had discussion with other Councilmembers regarding the agenda packet since all positions would have been provided to the Councilmembers. She stated this could leave them open to challenge for a rolling quorum.

Mrs. Turner cautioned Council that this could set a precedent of workshopping all documents to then be handed over to the City for legal review. This would bypass the process of the City providing a working document at the beginning of discussion of certain items.

Councilmember Bulman clarified that her desire to workshop this document was due to its relevance specific to governing Council. For this reason, she would like Council to create the document through workshopping.

Consensus was reached to send out a packet of all Councilmembers’ redlined documents on Monday to give Council the time to look over the proposed amendments while minimizing the

risk of Open Meetings Act violations.

Councilmember Vaughan moved to postpone this item until September 5th and at that time, allow for edits of the document and an action item to approve the document. Councilmember Najarian seconded the motion.

**Vote: Yeas: Vaughan, Najarian, Goolsby, Buck, Bulman, Fitzpatrick
Nays: None.**

Motion to approve carried.

9. CITY MANAGER COMMENTS:

Mrs. Turner informed Council and the public of the Veterans Park Playscape Ribbon Cutting on August 11th at 10 A.M. She also shared that there would be a 9/11 Memorial Service at 9 A.M. and the last Movies in the Park event would be on August 5th at 7 P.M.

10. COUNCILMEMBER COMMENTS:

Councilmember Fitzpatrick urged everyone's attendance for the 9/11 Memorial Service given that this was an initiative started by the recently deceased former Councilmember Beverly Volle. She thanked Parks Partner and attendees of Casino Night which raised money for UC Parks. She also thanked City attorneys for their presentations at the Hog-Wild training.

Councilmember Najarian also encouraged everyone to attend the 9/11 Memorial Service. He thanked the Denton Navarro Rocha Bernal & Zech, P.C. attorneys for their informative presentations at Hog Wild.

Councilmember Bulman thanked Mrs. Turner for taking the time to put together the Rules and Procedures and doing all the work that is required. She appreciated that Council would be given the chance to workshop this document.

Mayor Pro Tem Goolsby also thanked Mrs. Turner for her work and thanked Council for the discussion regarding the topic.

Councilmember Buck thanked the children from the Calvary Church and the children who donated their lemonade stand proceeds for their community service. He also thanked Staff and Mrs. Turner for their work on the agenda items and thanked everyone for their attendance and robust discussion.

11. MAYORAL COMMENTS:

Mayor Williams honored former Mayor Carmeline Squires who passed recently. She was the first and only woman elected mayor in Universal City. He also encouraged everyone to attend the Veterans Park Playscape Ribbon Cutting and reported that the County Commissioner would be there like he was at Cimarron Park. He thanked Council for their discussion and thanked everyone for their attendance.

12. ADJOURNMENT: Mayor Williams adjourned the meeting at 9:30 P.M.

APPROVED:

Attest:

John Williams, Mayor

Kristin Mueller, City Clerk