

City Council First Regular Meeting

MINUTES

July 09, 2024 at 6:00 PM

CALL TO ORDER:

Mayor Pro Tem Casey Olson called the meeting to order at 6:01 p.m.

Present:	Casey Olson	Mayor Pro Tem
	Carol Langley	City Council Place #1
	Cheryl Fox	City Council Place #4
	Stan Donaldson	City Council Place #5

Also Present:	Gary Palmer	City Administrator
	Dave McCorquodale	Director of Planning & Development
	Maryann Carl	Finance Director
	James Greene	City Secretary
	Alan Petrov	City Attorney
	Anthony Solomon	Chief of Police
	Mike Muckleroy	Director of Public Works
	Chris Roznovsky	WGA Consulting Engineers
	Rick Hanna	Building Code Compliance Inspections
	Daniel Gilliam	Tri-Point Homes Developer
	Levi Love	L2 Engineering

INVOCATION:

CM Donaldson gave the invocation.

PLEDGE OF ALLEGIANCE TO FLAGS:

Pledges to the American and Texas Flag were conducted.

VISITOR/CITIZENS FORUM:

No Speakers.

CONSENT AGENDA:

1. Approval of the Minutes as written for:
 - a) Joint City Council, P&Z, and MEDC Workshop 01-27-2024
 - b) City Council Second Regular Meeting 06-25-2024
 - c) City Council Special Meeting 07-01-2024

Greene: Council, if I may, um one note that I'll make, um for the, uh, for the regular meeting, I think it was the regular meeting. I made a change since, uh uh since I've sent you the council packets. Uh the only change that I made was to the executive session and that was adding the topics of deliberation. That was not on there when I originally sent the packets. Other than that I have made no changes.

CM Langley: One of the, uh, sets of minutes, I saw where Sara was at the meeting. But she's not signing the minutes. Is that correct?

Greene: So, if she's not sitting here, uh the signing of the minutes would go to Mayor Pro tem.

CM Langley: But she was here, correct?

Greene: At that meeting for the minutes? Yes, correct.

CM Langley: Okay.

Greene: So, because you're, because you're passing it tonight and she's not here, the Mayor Pro Tem will sign just because she's not here.

CM Donaldson: Explain to me again what you said about the executive session being added.

Greene: If I remember correctly, it's from the June 25th meeting. Um there was an executive session in that meeting and what I delivered to you in your packets did not include the items of deliberation, the topic that would go in the agenda, and so I edited the minutes to include those under the, yeah it was the, it was the 25th, uh June 25th regular meeting. Um, I added uh topic number 19 or item number 19 and 22 executive session, the topics only, which were, um under uh the exception 551.071 consultation with attorney potential litigation Town hydrology update and next steps and item number 20 under exception 551.074 Personnel matters discussion with City attorney regarding legal aspects of the organizational structure.

CM Donaldson: I wasn't under the impression that we publicized what went on in the executive session.

Greene: we do not. But the topics are publicized, and that's what I added.

CM Donaldson: well I'm just asking because that's not what we've normally accustomed to

Greene: The discussion in the meeting is not added into the minutes. Uh the discussion in executive sessions are actually in certified minutes, um that are not, um published to the public. So what I'm saying, just so you're clear, um I include the topic of deliberation and the topic of deliberation only and that, and that's what I added into that because I had not done that before I sent it out to you.

Petrov: And that was on the agenda. So, if that was already public information and it's required to be on the agenda if that, you know, you have to tell people what you're going to talk about but not the substance of the conversation.

CM Donaldson: Okay.

CM Fox made a motion to accept the Consent Agenda with the corrections made by Greene and the motion was seconded by CM Donaldson with all Councilmembers voting, AYE. Motion carried.

CONSIDERATION AND POSSIBLE ACTION:

2. Consideration and possible action regarding a Development Agreement between the City of Montgomery and Tri Point Homes of Texas, LP. (Dev. No. 2410).

Mayor Pro Tem Olson: I'm assuming Chris you have some information?

Roznovsky: Good evening. Uh if you have so this agreement was sent out to you all previously there were some changes that were made earlier today very minor they have some extra copies what I'll do is I'll hit. So at the last council meeting we talked about the points of the agreement so I go through on how this is worded in the current version uh that's here and then also the developer and his engineer here to answer any questions that may come up from the discussion, and we'll go from there. So, uh again hitting the hitting the high points of what's in it, really comes down to you know the the improvements that they're making so the off-site waterline, uh which is the Lonestar Parkway East Side Lonestar Parkway water line, the developer will pay for that line they'll do that funding it through the city like we've done the red bird lines and polty and other offsite utilities, uh he would pay for that up front the city would give impact fee credit against that cost. Roughly the cost of that line is \$400,000 their impact fees are a little bit less than that. So it would get up to that impact fee, for the offsite water. For your oversized waterline uh portion so as reminder through their property we one of the requirements is they upsize the waterline they need an eight, have them upsized to a 12 to create another waterline Loop uh the city you have a provision in ordinances for paying for oversizing so you pay the cost difference between the two U again lane plans are subject to change is all based on bit amounts but you're probably looking at the 75 to \$85,000 range for that upsizing. Uh so that's in here that they would it as an alternate, and then you see it and we pay it back after it's accepted. And then getting into the lift station so this is the one that had kind of the most discussion on it regarding the cost share. So the way that it is so the two options that were discussed previously were a 50/50 upfront split front end of the project, or a payback over time uh which the term five or the term of five years came about and a higher pro rata. So, the, and this isn't in front of you. So right now we're looking at a total estimated cost of the project at about \$1.5 million with a good amount of contingencies on it to give us uh some wiggle room. So if you were looking at a 50/50 split up front you would be looking at approximately \$775,000 in your next year's budget to pay for that project cost. So the way that this is written is on the finance option so when we go back and we look at the program at a share of the lift station so in the feasibility study said that this developer used about 32% of the lift station capacity so when we default back to that you split it

based on a pro rata, you have a total share of the city of about 1,050,000 if you break that over 5 year period looking about \$210,000 a year over 5 years which the way that this is written is that first payment is the one mark and then subsequently thereafter. Um so that is this agreement is is written is a 32% uh the final pro rata shares to be calculated you know sizing changes Etc will be readjusted but roughly about 32% over a 5 year period which would be approximately \$210,000 a year versus 775 in one year.

Mayor Pro Tem Olson: So the 210,000 I'm assuming, just to make sure I understand, that is financed by the developer and we pay them yearly?

Roznovsky: Correct. So developer pays The Upfront cost City reimburses them annually up to a total amount of a million 50, versus the other option that was considered was a 50/50 upfront cash split which would be a total cost of \$775 so for \$275,000 U financing it over five years you pay obviously more \$275,000 more to the total project cost but your first year cost is half a million dollars less.

Mayor Pro Tem Olson: Or if we choose to hold off on the development agreement, we can, they can come back at a later date?

Roznovsky: What was the question?

Mayor Pro Tem Olson: If we choose to hold off on the development agreement we can come back at a later date?

Roznovsky: If you don't take action on the development agreement this is all subject to change. Then the last two items um that that we discussed that were out of the ordinary I'm skipping over annexation there's no variances all that's relatively standard were the we talked about the road improvements uh we talked about trails and we talked about the mud so apologize three three points. So Road improvements they're back to the original Lane plan so they're not providing the oversizing as we discussed and the stub out for the larger Street to connect through based on council's uh direction at the last meeting uh we do have a a a bullet in this agreement for pedestrian improvements Mobility that they to follow the city's design manual which require sidewalks on both sides of the street. So that is in here. And then there is a clause as well that gives them the option for consenting to them either joining a existing mud or creating a new mud. Ao those are the main points, I'll gladly answer questions that you have. And again, developers here to answer, um...and asfar as timing goes and so Daniel can can sign this you know they're looking to underwrite the deal uh very soon and they need this agreement in place to be able to get that in place and so they're kind of under the gun to get an agreement agreed upon so they can move forward with getting the deal of finance and forward with the development.

Mayor Pro Tem Olson: Yeah, unfortunately we haven't looked at our budget for next year, um this would be Capital, would this would that 210 it's 210,000 right?

Roznovsky: Correct.

Mayor Pro Tem Olson: Would that go out come out of the capital budget?

Roznovsky: The 210 for the cost share. So the yes and the version that we sent out a new version this afternoon we put that 210 in there and the 5,000 show but you have not approved a budget with that yes.

Mayor Pro Tem Olson: We don't know what our budget looks like yet.

Roznovsky: Not I mean there is planed to that lift station but not in next year's budget.

Mayor Pro Tem Olson: How soon do we how I obviously I know the sooner the better for youall but just to be upfront and honest how soon do you need to know?

Gillihan: Today is, what we're working on. And that's we've got for us on the. Daniel Gillihan, appreciate yall's consideration. For timing wise, we're under contract our feasibility ends at the end of this month, for us we're a publicly treaded company I've got to send it to land committee we've got to have entitlements figured out for that tax to go in and so this would cure the entitled element of the city. And so we talk that there's concern on the financing of lift station if it's you want to go back to the 50/50 verse I think we can do a conditional approval. If the council likes to do that it doesn't have to be final on at this point, um it could conditionally approve subject to you the city agreeing to the city agreeing how that lift station is financed for us I think if it's looking at one of those two options we can underwrite that but we are looking for for some action that we can move forward with get the right package

Mayor Pro Tem Olson: so so my issue is is it'd be very0 irresponsible for us to make a decision not knowing if we have the money to pay you so spending money we don't have is is not something that we're going to do. So for for me to just say oh yeah we make that decision right now I can't I mean not not honestly I can't make that decision maybe the rest of the council is more comfortable with it but.

CM Langley: When did you have us owing that first 21?

Roznovsky: So the way that the agreement is currently written is one year from the date of the agreement. So that's when it's the final executed version which I believe now correct or wrong was until they closed on the property or would it be effective as the data councils so if they approved it now would that be today or would that be when they closed on the property?

Petrov: That would be today.

CM Fox: So we would have one year.

Roznovsky: The other way, so potentially and that Daniel would be open to this is so a lot of the the wording on here a lot of things are based on the completion of the lift station and the completion of the kind of the the acceptance of the infrastructure so you know that would put you know one year from that project so it add obviously time to it it's still the same concept of committing budget. I don't disagree with that but just from a timing perspective because the other thing again now think of how this is written if they

don't start right away they have needs to be tied to when obviously they the lip station work is completed um which wouldn't be next FIScal year just by the time you design and construct it.

CM Langley: so we're going to discuss Capital Improvement plan in a workshop after this when would these Capital Improvement so they would be approved with the budget which is going to be the end of August right?

Palmer: Yes. The CIP doesn't need to be approved with the general fund but in in concept yes you would have to you would have to tacitly approve yeah these numbers in order to move forward with your CIP. But we don't go through a motion where we approve a CIP along with the budget two two separate right process.

CM Langley: True but I'm just trying to figure out how how long is this man going to wait for us to let him know that we'll approve his agreement

Mayor Pro Tem Olson: We we're basically committed to his agreement committed to it if we approve it right now whether we whether it just has to be has to be built into the budget at that point because we're contractually bound to it.

Roznovsky: The way the form here we'll see when we get to the CIP budget I modified that earlier today so all your committed projects are priority one. MSD water line will show lower, but you're you have a contract you're paying for that that might happen this fiscal year but anything that is a contracted amount of dollars from the city would move into this fiscal year you have to put this on the budget to answer your point of okay here are bus dudes by contract here are and then we know what we have right so right now we have it lower in the priority 4 because it's not an approved don't have for contract so it's do you approve the budget without the agreement or approve the agreement and put it in the budget all right.

Mayor Pro Tem Olson: So, like I said, it's very difficult for me yeah this is important versus something because I don't know what's on our budget plan it's very difficult to just make that statement to say yeah we want to do this I need to see more information of what we have coming up.

CM Donaldson: I'm in agreement I don't see what 14 days is going to ur them we can do it next Council session and you know besides I'm not happy about all the interest we've got to pay if we pay it out over a five-year period um.

Roznovsky: There just to answer that question there is no it's just a straight cost of your PR so the financing is held by TriPoint homes so Tri Point finances it pays for the project up front and then you're paying your Pro rata share at a set per so they're borrowing the money or they're paying out of cash it doesn't affect the city you're paying back based on the actual cost of the project.

Gilliam: That's correct. There would be no interest to that project.

CM Donaldson: That's not the way I heard it.

Mayor Pro Tem Olson: Well it doesn't. The math doesn't add either so if 775 up front or 210 a year for 5 years that's not the same number.

Roznovsky: it's not so it's either 50 a 50% share up front or 70 68 32 where City carries more of the cost over a 5 year period I.E. your financing it.

Mayor Pro Tem Olson: Yeah, so we may not be calling it interest but you can call whatever you want

Gilliam: Based off pro rata share. So truly the the 32 would be based off our connections to the other station so we are building I got you 68% of lift stations for you.

Mayor Pro Tem Olson: So your you're giving us a credit if we pay more up front.

Gilliam: The 50/50 be a credit 32 would be more pro rata

Mayor Pro Tem Olson: No that makes sense. Yeah, I appreciate it. That's great. I just didn't understand. So now I do. I'm still I'm still at that point of I need more information. Not from you, of where we sit with everything else we got to do.

Love: So, I got a question. I'm Levi Love with L2 Engineering. So it sounds like a little bit of the chicken or the egg. If it's already committed, it goes to a certain spot. Would a conditional appr approval or subject to to help us at Least say we have some cooperation and and we know we're headed that direction but it gives y'all you realize there's a number off or you know \$2 million project somewhere that you weren't aware of and I can understand where you're coming from is that something we can look at just this just us the next Step to the title.

Mayor Pro Tem Olson: So, Gary have you looked at the preliminary capital budget? What does this do to it?

Palmer: I'm sorry?

Mayor Pro Tem Olson: What does this 210 do to it?

Palmer: Not much. I mean I would look to Chris for a recommendation on whether we should move forward with it or not and then maryann if that's something that's of concern to you um any input you might have. Chris do you have any concern at all about this?

Roznovsky: So, I think that in terms of the benefit when you just take away the development take away the benefits of this project and the waterline loop on the east side of city which helps the because right now all water to get out to Hills Town Creek has to go down Pond street and go out um so when you take away the development portion I think this is a much needed project U to do and it's something that was that's been on the list of capital project and this is a of a public private partnership to get that done okay and lift station number five is I would say arguably the worst or second to

worst lift station in the city um that you know it's in from a location access condition standpoint it again is high on the list of lift stations that need to be addressed and this is you know again outside of the city taking the full burden a good public private partnership to to do that I also think that when it comes down to the concern of when that first payment is and how the fiscal years lie I think at least in con sounds like that we can work on that timing and say okay this will not be a fiscal year 25 likelihood when this this cost is incurred is not going to be until late fiscal year 25 that that time period is so um you know potentially there's it can push so this is not paid by September 1 of 25 this pushes into following so we can split that cost over two years and they're starting to get some of their ad valorem though small at the time

CM Fox: So bottom line you really think that we should do the project?

Roznovsky: I think that you know when you consider both the projects that are in it and the benefit to the city as well as from the type of development that this is uh being large lots kind of center of the city there's no variance being asked for you know I think if this is kind of given a little bit off the engine but they were coming in asking for 45 foot lots and you know small streets and everything else this would be a different conversation but from kind of my understanding of y'all's comments in the past about developments this is more along the lines of type of development you would like in the city and I think that it would be a wise personal choice to.

Mayor Pro Tem: So, from a budgetary standpoint, and I and I think I I all of your points are very valid. From a budgetary standpoint we'll get to see it this evening but are we borrowing money at any point to keep our budget?

Roznovsky: You will be borrowing money. So I mean, you have large capital projects coming up. Um next year we had projects. So including what you have going on, so you have your water plant 2 improvements which we're just carrying that cost over that will come down to some of that's incur this fiscal year uh you have a total of approximately \$4 million in that. A lot of that is either this the MISD. Excuse me I, I read the wrong column. That's your water plant number four design Town Creek design 1097 SEwer replacement project which we've talked about and then the MISD water line that could carry so you know this would add you know roughly the 210 plus assuming that they have all their projects down to 85 so let's call it \$300,000 um to that budget so another less 10% now as far as where that comes from between the use of the CO's and impact fees to get into that I did not attend the meeting last.

Mayor Pro Tem Olson: Maryann, what's your thoughts?

Carl: So as Chris said it's definitely going to take borrowing money um to move forward on these capital projects there's just a lot on the table um you know until we can really look at that I mean I I think that the ability is there but it we definitely will have to borrow money.

CM Fox: But we're going to have to borrow money with or without the project right?

Carl: Yes. With or without. So I think you just need to weigh the benefit of the project and the opportunity.

Roznovsky: And that's really a lot of the goal of the CIP Workshop tonight is get that list in so what are those priorities what projects need to be on there and then we'll sit back down go through the number sit down Maryan Gary the rest and come up with some what are those financial Opportunities. We've created a rate analysis so we're ready to plug those in so okay how can you generate from your revenue bonds what type of water and sewer rate adjustments would it take uh to be able to take a chunk of that but really what are those priority projects and I think this would help this is one of those priority projects we need put into that how we can generate that's.

CM Langley: And they own the land at this moment?

Roznovsky: They do not they have not closed on the land or feasibility ends at the end of July.

CM Fox: That's why they're coming, that's why they're here. I think that we should because I think it's a better project than what we've had before.

Mayor Pro Tem Olson: No, I agree with the same piece of...

CM Donaldson: We're not we're not against the projects gentlemen. We want your business and we want you to establish some work here in in Montgomery we appreciate what you're trying to do but the timing of it right now and the changes that we're having that you're asking us for we haven't had time to dissect all the money issues that we've got facing us every time we turn around we're we're getting hit with more money than we originally planned for and we can't keep going down that Road you know we had a \$1.2 million well that turned into a \$2.6 million well and we can't keep going down that road we have a stop light that cost us more money and uh right now we're just not in a position to say hey we want to spend another \$200 something, per year to reimburse you for expenses and we want to make uh the right decision but this right now I don't think it's the time to do it and my motion would be to table this until the next council meeting which will be July 23rd and we can uh have more opportunities to dissect how much money we have and what we think we're going to have come in because problem I just don't want to I don't want to get this down into financial burden so.

CM Fox: The problem is that they have a timeline also.

CM Donaldson: Well I don't think two weeks is going to bust their timeline.

Gilliam: It can. I completely understand appreciate that position we but we had we've started over 90 days ago with this approach with the city to hope to get here by this Finish Line we have already gone to these sellers and got an extension there's no guarantee we can get another extension and we don't have our underwriting package completed we are left with with risk of not closing and so that that's our intent to try to get somewhere with the city today to at least have something papered up where there it can be a condition close maybe it has to go to fiscal year. Right now fiscal year ends

September 1, 2025? And so there's a clause to say if you based off future disc contingently approve however determine that can't fit in 202's budget developer agrees push that to 2026 fiscal year we're we're open to that I think long term in 5 years I think that that lift station will probably need that much effort within the next 5 years with or without this project so it does give the city a position to have brand new LIFT station put in uh at a pro rata share basis first being solely on the city.

Councilmember Fox made a motion to approve item number two and the motion was seconded by CM Langley.

Palmer: Is that approve as presented?

Mayor Pro Tem Olson: Yes. Any more debate?

CM Donaldson: I had a motion but I didn't get the second, so.

Mayor Pro Tem Olson, CM Langley, and CM Fox vote AYE with CM Donaldson voting Nay. Motion carried.

Council Inquiry:

No inquiries.

Adjournment:

CM Langley made a motion to adjourn, and the motion was seconded by CM Fox with all Councilmembers voting AYE, motion carried.

Meeting adjourned at 6:31 p.m.

Submitted by: _____ Date Approved: _____
James Greene, City Secretary

Casey Olson, Mayor Pro Tem