



**CITY COUNCIL MINUTES
CITY OF ODESSA, TEXAS**

July 27, 2021

On July 27, 2021, a regular meeting of the Odessa City Council was held at 6:00 p.m. in the Council Chambers, 5th floor, City Hall, 411 W. 8th, Odessa, Texas.

City Council present: Mayor Javier Joven; Council members: Mark Matta, District One; Steven P. Thompson, District Two; Detra White, District Three; Tom Sprawls, District Four; Mari Willis, District Five; and Denise Swanner, At-Large.

Others present: Michael Marrero, City Manager; Norma Aguilar-Grimaldo, City Secretary; Natasha Brooks, City Attorney; Phillip Urrutia, Assistant City Manager; Cindy Muncy, Assistant City Manager; and other members of City staff.

A quorum being present, Mayor Joven called the meeting to order, and the following proceedings were held:

The invocation was given by Pastor Darren Willis, Bethlehem Baptist Church, and followed by the Pledge of Allegiance and Texas flags.

Citizen's comments on non-agenda items. No comments.

CONSENT AGENDA ITEMS

- A. City Council minutes, July 13, 2021;
- B. City Council work session minutes, July 20, 2021;
- C. **Ordinance No. 2021-22 - Request by CJ Real Estate, LLC, owner, to rezone from Multi-Family-Two (MF-2) to Planned Development-Light Commercial (PD-LC) Lots 27 and 28, Block 1, Grand View Addition (southwest of the intersection of E. 9th St. and Limestone);**
- D. **Ordinance No. 2021-23 - Request by Marcus Fielden, owner, to rezone from Single-Family-Three (SF-3) to Neighborhood Services (NS) Lots 8 and 9, Block 9, Fleetwood Subdivision, City of Odessa, Ector County, (northwest of the intersection of E. 42nd St. and Waverly Ave.);**
- E. **Ordinance No. 2021-24 – Request of Fabian Serrano, lessee, Bell Texas Development 2015 LP, owner, for a specific use permit to allow a tavern use in a Retail (R) zoning district on Lot 4, Block 5, Parks Bell Ranch North (6901 Cross B Rd., Ste. 100);**
- F. **Resolution No. 2021R-53 – Authorize the sale of approximately 1.68 acre tract of land located in Section 10, Block 41, T&P RR Co. Survey, Ector and Midland Counties.**

Motion was made by Council member Sprawls and seconded by Council member Thompson to approve the consent agenda items. The motion was approved by the following vote:

Aye: Joven, Matta, Thompson, White, Sprawls, Willis, and Swanner
Nay: None

OTHER COUNCIL ACTION

Discuss and take possible action on the removal of equipment by the City of Odessa or by a designated third party at UTPB's sports complex. Mr. Marrero stated there was no continuation agreement for the maintenance of UTPB sports complex. Ms. Brooks stated the discussion was for Council to authorize the removal of equipment. Mayor Joven asked for décor and respect of opinions. Ted Tuminowski, 117 Conley Place, stated the City should not get involved as it only maintained and provided infrastructure to the property. The Associations ran the fields and charge a fee. He stated that UTPB's intent was to use the complex as it was and welcomed the associations if the land was maintained. Tom Martinez, 3100 Eastover Dr., served on the Odessa Soccer Association since 1994 and it has not charged a fee for the use of the complex. The association spent its funds on many items such as the goals, building and fencing. UTPB did not negotiate, and soccer would relocate to Sherwood Park, but goals and fencing were needed. He stated that it was taking away from the children. He explained UTPB's email on its terms and conditions. The North Texas Association was not agreeable to the terms as some information was to be kept confidential. He stated other groups used the fields but were not charged any fees. The soccer league started August 14. He requested the removal of 72 goals and two buildings. The buildings were bolted, and the holes would be filled as the City would provide the fill for the goals. He stated that the fees of 10% did not apply to the association as it was not commercial. There has not been any subleasing of the fields. Its only income was through leagues, tournaments, and registration fees. He estimated the cost to replace everything was \$300,000. Council member Thompson had doubts on the 10% fee pertaining to commercial only. He had concerns with the kids and the parks. He stated that demographics showed 65% Hispanics spend their time at the parks. He did not want the associations using the parks and running out constituents. Any associations use would need to have control and be policed. He stated that UTPB should get 10% of fees. Mr. Martinez communicated with the Parks and Recreation and had permission to use the parks. Council member Thompson stated that the discussion and guidelines need to be done regarding access to fields. Council Member Sprawls suggested a meeting with the association, UTPB, and the Mayor. Mr. Martinez tried to have a meeting with UTPB, but it was their negotiations or no way. Council member Willis was concerned with the youth of Odessa, as it was all about the kids of Odessa not the adults. Mayor Joven stated there were two different contracts, one with UTPB and one with the associations. The associations were free to negotiate with UTPB. Billy Feeler, 5 Neta Place, represented the men's softball. He stated that the equipment belonged to the association. Items included tractor, mule, turf, scoreboards, and building. Many improvements have been made to the fields. Ms. Brooks read from the association contract facilities agreement regarding the property belonged to the City, as stated in the agreement. Mr. Feeler spoke with UTPB, and its agreement was an ultimatum. The softball leagues do not have a place to relocate. He did not want to donate the equipment to UTPB. He requested the equipment and building. The season was February – November. Bunny Adams, 1837 Petroleum, stated Mr. Feeler spoke to her concerns. Jeffery Wheaton, 3118 N. Greer, volunteered on the Odessa Soccer Association (OSA). Volunteers worked on the UTPB fields, maintained the fields during off season and installed new goals. The OSA needed all equipment to continue youth sports. Peggy Dean, 65 Prestwick, served on the UTPB Advisory Board. She reported that UTPB did not receive any funds, 10% of associations revenues, as stipulated in the contract. UTPB wanted to keep the land as a sports complex but generate revenue. She stated the terms was a mandate from the UT

system. UTPB only had a contract with the City and not the associations. Council member Thompson stated that negotiations could be changed until August 31, for the contract with maintenance. He stated that the associations negotiated with a bad attitude. The UT system could not extend the contract for nothing. UTPB wanted to run a sports field with scheduling and registrations to get a return on an investment. Council member White asked about Council's authority to give approval on removal of equipment. Ms. Brooks read from the lease agreement, 6.03 on fixtures. Ms. Dean suggested that the attorneys discuss and come to an agreement regarding the interpretation of the language. The soccer association needed its equipment to start the August 14 season at the parks. Steve Patton, Director of Parks and Recreation, reviewed the availability the parks' fields. He stated that the Parks Department was strong community based. Council member Thompson stated to consider other practice sites such as ECISD's fields. Ms. Brooks stated that Council's direction would help with policy for the City Manager's office. Council member Swanner asked about any cement damage. Council member Matta asked if there could be a compromise to leave the fencing. Mr. Martinez stated both buildings were bolted which would have no damage to the concrete. The buildings would be erected at Sherwood. There would be an additional building for a concession at the cost of the association. Council member Thompson stated that more parks were needed with the city's growth. He suggested for the association to take the goals for the season and find funds from the City to replace the goals at UTPB. Council member Thompson supported allowing the soccer association to get the buildings and goals and for the softball association obtain the buildings and scoreboard. He stated to reinvest the tax dollars back to UTPB to replace only the goals. Council member Sprawls agreed with Council member Thompson as the City needed to be a partner with UTPB and maintain the field. Council member White stated reimbursing UTPB could be a lot of money. Council member Matta read a portion of an Odessa American opinion that there was \$25 million of improvement on the land. He stated that UTPB had the best soccer field in the state. He stated it was not much of a request to let UTPB replace items. Council member Thompson stated that the funds were spent as intended, a sport complex. Ms. Brooks suggested to have the associations provide a list of items to be removed to the City. She and Mr. Marrero would meet with UTPB to discuss the issues. The meeting would need to be done by the end of the week. The removal of items would be at the expense of the associations. An Odessa Girls Softball representative stated awnings were removed and it would be relocated to McKinney Park. A list was given to Mr. Patton. Council member Matta asked that associations leave the property as it was and usable after they leave the property. Mr. Feeler needed the 60 days to get their equipment out as its last game was August 21.

Pro-rata agreement with Crossroads Fellowship Global, Inc., for the construction of Estancia Blvd. Hal Feldman, Traffic Engineer stated that the construction of Estancia Blvd. would connect 56th St. to Hwy. 191. He reviewed the cost which would be paid by Crossroads and Compass Academy for \$772,218.

Motion was made by Council member Matta and seconded by Council member Willis to approve the Crossroads agreement. The motion was approved by the following vote:

Aye: Joven, Matta, Thompson, White, Sprawls, Willis, and Swanner
Nay: None

PUBLIC HEARING

Open a public hearing to consider approval of the request by J&GK Properties, LLC, owner, Franklin Land Associates, LLC, optionee, for original zoning of light Industrial (LO) on Lot 1, Block 5, Willis Addition, City of Odessa, Ector County, Texas (southwest

corner of Maurice Rd. and S. County Road West). Randy Brinlee, Director of Development Services, reviewed the location. The purpose was for industrial development to expand facilities. The Planning and Zoning Commission recommended for approval. Bob Gage, GBT Realty, stated a Dollar General would be built. It would be an expanded store. No one else came forward and the public hearing was closed.

Motion was made by Council member Swanner and seconded by Council member Willis to approve the ordinance on first approval. The motion was approved by the following vote:

Aye: Joven, Matta, Thompson, White, Sprawls, Willis, and Swanner
Nay: None

ORDINANCE

Amend Chapter 10, "Development Regulations", to add Article 10-4 "Impact Fees"; adopting the Impact Fee Study, establishing water, wastewater and roadway impact fees per service unit; establishing procedures for the assessment, collection, computation, expenditure, refund and general administration of impact fees; providing for the establishment of accounts for impact fees; establishing an appeal procedure; and establishing an effective date. Tom Kerr, Director of Public Works/Utilities, stated that the ordinance would adopt the impact fee study, and establish fees as recommended by the Capital Improvements Advisory Committee. It provided a mechanism for assessment, offsets, collection, exemptions, and appeals process. Ted Tuminowski opposed the impact fees. He stated that the developer would pass the fees to the consumer, raise housing rates, and burden the home buyer. Mayor Joven stated that the rate could be set at zero. Council member Thompson stated that it would help take care the future growth of the city and it would be irresponsible not to have the cost to recoup. He suggested adjusting the grade period from two-years to one-year. Vanessa Ramirez, Deputy Director of Public Works/Utilities, reviewed the fees. For the residential, service areas 1 & 3 was \$3,000 for service area 2 it was \$2,000 and CDBG was \$1,000 each with a two-year grace period. The non-residential had a one-year grace period. There was an exemption for affordable housing. Jeff Russell agreed with Mr. Tuminowski. He stated the Odessa Development Corporation offered infrastructure for work force housing. The water and trash service were a revenue to the City. He stated to find other economical ways than impact fees. Mr. Kerr stated that the funds would be used for major infrastructure that must happen before development. The impact fees were a way to recoup part of the cost for an artery. The effective date was 30 days after the second approval of the ordinance.

Motion was made by Council member Thompson and seconded by Council member White to approve the ordinance on first approval. The motion was approved by the following vote:

Aye: Joven, Matta, Thompson, White, Sprawls, Willis, and Swanner
Nay: None

Tabled - Authorize the issuance of City of Odessa, Texas, Combination Tax and Revenue Certificates of Obligation, Series 2021 in an aggregate principal amount not to exceed \$95,000,000; levying a tax and pledging certain surplus revenues of the City's waterworks and sewer system, for the payment thereof; providing for the award of the sale thereof in accordance with specified parameters; authorizing the execution and delivery of a purchase contract; authorizing the execution and delivery of a paying agent/registrant agreement; authorizing the approval of an official statement; and enacting other provisions relating thereto. Mrs. Muncy stated that the petition was

delivered to the City Secretary prior to the Council meeting. She reported, at face value, the petition had 3,245 signatures with enough signatures that was required. The required number of signatures was 2,923. The next step was to pause for action on the Certificates of Obligation (CO) until the signatures were validated. If the petition was validated, the CO would not be considered or if not validated the process would continue. Glen Opal, bond counsel, was present. The notice on-line would be put on hold until the petition was verified. The Ector County Elections office would have the petition validated by Monday, August 2. Mrs. Muncy stated that Council would need to consider at the August 3 or August 10 meeting. Council member Willis pointed out the concerns of the legitimacy of the petition. She stated that a teenager was asking citizens to sign the petition for the property tax not to go up and keep jobs in Odessa. She stated that the integrity of action should be held to its highest regard. The citizens were not adequately explained on the petition and told to sign the petition. Council member Thompson stated that the petition was left at establishments with no one to witness the signatures. He stated someone should have been present during the signing of the petition. Tommy Ervin, 10005 N. Moss, ECUD, thanked Council member Willis for the comments. He stated that there was no question on the Water Treatment Plant's problem. If the plant went down, there would be no water. He represented 23,000 water customers from outside the city limits and were concerned of no water. He stated that West Odessa would help pay for the plant rehab. Tisha Crow, 2388 Bainbridge, explained the comment on "keeping the jobs here" which a citizen questioned why its not kept local. On the raising of property taxes, if there was not enough revenues to pay the debt including the raising of water rates there was a possibility of raised property revenues. She stated that the language was clear on the petition. She assumed the businesses would have people to sign the petition at the locations. Council member Willis emphasized the people did not have the knowledge to explain the petition and/or they were not trying to explain. Mrs. Crow stated 3,245 far exceeded the number of required voters. She stated that the voters deserved the right to vote. She would vote in favor of the Water Treatment Plant. She reported that the petition campaign was personally funded along by other private citizens. Council member White stated that misleading information was given on a critical issue and manipulation was used. Mrs. Crow stated that there would be more control voting on a bond and more transparency. Council member Sprawls stated a text was sent claiming it would cost \$130 million, there was dishonesty and showed no integrity. Mrs. Crow stated that the \$130 million included paying back with the interest rate. Jeff Russell, 1703 Redbud, stated that the problem was there was no plan, no report and unknown cost. He contrasted with Midland's bond on the ballot that the public was educated on the bond. He urged that the public be educated with townhall meetings and a plan. Council member Sprawls stated that the City of Midland passed a \$52 million Certificates of Obligation. Hannah Horick, 408 W. 17th St., Democratic Chair, questioned the integrity, transparency, and accountability. She stated that the voters were not being provided accurate information. Kris Crow, 2388 Bainbridge, was against the COs. The citizens had the will to vote and should be given the option to vote as it was their money. He stated that elected officials were elected to take the vote to the floor and over 3,200 people signed the petition for the right to vote. He stated that the COs were backed by raising water and sewer rates and possibly property tax. The Water Treatment Plant was needed but there were unknown factors. Peggy Dean, 65 Prestwick, stated it was important to understand that there were sets of funds that could only pay for certain expenses. The property tax did not cover public service's budget. The sales tax could be used but it did not raise taxes. The Council could not be an advocate for the bond. She stated someone else needed to educate the people such as a PAC. Samuel Davidson, 1402 Emerald Ave., asked to reach out for bids and save money and not just use an advertisement. He contacted Saulsbury and was interested in submitting a plan. Mr. Kerr was available to talk to anyone and plant tours were available. An RFQ was issued, and several proposals were received for the design of the plant. Some engineers had more experience in a municipal plant and met TCEQ requirements. There was no intention of

excluding anyone. Mrs. Muncy stated that the CO action would be delayed until the pending validation of the petition. Glen Opal, bond counsel, stated if the petition was validated there would be a separate decision to call the election.

Motion was made by Council member Willis and seconded by Council member Thompson to table the ordinance and reconsider on August 3, 2021. The last day to call the election was August 16, 2021, for the November 2, 2021 election. The motion was approved by the following vote:

Aye: Joven, Matta, Thompson, White, Sprawls, Willis, and Swanner
Nay: None

MISCELLANEOUS

Appointment of Boards: Historic Preservation Commission, Tax Incentive Committee, and Rotary Club Commemorative Plaque Committee. Motion was made by Council member Willis and seconded by Council member Matta to appoint JoAnn Lewis to the Rotary Club Commemorative Plaque Committee. The motion was approved by the following vote:

Aye: Joven, Matta, Thompson, White, Sprawls, Willis, and Swanner
Nay: None

Recess for Executive Session:

Remove from the table as authorized by the Texas Government Code Section 551.071 (Consultation with Attorney), the City Council may adjourn into executive session to consider: A. Discuss a settlement agreement for pending litigation presented by attorney Eric Rich with the Shafer Law Firm, Cause No. B-18-10-1431-CV, Zaragoza vs. City of Odessa;

B. Discuss the pending litigation with the City Attorney and the attorneys hired by the City, Cause No. B-20-02-0127-CV, AIM Media, Texas LLC d/b/a The Odessa American vs. City of Odessa; and

C. Discuss legal issues with the City Attorney regarding implications of the opinion issued by the Texas Attorney General Opinion No. KP 0365 on April 5, 2021 for the Ector County Assistance District. Reconvene for possible action.

Motion was made by Council member Thompson and seconded by Council member Sprawls to remove from the table executive session under 551.071. The motion was approved by the following vote:

Aye: Joven, Matta, Thompson, White, Sprawls, Willis, and Swanner
Nay: None

Motion was made by Council member Matta and seconded by Council member Swanner to go into executive session under Section 551.071 on each items listed above. The motion was approved by the following vote:

Aye: Joven, Matta, Thompson, White, Sprawls, Willis, and Swanner
Nay: None

Motion was made by Council member Sprawls and seconded by Council member Thompson to return from executive session. The motion was approved by the following vote:

Aye: Joven, Matta, Thompson, White, Sprawls, Willis, and Swanner
Nay: None

No action was taken in executive session.

Motion was made by Council member Sprawls and seconded by Council member Matta to adjourn the meeting. The motion was approved by the following vote:

Aye: Joven, Matta, Thompson, White, Sprawls, Willis, and Swanner
Nay: None

The meeting adjourned at 9:56 p.m.

ATTEST:

APPROVED:

Norma Aguilar-Grimaldo, TRMC, CMC
City Secretary

Javier Joven
Mayor