

**CITY OF SULPHUR SPRINGS, TEXAS
REGULAR MEETING OF THE
CITY COUNCIL**

**May 2, 2023
7:00 p.m.**

An Executive Session was held at 6:30 p.m. in accordance with Texas Government Code, Title 5, Chapter 551 - §551.071, Consultation with Attorney, as well as §551.087, Discussions regarding Economic Development Corporation (EDC) negotiations and business prospect(s).

Mayor Douglas Moore called the regular session of the City Council to order at 7:06 p.m.
The following council members and staff were present:

Present: Mayor Douglas Moore
Mayor Pro Tem John A. Sellers
Councilman Jay W. Julian
Councilman Harold Nash Sr.
Councilman Oscar Aguilar
Councilman Tommy Harrison
Councilman Gary Spraggins

Absent: None

Staff: Marc Maxwell, City Manager
Natalie Darrow, City Secretary
Nate Smith, City Attorney
Tory Niewiadomski, Director of Community
Development/ Assistant City Manager
Lesa Smith, Finance Director/Assistant City Manager
Gordon Frazier, HR /Assistant City Manager 7:00 p.m.
Jason Ricketson, Chief of Police
Roger Feagley, Director of EDC

RECONVENE

Mayor Moore called to order the regular meeting of the Sulphur Springs City Council to order at 7:06 p.m.

**PLEDGE OF ALLEGIANCE TO THE UNITED STATES FLAG, TEXAS FLAG, AND
INVOCATION**

Mayor Moore led in the pledge of allegiance to the United States Flag and the Pledge to the Texas Flag, and the invocation was led by Councilman Nash.

PRESENTATIONS, PROCLAMATIONS, AND ANNOUNCEMENTS

Councilman Spraggins mentioned the NETX Choral Society 25th annual Spring Concert. Councilman Aguilar spoke of the Cinco De Mayo on the starts at noon with a show, good food and fun.

MANAGER'S REPORT INCLUDES A STATUS REPORT OF CAPITAL IMPROVEMENTS, MUNICIPAL OPERATIONS, ACCIDENTS AND CLAIMS FOR THE MONTH, AND A REVIEW OF EXPENDITURES AND REVENUES

CLAIMS – We did not have any workers' compensation claims in March.

We had one liability claim from Frontier in the amount of \$4,459.16. The claim was denied by TML, and I expect to be sued. We may discuss this claim in a future executive session.

SPRING CLEANUP – The annual spring cleanup was a success. We offloaded 1,049 vehicles, and we sent 52 roll-offs to the landfill.

SENIOR CITIZENS CENTER – The foundation is under construction. They should pour concrete soon.

PACIFIC PARK – The Sports Pavilion foundation is under construction. They will pour concrete Wednesday.

When the pavilion is complete, we will demolish the old basketball courts and grade the interior of the park. Then we will install irrigation and sod.



COLLEGE STREET – College Street is open down to Patton Street. Water and sewer construction is now complete to Ramsey Street. We are now installing water and sewer from Ramsey to Como. I expect Ramsey Street itself to be completed by the next city council meeting.

STREET IMPROVEMENT PLAN – Following is a preliminary list of streets to be repaved in 2023. It is preliminary because we do not have bids yet, hence no pricing. We will finalize the list once we have bids on May 18, 2023.

<u>Street</u>	<u>Between</u>	<u>Length</u>
League	soft spot repairs	500
Woodcrest	Azalea to Cul de Sac	898
Mulberry	Woodlawn to RR	530
Lemon	Bill Bradford to Spence	1199
Milligan	Church to Davis	549

Rockdale	Shannon to Hillcrest	3749
Robertson	Davis to Texas	1199
Houston	Hillcrest to League	4800
Putman	Jackson to Carter	1400
Texas	Shannon to Arbala	1901
Spence	Fisher to Davis	476
Spence	Gilmer to Ardis-end	850
Spring	Gilmer to Magnolia	808
Peach	Texas to Brinker	570
Craig	Booker to Main	2170
		21599

REVENUES AND EXPENDITURES – Finance Director Lesa Smith will present the report of revenues and expenditures.

Elsewhere around the city, employees:

- Reset school zone timers.
- Repaired AC units at City Hall.
- Installed cameras at Pacific Park.
- Tested tornado sirens... one needs repair.
- Replaced filter media on wastewater treatment plant filters.
- Performed preventative maintenance on the sludge press at the wastewater treatment plant.
- Treated wastewater to a daily average total suspended solids reading of 0.51 mg/L.
- Repaired 5 water main ruptures.
- Replaced 58 water meters.
- Hauled 735 tons of sludge to the landfill.
- Unstopped 20 sewer mains.
- Repaired 2 sewer mains.
- Flushed 40 dead end water mains.
- Treated 128 million gallons of potable water.
- Responded to 166 animal control calls while achieving a 74% adoption rate.
- Made 8 felony arrests in the Special Crimes Unit.
- Responded to 32 accidents, wrote 564 citations, made 54 arrests and recorded 47 offenses in the Patrol Division.
- Checked out 2,689 items from the library plus 784 eBooks.

- Responded to 254 fire/rescue calls including 1 structure fire, 1 vehicle fire and 3 grass fires.
- Cleaned and started the fountains at the Hopkins County Veterans' Memorial.
- Ordered flowers for downtown.
- Assisted with 53 activities for seniors.
- Hosted 1 softball and 1 baseball tournament.
- Fertilized sports fields.
- Repaired 74 potholes.
- Conducted 12 building inspections, 6 electrical inspections, 7 plumbing inspections, one mechanical inspection, issued 30 building permits and 26 trade permits.

DISCUSSION/ACTION ON CONSENT AGENDA

City Secretary Natalie Darrow presented the staff report. Consider for approval the City Council regular meeting minutes of April 4, 2023; Economic Development meeting minutes of March 27, 2023; Zoning Board of Adjustment Meeting Minutes of February 21, 2023; Planning and Zoning meeting minutes of March 20, 2023; and a 380 agreement for 730 Calvert Street. Councilman Julian made a motion to approve the consent agenda as presented. Mayor Pro Tem Sellers seconded and the vote was unanimous.

The motion carried.

DISCUSSION/ACTION ON PUBLIC HEARING AND SECOND AND FINAL READING OF ORDINANCE NO. 2829 REZONING ASSURANCE BUSINESS PARK FROM LIGHT COMMERCIAL TO HEAVY INDUSTRIAL.

Community Development Director/Assistant City Manager Niewiadomski presented the staff report. The applicant is proposing to rezone the property from LC to HI to make the entire Assurance Business Park Heavy Industrial. The Assurance Business Park currently consists of 68.83 acres and all but 12 of those acres are zoned Heavy Industrial. The EDC acquired the property in 2005. At the time, part of the property was in the county and the 12 acres in this request was already in the City. When the property was annexed into the City in 2006, the city initiated a zone change to the property to Heavy Industrial based on the Future Land Use Plan showing the area to be used for Industrial Development. Staff is of the opinion that the remaining 12 acres that was in the city limits was inadvertently omitted from the rezone request at that time as it was intended to become a part of the Industrial Park that is now the Assurance



Business Park.

Zoning Use Future Land Use North SF-6 RR/Vacant Single Family East LC Professional Office Commercial/Residential South SF-6/LI Vacant Commercial/Residential West HI Vacant Industrial CURRENT LC DISTRICT EXAMPLES PROPOSED HI DISTRICT EXAMPLES Retail & Restaurants Everything in LC, HC, LI Banks & Business Offices Factories Gas Stations and tire shops Junk yards Welding & machine shops Petroleum tank farms Mattress and upholstery repair Feed mills Lumber yards and mortuaries Railway depot, freight depot yards The Land Use Plan emphasizes the need to plan areas for industrial development to attract businesses and to use the EDC to develop additional industrial parks and sites where new industries can be adequately located. Where possible, the industrial park type development should be extended and expanded. In this instance, this property is part of the Assurance Business Park, an EDC Industrial Park. Staff sent 11 certified letters to surrounding property owners within 200 feet. Below is a response summary: • In Favor Of: 0 • Opposed To: 0 • Undecided On: 0. Mayor Pro Tem Sellers made a motion to approve the ordinance on the second and final reading as presented. Councilman Spraggins seconded and the vote was unanimous.

The motion carried.

DISCUSSION/ACTION ON FIRST READING OF ORDINANCE NO. 2830 FOR THE TEXAS ENTERPRISE ZONE APPLICATION

Roger Feagley presented the staff report. The Texas Enterprise Zone Program is designed to allow companies to recoup the state sales tax (6.25%) that they pay. This does not affect the 2% sales tax the community collects. There is a list of programs that we could have offered the company, but our letter of intent has not changed. Mayor Pro Tem Sellers made a motion to approve the Ordinance as presented. Councilman Nash seconded and the vote was unanimous.

The motion carried.

DISCUSSION/ACTION ON FIRST READING OF ORDINANCE NO. 2831 ZC# 230401 ON A REZONE REQUEST BY THE SULPHUR SPRINGS-HOPKINS COUNTY ECONOMIC DEVELOPMENT CORPORATION FOR LOT 2 OF THE PINNACLE

BUSINESS PARK LOCATED AT THE NORTHEAST CORNER OF E. SHANNON ROAD AND RADIO ROAD ALSO KNOWN AS CR 2307 FROM HEAVY COMMERCIAL TO LIGHT INDUSTRIAL

Community Development Director/Assistant City Manager Niewiadomski presented the staff report. The EDC is requesting to rezone the property to Light Industrial like the remainder of the Pinnacle Business Park and this portion consists of 17 acres. Looking at the Land Use Plan, it identifies the area north of the CR2307 also known as Radio Road as Industrial. This request is consistent with the future intended growth of I30 in this area. Zoning Use Future Land Use North HC/LI Retail/Warehousing Industrial East LI Vacant Industrial South HC Vacant Commercial West ROW/ HI I-30/Industrial Industrial CURRENT HC DISTRICT EXAMPLES PROPOSED LI DISTRICT EXAMPLES MF,PO,CC, LC District Uses Everything in LC, HC Auto body repair Welding and machine shops Clothing and shoe manufacturing Building material and machine storage Bowling alley, dance halls Commercial amusement parks Feed & seed stores Factories Wholesale and storage Travel centers and truck stop centers. Staff sent five certified letters to surrounding property owners within 200 feet. Below is a response summary: • In Favor Of: 0 • Opposed To: 0 • Undecided On: 0 P&Z PUBLIC HEARING 04-17-23 The EDC is requesting to rezone the property to Light Industrial like the remainder of the Pinnacle Business Park and this portion consists of 17 acres. Looking at the Land Use Plan, it identifies the area north of the CR2307 also known as Radio Road as Industrial. This request is consistent with the future intended growth of I-30 in this area. There was a brief discussion. Councilman Julian made a motion to approve the ordinance as presented. Councilman Nash seconded and the vote was unanimous.

The motion carried.

DISCUSSION/ACTION ON FIRST READING OF ORDINANCE NO. 2832 ZC# 230402 ON A REZONE REQUEST BY COLLYN SETH MCDANIEL FOR A PORTION OF PROPERTY 928 COLLEGE & 934 COLLEGE STREET THAT ABUTS PUTMAN STREET CONTAINING APPROXIMATELY 1.74 ACRES OF WHAT IS PROPOSED AS THE REMAINDER OF THE MCDANIEL ADDITION

Community Development Director/Assistant City Manager Niewiadomski presented the staff report. The applicant is intending to subdivide the property that is currently addressed as 928 & 934 College Street. The property is 2.77 acres in area and 1.03 acres are to be subdivided facing College Street into 6 residential lots that would leave a remainder of ~1.74 acres. The applicant is proposing to rezone that remainder of the property to allow for multifamily development to occur facing Putman Street. The land use plan identifies the area as residential which does permit multifamily zoning. Looking at the adjacent areas, there is multifamily zoning to the west and south of the property and single family to the north and east. There are apartments directly south of this property. Zoning Use Future Land Use North SF-6 Residential Residential East SF-6 Residential Residential South MF Multifamily Residential West MF Vacant Residential CURRENT SF-6 DISTRICT EXAMPLES PROPOSED MF DISTRICT EXAMPLES SF-10 Everything in SF-10, SF-6, 2-F, SF-A Single family detached homes Apartments Accessory buildings Hospitals and clinics Accessory Dwelling Units Beauty shops Public buildings, schools, churches, etc Childcare Establishments Water pump stations and

sewer lift stations Private clubs, fraternities, and lodges. Staff sent 21 certified letters to surrounding property owners within 200 feet. Below is a response summary: • In Favor Of: 0 • Opposed To: 0 • Undecided On: 0 P&Z PUBLIC HEARING 04-17-23 Currently the property is addressed 928 and 934 College Street. The property fronts College Street and goes all the way to Putman Street and has a proposed plat that will have six residential lots that will face College Street leaving a remainder of about 1.73 to 1.74 acres that would be facing Putman Street. The applicant is proposing to rezone that portion from single family to multi-family. The land use plan does identify this area as residential. Staff recommends granting this request to multi-family. The land use plan does identify this area as residential. Staff recommends granting this request to multifamily. P&Z unanimously voted to approve the request. Councilman Harrison let the council know that there are single family homes all around it and he sees this as a possible problem for the neighborhood. He stated that multifamily means it could possibly be apartments in the future with the zoning change. He explained that there are nice homes going into the area and the neighborhood does not want any more apartments. There was a lengthy discussion. Councilman Harrison made a motion to deny the ordinance as presented. Councilman Spraggins seconded and the vote to deny the zoning change was as follows:

Ayes: Nash, Aguilar, Harrison, Spraggins, Moore, Sellers

Nos: Julian

The motion carried.

DISCUSSION/ACTION ON RESOLUTION NO. 1350 CHANGING THE REGULAR MEETING OF THE CITY COUNCIL IN JULY FROM THE FIRST TUESDAY SO THAT IT DOES NOT CONFLICT WITH A NATIONAL HOLIDAY

A resolution of the City of Sulphur Springs, Texas, proposing changing the regular meeting of the city council in July from the first Tuesday so that it does not conflict with a national holiday. There was a brief discussion. Mayor Pro Tem Sellers made a motion to change the regular council meeting a week later to Tuesday, July 11, 2023. Councilman Nash seconded and the vote was unanimous.

The motion carried.

DISCUSSION/ACTION ON SPECIAL USE PERMIT PROCESS

Community Development Director/Assistant City Manager Niewiadomski presented the staff report. In February, the Zoning Board of Adjustments (ZBA) went through their annual training on roles and responsibilities. As part of the training, there was some Q&A and a question was brought up about the special use permit process. The Attorney providing the training indicated that it was not common to have the ZBA act on special use permits and typically is found to be a responsibility of the City Council.

The City Council has delegated the special use permit authority to the ZBA possibly under Chapter 211.009(4) of the Local Government Code which states under the Authority of the ZBA to “hear and decide other matters authorized by an ordinance adopted under this subchapter”. The City Council adopted the Zoning Ordinance which includes Article 20

Special Uses which allows uses in a district by special permission of the Board of Adjustment after a public hearing and recommendation by the Planning & Zoning Commission. The Attorney did not have this information available at that particular meeting but did caution that a City Council shouldn't delegate their discretion in zoning to another body as they are the final decision maker in a zoning change to a regulation or boundary. It could be debated as to whether a special use is considered a zone change since these uses are already classified in the Zoning Ordinance in certain zoning districts.

The City currently has a special use permit process that involves the Planning & Zoning Commission as the first body to review a proposed special use permit request and a recommendation is forwarded to the Zoning Board of Adjustments for final review and approval. A special use permit is a discretionary tool available to cities that "may" allow a particular use to be located in all or restricted zoning districts. In many instances, it really depends on the context of the area to determine whether or not a particular use is appropriate. Special uses are a technique that cities use to provide flexibility in the ordinance that may include special standards to allow for desirable uses but may potential present impacts that could be incompatible with surrounding uses.

Cities that use zoning identify uses that are permitted by right in each zoning district. This means that there is no special approval needed to identify that the proposed use is allowed in that particular zoning district provided they are able to meet defined development standards such as setbacks, parking minimums, building height, etc. These types of uses are predetermined to be compatible within a district unlike a special use.

There may be instances where the proposed use could be considered controversial. This type of situation may be appropriate for the City Council to be held accountable to these decisions rather than an appointed body such as the Zoning Board of Adjustments. Some states use the ZBA to remove politics from decisions for this purpose but it appears to be common for Texas Cities to utilize their City Council to make these decisions.

It is typical that special uses are listed in a table and identified that they are allowed in certain zoning districts. Sometimes, there are additional standards for certain types of uses that may need to be enacted to provide appropriate buffering to mitigate potential conflicts with adjacent uses such as traffic, screening, noise, hours of operation, outdoor activities and storage, etc.

Staff is of the opinion that it would be good to at least start with a checklist of standards to apply fair and predictable outcomes on special land uses to reduce some of the discretion in these decisions. There may need to be other uses identified with additional standards applied and/or possibly changing the review process to have P&Z make a recommendation to the City Council rather than the Zoning Board of Adjustments. An example may be an automobile wrecking yard that regulates the placement of outdoor storage, lighting, fencing and screening, hours of operation, etc. Another option is the city could adopt site development standards for special uses as a baseline to any request to limit discretion which is a concern that the Land Use Attorney cautioned with.

Staff recommends that we start to identify site development standards for reviewing and approving special land uses with the Planning & Zoning Commission and to obtain a legal opinion on the utilization of the ZBA's authority to review and approve special uses. Councilman Julian believes these decisions should be in the hands of elected officials accountable to the people and not in the hands of an appointed board. City Manager Maxwell

said that if we tighten up terms and conditions that the decision making would be simpler. There was a lengthy discussion. Councilman Spraggins made a motion to tighten up the zoning ordinance in reference to special use permits. Mayor Pro Tem Sellers seconded and the vote was unanimous.

The motion carried.

DISCUSSION/ACTION ON EXECUTIVE ITEM, IF ANY

None.

VISITORS AND PUBLIC FORUM

Billy Ruth Standbridge of Main Street addressed the council. She explained that the no parking signs on Tomlinson need enforcement. Vehicles are often parked directly under signs or blocking the driveways of residents. City Manager Maxwell explained that he will address the issue with the Chief of Police.

ADJOURN

With all business complete the meeting was adjourned at 7:36 p.m.