

**TOWN OF TROPHY CLUB
TOWN COUNCIL REGULAR SESSION MINUTES
TUESDAY, AUGUST 27, 2019, 7:00 P.M.
LOCATION: 1 TROPHY WOOD DRIVE, TROPHY CLUB, TEXAS
COUNCIL CHAMBERS**

The Town Council of the Town of Trophy Club, Texas, met in a Regular Session on Tuesday, August 27, 2019. The meeting was held within the boundaries of the Town and was open to the public.

TOWN COUNCIL MEMBERS PRESENT:

C. Nick Sanders	Mayor
Eric Jensen	Mayor Pro Tem, Place 2
Alicia L. Fleury	Council Member, Place 1
Sean Bone	Council Member, Place 3
Michael Geraci	Council Member, Place 5
Philip Shoffner	Council Member, Place 6

STAFF PRESENT:

David Dodd	Town Attorney	Ernest Gillespie	Senior Accountant
Holly Fimbres	Town Secretary/RMO	Tony Jaramillo	Director of Parks and Recreation
Patrick Arata	Police Chief	Jill Lind	Communications and Marketing Manager
Gary Cochran	Interim Fire Chief	Mike Pastor	Information Services Manager
Cheryl Davenport	Interim Director of Finance	Tommy Uzee	Director of Community Development
Sharon David	Records Analyst	Steve Woodard	Police Captain
James Edwards	Human Resources Manager		

Mayor Sanders announced the date of August 27, 2019, called the Town Council to order and announced a quorum at 7:00 p.m.

The Invocation was offered by Senior Minister Jeff Brooks with Lake Cities Church of Christ.

The Pledges to the American Flag and Texas Flag were led by Council Member Shoffner.

CITIZEN PRESENTATIONS

This is an opportunity for citizens to address the Council on any matter whether or not it is posted on the agenda. The Council is not permitted to take action on or discuss any presentations made to the Council at this time concerning an item not listed on the agenda. The Council will hear presentations on specific agenda items prior to the Council addressing those items. You may speak up to four (4) minutes or the time limit determined by the Mayor or presiding officer. To speak during this item, you must complete the Speaker's form that includes the topic(s) of your statement. Topics of presentation should be limited to matters over which the Council has authority.

There were no citizen presentations.

ANNOUNCEMENTS AND REPORTS

1. **Receive Interim Town Manager Carroll's update and provide input regarding the following (W. Carroll):**
 - **Early Voting** – Continue through September 3rd for the September 7th Special Election for Council Member Place 4, Polls would be closed on September 1st and September 2nd in observance of the Labor Day Holiday.
 - **Pet Fest** – The Town's 11th Annual Pet Fest was scheduled for September 7th, from 9:00 a.m. to 11:00 a.m., at Freedom Dog Park. There would be a wide variety of pet-related vendors, a doggie drill team performance, raffle prizes, face painting, and more. The first 400 attendees to arrive will receive a ticket for a free pancake on a stick, compliments from Carnival Catering.

2. Receive Town Council Liaison update; discussion of same (W. Carroll):

***Parks and Recreation Board, August 19, 2019**

Council Liaison - Council Member Michael Geraci

Council Member Geraci provided an update regarding the Parks and Recreation Board meeting that was held on August 19, 2019. High school students expressed an interest to acquire volunteer hours in helping cleanup Freedom Dog Park, which would be discussed at their next meeting. A resident requested additional use of the baseball fields when they were not being utilized by the Trophy Club Roanoke (TCR) Youth Baseball Association. Staff will be working with TCR Youth Baseball Association to potentially refurbish various items around the fields, specifically the batting cages. The Parks and Recreation Board would review the proposal and then it would be presented to the Town Council. Discussion took place to review updating and replacing some of the existing signage around Freedom Dog Park. Staff was also working with Greater Northwest Soccer Association to potentially have a 50/50 partnership to refurbish some items in parks, which would be presented to the Parks and Recreation Board and the Town Council. The Summer Adventure Camp was a huge success and discussion occurred to possibly reduce rates for Town residents. Lastly, there was potential to add new events in Trophy Club Park, such as yoga classes and kayaking lessons.

CONSENT AGENDA

All matters listed as Consent Agenda are considered to be routine by the Town Council and will be enacted by one motion. There will not be a separate discussion of these items. If discussion is desired, that item will be removed from the consent agenda and will be considered separately.

- 3. Consider and take appropriate action regarding the Town Council Regular Session Minutes dated July 23 2019 (W. Carroll).**
- 4. Consider and take appropriate action regarding the Town Council Joint Session Minutes dated July 29, 2019 (W. Carroll).**
- 5. Consider and take appropriate action regarding the financial and variance report dated May 2019 (W. Carroll).**
- 6. Consider and take appropriate action regarding the financial and variance report dated June 2019 (W. Carroll).**
- 7. Consider and take appropriate action regarding the Third Quarter Investment Report for Fiscal Year 2019 (W. Carroll).**

Motion:

Motion made by Mayor Pro Tem Jensen, seconded by Council Member Bone, to approve Consent Agenda Items No. 3 through No. 7.

Motion carried unanimously 6-0-0.

REGULAR SESSION

- 8. Case RP-19-001 (Section1, Lots 12R-1 & 12R-2)**
 - A) Continue a Public Hearing regarding a request for a replat for the purpose of splitting one residential lot into two residential lots containing approximately 0.567 acres of land and generally located on the northeast corner of Palmetto Court and Oakmont Drive (W. Carroll).**

Mayor Sanders continued the public hearing from the July 23, 2019 Council Meeting.

Motion:

Motion made by Council Member Shoffner, seconded by Mayor Pro Tem Jensen, to continue the public hearing.

Motion carried unanimously 6-0-0.

Council continued the public hearing at 7:08 p.m.

Director of Community Development Uzee stated the purpose of this item was to consider the approval of a residential replat to split one lot into two lots. The strategic link was Nature & Beautification - Maintain Town assets, services, and codes of ordinances that preserve the natural beauty of the Town. The proposed replat splits the property on the corner of Palmetto Court and Oakmont Drive and meets the Town's Subdivision Regulations and Zoning Requirements. Several neighbors spoke against the proposal at the Planning and Zoning (P&Z) Commission meeting and the Town Council meeting, and produced a petition to protest the replat. The petition requires a super majority vote, which mandates five out of six Council Members must vote in favor of the replat, if this was to be approved. The P&Z Commission unanimously approved the replat and the Town Council continued the public hearing in order for Staff to hold a Neighborhood Meeting. The meeting was held on August 14, 2019 and the residents left understanding that the replat approval was a ministerial duty per State law and residents have the authority to enforce their Covenants and Restrictions because the Town could only enforce Town ordinances. The proposed replat conforms to the State law as well as the Town's Subdivision Regulations and Zoning Requirements. Additionally, Staff recommended approval of the replat.

Mayor Sanders remarked that the last Legislative Session brought forth changes to the law in regards to zoning but this should not affect the Town as the proposal was submitted prior to September 1, 2019. Town Attorney Dodd confirmed the proposal was submitted under the previous law and, as long as the hearing continued, the Town would be covered by the preceding law.

Mayor Sanders asked if there were any individuals that wished to speak during the public hearing and no one came forth.

Motion:

Motion made by Mayor Pro Tem Jensen, seconded by Council Member Fleury, to close the public hearing.

Mayor Sanders commented that he was not in favor of closing the public hearing at this time, due to potential legal issues. There could be the possibility of the applicant and residents working through the issue and if the public hearing was closed, the Town would have to post notice of an additional public hearing.

Council Member Shoffner agreed with Mayor Sanders. He believed that it would be beneficial to continue the public hearing based on information that had been sent to the Council.

Council Member Bone asked Town Attorney Dodd if confirmation was received that the original Covenants and Restrictions that were filed in 1975 were still in effect. Town Attorney Dodd responded that it was not part of the Town's process, but he had not seen any indication of an argument that they were not filed or were not valid.

Council Member Bone advised that he was able to locate the original document through Denton County records, as well as a 2017 document with a planned unit development (PUD) rider that references the original restrictions. Town Attorney Dodd responded that everything that he has seen indicated those restrictions were valid, but it was not the Town's process to enforce the Covenants and Restrictions.

Council Member Bone asked if the Town had the ability to enforce Texas Local Government Code. Town Attorney Dodd responded that in this instance the Town did not have the ability.

Mayor Pro Tem Jensen commented that it was important for the Council to take action and offered the suggestion for any Council Member to seek legal advice in Executive Session if they needed it.

Discussion took place that the motion on the floor was to close the public hearing and if passed, it meant that the remaining portion to consider would be Item No. 8 (B).

Brian Denby, applicant, stated that there have already been two public hearings and he expressed his appreciation to the Council for their time on this matter. He stated that his request was unanimously approved by the P&Z Commission and he felt that there was no law or covenant that he was breaking. To keep delaying this item would be disheartening to he and his family because his desire was to retire and live in Trophy Club.

Council Member Geraci requested to enter into Executive Session to seek legal advice.

Council convened into Executive Session at 7:19 p.m.

Council reconvened into Regular Session at 7:53 p.m.

The vote was taken to close the public hearing.

Motion carried unanimously 6-0-0.

- B) Consider and take appropriate action regarding a request for a replat for the purpose of splitting one residential lot into two residential lots containing approximately 0.567 acres of land and generally located on the northeast corner of Palmetto Court and Oakmont Drive (W. Carroll).**

Motion:

Motion made by Mayor Pro Tem Jensen to deny Case RP-19-001 (Section 1, Lots 12R-1 & 12R-2) a request for a replat for the purpose of splitting one residential lot into two residential lots containing approximately 0.567 acres of land and generally located on the northeast corner of Palmetto Court and Oakmont Drive.

Motion failed for lack of a second.

Motion:

Motion made by Council Member Shoffner, seconded by Council Member Bone, to refer this item to the October 8, 2019 Town Council meeting.

Council Member Shoffner stated the Council was sent a copy of the demand letter; therefore the motion on the floor would allow time for that legal process to go through.

Mayor Pro Tem Jensen remarked that all the facts have been presented and it was the Council's duty to proceed with action.

Mayor Sanders commented that it was unclear as to the questions raised in Executive Session as to how State law may or may not affect the Town's ability. Additionally, a copy of the August 22, 2019 demand letter was emailed to the Council, requesting that Mr. Denby respond to the letter by August 26, 2019. Mayor Sanders asked Mr. Denby if he had received such demand letter.

Mr. Denby confirmed he had received the letter.

Mayor Sanders remarked that although the Town was not a party to the disagreement, the Council was trying to understand the laws and how they affect the Town.

Mr. Denby stated that he received the demand letter on Friday as he was traveling out of town. He did not believe that he owed the attorney anything in reference to a cease and desist and he felt it was just a correspondence from an attorney and it did not change anything in the law.

Mayor Sanders asked Town Attorney Dodd if the Town was bound in any way because they received a copy of the demand letter. Town Attorney Dodd responded that there were two proceedings going along at the same time, with one process potentially changing what the Council was currently considering; therefore it may be of benefit to have all the information at one time.

The vote was taken to refer this item to the October 8, 2019 Town Council meeting.

Motion carried 4-2-0, with Council Members Fleury, Bone, Geraci, and Shoffner voting in favor, and with Mayor Sanders and Mayor Pro Tem Jensen voting against.

9. Case SP-AMD-19-001 (Medlin Middle School Addition)

Consider and take appropriate action regarding a request to amend the approved Site Plan for Medlin Middle School, generally located west of Parkview Drive and south of Marshall Creek Road (W. Carroll).

Director of Community Development Uzee stated the purpose of this item was to consider amending the site plan for the betterment of the school. The strategic link was Nature & Beautification - Maintain Town assets, services, and codes of ordinances that preserve the natural beauty of the Town. Northwest Independent School District (NISD) was proposing to construct two new buildings additions to the Medlin Middle School, consisting of 6,700 square feet of classroom space on the northern portion of the school and almost 3,300 square feet of Fine Arts space on the southern portion. The circular drive at the south end of the school would be partially redesigned. The existing masonry enclosure that surrounds the transformer on the north end of the school would be demolished and reconstructed to match the main building in order to connect to the new classroom addition. He displayed a diagram that represented trees that would either remain, be removed, and added. Lighting would be added to each exterior door and would be directed downward in order to not create unnecessary light pollution. Both building additions would match the existing elevations with the same brick colors and patterns to keep cohesive color elevations. The P&Z Commission considered this item on August 1, 2019 and unanimously recommended approval. Additionally, Staff recommended approval of the amended site plan.

Motion:

Motion made by Mayor Pro Tem Jensen, seconded by Council Member Fleury, to approve Case SP-AMD-19-001 (Medlin Middle School Addition), a request to amend the approved Site Plan for Medlin Middle School, generally located west of Parkview Drive and south of Marshall Creek Road.

Council Member Shoffner inquired if this project would have a storm shelter. Director of Community Development Uzee confirmed that a storm shelter was included in the proposed plan.

Mayor Sanders questioned if there was a photometric study on the bleeding of light into the neighbors' homes. Director of Community Development Uzee referred to Exhibit G and confirmed that any light bleeding would be minimal.

Dan Holt with the architect firm and Sarah Stewart with NISD were present to address any questions.

The vote was taken.

Motion carried unanimously 6-0-0.

10. Consider and take appropriate action regarding the approval or rejection of the Trophy Club Crime Control and Prevention District (CCPD) Budget for Fiscal Year 2020 submitted to the Town Council by the CCPD Board (W. Carroll).

Police Chief Arata introduced the item and stated that the CCPD Board approved the budget.

Motion:

Motion made by Mayor Pro Tem Jensen, seconded by Council Member Fleury, to approve the Trophy Club CCPD Budget for Fiscal Year 2020 as presented.

Council Member Shoffner commented on the \$20,000 budgeted for overtime for the Police Department to patrol HG Sply and PD 30. He felt that the business owners should be responsible for funding any needed additional patrolling. He provided a couple of examples where other cities did not fund overtime but instead the businesses who requested extra security paid for that service.

Council Member Geraci agreed with Council Member Shoffner and to keep an eye on future growth.

The vote was taken.

Motion carried unanimously 6-0-0.

11. Receive a presentation from Town Staff regarding the Fiscal Year 2020 Budget and provide appropriate direction (W. Carroll).

Interim Director of Finance Davenport presented changes made to the budget since the presentations made at the July 23, 2019 and August 13, 2019 Council meetings. Since the presentations, Staff spent numerous hours reviewing all funds for accuracy in order to provide the Council with the most accurate information. Rounding errors were addressed, all beginning fund balances were updated, and some inadvertent human errors were corrected. The General Fund had one change with the removal of the Compensation and Classification Study in the amount of \$50,000. The major change to the Debt Service Fund was that property tax revenue decreased as a result from receiving the certified property tax values.

Mayor Sanders inquired how much the property tax revenue decreased. Interim Director of Finance Davenport responded that the new figures represented approximately \$2.2 million and Staff had projected it to be \$2.3 million.

Interim Director of Finance Davenport continued and stated the interest income increased due to historical trends and future market adjustments. Expenditures increased approximately \$13,000 due to updated principal and interest to match the Debt Service provided by the financial advisor. The Hotel Occupancy Tax (HOT) Fund included an addition of \$125,000 to the Fiscal Year 2019 estimate, for the electronic sign marquees that were recently approved by Council. The July 4th celebration line item was reduced by approximately \$30,000 to align with the actual expenditures that were realized for this year's celebration. The HOT fund balance was expected to be \$1.4 million by the end of Fiscal Year 2020, which was an increase of \$355,000.

At the July 23, 2019 Council meeting, Staff indicated that the Tax Increment Reinvestment Zone (TIRZ) No. 1 Fund would have a deficit balance until 2023. By changing the allocation of the TIRZ increment, the property tax revenue increased to \$70,000. In prior year's, 60 percent of the TIRZ increment was allocated to the TIRZ Fund, which was the minimum amount required according to the TIRZ agreement. For the Fiscal Year 2020, 100 percent of the TIRZ increment was being allocated to the TIRZ Fund. Staff developed this strategy to help reduce the TIRZ deficit more quickly and maintain the Town's tax rate above the effective rate. Additionally, she advised that a public hearing would be held at the September 10, 2019 Council meeting regarding the Fiscal Year 2020 Budget.

Mayor Pro Tem Jensen asked about the difference between the \$20,000 for overtime in the CCPD Budget and the \$20,000 for overtime in the HOT Fund. Interim Director of Finance Davenport explained that the amount for the overtime in the HOT Fund was specific to the July 4th celebration.

Council Member Shoffner inquired if the \$30,000 reduction for the July 4th celebration in the Fiscal Year 2019 estimate was reflected in the Fiscal Year 2020 Budget. Interim Director of Finance Davenport explained that the Fiscal Year estimate was previously budgeted at \$130,000, but based on actual expenditures the Fiscal Year 2020 line item was budgeted for \$111,000.

Council Member Geraci thanked Staff for their dedication and long hours in preparing this year's budget.

No action was taken on this item.

12. Discussion of items for Future Agenda to include agenda items for consideration on the September 10, 2019 Council Agenda and items from the Town Council Future Agenda Items list (W. Carroll).

Council Member Bone requested to add the following item to the Town Council Future Agenda Items list: Review of the Town's Charter and Code of Ordinances to allow the Council to take action to enforce deed restrictions or covenants.

Council Member Geraci confirmed his support to add the item to the Town Council Future Agenda Items list. He also requested to add the following item to the list: Creation of a strategic plan for a percentage of funds set aside for Capital Replacement items.

Mayor Sanders agreed with prioritizing the departmental capital items.

Mayor Pro Tem Jensen requested to remove Item No. 4 from the Town Council Future Agenda Items list: Discussion of the creation of a Charter Review Commission in accordance with Section 11.15 of the Town Charter, the Council shall appoint a Charter Review Commission at intervals of not more than seven (7) years. (Jensen 4/23/2019) (1-July 23, 2019) (2-October 22, 2019)

Regarding the September 10, 2019 Council agenda, Council Member Shoffner requested to have a cover letter sent with the required mail out to the PID residents, specific to the Annual Service and Assessment Plan Update for emergency services, to help explain the assessment because the notice by itself was a bit confusing.

EXECUTIVE SESSION

13. Pursuant to the following designated section of the Texas Government Code, Annotated, Chapter 551 (Texas Open Meetings Act), the Council convened into executive session to discuss the following:

- A) Section 551.071 Consultation with Attorney under Subsection (2) to consult with the Town Attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act, specifically:**

Legislative updates

- B) Section 551.072 Deliberation regarding Real Property to discuss or deliberate the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third person:**

North of State Highway 114, east of Trophy Club Drive and west of Town limits (Mayor Pro Tem Jensen and Council Member Shoffner)

- C) Section 551.074 Personnel Matters under Subsection (1) to discuss or deliberate the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee:**

- 1) Town Manager position (W. Carroll)**
- 2) Crime Control and Prevention District Board (W. Carroll)**
- 3) Denton Central Appraisal District Board of Directors (W. Carroll)**
- 4) Charter Review Commission (Mayor Sanders)**

CONVENED INTO EXECUTIVE SESSION - START TIME – 8:31 P.M.

RECONVENED INTO REGULAR SESSION - START TIME – 9:17 P.M.

RECONVENED INTO REGULAR SESSION

14. Consider and take appropriate action regarding repealing Resolution No. 2018-12 and adopting a new Resolution making annual appointments and reaffirming existing appointments to the Crime Control and Prevention District Board, and providing an effective date (W. Carroll).

Motion:

Motion made by Mayor Pro Tem Jensen, seconded by Council Member Bone, to repeal Resolution No. 2018-12 and approve Resolution 2019-18, appointing Frederick Lohmann to Place 2, appointing Christopher McAllister to Place 4, reappointing Leo Daniels to Place 5, reappointing Joe Tellez to Place 6, reappointing James Jay Isherwood to Place 7, reaffirming existing appointments, and providing an effective date of August 27, 2019.

Motion carried unanimously 6-0-0.

15. Consider and take appropriate action regarding a Resolution of the Town Council nominating one candidate for each of the five positions to be filled on the Denton Central Appraisal District Board of Directors; and providing an effective date (W. Carroll).

No action was taken on this item.

16. Consider and take appropriate action regarding the Executive Session (W. Carroll).

No action was taken on this item.

ADJOURNMENT

Mayor Sanders adjourned the meeting at 9:18 p.m.

Holly Fimbres, Town Secretary
Town of Trophy Club, Texas

C. Nick Sanders, Mayor
Town of Trophy Club, Texas

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