

## MINUTES OF REGULAR MEETING

February 27, 2019

### SHENANDOAH CITY COUNCIL

The meeting was called to order by Mayor M. Ritchey Wheeler at 7:00 p.m. City Council members present, Councilmember McLeod, Councilmember Bradt, Councilmember Bevers, Councilmember Fletcher, and Councilmember Raymaker. City Administrator Kathie Reyer, City Attorney William Ferebee, Communications Manager Debbie Pilcher, Finance Director Lisa Wasner, Public Works Director Joseph Peart, Police Chief Raymond Shaw, CVB Director John Mayner, and Community Development Manager Jackie Thompson were also present.

#### 1. CALL TO ORDER

Mayor Wheeler called the meeting to order at 7:00 p.m.

#### 2. CALL OF ROLL

Mayor Wheeler stated for the record that Councilmember Bradt was absent and excused from the meeting.

#### 3. PLEDGE OF ALLEGIANCE

#### 4. INVOCATION

Mayor Wheeler gave the invocation.

#### 5. CITIZENS FORUM

*Responses to inquiries are limited by state law to a recitation of existing policy or a statement of specific factual information given in response to the inquiry. Any deliberation or decision by Council shall be limited to a proposal to place the subject on the agenda of a future meeting.*

Mayor Wheeler stated for the record that there were no citizens wishing to speak.

#### 6. COUNCIL'S INQUIRY

*Pursuant to Texas Government Code Sect. 551.042, the Mayor and Council Members may inquire about a subject not specifically listed on this Agenda. Responses are limited to a recitation of existing*

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policy or a statement of specific factual information given in response to the inquiry. Any deliberation or decision shall be limited to a proposal to place the subject on the agenda of a future meeting.

Mayor Wheeler stated for the record that there were no members who wished to speak.

**INDIVIDUAL CONSIDERATION**

7. Introduction of new employee.

Ms. Reyer introduced Officer David Swetnam.

8. Discussion regarding short term rentals.

Mr. Ferebee stated that recent court decisions regarding short term rentals sided with an owner's free right to rent their property. He explained that section 4.2 of the city's Integrated Development Code (IDC) states that residential use classifications include the occupancy of living accommodations on a non-transient basis, however the term non-transient is not defined. Mr. Ferebee recommended that while potential revisions to the IDC were being discussed, that Council get feedback from residents at a future Townhall meeting.

Councilmember Raymaker stated that the IDC was written in 2011 before short term rentals had gained popularity and that the state did not offer a good definition on short term rentals. Councilmember Raymaker suggested waiting for the state to do more with the subject.

Councilmember Fletcher asked if the City had the authority to do much as a General Law City. Mr. Ferebee stated that this would not be in the best interest of the City to litigate with the supreme court with an undefined term of "non-transient" in the current IDC. Councilmember Fletcher agreed.

Councilmember Raymaker asked Chief Shaw to summarize the short term rentals in the City and any issues with the properties. Chief Shaw stated that there were four properties identified as short term rentals with two of the property owners stating that their properties were now being

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rented by long term renters. Chief Shaw stated that the other two properties had issues with noise complaints from parties and the other had a trailer parked in the yard, but the issues had been addressed.

Councilmember McLeod stated that his concern was with safety and that the short term properties are running similar to hotels in an area zoned for residential. He stated that the City should stay ahead of the issue and remain proactive and added that he agreed with getting resident feedback on the matter as he had heard concerns from some of the residents.

Mayor Wheeler stated that he was not a fan of big government and litigating problems that do not exist but felt the IDC language needed clarification and he agreed that community feedback was necessary.

Ms. Reyer stated that CVB Director John Mayner attended the Unity Dinner in Austin and had the opportunity to find out what other cities were doing and that he would have insight on the subject when looking at potential IDC changes.

9. Discussion and possible action regarding the March 6, 2019 Council meeting.

COUNCILMEMBER MCLEOD MADE A MOTION TO CANCEL THE FIRST MEETING IN THE MONTH OF MARCH, COUNCILMEMBER BEVERS SECONDED. THE MOTION CARRIED 3/0/1 WITH COUNCILMEMBER RAYMAKER ABSTAINING.

10. Discussion and possible action regarding Wastewater Treatment Plant master plan project.

COUNCILMEMBER BEVERS MADE A MOTION TO APPROVE THE SCOPE OF WORK PROPOSAL WITH BLEYL ENGINEERING AND FUNDING FROM WATER/SEWER IN THE AMOUNT OF \$11,700.00, COUNCILMEMBER MCLEOD SECONDED. THE MOTION CARRIED 4/0.

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11. Presentation of a final report regarding proposed zoning amendment for a special use permit for a Mixed Beverage Restaurant Permit with Food and Beverage Certificate. The proposed zoning amendment is for 1700 Research Forest Drive, Shenandoah, Texas 77381.

Ms. Thompson stated that the item was a request for a special use permit for a RM Mixed Beverage Restaurant permit and that the location of the property was previously Bob's Steak and Chophouse. The mixed beverage permit would be in line with other uses in the area relating to alcohol permits issued and that the only difference was that the permit would restrict alcohol sales to food. Ms. Thompson added that it was not a late night permit and that the Planning and Zoning Committee voted to recommend the SUP.

12. Public hearing regarding proposed zoning amendment for a special use permit for a Mixed Beverage Restaurant Permit with Food and Beverage Certificate. The proposed zoning amendment is for 1700 Research Forest Drive, Shenandoah, Texas 77381.

Mayor Wheeler opened the public hearing at 7:20 p.m. There being no citizens wishing to speak he closed the public hearing at 7:21 p.m.

13. Discussion and possible action to adopt the following Ordinance:

AN ORDINANCE OF THE CITY OF SHENANDOAH, TEXAS, AMENDING THE CODE OF ORDINANCES, CHAPTER 102, SO AS TO A SPECIAL USE PERMIT FOR MIXED BEVERAGE RESTAURANT PERMIT WITH FOOD AND BEVERAGE CERTIFICATE FOR KILLEN'S STEAKHOUSE LOCATED AT 1700 RESEARCH FOREST DRIVE, SHENANDOAH, TEXAS; PROVIDING FOR A PENALTY IN THE AMOUNT OF \$2,000 FOR VIOLATIONS THEREOF; PROVIDING SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

COUNCILMEMBER FLETCHER MADE A MOTION TO ADOPT AN ORDINANCE SO AS TO A SPECIAL USE PERMIT FOR MIXED BEVERAGE RESTAURANT PERMIT WITH FOOD AND BEVERAGE CERTIFICATE FOR KILLEN'S STEAKHOUSE, COUNCILMEMBER RAYMAKER SECONDED. THE MOTION CARRIED 4/0.

14. Presentation of a Planning and Zoning Commission Preliminary Report regarding the proposed zoning amendment for a special use permit for 11.323 acre tract situation in the Montgomery County School Land Survey, Abstract Number 350 in Montgomery County, Texas, being all of a called 11.323 acre tract conveyed to Dirk D. Laukien by Special Warranty Deed dated September 30, 2010 as recorded

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under Clerk's File No. 2010087585 of the Montgomery County Official Public Records of Real Property to allow a minimum square footage of first floor retail and parking structures with an increased building height, gross floor area ration, and reduced landscape canopy within the Retail Commercial Zoning District.

Ms. Thompson stated that the item was a request for a special use permit for an 11 acre track located on Six Pines. The request would provide a minimum number of square footage for retail and residential on the first floor of the development, a parking structure with set stalls, an increased building height of 85 feet at the building line, an increased floor area ration, and a reduction in landscape canopy to 45%.

Mr. Brett Strong of the Strong Firm stated that he and his team had been working on the LifeTime Fitness project and stated that the LifeTime Fitness team would give a presentation.

15. Public Hearing regarding the proposed zoning amendment for a special use permit for 11.323 acre tract situation in the Montgomery County School Land Survey, Abstract Number 350 in Montgomery County, Texas, being all of a called 11.323 acre tract conveyed to Dirk D. Laukien by Special Warranty Deed dated September 30, 2010 as recorded under Clerk's File No. 2010087585 of the Montgomery County Official Public Records of Real Property to allow a minimum square footage of first floor retail and parking structures with an increased building height, gross floor area ration, and reduced landscape canopy within the Retail Commercial Zoning District.

Mayor Wheeler opened the public hearing at 7:23 p.m.

Ms. Megan Eaton with LifeTime real estate development gave a presentation regarding the LifeTime Fitness project. To view the presentation, please click [HERE](#)

Marti Bradt: To view citizens comments, please click [HERE](#)

Wes Stephens: To view citizens comments, please click [HERE](#)

Mayor Wheeler closed the public hearing at 7:44 p.m.

16. Discussion and possible action to adopt the following Ordinance:

AN ORDINANCE OF THE CITY OF SHENANDOAH, TEXAS, AMENDING THE CODE OF ORDINANCES,  
City Council Meeting Minutes  
February 27, 2019

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CHAPTER 102, SO AS TO APPROVE A SPECIAL USE PERMIT FOR 11.323 ACRES OF LAND RECORDED UNDER CLERK'S FILE NO. 2010087585 OF MONTGOMERY COUNTY OFFICIAL PUBLIC RECORDS OF REAL PROPERTY TO ALLOW A MINIMUM SQUARE FOOTAGE OF RETAIL USE AND PARKING STRUCTURE WITH AN INCREASED BUILDING HEIGHT, GROSS FLOOR AREA RATIO, AND REDUCED LANDSCAPE CANOPY; PROVIDING FOR A PENALTY IN THE AMOUNT OF \$2,000 FOR VIOLATIONS THEREOF; PROVIDING SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

COUNCILMEMBER MCLEOD MADE A MOTION TO TABLE THE ITEM FOR DISCUSSION PURPOSES, COUNCILMEMBER RAYMAKER SECONDED.

AFTER SOME DISCUSSION COUNCILMEMBER RAYMAKER WITHDREW HIS SECOND. THE MOTION DIED DUE TO LACK OF A SECOND.

COUNCILMEMBER RAYMAKER MADE A MOTION TO ADOPT AN ORDINANCE SO AS TO APPROVE A SPECIAL USE PERMIT FOR 11.323 ACRES OF LAND RECORDED UNDER CLERK'S FILE NO. 2010087585 FOR LIFETIME FITNESS WITH THE CONDITION THAT THERE BE NO REDUCTION IN LANDSCAPE CANOPY AND NO PARALLEL UTILITIES IN THE FOREST PRESERVE, COUNCILMEMBER FLETCHER SECONDED. THE MOTION CARRIED 3/1 WITH COUNCILMEMBER MCLEOD AS THE OPPOSING VOTE.

17. Discussion and possible action to approve the minutes of the January 9, 2019 regular meeting.

COUNCILMEMBER FLETCHER MADE A MOTION TO APPROVE THE MINUTES OF THE JANUARY 9, 2019 REGULAR MEETING, COUNCILMEMBER RAYMAKER SECONDED. THE MOTION CARRIED 4/0.

18. CITIZENS FORUM

Responses to inquiries are limited by state law to a recitation of existing policy or a statement of specific factual information given in response to the inquiry. Any deliberation or decision by Council shall be limited to a proposal to place the subject on the agenda of a future meeting.

Theresa Danz: To view citizens comments, please click [HERE](#)

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#### 19. City Administrator Updates – Monthly Reports.

- Administration
- Finance
- Police/Fire
- Public Works/Capital Projects
- Community Development/Municipal Court
- Convention and Visitors Bureau

Ms. Reyer had the following updates:

- One remaining position open for SPD with three viable candidates being considered.
- SPD arrested suspects at Home Depot that were part of an organized retail theft operation, five arrest warrants were filed within the City, continue to deal with numerous burglaries in South Montgomery County.
- The Tree planting Project was completed.
- The Tamina Median Closure project was completed.
- Arbor Day Celebration would be from 9:00 a.m. - 12:00 p.m. along with Coffee with Cops event.
- The location for the new bulletin board for posting information was moved near the Council Chamber doors under the covered walkway near the front of the building.
- Misinformation was posted to social media regarding public hearings for the TxDOT study. This information was incorrect. When the study is completed TxDOT will post a draft to their website.
- Staff recommended April 16<sup>th</sup> or April 30<sup>th</sup> for the next Townhall Meeting. Need Council input to set a date.
- Shenandoah resident received the results of her test and she is now cancer free.

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20. COUNCIL'S INQUIRY

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Councilmember Fletcher if a safe trade zone had been considered and suggested offering a safe zone for transactions. Chief Shaw stated that the City currently offered a safe zone in front of City Hall. He added that he would work to republicize the information to ensure that residents were aware that the service was offered.

Councilmember Fletcher stated that he met with Dr. Curtis Null with C.I.S.D. regarding the school bond and stated that Mr. Null was willing to do a presentation that was not for or against the bond, but that would provide information to the resident before the elections in May. He added that he felt it was important for residents to have more information before voting. Mayor Wheeler suggested the presentation be done at a future Council meeting.

Councilmember Raymaker stated that after reviewing the policy manual he would like to look at changing the floating birthday holiday to a floating PTO day. Councilmember Raymaker thanked Chief Shaw for updating him on PD recruiting and that he was interested to see the succession plan from Ms. Reyer at the end of March. Councilmember Raymaker also stated that he would like to see a plan that involved SPD utilizing doorbell camera footage to help with solving potential crimes in the City. Chief Shaw stated that there was a plan in the works. He added that he was drafting an agreement for Mr. Ferebee to review and was scheduled to meet with Ms. Reyer to discuss the plan.



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#### EXECUTIVE SESSION

*Public notice is given that the City Council may elect to go into Executive Session at any time during the meeting in order to discuss any matters listed on the Agenda when authorized by the provisions of the Open Meeting Act, Chapter 551 of the Texas Government Code, to receive advice from legal counsel, to discuss matters of land acquisition, personnel matters or other lawful matters that are specifically related to items listed on this Agenda. Prior to any such closed session, the Mayor, in open session, will identify the agenda item to be discussed and the Section or Sections of Chapter 551 under which the closed discussion is authorized.*

Mayor Wheeler stated for the record that Council would adjourn to executive session at

8:32 p.m.

Executive Session – According to the Texas Open Meetings Act, Chapter 551 of the Texas

Government Code as follows:

- i) Government Code §551.071. Consultation with Attorney; Government Code §551.087. Deliberation Regarding Economic Development Negotiations
  - Stagg Bowl 2020 Contract
- a) Consideration and if determined appropriate, take action resulting from the item(s) listed under Executive Session.

Mayor Wheeler reconvened the regular meeting at 8:59 p.m. and stated for the record that no action was taken in executive session.

There being no further business, Mayor Wheeler adjourned the meeting at 9:00 p.m.

#### **ADJOURN**

***The Council may vote and/or act upon each of the items listed on this Agenda. One agenda item will be discussed at a time unless logic and practical consideration allow similar topics to be considered together for purposes of convenience and efficiency. The Council may retire into executive session concerning any of the items listed on this Agenda, whenever it is considered necessary and legally justified under the Open Meetings Act.***

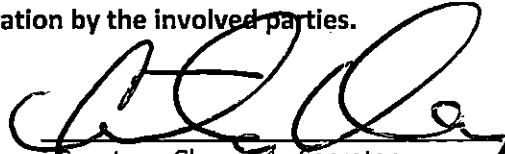
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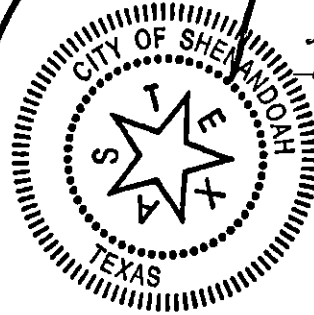
Any discussion item on the City Council agenda permits City Council to question the involved parties or receive a presentation by the involved parties.


SUBMITTED BY:

  
\_\_\_\_\_  
Courtney Clary, City Secretary

DATE APPROVED:

04/10/2019



  
\_\_\_\_\_  
M. Ritchey Wheeler, Mayor