

DRAFT

MINUTES REGULAR MEETING May 25, 2021

A Regular Meeting was held by the Schertz City Council of the City of Schertz, Texas, on May 25, 2021, at 6:00 p.m. in the Hal Baldwin Municipal Complex Council Chambers, 1400 Schertz Parkway, Building #4, Schertz, Texas. The following members present to-wit:

Present: Mayor Ralph Gutierrez; Mayor Pro-Tem Jill Whittaker; Councilmember Mark Davis; Councilmember Rosemary Scott; Councilmember Michael Dahle; Councilmember David Scagliola; Councilmember Allison Heyward; Councilmember Tim Brown

City Staff: City Manager Dr. Mark Browne; Assistant City Manager Brian James; Assistant City Manager Charles Kelm; City Attorney Daniel Santee; Assistant to the City Manager Sarah Gonzalez; City Secretary Brenda Dennis; Deputy City Secretary Sheila Edmondson

Call to Order

Mayor Gutierrez called the meeting to order at 6:00 p.m.

Opening Prayer and Pledges of Allegiance to the Flags of the United States and State of Texas. (Councilmember Dahle)

Councilmember Dahle provided the opening prayer followed by the Pledges of Allegiance to the Flags of the United States and the State of Texas.

City Events and Announcements

- Announcements of upcoming City Events (B. James/C. Kelm/S. Gonzalez)

Assistant City Manager Brian James provided the following information:

- Saturday, May 29th

Pickrell Park Pool opens for the summer

Hours are Tuesday through Sunday from 12:00 PM to 7:00 PM through August 8th

Pool closed on Mondays for maintenance

- “Dark Skies & Fireflies”

Crescent Bend Nature Park

7:00-8:00 PM

Local firefly expert and founder of Firefly Conservation & Research, Ben Pfeiffer, is partnering with Schertz Parks and Recreation to provide a great fun and educational program for all ages. This program will offer firefly education and a chance to explore and learn how to carefully catch local fireflies. So don't forget to bring a chair and a butterfly net! Meet at the 1st parking lot near the restroom building and trailhead.

- Monday, May 31st City Offices Closed in Observance of Memorial Day

Memorial Day Ceremony at the Knights of Columbus Hall, 509 Schertz Parkway - 9:00 am - Council to arrive by 8:30 am.

- Tuesday, June 1st - Next regular scheduled Council meeting

Mr. James also announced and noted the recent construction signs that have been posted on Live Oak Road, regarding upcoming lane closures - they will begin construction next week.

- Announcements and recognitions by the City Manager (M. Browne)

Dr. Browne presented and showed the "Commitment to excellence Award" Community Partners of the Year 2020-2021 which the City received by the School District. This award is in reference to the vaccine clinics and the vaccinations provided to their teachers and students.

- Announcements and recognitions by the Mayor (R. Gutierrez)

Mayor Gutierrez recognized City Secretary Brenda Dennis, Deputy City Secretary Sheila Edmondson and former Deputy City Secretary Gayle Wilkinson. Mayor Gutierrez presented the "Texas Municipal Clerks Office Award of Excellence" received from the Texas Municipal Clerks Association to the City Secretary's Office. Mayor Gutierrez stated that of the 595 cities with members in the Texas Municipal Clerks Association, the Office of the Municipal Clerk in the City of Schertz is one of 43 to receive this award. Mayor Gutierrez stated a municipal clerks office must have met and demonstrated nine of 12 standards to be eligible to receive. The 12 standards considered by a committee included:

Records Management, Open Meetings Act, Professional Development/Certifications, Board/Commissions, Government Transparency, Municipal Clerk Office Policies/Procedures, Elections, Awards/Recognitions, Public Information Act, Innovation/Stream-Line Projects, Departmental Training and other areas of responsibility.

City Secretary Brenda Dennis thanked the Mayor and stated that this award could not have been achieved without the teamwork of City Management, Mayor and Council, City Departments, the community, the school district, and former Deputy City Secretary Gayle Wilkinson. She thanked everyone for their efforts as well.

Hearing of Residents

No one signed up to speak or emailed the City Secretary.

Mayor Gutierrez stated that going forward emails that are received for the hearing of residence will be provided to Council but will not be read into the record.

Consent Agenda Items

The Consent Agenda is considered self-explanatory and will be enacted by the Council with one motion. There will be no separate discussion of these items unless they are removed from the Consent Agenda upon the request of the Mayor or a Councilmember.

Mayor Gutierrez read the following items into record:

1. **Minutes** – Consideration and/or action regarding the approval of the minutes of the meeting of regular meeting May 11, 2021. (B. Dennis)
2. **Appointments/Resignation to Boards and Commissions/Committees** - Consideration and/or action regarding appointments/resignations to various Boards and Commissions/Committees. (Council/B. Dennis)

Resignation of Matthew Wood - Building and Standards Commission
Resignation of Guy Scott - Historical Preservation Committee
Appointment of Patricia Barnes - Historical Preservation Committee
Appointment of Mateo Garcia - Transportation Safety Advisory Commission

3. **Resolution No. 21-R-48** - Consideration and/or action approving a Resolution by the City Council of Schertz, Texas authorizing an increase to the contract with D&S Concrete Constructors, relating to the CSJ# 0915-46-050 Schertz Pedestrian Routes and Bike Lanes Project and authorizing the budget expenditures. (B. James/K. Woodlee/J. Nowak)

4. **Resolution No. 21-R-50** - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas approving a request for a Schertz Main Street Local Flavor Economic Development Grant for 537 Main. (M. Browne/B. James)
5. **Resolution No. 21-R-51** - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas approving a request for a Schertz Main Street Local Flavor Economic Development Grant for 820 Main. (M. Browne/B. James)
6. **Ordinance No. 21-T-19** – Consideration and/or action approving an Ordinance by the City Council of the City of Schertz, Texas, authorizing an adjustment to the Fiscal Year 2021 Budget to provide funding for professional services related to the Corbett Ground Storage Tank, repealing all ordinances or parts of ordinances in conflict with this ordinance; and providing an effective date. *Final Reading* (B. James/K. Woodlee/J. Shortess)
7. **Resolution No. 21-R-44** – Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas, authorizing a Task Order Agreement with Ford Engineering, Inc. relating to the Corbett Ground Storage Tank Engineering and Design Proposal and authorizing the budget expenditures for the project. (B. James/K. Woodlee/J. Shortness)
8. **Resolution No. 21-R-45** – Consideration and/or action approving a Resolution by the City of Schertz, Texas authorizing a contract with Kimley-Horn and Associates, Inc. relating to the 16” Dedicated Transmission Main Engineering and Design Project and authorizing the budget expenditures for the project. (B. James/K. Woodlee/J. Shortess)
9. **Resolution No. 21-R-46** - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas authorizing a revision of the Not To Exceed Amount of an approved contract with DAC, Inc of New Braunfels, Texas, increasing the total amount from \$175,000 to \$178,000. (B. James/M. Clauser)

Mayor Gutierrez asked Council if there were any items they wished removed for separate action. Mayor Gutierrez recognized Mayor Pro-Tem Whittaker who requested that agenda items 4 & 5 be removed for separate action.

Mayor Gutierrez asked for a motion to approve consent agenda items 1, 2, 3 and 6 through 9.

Moved by Mayor Pro-Tem Jill Whittaker, seconded by Councilmember Allison Heyward to approve consent agenda items 1, 2, 3 and 6 through 9.

AYE: Mayor Pro-Tem Jill Whittaker, Councilmember Mark Davis, Councilmember Rosemary Scott, Councilmember Michael Dahle, Councilmember David Scagliola, Councilmember Allison Heyward, Councilmember Tim Brown

Passed

Discussion and Action Items

Mayor Gutierrez read the following items into record:

4. Resolution No. 21-R-50 - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas approving a request for a Schertz Main Street Local Flavor Economic Development Grant for 537 Main. (M. Browne/B. James)

Mayor Ralph Gutierrez recognized Mayor Pro-Tem Whittaker who requested that Item #4: Resolution No. 21-R-50 be pulled from the Consent Agenda to Discussion and Action. This resolution is to approve a request for a Schertz Main Street Local Economic Grant for 537 Main Street, Schertz, TX. Mayor Pro-Tem Whittaker had some questions about this resolution and wanted to clarify that if City Council approves, they are approving something that is not in accordance with the way the Local Economic Grant is currently written.

Assistant City Manager Brian James explained that the Local Flavor Grant reads that applicants can receive no more than \$20,000 in grants per property, per year. Staff interprets this as we cannot pay out more than \$20,000 per calendar year. So technically per the policy, what the applicant can do is that they apply for grant late in the 2020 and receiving payment this 2021 year and can then reapply for this grant in the 2021 year, do they work, get business open, but would have to wait to apply for repayment until Jan. 2022. Staff is proposing to take this concern to the Main Street Committee to get clarification. If City Council approves, the applicant would receive the grant money once the work gets done.

Mayor Pro-Tem Whittaker believes with the amount of money being requested, there should be a little more information provided with the grant request. She would also like to make sure the intent of the grant which is to beautify and draw people down to Main Street is being met. She asked to pull Item # 5 as well for the same concerns. The information that was provided with the grant request was very vague and if the City Council is providing dollars from the city, she feels they are owed more information.

Assistant City Manager Brian James explained that some of the documentation on these grant requests are interior improvement and would not have a lot of drawings submitted. However, moving forward Staff will make sure all new grant requests have detailed plans and more illustrations of exterior improvements.

Mayor Pro-Tem Whittaker again reiterated her concerns on the grant requests not having sufficient documentation for the amount of dollars the City Council is approving. She also wanted to make sure we are meeting the goals on what we are doing on Main Street. She noted that only one individual has been actively participating in the Local Flavor Grant Program and is concerned that we are letting that one-person design our Main Street. She would like to make sure we are letting folks know about the program.

Assistant City Manager Brian James stated for the last year and half, staff have been pushing out smaller grants for smaller projects. Staff agrees and would love to a lot of people participating in the Local Flavor Grant, but at this time only one individual is very active. Staff will revisit this topic and others at the next Main Street Committee meeting and will bring back recommendations to City Council.

Mayor Pro-Tem Whittaker would like to sort the details out before the pay-out the grant and see more documentations with the grant application.

Councilmember Scott's had concerns that in the beginning of the program that were we funding private ventures instead of serving the public, but this application is a restaurant and is good for Main Street. While she said she has not gone to the Main Street meetings, she is appreciative that Assistant City Manager Brian James is addressing the concerns that have been brought up. She also mentioned that the City of Live Oak has grants for business signs and advertised with before and after photos, which greatly improved the appearance of Live Oak. She would like to get more people to utilize the Local Flavor Grant and wants to advertise it because we need to do a lot of work on Main Street.

Assistant City Manager Brian James explained that one of the first grants available was a Residential Use, but the Local Flavor Grant is only available for commercial properties The Historical Grant, is still available residents, but limited to only exterior work. Historic Grant has an element for residential work, but we have not had anyone requests in a few years. Since the focus is on Main Street, more folks coming in for Local Flavor Grant. Staff is working with the Building Inspections Department to let folks know whose project is on Main Street about the Local Flavor Grant.

Councilmember Brown wanted to clarify that folks who are spending money are spending a lot more money than what we are giving them. Between replatting, permits, actual construction costs, inspections, they are putting a lot of money into Main Street and what we are giving them is an incentive. He stated that we are

certainly not supplementing anybody's construction cost or remodeling costs. He would love to see more folks take advantage of this program, however there are a lot of single-family residents on Main Street. He would like to keep the momentum going with what we have be generous without being stupid.

Mayor Pro-Tem Whittaker made a motion to table Resolution 21-R-50- until staff is able to get with the committee.

Councilmember Scott asked Mayor Pro-Tem Whittaker to clarify her motion on why we would be tabling it, asked for more information.

Mayor Pro-Tem Whittaker wanted to clarify if the applicant would be paid the same year or would we stick to the grant as written.

Councilmember Scott asked if maximum for reimbursement is \$40,000. Assistant City Manager Brian James explained that currently there is not a cap, but staff is proposing the max. set at \$40,000.

Councilmember Scott agreed that there should be a cap and seconded the motion.

Moved by Mayor Pro-Tem Jill Whittaker, seconded by Councilmember Rosemary Scott to table Resolution 21-R-50.

AYE: Mayor Pro-Tem Jill Whittaker, Councilmember Rosemary Scott, Councilmember David Scagliola

NAY: Councilmember Mark Davis, Councilmember Michael Dahle, Councilmember Allison Heyward, Councilmember Tim Brown

Failed

Moved by Councilmember Mark Davis, seconded by Councilmember Michael Dahle to approve Resolution 21-R-50.

AYE: Councilmember Mark Davis, Councilmember Michael Dahle, Councilmember David Scagliola, Councilmember Allison Heyward, Councilmember Tim Brown

NAY: Mayor Pro-Tem Jill Whittaker, Councilmember Rosemary Scott

Passed

5. Resolution No. 21-R-51 - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas approving a request for a Schertz Main Street Local Flavor Economic Development Grant for 820 Main. (M. Browne/B. James)

Mayor Ralph Gutierrez read Resolution 21-R-51 and then asked Mayor Pro-Tem Whittaker if she had any more questions. She didn't have any more questions since they were addressed in the discussion before with Resolution. 21-R-50.

Councilmember Michael Dahle stated he does not disagree with Mayor Pro-Tem Whittaker's comments, but if we are going to review the policy, we need to do it separately from a specific action item and we would definitely need to have that conversation before another grant request came forward. The applicant brought this forward on good faith with the existing program we got in place and let's move forward if we are going to and let's plan to have that discussion about what our policies are going to be going forward.

Councilmember Michael Dahle made a motion to approve Resolution 21-R-51.

Councilmember David Scagliola stated he would second the motion and wanted to add some comments. He said Mayor Pro-Tem Whittaker brings up some valid concerns, and he thinks it's important to bring up that type of information to satisfy those concerns. He agrees with Councilmember Michael Dahle and believes at this time it is not in our best interest to table this so let's move forward and correct the discrepancies in the future.

Councilmember Mark Davis stated Mayor Pro-Tem Whittaker brings up some great points. All this started up when Schertz did not have any general fund type programs that dealt with local business, like entrepreneurship, small business, existing business targeting areas like Main Street. This was one of the problems we identified. EDC has specific guidelines for their money out of EDC jobs, but we were one of the only local cities that did not have any sign grants or facade grants. The Main Street Sub Committee has been winging it the best they can and dealing with problems when they come up. He believes this is a good discussion to have in our upcoming budget meetings in regard to what would be like to take out of our general fund and what target areas do we have. Currently, our focus is on Main Street with the Main Street Bond. He also suggested during these talks identify other business areas that need help.

Councilmember Mark Davis would like the Mayor, Dr. Browne to reach out to him for some ideas for what would be appropriate in regard to the incentive program. Since there has been things bouncing back and for when they run into problems, he asked staff to give them guidelines. They don't have all the answers, but if you have any ideas, please let him know and they will address this at our next meeting.

Councilmember Rosemary Scott asked if they knew what type of business is going in, and Assistant City Manager Brian James indicated that the owner did not indicate who the tenant will be.

Moved by Councilmember Michael Dahle, seconded by Councilmember David Scagliola to approve 21-R-51.

Mayor Ralph Gutierrez stated City Council would like to see more information before we take another grant application.

Assistant City Manager Brian James said they will bring this to the Main Street Meeting at the June meeting and comeback to City Council with a work session as part of a separate meeting to update the program before we accept another grant application.

AYE: Councilmember Mark Davis, Councilmember Michael Dahle, Councilmember David Scagliola, Councilmember Allison Heyward, Councilmember Tim Brown

NAY: Mayor Pro-Tem Jill Whittaker, Councilmember Rosemary Scott
Passed

- 12. Ordinance No. 21-T-23** - Consideration and/or action approving an Ordinance by the City Council of Schertz, Texas authorizing an adjustment to the Fiscal Year 2021 Budget to provide for construction of the Elbel Storm Drain and Overlay Project, repealing all ordinances or parts of ordinances in conflict with this ordinance and providing an effective date. *First Reading*

Mayor Gutierrez recognized Engineer John Nowak who introduced this item stating previously Council authorized a Professional Engineering Services Agreement and an amendment to the original agreement with Ford Engineering, Inc., to design the Elbel Storm Drain and Overlay project. The project includes storm drain extensions in Elbel to address drainage issues; installation of a traffic signal at the Westchester and Elbel intersection; and a mill and overlay of the street surface. The project design is nearly fully complete, making the project ready to go out to bid once construction funding was identified.

Due to the various COVID related cost reimbursements the City of Schertz has received, some excess General Funds are now available for construction of the project. Additionally, this year the City of Schertz received additional "Veterans Exemption Funds." The budget contained an anticipated \$500,000 of "Veterans Exemption Funds" being received, but the City actually received \$1,000,000. This provides \$500,000 more excess General Fund Reserves in the budget.

The proposed budget amendment uses \$1,400,000 of excess General Fund Reserves associated with the COVID cost reimbursements and \$250,000 of

excess General Fund Reserves associated with the additional “Veterans Exemption Funds, for a total of \$1,650,000. In order for funding to be made available for construction, Council must approve a budget amendment ordinance.

Proposed Ordinance 21-T-23 allocates \$1,650,000 for construction of the Elbel Storm Drain and Overlay project. After the project is bid, if additional funding is needed, an additional budget amendment request will be made to Council. Funding that is not used for construction of the project will be returned to the General Fund and be available for other expenditures. Mr. Nowak provided a brief PowerPoint Presentation on the Elbel Storm Drain and Overlay Project. Staff recommends approval.

Mayor Gutierrez recognized Councilmember Scagliola who addressed concern using COVID funds to redo streets. City Manager Dr. Browne indicated that there were no restrictions on the use of the COVID funds. City Attorney Dan Santee indicated that the funds go into the City's General Fund. Mr. Nowak addressed additional questions from Council.

Moved by Councilmember Allison Heyward, seconded by Councilmember Rosemary Scott to approve Ordinance 21-T-23 on first reading.

AYE: Mayor Pro-Tem Jill Whittaker, Councilmember Mark Davis, Councilmember Rosemary Scott, Councilmember Michael Dahle, Councilmember David Scagliola, Councilmember Allison Heyward, Councilmember Tim Brown

Passed

Roll Call Vote Confirmation

Mayor Gutierrez recognized City Secretary Brenda Dennis who provided the roll call vote confirmation for agenda items 1 through 10.

Closed Session

Mayor Gutierrez recessed the regular meeting into Closed Session at 6:51 p.m. and read the following item into record:

- 13.** The City Council will meet in closed session pursuant to Texas Government Code Section 551.07 to consult with its 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 Open Meetings Act; to wit: the discussion of the applicability of real property rights in relation to the conduct of certain city programs.

Reconvene into Regular Session

Mayor Gutierrez reconvened back into regular session at 7:17 p.m.

11a. Take any action based on discussion held in closed session under Agenda Item 11.

No action taken.

Discussion and Action Items

- 14. Resolution No. 21-R-35** - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas authorizing the City Manager to amend the existing License and Management Agreements with the YMCA, by canceling the Management of the Wendy Swan Memorial Park Pool. (B. James/L. Shrum)

Mayor Gutierrez recognized Director of Parks, Recreation and Community Service Lauren Shrum who introduced this item stating the Wendy Swan Memorial Park Pool was formerly an HOA-owned pool in the Northcliffe subdivision and as such was only designed to serve a small amount of people at one time. The capacity of the pool area is 50 people, but the pool rarely reaches capacity. Its small size does not afford a lot of opportunities for activities, so it is not as in demand as our other pools. When the pandemic hit in March 2020 there were capacity limits placed on facilities including outdoor pools, and the 25% capacity allowed at the start of the summer would have only allowed 12 people to enter the pool. City staff and YMCA staff (who are contracted to manage the outdoor pools) deemed it not feasible to open Wendy Swan Memorial Park Pool at that time.

City staff began researching the idea of converting the small residential-sized pool into a splash pad utilizing the existing filtration equipment which is in fairly good condition. The proposed small splash pad will fit into the existing footprint of the old pool, will utilize the existing restrooms and covered porch area, and the fence will come down for access. Currently, the pool is only open from Memorial Day Weekend through the start of the school year in August. Converting to a splash pad would eliminate the need for the facility to have lifeguards and thus allow for an extended season of March - October.

In February 2021 Texas experienced Winter Storm Uri and many facilities suffered damage from freezing pipes, including the Wendy Swan Memorial Park Pool House and Restroom Facility. Bidding is complete and the repairs are extensive at the pool house, so City staff is pausing to combine the repairs into the larger splash pad project to convert the restrooms to continuous public

access like at other parks, and to ensure the restrooms are fully accessible.

At this time, the goal is to amend the contract to cancel the management of Wendy Swan Memorial Park Pool and keep the pool closed for now. The next step will be to host a public meeting in the neighborhood to gather feedback from residents on the proposal to close the pool permanently and convert the pool into a small splash pad. If the neighborhood is supportive of the conversion, city staff will come back to council with the budget amendment and contract to construct the splash pad.

Ms. Shrum provided a brief PowerPoint Presentation regarding the conversion of the pool to a new splash pad.

Staff recommends approval of Resolution 21-R-35 to amend the existing license and management agreements with the YMCA by canceling the management of the Wendy Swan Memorial Park Pool.

Mayor Gutierrez stated for clarity the resolution is for approval only to amend the existing license and management agreements with YMCA.

Moved by Councilmember Michael Dahle, seconded by Councilmember David Scagliola to approve Resolution No. 21-R-35.

AYE: Mayor Pro-Tem Jill Whittaker, Councilmember Mark Davis, Councilmember Rosemary Scott, Councilmember Michael Dahle, Councilmember David Scagliola, Councilmember Allison Heyward, Councilmember Tim Brown

Passed

Roll Call Vote Confirmation

Information available in City Council Packets - NO DISCUSSION TO OCCUR

Mayor Gutierrez read the captions for agenda items 13 & 14 and mentioned these items were provided in the City Council packets as well as the information could be found online and for public viewing at our website schertz.com. No action necessary.

- 15. Pilot Program** - Introduction of a Pilot Program for Residential Irrigation Meters. (B. James/J. Walters)
- 16. COVID-19 UPDATE** - Bi-Weekly COVID-19 Update.(C. Kelm/ K.Long/S.Hall)

Requests and Announcements

- Announcements by the City Manager.

No further announcements were provided.

- Requests by Mayor and Councilmembers for updates or information from staff.

None at this time.

- Requests by Mayor and Councilmembers that items or presentations be placed on a future City Council agenda.

No items requested.

- Announcements by Mayor and Councilmembers

- City and community events attended and to be attended
- City Council Committee and Liaison Assignments (see assignments below)
- Continuing education events attended and to be attended
- Recognition of actions by City employees
- Recognition of actions by community volunteers

Mayor Gutierrez recognized the following:

Mayor Pro-Tem Whittaker who stated that last week she attended the National Day of Prayer Ceremony held at the YMCA. She stated that she attended the Schertz/Cibolo Police Memorial Ceremony, the Chamber Luncheon and the SCUCISD Awards Ceremony.

Councilmember Scagliola who stated he attended the Schertz/Cibolo Police Memorial Ceremony, several Chamber Plaque Presentations and mixers.

Councilmember Heyward who stated she attended the Chamber Luncheon, Schertz/Cibolo Police Memorial Ceremony, Northeast Partnership Meeting. She also stated that because we are a Military City, we have JBSA Randolph, Texas Governor is leading the way as he signed two bills into Law: HB 626 Texas Innovative Adult Career Education Program, which is now extended to non-profit organizations allow military occupational training for veterans for job training, and HB 139 relating to occupational licensing for military spouses and veterans - they now can use their PCS Orders to establish residency for licensing purposes in the State. The Law also directs the State Board of Education to expedite the processing of applications of certificates submitted by an educator who is a spouse or a veteran. They are trying to make sure Texas is leading the way to acknowledge the receipt of and accept your license from any other place - come on in and they will welcome you.

Adjournment

Mayor Gutierrez adjourned the meeting at 7:28 pm.

Ralph Gutierrez, Mayor

ATTEST:

Brenda Dennis, City Secretary