

# DRAFT

## MINUTES REGULAR MEETING April 16, 2024

A Regular Meeting was held by the Schertz City Council of the City of Schertz, Texas, on April 16, 2024, 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 Paul Macaluso; Councilmember Mark Davis; Councilmember Michelle Watson; Councilmember Tiffany Gibson; Councilmember Robert Westbrook; Councilmember Allison Heyward; Councilmember Tim Brown

Staff present: City Manager Steve Williams; City Attorney Daniel Santee; Assistant City Manager Sarah Gonzalez; Deputy City Secretary Sheree Courney

### **Call to Order**

Mayor Gutierrez called the meeting to order at 6:01 p.m.

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

Mayor Gutierrez recognized Councilmember Westbrook who provided the opening prayer and led the Pledges of Allegiance to the Flags of the United States and State of Texas.

### **Special Announcements**

#### **● Hal Baldwin Scholarship**

Mayor Gutierrez instructed students in attendance for the Hal Baldwin Scholarship to sign in. Anyone with questions regarding the Hal Baldwin Scholarship should contact Assistant City Manager Sarah Gonzalez via email at [sgonzalez@schertz.com](mailto:sgonzalez@schertz.com) or by phone at 210-619-1015.

### **Proclamations**

#### **● Public Safety Telecommunicators Appreciation Week April 14-20, 2024**

(Councilmember Watson)

Councilmember Watson presented the Public Safety Telecommunicators Appreciation Week April 14 - 20, 2024 Proclamation to Communications Manager Nichole Kuhlmann and members of the Dispatch Center Team. Ms. Kuhlmann recognized and thanked everyone on the team for their unwavering commitment.

- **Work Zone Safety April 15-19, 2024** (Mayor Pro-Tem Macaluso)  
Mayor Pro-Tem Macaluso presented the Work Zone Safety April 15 - 19, 2024 Proclamation with the theme 'Work Zones are Temporary, Actions behind the Wheel can Last Forever' to Public Works Director Larry Busch and members of the Public Works Team that are present in these work zones.
- **Animal Care and Control Week-April 14-20, 2024** (Councilmember Heyward)  
Councilmember Heyward presented the Animal Care and Control Week April 14 - 20, 2024 Proclamation to Animal Services Manager Megan Legunas, Lt. Scott LaCour, and members of the Animal Services Team.
- **Administrative Professionals Week April 21-27, 2024** (Councilmember Gibson)  
Mayor Gutierrez presented the Administrative Professionals Week April 21 - 27, 2024 Proclamation to the Administrative Professionals from across the City, thanking them for their service to the City.
- **Small Business Week-April 28-May 4, 2024** (Councilmember Brown)  
Councilmember Brown presented the Small Business Week April 28 - May 4, 2024 Proclamation to Maggie Titterington, President of The Schertz-Cibolo-Selma Chamber of Commerce, representing Schertz small businesses.
- **Building Safety Month-May 2024** (Councilmember Westbrook)  
Councilmember Westbrook presented the Building Safety Month May 2024 Proclamation to Chief Building Official Jim Bruce and members of the Inspections Team. Mr. Bruce stated that his team participated in the creation of some reels on building safety and tips for residents doing work at home that will be showcased via the City of Schertz Social Media. He added that members of the team would be at Lowe's on May 14th and 16th between 9:00 a.m. and 11:00 a.m. to meet with residents and answer any questions regarding building and permitting.

## Presentations

- **Milestone Service Pin Presentation: Fire Department- Lt. Chris King** (S. Williams)  
City Manager Steve Williams presented Fire Department Lt. Chris King, a pin in honor and gratitude for his 20 years of dedicated service to the City of Schertz.

## City Events and Announcements

- **Announcements of upcoming City Events** (B. James/S. Gonzalez)  
Mayor Gutierrez recognized Assistant City Manager Sarah Gonzalez, who provided the following:

### **Saturday, April 20**

Love Where You Live - Spring Outreach Service Day

North Center, 3501 Morning Drive, Schertz

8:00 a.m. - 4:00 p.m.

---and---

Ed-Zoo-cation in the Park  
Crescent Bend Nature Park  
10:00 a.m. - 11:00 a.m.

**Sunday, April 28**

Walk with a Naturalist  
Crescent Bend Nature Park  
3:30 p.m.

---and---

Owl Prowl  
Crescent Bend Nature Park  
8:30 p.m. - 9:30 p.m.

**Tuesday, May 7**

Next Regular City Council Meeting  
Council Chambers  
6:00 p.m.

● **Announcements and recognitions by the City Manager (S. Williams)**

Mayor Gutierrez recognized City Manager Steve Williams, who provided the following employee promotions:

Rashad Beecham promoted from Police Cadet to Police Officer.

Jessica Wheless promoted from Library Assistant (PT) to Library Assistant (FT)

● **Announcements and recognitions by the Mayor (R. Gutierrez)**

Mayor Gutierrez thanked City staff for their work with the Texas Air Show where Schertz Police Department, Fire Department, EMS, and Public Works provided support; and to City Staff that helped make Movin' on Main a successful event.

**Hearing of Residents**

*This time is set aside for any person who wishes to address the City Council. Each person should fill out the speaker's register prior to the meeting. Presentations should be limited to no more than 3 minutes.*

*All remarks shall be addressed to the Council as a body, and not to any individual member thereof. Any person making personal, impertinent, or slanderous remarks while addressing the Council may be requested to leave the meeting.*

Mayor Pro-Tem Macaluso recognized the following residents who spoke in opposition of voluntary annexation:

- Mark A. Penshorn, 8320 Trainer Hale Rd.
- Reagan Rawk, 7993 Trainer Hale Rd.
- Todd Hoffmann, 5751 FM 482
- Marty Friesenhahn, 22900 Old Nacogdoches
- Mark Friesenhahn, 231 High Creek Rd.

- Sharlene Fey, 6028 FM 482
- Sharlene Fey (Proxy for Sandra Reeh), 5887 FM 482
- Timothy Fey, 6028 FM 482
- Ronald Schott, 1300 Engel Rd.

Mayor Pro-Tem recognized Maggie Titterington, 1730 Schertz Parkway, who provided the following Chamber updates:

- Great luncheon on Tuesday, April 16:
  - Nonprofit luncheon that had 192 business and representative attendees and 22 nonprofit organizations from around the area.
  - HYPER group presented a check for \$1,200 to the SCUCISD Education Foundation from donations they received during their recent "free" shred day.
- May 3 - Ribbon Cutting for Northern D'Lights Coffee, 1248 FM 78 #101, at 10:00 a.m.
- May luncheon - TxDOT will provide an update on projects impacting Schertz along I-35 and FM 1103

### 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.

1. **Minutes** - Consideration and/or action regarding the approval of the regular meeting minutes of April 2, 2024. (S.Edmondson/S.Courney)
2. **Ordinance 24-S-11** - Approving a request to rezone approximately 3.6 acres of land from Single-Family Residential District (R-1) to Neighborhood Services District (NS), known as Guadalupe County Property Identification Number 42797, more specifically described as 3517 FM 3009, City of Schertz, Guadalupe County, Texas. **Final Reading** (B.James/L.Wood/D.Marquez)
3. **Ordinance 24-S-15** - Approving amendments to Part III of the Schertz Code of Ordinances, Unified Development Code (UDC) to Article 5 - Zoning District and Article 9 - Site Design Standards. **Final Reading**.(B.James/L.Wood/E.Delgado)
4. **Ordinance 24-S-16** - Approving amendments to Part III of the Schertz Code of Ordinances, Unified Development Code (UDC) to Article 5 - Zoning District and Article 16 - Definitions. **Final Reading** (B.James/L.Wood/E.Delgado)
5. **Ordinance 24-S-14** - Approving amendments to Part III of the Schertz Code of Ordinances, Unified Development Code (UDC) to Article 1 - General Provisions, Article 4 - Procedures and Applications, and Article 14 - Transportation. **Final Reading** ( B.James/K.Woodlee/J.Nowak)

6. **Resolution 24-R-44** - Authorizing a Schertz/Seguin Local Government Corporation (SSLGC) Midyear Budget Amendment for Fiscal Year 2023-24. (B. James/L. Busch)
7. **Resolution 24-R-46** - Amendment of contract with AG|CM, Inc., for Owner's Representative Services related to the Woman Hollering Creek Wastewater Project. (B. James/K. Woodlee)
8. **Resolution 24-R-45** - Authorizing the City Manager to issue a purchase order for the purchase of a replacement fire apparatus as part of the FY27 Vehicle/Equipment Replacement/Acquisition program. (S. Williams/G Rodgers)
9. **Resolution 24-R-47** - Acceptance of a Water and Sewer Easement from Schertz Bank and Trust. (S.Williams/B.James)
10. **Resolution No. 24-R-48** - Declare a public necessity for the acquisition of a certain water pipeline easement and temporary construction easement in connection with a future waterline. (S.Williams/B.James)

Mayor Gutierrez asked Council if any items needed to be removed from Consent for further discussion. No items were removed. Mayor Gutierrez asked for a motion to approve Consent Agenda Items #1 - 10.

Moved by Councilmember Allison Heyward, seconded by Councilmember Michelle Watson

AYE: Mayor Pro-Tem Paul Macaluso, Councilmember Mark Davis, Councilmember Michelle Watson, Councilmember Tiffany Gibson, Councilmember Robert Westbrook, Councilmember Allison Heyward, Councilmember Tim Brown

Passed

## Discussion and Action Items

11. **Resolution 24-R-41**- Authorizing a resolution accepting a petition for voluntary annexation of approximately 507-acres, known as Comal County Property Identification Numbers 75449, 75463, 79012, 75462, 78923, 374148, 79018, 79017, 75468, 374146, 374145, 374144, 374147, 78218, 78957, 78960, 78976, 79001, 78945, 78946, 75480, 78247, 79009, 79006, 79004, and approximately 387- acres, known as Guadalupe County Property Identifications Numbers 63992, 61614, 68378, 68377, 68382, 68381, 68380, 68374, 61615, 68384, 68385, 68383, 61511, 61609 (B.James/L.Wood/E.Delgado).

Mayor Gutierrez recognized Planning Manager Emily Delgado who provided the following background information.

Annexation of land into the City's corporate limits may be voluntary or involuntary. The Texas Local Government Code (LGC) provides requirements and outlines the process for the annexation type. The proposed annexations are voluntary based on the Delayed Annexation Development Agreements that were originally entered into in 2010 and 2011 and extensions that were offered in 2020 and 2021. Thus, Chapter 43, Subchapter C-3 of the Texas Local Government Code applies. The agreements were based on Texas Local Government Code 43.035 (b)(1) and 212.172 in order to (i) guarantee the continuation of the extraterritorial status of the land for the term of the agreement and (ii) authorize the enforcement of all regulations and planning authority of the City that did not interfere with the use of the land for agriculture or wildlife management or as timber land. Per the agreements that were signed and executed, specifically Section 5. Term; Annexation at End of Term, stipulates that ten (10) years after the effective date of the agreement the property is to be annexed to the City of Schertz.

In 2020 and 2021, Council authorized the City Manager and staff to offer extensions based on the nationwide and statewide declaration of public health emergency in relation to COVID-19. This also allowed staff time to complete the Comprehensive Land Use Plan update which would be utilized when zoning the annexed properties. The extensions provided the same rights as previously established in the original agreements but would delay the annexation of the properties until January 1, 2024, at which time the City would begin annexation proceedings and conclude them no later than December 31, 2024.

With the approval of Ordinance 24-S-06, the Comprehensive Land Use Plan has been officially adopted and can be utilized for zoning cases moving forward. City staff has started the annexation and zoning process in accordance with the Development Agreement Extensions. Resolution 24-R-41 is the first step in the annexation process for these parcels. It authorizes acceptance of a petition for voluntary annexation of 25 properties, approximately 529 acres within Comal County and 14 properties, approximately 477 acres within Guadalupe County which are identified above.

A letter was mailed to each property owner providing a tentative calendar for the annexation and zoning process with information on the history of the original agreements, the extensions, and what staff will be proposing for the zoning designation for the property, which is based on the newly adopted Comprehensive Land Use Plan designations. The adoption of Resolution 24-R-41 does not annex the subject properties but allows Council to annex the properties by Ordinance in the future. An ordinance for annexation must be approved by Council to annex the properties, which is tentatively scheduled for the June 4, 2024, City Council meeting. The zoning application to accompany the annexation is tentatively scheduled for the May 8, 2024, Planning and Zoning Commission meeting,

Staff recommended approval of Resolution 24-S-41.

Mayor Gutierrez opened the floor to Council for discussion.

Councilmember Brown asked if there is an option to delay zoning after the annexation

if the Resolution is approved. Ms. Delgado deferred to City Attorney Dan Santee. Mr. Santee stated that the intention is for these properties to be zoned upon annexation. What they are zoned and ultimately if they are annexed will be decided at a future date. They will go through a parallel process in the Planning and Zoning Commission so that when they come forward to Council they will be annexed and then zoned consecutively on that agenda.

Councilmember Brown asked if they had to annex within a certain period of time following approval of the resolution. Mr. Santee responded in the affirmative. The resolution starts the process with regard to scheduling the public hearings that are going to take place. Then, when the time comes to approve the annexation ordinance, it falls to the discretion of Council to decide whether the property is annexed. According to the communication, the process is to be completed by December.

City Manager Steve Williams stated that the concern is the zoning and the ability to use their land as they are currently using it, and asked Ms. Delgado to explain how under the process of annexation the use doesn't necessarily change because it is zoned. Ms. Delgado replied that the proposed zoning identified in the letters that was sent to the property owners was based off the corresponding Comprehensive Land Use Plan designation. So, based off the future land use map that was recently adopted by Council, there's a zoning district that corresponds with that. That zoning district is what was identified to the property owners. If we are planning to zone the property single-family residential R2, and it's currently used for agricultural, that agricultural use from the permitted use table is not permitted, however, since they are currently using that property for agricultural purposes it would be considered non-conforming upon annexation, and they can continue to utilize the property as agricultural land with limitations as stated in UDC Article 7, non-conforming use section. A change in utilization of the property would trigger the need for conformance with the new zoning designation established with the annexation. Zoning is in place to protect the property and adjacent properties and is based on what was adopted as part of the Comprehensive Land Use Plan.

Councilmember Heyward asked what happens if the property is sold. Ms. Delgado stated that so long as the new owner continues to utilize the property for agricultural purposes, the City will allow it. If, however, the new owner wants to develop the property, they would be required to do so in accordance with the designated zoning district.

Councilmember Heyward stated that in accordance with the agreement, the City is required to provide services immediately upon annexation. How will that work? Mr. Williams stated that some services will be provided immediately upon annexation and others might correspond to development in terms of sewer or water service. These services are driven by development. There is a provision for that service currently that the CCN holder will continue to provide. Not all of these areas are in the City's CCN. Some are in New Braunfels Utilities and some are in Green Valley SUD. It will be incumbent upon that provider to provide that service. We will have the ability to start extending services right away for things like road services. Councilmember Heyward wanted to ensure that the property owners would be able to continue to use their land

the way they had been utilizing it even after annexation. Mayor Gutierrez responded that that point had been clarified. Mr. Williams added that for the issue of taxation, if a property owner has an agricultural, timber, or wildlife exemption on file with their appraisal district, they will continue to carry that. It does not change with annexation. It will only change if you change the use of that portion of your property.

Mayor Pro-Tem Macaluso asked if there were any penalties for being non-conformance. Ms. Delgado responded that there is not necessarily a penalty, but that there is a chapter in the Unified Development Code that the property owners would have to follow for example with regard to expansions. Mayor Pro-Tem Macaluso asked what issues would the property owners face if they wanted to expand their house if they are considered non-conforming. Mr. Santee responded that there wouldn't be an issue with the expansion of a house because they utilize the property as AG and a house is allowable for AG use, so that would not be considered an expansion if it's for living quarters. Mayor Pro-Tem Macaluso stated he was trying to look at it from the property owners' perspective and asked, were they expected to guess if they wanted to make some kind of changes what would cause an issue. Mr. Santee asked Ms. Delgado if she had a copy of the Chapter regarding non-conforming use, so she pulled up Article 7, Section 21.7.3, for Council to reference. She explained that anything necessary for the operation of the agricultural business would not be considered an expansion. She indicated that growing the herd, putting in a stock tank, building a barn, etc., would all be part of the operation of the business. Mr. Santee added that there are protections for agricultural uses in the current agricultural code as well, that State law is going to limit what you can do with local zoning regulations to limit agricultural uses, and they expanded that in the last legislative session.

Mayor Gutierrez asked for a motion to approve Resolution 24-R-41.

Moved by Councilmember Tim Brown, seconded by Councilmember Mark Davis

AYE: Mayor Pro-Tem Paul Macaluso, Councilmember Mark Davis,  
Councilmember Michelle Watson, Councilmember Tiffany Gibson,  
Councilmember Robert Westbrook, Councilmember Allison Heyward,  
Councilmember Tim Brown

Passed

- 12. Resolution 24-R-42-** Authorizing a resolution accepting a petition for voluntary annexation of approximately 2,200 -acres, known as Bexar County Property Identification Numbers 310064, 1141730, 339772, 339773, 339362, 339744, 1050203, 340030, 339348, 339359, 339341, 339353, 339778, 310012, 309842, 310125, 339293, 339295, 340059, 1178479, 339276, 310059, 309418, 309421, 339325, 339284, 309837, 1103093, 310111, 310040, 310004, 310225, 339274, 339275, 339328, 1013798, 310222, 310026, 1274920, 339286, 339285, 310019, 1139530, 1056967, 339331, 1178480, 309427, 309425, 310006, 1056966, 312023, 310002, 310048, 1311565, 310022, 312015, 312017, 310126, 339290, 339288, 339790, 339334, 339329, 1140481, 310007, 312008, 309429, 1190132, 310032, 310039, 310090, 310107, 1103091, 1207560, 1103091. (Ms/L. Wood/E.Delgado).

Mayor Gutierrez recognized Planning Manager Emily Delgado, who stated that the background information for Resolution 24-S-42 mimics Resolution 24-S-41. Resolution 24-S-42 addresses properties located in Bexar County, whereas Resolution 24-S-41 addressed annexation of properties in Guadalupe and Comal counties. This resolution begins the process of annexation of 75 properties, approximately 2,200 acres within Bexar County.

Staff recommends approval of Resolution 24-S-42, accepting a petition for voluntary annexation for approximately 2,200 acres within Bexar County.

Mayor Gutierrez opened the floor to Council for discussion.

Councilmember Westbrook asked Ms. Delgado to address two concerns brought forth by property owners, (1) safety and security, asking if Schertz has enough police officers to cover their area and how quickly they can respond, and (2) taxes. City Manager Williams addressed both concerns beginning with the taxes, stating that for an appraised value of \$1,054,000 property in Comal County after the AG exemption is applied, the taxable value is \$3,770, which would have an impact of \$18 per year in property taxes. As to the safety and security concerns, currently they are not in the city, so law enforcement does not respond or patrol that area. Part of the annexation process is to outline a service plan. Councilmember Westbrook asked if there was any concern that we would not be able to respond in a timely manner to an emergency. Mr. Williams stated that, in terms of services, Schertz currently provides EMS and Fire services to these areas based on an agreement with the county. The level of service is generally driven by demand. If one of these areas were to redevelop as a neighborhood, it would more likely than not increase the level of service provided.

Councilmember Brown stated from previous questions and discussion, Council wants to ensure that property owners are able to continue to utilize their property in the same manner after annexation. Annexation provides the City with a way to control growth, if in the future the property owner or their heirs decide to sell or change the use of the property. As far as services, Mr. Williams made it clear that there would be an annexation services plan developed as part of the process. Councilmember Brown went on to say that the amount that homeowners currently pay for homeowner insurance would probably go down as services in the area increase. He reassured the property owners that Council wants to ensure they are able to continue to use their land in the same manner they've been using it, while at the same time ensuring there is a way to plan usage in the future if the land is sold or repurposed. Without planned usage, if a parcel were sold to a developer, that developer could put in anything whether it was appropriate for the area or not.

Mayor Gutierrez concurred with Councilmember Brown, stating it is not only to protect the city but also to protect their neighbors from non-conforming development.

Mayor Gutierrez asked for a motion to approve Resolution 24-R-42.

Moved by Councilmember Michelle Watson, seconded by Councilmember Tim Brown

AYE: Mayor Pro-Tem Paul Macaluso, Councilmember Mark Davis, Councilmember Michelle Watson, Councilmember Tiffany Gibson, Councilmember Robert Westbrook, Councilmember Allison Heyward, Councilmember Tim Brown

Passed

13. Mayor Gutierrez recessed Council at 7:45 p.m. for a short break. Mayor Gutierrez reconvened Council at 7:52 p.m.

**Ordinance 24-A-10** - Approving an ordinance on a petition for voluntary annexation of approximately 7-acres, a portion of Bexar County Property Identification Number 339286, also known as 8215 Trainer Hale Road, City of Schertz, Bexar County, Texas. *Final Reading* (B.James/L.Wood/D.Marquez)

Mayor Gutierrez stated Ordinance 24-A-10 passed on the First Reading and asked if Council wanted to hear the presentation again. Council declined to hear the presentation again. Mayor Gutierrez asked for a motion to approve Ordinance 24-A-10.

Moved by Councilmember Mark Davis, seconded by Councilmember Michelle Watson

NAY: Mayor Pro-Tem Paul Macaluso, Councilmember Mark Davis, Councilmember Michelle Watson, Councilmember Tiffany Gibson, Councilmember Robert Westbrook, Councilmember Tim Brown

Failed

14. **Ordinance 24-S-09**- Approving a request to rezone approximately 7.7 acres of land, a portion of Bexar County Property Identification Number 339286, to Single-Family Residential District (R-1), also known as 8215 Trainer Hale Road, City of Schertz, Bexar County, Texas. *Final Reading* (B.James/L.Wood/D.Marquez)

Mayor Gutierrez stated Ordinance 24-S-09 passed on the First Reading and asked if Council wanted to hear the presentation again. Council declined to hear the presentation again. Mayor Gutierrez asked for a motion to approve Ordinance 24-S-09.

Moved by Mayor Pro-Tem Paul Macaluso, seconded by Councilmember Michelle Watson

AYE: Mayor Pro-Tem Paul Macaluso, Councilmember Mark Davis,  
Councilmember Michelle Watson, Councilmember Tiffany Gibson,  
Councilmember Robert Westbrook, Councilmember Allison Heyward,  
Councilmember Tim Brown

Passed

**15. Resolution 24-R-40 - Authorizing a Pro-Rata Agreement, Cost Sharing Agreement and Roadway Impact Fee Credit Agreement for the Saddlebrook Development.(S.Williams/B.James)**

Mayor Gutierrez recognized City Engineer Kathy Woodlee who stated this resolution encompasses four agreements. Three are standard agreements with subdivision developments, (1) Reimbursement Agreement - which includes items the City needs but to get some economies of scale having the developer construct those improvements while building the subdivision and having the City reimburse for those small items; (2) Roadway Capital Recovery Offset Agreement - where the developer is constructing a portion commonly known as the 3009 extension, actually Red Bud Canyon in the Saddlebrook subdivision, which is on our master thoroughfare plan they get credit toward their roadway impact fee payments that would be made when the homes are built; and (3) Pro Rata Agreement - where the city will pay for the excess capacity that they're building in the lift station and force main amounts, so we have some control over which developments coming in will be able to use those EDUs or the capacity in the lift station. The fourth agreement is a Subdivision Improvement Agreement which was requested by the developer.

The Subdivision Improvement Agreement will allow a developer to record their plat and sell properties on that plat prior to the infrastructure being completed and accepted by the City. A few years ago, the City received requests like this from residential and commercial developers. What has happened is a residential subdivider will create a preliminary plat, a final plat, put up security for the infrastructure, then record the final plat which allows them to sell the lots. They sell the individual lots, someone wants to put their home on the lot, but we aren't able to give the CofO because the developer has not completed construction of the infrastructure. This creates problems for new citizens moving into the city and for the City trying to keep after the developer to complete the infrastructure. So it's a big problem for residential subdivisions.

Similarly, for commercial subdivisions, a developer will file a plat, basically flip the property, so they put up security for infrastructure, sell the property to a buyer who thinks they're getting a property that has the infrastructure to submit for a building permit and build something, only to find out the infrastructure may not have been completed. For commercial projects, commercial subdivisions who are ready to build their business that include some required infrastructure must file their plat to obtain a building permit. If the developer has gone to the expense, hired an architect and an engineer, and has plans for their building and public infrastructure, the City will allow them to post security, so they can put everything under one construction contract, so building can occur simultaneously. If the infrastructure isn't completed by the time

they need the CofO it's all within their own control.

Ms. Woodlee stated that staff had come to Council previously for guidance on City policy regarding the handling of these agreements. Council did not grant general approval and advised staff to bring each agreement to them explicitly stating the risks associated with that agreement for their consideration. In this case, the Saddlebrook developer has requested a Subdivision Improvement Agreement for the purpose of authority to transfer lots from a land bank to a different division of their corporation, which in this case, is the builder. They have agreed to include in the agreement a restriction that allows the sale of those lots only a single time and only to the builder. The builder would not be able to sell the lots until the infrastructure is done and accepted.

Staff is requesting authorization to move forward with all four of the agreements listed above, which includes the Subdivision Improvement Agreement with the Saddlebrook developer.

Mayor Gutierrez opened the floor to Council for discussion.

Councilmember Westbrook asked if the worst case example would be like what happened in Freeway Manor. Ms. Woodlee responded that Freeway Manor is a good example of a paper subdivision. The lots exist, they can be sold to anyone, and there is no infrastructure. So, the person who purchases the lot wouldn't be able to pull a permit to build a home without building the infrastructure. She added that this is the worst example of what can happen when the infrastructure is not complete prior to recordation of the plat, which is not necessarily a risk in this case.

Mayor Gutierrez added that in this case, the builder cannot sell the lots without completing the infrastructure. Ms. Woodlee stated that is correct.

City Manager Williams asked if it required a bond. Ms. Woodlee stated yes, and the infrastructure would also be bonded, so if the developer did not complete the construction, the City could call the bond and use the funds to complete the infrastructure.

Councilmember Gibson asked how the city knew that this developer only has one builder they are selling to. Ms. Woodlee explained that the developer is selling it to themselves. They are two divisions of the same corporation. Councilmember Gibson asked if they could still sell to multiple builders.

Mayor Gutierrez explained that in some subdivisions there are three builders. They buy a certain number of lots in a neighborhood and they build in that dedicated portion of land, but they cannot resell it.

Mr. Williams added that the intention is to mitigate the risk of an individual buyer being left holding the bag like in a Freeway Manor type scenario. If its in a builder's hand it's more likely to be completed.

Councilmember Brown stated that it is common for a large development to have more than one builder. It adds variety different price points to the neighborhood. It ensures the success of the neighborhood in the long run. In today's world, developers are not taking 100 acres of land and cutting it up into 75 lots and selling it. Millions of dollars of infrastructure go into these developments before anything even starts. He stated he sees value in this agreement.

Ms. Woodlee added that the developer in this case is Ashton San Antonio Residential LLC and the builder is Ashton Woods. The builder in this case is the developer, which is not common.

Mayor Gutierrez asked for a motion to approve Resolution 24-R-40.

The motion to authorize the Pro-Rata Agreement, Cost Sharing Agreement, Roadway Impact Fee Credit Agreement, and the Subdivision Improvement Agreement for the Saddlebrook Development was

Moved by Councilmember Allison Heyward, seconded by Councilmember Michelle Watson

AYE: Mayor Pro-Tem Paul Macaluso, Councilmember Mark Davis, Councilmember Michelle Watson, Councilmember Tiffany Gibson, Councilmember Robert Westbrook, Councilmember Allison Heyward, Councilmember Tim Brown

Passed

- 16. Resolution 24-R-29** - Authorizing the City Manager to execute an agreement with Marksmen General Contractors for Construction Manager at Risk services related to the design and construction of Fire Station #4. (S.Williams/G.Rodgers)

Mayor Gutierrez recognized Battalion Chief John Perry, Schertz Fire Department, who stated the goal of the Resolution is to authorize City Manager Steve Williams to execute an agreement for Construction Manager at Risk services with Marksmen Construction, for the design and construction of Fire Station #4. Benefits of this position are (1) mitigating the city's overall potential risks because the contract includes a guaranteed maximum price for the project which provides a predictable budget and helps to ensure the city receives a quality fire station in order to continue to provide superior service and response times to our residents and the visitors of our city; (2) help the city move forward and get closer to our ISO rating in our next evaluation.

The City has an agreement with Icon Architects for the design of Fire Station #4, previously approved by Council, and the initial design efforts are currently underway. We are at the stage of the project where expected costs of the proposed project need to be determined by a qualified construction manager before the design can proceed further. Per Local Government Code 2269.254, the government entity shall select

offeror that submits the proposal that offers the best value for the governmental entity based on the published selection criteria and on its ranking evaluation. The decision for the proposed Construction Manager At Risk was based on the outcome of the request for qualifications process by using the two-step selection process for Construction Manager At Risk. The first step was the return of four responses to the RFQ on January 4, 2024. Responses were evaluated and ranked based on their qualifications. Step 2, involved the top three firms submitting a cost proposal along with in-person interviews conducted by the selection committee on February 9, 2024. Using LGC 2269.254 as the basis for decision, best value and ranking evaluation, Marksmen General Contractors was identified as the top firm. Fiscal impact is estimated at \$1,257,000, and the approval for these services come from within the bond approved for Fire Station #4.

Mayor Gutierrez opened the floor to Council for discussion.

Councilmember Westbrook asked who was on the selection committee and what separated #1 from #2 and #3 in terms of value. Purchasing Director Jessica Kurz responded that the selection committee comprised of 7 individuals, made up of city staff from the Fire Department, Engineering, and those involved in the planning process, in addition to, the owner's representative, and herself. In regards to what separated the selected firm from the other two, she stated they invited the top three ranked firms for on-site interviews, which gave them the opportunity to talk to their teams, their project planning teams, their construction management teams, regarding their experience with fire stations. She stated they did their due diligence and reached out to references for all three firms. Ultimately, Marksmen and the #2 firm were very well qualified and highly competitive, so ultimately they looked at price, with Marksmen coming in slightly below in cost. The 3rd ranked firm, was a much smaller firm with more limited resources and their experience with Fire House design wasn't exactly the product they were seeking for Fire Station #4.

Councilmember Westbrook then asked if the firm was local. Ms. Kurz responded that they are local, out of San Antonio. Councilmember Westbrook asked if they had experience building Fire Stations. Ms. Kurz responded yes. The #2 firm had built Fire Station #3, and Marksmen had built several which the selection committee did visit.

Mayor Gutierrez asked for a motion to approve Resolution 24-R-29.

Moved by Councilmember Michelle Watson, seconded by Councilmember Allison Heyward

AYE: Mayor Pro-Tem Paul Macaluso, Councilmember Mark Davis,  
Councilmember Michelle Watson, Councilmember Tiffany Gibson,  
Councilmember Robert Westbrook, Councilmember Allison Heyward,  
Councilmember Tim Brown

Passed

Mayor Gutierrez recessed to Closed Session at 8:15 p.m.

### **Closed Session**

17. The City Council will meet in closed session under Section 551.087 of the Texas Government Code, Deliberation Regarding Economic Development Negotiations; Closed Meeting. The governmental body is not required to conduct an open meeting (1) to discuss or deliberate regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations; or (2) to deliberate the offer of a financial or other incentive to a business prospect.
- Project:E-86

Mayor Gutierrez convened Closed Session at 8:20 p.m.

Mayor Gutierrez recessed Closed Session at 8:28 p.m.

Mayor Gutierrez reconvened to Regular Session at 8:33 p.m.

### **Reconvene into Regular Session**

18. Take any action based on discussion held in Closed Session under Agenda Item #17.

Mayor Gutierrez made the motion to approve Resolution 24-R-43, a Resolution by the City Council of the City of Schertz Texas authorizing an expenditure as reflected in an Economic Development Performance Agreement Between the City of Schertz Economic Development Corporation and Axiom Group, Inc and other matters in connection therewith; seconded by Councilmember Heyward.

AYE: Mayor Pro-Tem Paul Macaluso, Councilmember Mark Davis,  
Councilmember Michelle Watson, Councilmember Tiffany Gibson,  
Councilmember Robert Westbrook, Councilmember Allison Heyward,  
Councilmember Tim Brown

Passed

### **Information available in City Council Packets - NO DISCUSSION TO OCCUR**

19. Monthly Update - Major Projects in Progress/CIP (B.James/K.Woodlee)

### **Requests and Announcements**

- Requests by Mayor and Councilmembers for updates or information from Staff  
No requests were made by Mayor or Councilmembers for updates or information from Staff.

- Requests by Mayor and Councilmembers that items or presentations be placed on a future City Council agenda  
No requests were made by Mayor or Councilmembers that items or presentations be placed on a future City Council agenda.

- City and Community Events attended and to be attended (Council)  
Mayor Pro-Tem Macaluso attended Movin' on Main.

Councilmember Davis attended Movin' on Main.

Councilmember Watson attended Movin' on Main.

Councilmember Gibson attended Movin' on Main, TML Leadership Academy, and The Chamber Luncheon.

Councilmember Westbrook attended Movin' on Main.

Councilmember Heyward attended Movin' on Main, the NEP Luncheon, The Chamber Luncheon, and the Ribbon Cutting for Travelin' Tom's.

Councilmember Brown attended Movin' on Main and the NEP Luncheon.

### **Adjournment**

Mayor Gutierrez adjourned the meeting at 8:36 p.m.

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Ralph Gutierrez, Mayor

ATTEST:

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Sheila Edmondson, City Secretary