

# DRAFT

## MINUTES REGULAR MEETING September 19, 2023

A Regular Meeting was held by the Schertz City Council of the City of Schertz, Texas, on September 19, 2023, 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 Michelle Watson; Councilmember Mark Davis; Councilmember Jill Whittaker; Councilmember Michael Dahle; Councilmember David Scagliola; Councilmember Allison Heyward; Councilmember Tim Brown

Staff present: City Manager Steve Williams; Deputy City Manager Brian James; Assistant City Manager Sarah Gonzalez; City Attorney Daniel Santee; City Secretary Sheila Edmondson; 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 Heyward)**

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

### **Proclamations**

#### **● National Preparedness Month-September 2023**

Councilmember Dahle presented the National Preparedness Month - September 2023 Proclamation to Brandon High, Emergency Management Coordinator, and members of the Emergency Management team. Mr. High provided a new resource, the State of Texas Emergency Assistance Registry (STEAR) for those residents who need additional assistance during an emergency. Information regarding STEAR can be found at [STEAR.tdem.texas.gov](http://STEAR.tdem.texas.gov).

#### **● I.T. Professionals Day-September 19, 2023**

Councilmember Heyward presented the I.T. Professionals Day - September 19, 2023, Proclamation to Jack Bluebird, I.T. Director, and members of the I.T. staff.

#### **● HR Professionals Day-September 26, 2023**

Councilmember Whittaker presented the HR Professionals Day - September 26, 2023, Proclamation to Jessica Kurz, HR and Purchasing Director.

## 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, September 23**

Love Where You Live Fall Service Day  
First Baptist Church of Schertz  
600 Aero Avenue  
8:00 a.m. - 4:00 p.m.

Community Car Seat Check  
629 Westchester, Community Playscape  
9:00 a.m. - 2:00 p.m.

### **Friday & Saturday, September 29 - 30**

Skylight Balloon Fest  
16765 Lookout Road, Selma

Friday, September 29: 5:00 p.m. - 9:00 p.m.  
Saturday, September 30: 7:00 a.m. - 9:00 a.m. and  
2:00 p.m. - 9:00 p.m.

### **Tuesday, October 3**

National Night Out  
Various neighborhoods throughout the City  
6:00 p.m. - 8:00 p.m.

### **Tuesday, October 3 - Friday, October 6**

TML Annual Conference  
Dallas, TX

### **Saturday, October 7**

Dunkin' for Pumpkins  
Schertz Aquatics Center  
4:00 p.m. - 6:00 p.m.

### **Monday, October 9**

Columbus Day  
City Offices Closed

### **Tuesday, October 10**

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

**Election Information** - The City of Schertz will be holding its General Election on November 7, 2023, for the purpose of electing Council Members for Place 3, Place 4, and Place 5 for three year terms.

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

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

Recognition of Ethan Hydes who was promoted from EMT to Paramedic.

### **Tuesday, October 10**

Kenneth Greenwald Water Treatment Plant Dedication  
Schertz - Seguin Local Government Corporation (SSLGC)  
2339 County Road 114  
Nixon, TX  
11:00 a.m. - 1:00 p.m.

- Announcements and recognitions by the Mayor (R. Gutierrez)  
No announcements from Mayor Gutierrez were made.

### **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 Watson recognized the following residents:

**Mark Roberts**, 1000 FM 3009, Schertz, by proxy.

City Secretary Sheila Edmondson read Mr. Roberts statement into the record. Mr. Roberts, owner of Classic Collision on Borgfeld Road, requested grandfather status and the granting of an exemption from the City Ordinance prohibiting parking of vehicles on grass within the city limits. Mr. Roberts stated he had discussions several years ago with the city engineer regarding the possibility of paving some of the area to alleviate the parking, however, additional city ordinances requiring green space and detention prevented this from happening. He also stated, the business has used the grass area for parking since 2002.

**Geoff Nienstedt**, 100 Pecan Drive, owner of Roadrunner Towing, stated he has had a contract with the city for 22 years and has been able to provide quick response to all calls from the City. The parking ordinance will force him to move out of the city and into the county which will greatly delay his ability to service the city with the same responsiveness. He has sought out other properties within the city limits, but none are available. He understands not wanting parking on grass in neighborhoods, but this ordinance is detrimental

to businesses. He asked Council to seek a solution that will benefit all.

**Robert Roberson**, 4015 Lower Seguin Road, Green Valley Board Member who is running for re-election. He stated that during his time on the Board, the City of Schertz and Green Valley reached an agreement to provide wastewater services to residents of south Schertz, increased their staff to 53-55 employees, and are servicing approximately 17,000 residential connections. He hopes, if re-elected, to expand that service. Green Valley's philosophy is to ensure that growth pays for growth in our communities.

## 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** - Approval of the minutes from the regular meeting of September 5, 2023. (S.Edmondson/S.Courney)
2. **Ordinance 23-T-23** - Authorizing adjustments to the FY 2022-23 Budget. *Final Reading* (S. Gonzalez/J. Walters)
3. **Ordinance 23-S-16** – Consideration of a request for a Specific Use Permit to allow a convenience store with gas pumps on approximately 5.5 acres of land, more specifically described 1008 and 1020 FM 78, Schertz, TX 78154, also known as Guadalupe County Property Identification Number: 67650 and 67552, City of Schertz, Guadalupe County, Texas. *Final Reading* (B. James, L. Wood, E. Delgado)
4. **Resolution 23-R-95** - Authorizing expenditures of up to \$220,000 with Silsbee Ford, \$127,000 with Caldwell Country Ford/Chevrolet, \$166,000 with Southwest Ambulance Sales, \$270,000 with Frazer, \$168,000 with Closner, and \$265,000 with Doggett Freightliner for the purchase of various vehicles/equipment as part of the 2023-2024 Vehicle/Equipment Replacement/Acquisition program. (B. James/D. Hardin-Trussel/C. Hernandez)
5. **Resolution 23-R-97**- Approving a contract for Architectural and Engineering Services for Fire Station 4. (S.Williams/G.Rodgers)
6. **Resolution 23-R-99** - Authorizing a Schertz Main Street Local Flavor Economic Development Grant for 508 Main Street. (S. Williams/B. James)
7. **Resolution 23-R-88** - Authorization of EMS, Utility Billing, Schertz Magazine, and Library debt revenue adjustments. (S.Gonzalez/J.Walters)

Mayor Gutierrez asked for a motion to approve Consent Agenda Items #1 - 7.

Moved by Councilmember Tim Brown, seconded by Councilmember Allison Heyward

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

Passed

## Public Hearings

8. **Ordinance 23-S-21** - Conduct a public hearing to consider a request to rezone approximately 4.5 acres of land from General Business District (GB) to General Business-2 District (GB-2), located at the intersection of IH 35 Access Road and Legacy Oaks Parkway, also known as 16746 IH 35 N, Schertz, Guadalupe County, Texas, also known as Guadalupe County Property Identification Number 64672. **First Reading** (B. James, L. Wood, D. Marquez)

Mayor Gutierrez recognized Daisy Marquez, Planner, who provided the location of the subject property, the public hearing notices sent August 8, 2023, public hearing notice published in the San Antonio Express News on August 30, 2023, and the responses received as of September 7, 2023 (2 in favor; 0-opposed; 0 neutral).

Current zoning is General Business District (GB). Proposed zoning is General Business-2 District (GB-2). GB-2 requires a Specific Use Permit (SUP) for automobile sales, allows light-industrial, and heavier traffic uses. Per applicant letter of intent, applicant needs to rezone to GB-2 to request SUP for the proposed automobile sales at the subject property.

### Recommendations:

The Schertz Planning and Zoning Commission met on August 23, 2023, and voted to recommend that the City Council approve the proposed zone change as presented with a 5-2 vote.

Staff recommends denial of the requested Specific Use Permit based on incompatibility with the Comprehensive Land Use Plan Designation, and inconsistency with the existing uses in the area and along the southern IH-35 corridor.

Applicant, Ken Brown representing Kahlig Automobile Group, who owns 13 North Park dealerships in and around the San Antonio area, including the Audi dealership in Selma, presented a brief video of the planned development. Mr. Brown stated he understands the staff's concerns should the dealership be granted the GB-2 zoning and then leave. They spoke with the Wuest family who is willing to enforce restrictive covenants to prevent undesirable uses of the property in the future as a proactive measure. They are proposing a luxury vehicle dealership.

Mayor Gutierrez opened the meeting to the Public Hearing

Mr. Dana Eldridge, 2628 Gallant Fox Drive, stated he is opposed to having a car dealership developed on the subject property and recommended an alternative site.

No other public spoke. Mayor Gutierrez closed Public Hearing and opened the floor to Council for discussion.

Councilmembers discussed the uses of GB-2 and the future implications of rezoning the subject property. Most were not opposed to an automobile dealership but did not think this was the appropriate location.

Mayor Gutierrez called for a motion to approve Ordinance 23-S-21.

Moved by Councilmember David Scagliola, seconded by Councilmember Mark Davis

AYE: Councilmember Mark Davis, Councilmember David Scagliola

NAY: Mayor Pro-Tem Michelle Watson, Councilmember Jill Whittaker, Councilmember Michael Dahle, Councilmember Allison Heyward, Councilmember Tim Brown

Failed

9. **Ordinance 23-S-22** – Conduct a public hearing and consider a request for a Specific Use Permit to allow automobile sales on approximately 4.5 acres of land, located at the intersection of IH 35 Access Road and Legacy Oaks Parkway, also known as 16746 IH 35 N, Schertz, Guadalupe County, Texas, also known as Guadalupe County Property Identification Number 64672. *First Reading* (B. James, L. Wood, D. Marquez)

Mayor Gutierrez explained that since Ordinance 23-S-21 failed, no public hearing is required for this item as no action can be taken.

## Workshop

### 10. **Presentation on Planned Development Districts (PDDs)**

Mayor Gutierrez recognized Planning Manager Emily Delgado who presented information on PDDs. A PDD is created to promote and encourage innovative development that is sensitive to the surrounding land uses. If this necessitates varying from available zoning districts, the proposed development should demonstrate community benefits. They should not be used to deviate from the provisions of the UDC that contradict its intent. Ms. Delgado provided the minimum land size standards and the standards of PDD development.

The criteria for approval are as follows:

- (1) whether the proposed PDD implements the policies of the adopted Comprehensive Land Plan;
- (2) whether the proposed PDD promotes the health, safety, or general welfare of the City and the safe, orderly, efficient and healthful development of the City;
- (3) whether the uses permitted by the proposed change in zoning district classification and the standards applicable to such uses will be appropriate in the immediate area of the land to be reclassified;
- (4) whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers or other public services and utilities to the area;
- (5) the extent to which the proposed PDD will result in a superior development than could be achieved through conventional zoning;
- (6) whether all the applicant's back taxes owed to the City have been paid in full (no application will receive final approval until all back taxes are paid in full); and,
- (7) whether other criteria are met which, at the discretion of the Planning and Zoning Commission and City Council, are deemed relevant and important in the consideration of the amendment.

Discussion surrounding PDDs vs amendments to the UDC is driven by the City's goals/desires.

Mayor Gutierrez opened the floor to Council for discussion.

Councilmember Whittaker stated there is a community benefit of smaller lot sizes because salaries are not rising as fast as the cost of living, so more people can afford a home if the lot sizes are reduced. She would like some of the standard reductions that are approved consistently to be addressed as amendments to the UDC.

Councilmember Brown stated he still likes the variety of lot sizes. The PDD allows for a mix of single residential and multifamily developments.

Councilmember Scagliola likes the diversity the PDD provides, however, he likes straight zoning too. He added that the PDD is supposed to benefit the city and not be a mechanism for the developer to define the building standards, for example reducing the size of a lot by 30% from what the UDC allows. He is not okay with using the PDD in this manner.

Councilmember Davis added that you have rules, and those rules should be followed. Allowing developers to submit what they want outside of the UDC is counterproductive to staff and the community at large. There is some value to the PDD, such as signage and/or landscaping. He requested data comparing lot sizes including setbacks with neighboring cities. PDD should not be used to deviate from lot size. Lot size should be a line item in the UDC.

Mayor Pro-Tem Watson agreed that the PDD should not be used to deviate from the standard lot size.

Councilmember Dahle concurred with Councilmember Whittaker that the UDC needed to be amended for the signage. He stated that the PDD needs to identify the community benefit and the onus is on the developer to present that. He suggested that if the PDD is used to reduce the lot size, then there should be some stipulation that at least half the lots must meet the minimum size limitations as defined in the UDC. There should be some intent by the developer to meet the base zoning requirements, but if the shape of the property creates an issue to do so, then the PDD should be submitted.

Councilmember Heyward stated she has no issue with the PDD especially if the developer is bringing in something unique, and they can show the community benefit. PDDs allow the city to have some control over the design elements and things the city is looking for with the new development. Lot size plays a role in affordability, so we need the flexibility.

Deputy City Manager Brian James provided insight on the use of PDDs vs the UDC requirements. He shared the issues faced by staff when addressing variances, how much flexibility can be given, and whether setting stricter measures in the UDC will have greater implications.

Mayor Gutierrez closed the discussion with final thoughts regarding guidelines needing to be provided to developers trying to maximize the value of the property on what is negotiable and what is not.

## **11. Presentation on Parking on Unimproved Surfaces**

Mayor Gutierrez recognized Rebecca Vera, Neighborhood Services Manager, who provided an update on UDC Article 10 Parking Standards and Article 8 Outdoor Display and Storage violations. She stated there are several open cases in both residential and mixed-use properties. Ms. Vera explained the Case Progression from Violation Noted to Citation. A typical case can take as long as 6 months before a citation is issued. The City does offer property owners or businesses an extension of up to 6 months to work through solutions. There are processes in place to help property owners get resolution.

Mayor Gutierrez opened the floor to council for questions. Dr. Scagliola stated that the intent was to clean up the property, but not to create a greater problem. He didn't believe encumbering small business to fill in a retention pond to pave a parking lot was the intention that Council set out to achieve. He would like to sit with small businesses that are affected by the parking ordinance specifically to work through alternative resolutions. He understands there are some egregious situations, where you can tell it has gone on too long and the use is inappropriate, however, there are businesses that in all good faith want to comply with City ordinances who have operated for a long time and contributed to the growth of the City immensely. He would like an opportunity, or someone from the staff, to sit down with businesses and come up with a compromise.

Councilmembers Whittaker, Dahle, and Heyward were all in agreement with Dr. Scagliola. Additionally, they all agreed that the staff has done an excellent job in implementing and enforcing the code. Unfortunately, no one intended for the ordinance to force small businesses out of the city or to create a larger issue.

Councilmember Davis stated that the ordinance needs to be enforced across the board. Parking on unimproved surfaces has been a prohibition in the City for a long time. He understands the concern of small businesses but as a business grows, they need to account for several issues including parking for staff and storage of vehicles. He reiterated his disagreement that this was something that the City would need to make an exception for. There must be a way to look at this in the code and find solutions. More research needs to be done to find resolutions without making exceptions to the code.

Deputy City Manager Brian James provided final comments for staff. He agreed that there is more work to be done and he believes that staff has an idea on how Council wants them to move forward.

City Attorney Santee requested direction on pending cases to provide guidance to the prosecutor. Mr. Santee explained these are criminal citations, so it is a significant issue if a business or property owner is brought into municipal court and stands trial. He also stated that there could be no distinction between residential and industrial violators. Council asked that the cases be paused until a final decision has been reached.

## **12. Presentation on Funding the Cost for Steel Utility Poles**

Mayor Gutierrez recognized Deputy City Manager Brian James who provided a brief presentation on steel utility poles vs wood utility poles. The UDC generally requires utilities to be underground, however, waivers can be granted generally based on adjacent land use to allow them to be overhead so long as they are on steel poles. Utility companies generally charge the developer to extend utilities to and through a project as part of providing service and pass the cost of the steel poles along to the developer. When there is the need for a general extension or upgrade in service paid for by the utility company, they push back on the steel pole requirement. In addition to the UDC, the franchise agreement and the Public Utility Commission (PUC) regulations must be considered.

Issue at hand is a CPS project to replace 20 existing wooden poles on Ray Corbett Drive. CPS has provided a cost to upgrade these poles from wood to steel at an estimated cost of \$106,834, which is \$63,902 greater than the cost to use wooden poles. Staff is seeking guidance from Council on whether to pay the additional \$63,902 for the steel poles or opt for the wooden poles.

Mr. James stated that outside of a large project like FM 1518, staff estimates they review utility company driven projects involving 100-200 poles per year. The average increased cost for steel poles is \$3200/each, so the increased cost could range

between \$320,000 and \$640,000 per year that would come from the general fund.

Councilmember Whittaker stated that the steel poles look nice, but she's not convinced its fiscally responsible to spend the extra funding on them.

Councilmember Dahle stated he wasn't in favor of having steel poles mandated in the UDC before and is still highly opposed to spend additional funding on them. Funds could be spent in other, more important areas,

Councilmember Brown likes how the steel poles on FM 1518 look and asked if they could do something like a PCI where we have a plan of what roads are going to be prioritized. Makes sense to him to approve the funding for the steel poles on Ray Corbett as an extension of the 1518 and its entry into a nice neighborhood. He is not advocating that every pole be a steel pole but with a plan and prioritization of main streets, Council can determine which areas they would like to have them placed.

### **13. Discussion Regarding Rules and Procedures**

#### **a. Videoconferencing**

Mayor Gutierrez recognized Councilmember Heyward who requested videoconferencing be discussed by Council. Councilmember Heyward stated she brought this forward after attending an event at TML where this issue was discussed. It is not mandated by the State, but if you allow it, you must follow certain guidelines set by the State. In seeking an opinion from the City Attorney, she does not believe videoconferencing should be permitted.

Councilmember Whittaker stated that she found it quite challenging to follow what was happening because it was difficult to hear when she participated in a Council meeting via videoconferencing. Since there are only two meetings per month, and there is the availability to watch the recording of the meeting, she does not support videoconferencing.

Councilmember Dahle stated he had participated in Council meetings via videoconferencing, and he concurred with Councilmember Whittaker that it was difficult to hear. He is not opposed to disallowing videoconferencing, but there is some value in allowing it once or twice for extenuating circumstances.

Councilmember Brown stated he is torn on the issue. He hates to limit participation by not allowing it, but there needs to be justification. Council should shoot for 100% live participation. If, however, we aren't following the state guidelines, then we shouldn't allow it.

Councilmember Davis said they should disallow it. A few years ago, they increased the number of Councilmembers, so there shouldn't be an issue with establishing a quorum, plus the number of meetings per month was recently reduced to two. Additionally, there is a provision that says if you're out for

work, illness, or city business it's an excused absence. It is not worth the additional work to set up the technology equipment to accommodate it. Although we have great IT support here, the individual on the other end may not have appropriate internet or cell service to fulfill their end of the agreement. If you can't be in attendance, have an excused absence.

Councilmember Heyward followed up by stating like Councilmember Whittaker, she had difficulty with internet service when she tried to videoconference from a hotel as well. The service was intermittent, communication was delayed, and she couldn't always hear.

Mayor Gutierrez closed the discussion stating that Councilmember Davis was correct in his statement regarding absences, and it is taxing on the staff. He stated this would be brought back to Council with an ordinance for approval.

**b. Hearing of Residents-Written Communications**

Mayor Gutierrez recognized Councilmember Whittaker who requested this topic be brought to Council for discussion. Councilmember Whittaker stated that although the website said the City Secretary would read statements received from residents, it's not the actual policy. She would like Council to go back to the policy and not read them. All Councilmembers have their email addresses readily available, and to her knowledge everyone reads theirs, so residents can email them directly, or they can email them to the City Secretary who will then forward them to Council. They do not need to be read.

Councilmember Heyward referenced Ordinance 21-M-28 which reflects the City Council's Rules and Procedures does not say that written communications will be read but rather distributed to Council. State law does not require resident statements to be read by staff during City Council meetings.

Councilmember Davis stated he understands what the rules say. He indicated that the issue that arose at the last council meeting when Council was asked whether a statement should be read that Council was not provided a copy of the email beforehand. Had the statement been provided, Council would not have voted to have it read, but documented it had been received.

Councilmember Heyward asked for clarification on the process going forward.

Mayor Gutierrez responded that any written communications received from residents as part of the Hearing of Residents will only be provided to Council and not read a loud at the Council meeting. Nothing needs be changed in the Rules and Procedures, but the website needs to be updated to accurately reflect the policy.

Mayor Gutierrez recessed to Closed Session at 9:31 p.m.

## **Closed Session**

14. The City Council will meet in closed session pursuant to 551.071 of the Texas Government Code, consultation with attorney to receive legal advice related to interpretations regarding land use under the comprehensive plan.

Mayor Gutierrez convened Closed Session at 9:35 p.m.

Mayor Gutierrez recessed Closed Session at 9:55 p.m.

## **Reconvene into Regular Session**

Mayor Gutierrez reconvened to Regular Session at 10:00 p.m.

15. Take any action based on discussion held in Closed Session under Agenda Item #14.

No action was taken based on discussion in Closed Session under Agenda Item #14.

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

16. **Monthly Financial Statements for June and July 2023** (S. Gonzalez/J. Walters)

17. **Guadalupe Appraisal District Information-Nominations and Voting Process** - Guadalupe Appraisal District sent the process and timeline for nominating candidates for the GAD Board of Directors. Please see attached brief description and the calendar of dates in which action is needed. (S.Williams/S.Edmondson)

## **Requests and Announcements**

- **Requests by Mayor and Councilmembers for updates or information from Staff**  
No requests 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 by Mayor or Councilmembers that items or presentations be placed on a future City Council agenda.

- **Announcements and City Events attended by Councilmembers**

- \*Councilmember Davis attended the TIRZ II meeting.

- \*Councilmember Whittaker attended The Chamber Luncheon, TIRZ Board meeting, NEP Luncheon, and the Ditzzy Gypsy Ribbon Cutting.

- \*Councilmember Scagliola attended The Chamber Luncheon.

- \*Councilmember Heyward attended Paws in the Pool, NEP Luncheon, First United Bank's Women's Night of Empowerment, The Chamber Luncheon, Ditzzy Gypsy Ribbon Cutting

- \*Councilmember Brown attended The Chamber Luncheon.

**Adjournment**

Mayor Gutierrez adjourned the meeting at 10:02 p.m.

---

Ralph Gutierrez, Mayor

ATTEST:

---

Sheila Edmondson, City Secretary