

Minutes

February 16th, 2023

@ 6:00pm

Regular Council Meeting

1. Call to Order @ 6:01pm
2. Roll Call: Fladmark, Dumont, Lawhon, Brasfield, Figueroa and Holley. All Present.
3. Invocation and Pledge of Allegiance
4. Citizen Comments: Citizens wishing to speak on an agenda item must sign up to do so (3 Minute Maximum)
 - a. George Guandique provided an update on 1216 S Tool Drive stating that progress is being made and will provide another update at the next regular meeting.
5. Approve Minutes: January 19th, 2023, Regular Meeting. Motion to approve was made by Councilmember Fladmark with second by Councilmember Dumont. Motion Passed 5/0.
6. Approve Consent Agenda Items "A" thru "H"; Monthly Activity Reports for January 2023 as presented: (A) Executive Summary (B) Financial and Expenditure (C) Municipal Court; (D) Police (E)Maintenance; (F) Building (G) Code Enforcement and; (H) Animal Control. Councilmember Fladmark commended staff for the clarity of the financial reports. Councilmember Figueroa stated that there is still more work to be done, however he does feel we have confident records. Councilmember Dumont inquired about the estimated completion date of the audit. City Administrator Julius Kizzee stated that the auditors have requested additional information and we should hear back by the end of the month. Councilmember Fladmark inquired if the 2020-2021 audit was the audit in question to which Councilmember Figueroa stated that it was. Motion to approve Consent Agenda Items "A" thru "H"; Monthly Activity Reports for January 2023 as presented: (A) Executive Summary (B) Financial and Expenditure (C) Municipal Court; (D) Police (E)Maintenance; (F) Building (G) Code Enforcement and; (H) Animal Control as presented was made by Councilmember Fladmark with second by Councilmember Dumont. Motion Passed 5/0.
7. Open a public hearing to receive citizen testimony on the following @ 6:11pm
 - a. The possible annexation of Cedar Creek LotCO, LLC
 - b. The possible annexation of The Groves at Cedar Creek, LLC
 - c. A Municipal Services Agreement with John Litchfield, Owner of The Groves at Cedar Creek LotCO, LLC
 - d. A Municipal Services Agreement with Aaron Albright, Owner of The Cedar Creek LotCO, LLC
 - e. Possible Tax Abatement Agreement with Cedar Creek LotCO, LLC and The Groves at Cedar Creek, LLC
8. Close public hearing and take any action necessary from the public hearing period @ 6:15pm. Councilmember Dumont opened the floor for citizens to speak if they wished. City Administrator Julius Kizzee stated since 2019, annexations must now be voluntary, and that this annexation is the conjoined effort for 34 homes. He continued by stating that having a public hearing for the annexation was customary. He then further explained what was included in a Municipal Services Agreement and Tax Abatement Agreement. Councilmember Fladmark stated that the public hearing is a Texas State Statute, not customary practice.
9. Discuss and Consider Action on the approval of the 2022 Racial Profiling Report by the Tool Police Department. Councilmember Dumont stated that he had read the report and had no issues with it. Motion to approve the 2022 Racial Profiling Report by the Tool Police Department was made by Councilmember Dumont with second by Councilmember Figueroa. Motion Passed 5/0.
10. Action on a request by Deborah Farren of 1960 Cherokee Trace of the Trade Winds Subdivision to replat Lots 58 & Lot 57, Block 8 creating an 0.23-acre lot, Lot-57R. Ms. Farren stated that she had owned the two properties since the 1990's and is requesting the replat to build a new home so she can retire here. Councilmember Dumont welcomed Ms. Farren to the City of Tool and requested clarification from Building and Code Official Lacosta Davis on the scope of the proposed project and replat. Ms. Farren stated that she will be building a new home since the current home is not livable.

Motion to approve the request to replat Lots 58 & Lot 57, Block 8 creating an 0.23-acre lot, Lot-57R was made by Councilmember Dumont with second by Councilmember Fladmark. Motion Passed 5/0.

11. Action on a request by Kristi Chapman and Doug Harvey of 1628 Mona Court of the Paradise Bay Subdivision, to request a Specific Use permit for building a guesthouse. Councilmember Fladmark inquired if the homeowners were present to which Building and Code Official Lacosta Davis stated that they were not. Councilmember Fladmark then requested Ms. Davis to discuss the project. Ms. Davis stated that they are tearing down the current guest house and going to rebuild. She continued by saying that they want to keep their carport in the front yard but move it back behind the build line. Ms. Davis stated that since the carport will still be in the front yard, they will need a variance and that they had to come before Council for a Specific Use Permit for the guest house. Councilmember Dumont stated that there was a lot of activity on the property. Ms. Davis stated that she had pictures of the property owners parking in the street due to there being no room to park and that there is a lot going on in one space. Councilmember Holley stated that he would like for the homeowners to be here to discuss. City Administrator Kizzee clarified that the first action is for building the guest house and that the next item deals with the carport. Councilmember Fladmark stated that the plan was for the guest house to be torn down and build a new guest house behind the deck and this doesn't violate code. Councilmember Fladmark continued by stating the issue is, moving the carport behind the build line will still make the carport in the front yard and that is not allowed. Councilmember Fladmark concluded by stating that they are also parking in the street, which is a hazard. Motion to approve the request by Kristi Chapman and Doug Harvey of 1628 Mona Court of the Paradise Bay Subdivision, to request a Specific Use permit for building a guesthouse was made by Councilmember Fladmark with second by Councilmember Figueroa. Motion Passed 5/0.
12. Action on a request by Kristi Chapman and Doug Harvey of 1628 Mona Court of the Paradise Bay Subdivision, to request a variance on the placement of an accessory structure. Councilmember Fladmark inquired if the entire carport would be in front of the house or just a portion. Building and Code Official Lacosta Davis stated the entire carport would be in front of the house. Councilmember Figueroa inquired if the setback of the carport will be where the guest house is currently. Ms. Davis stated that the removal of the current guest house will allow the carport to go back behind the build line. Councilmember Figueroa inquired if the city could require the owner to tear it down to which Councilmember Fladmark stated that the carport would be grandfathered in. Councilmember Dumont stated that the carport is way out of compliance right now. Councilmember Figueroa stated that what they are asking for is a better solution for aesthetics with the appearance. Councilmember Dumont stated that it will be a good solution if they do it to aesthetically match the house and not just put up a metal carport. Councilmember Fladmark asked Ms. Davis if we give them the variance and then they bring in the permit and it does not meet what the Council determines, what action would she take. City Administrator Kizzee stated that since this is a variance being discussed, the Council could put in their motion that you want it to be aesthetically matching the home and that could be the action taken on this request. City Administrator Kizzee concluded by stating that Ms. Davis would not approve the request since it does not follow the Council's direction. After an amendment, motion to approve request by Kristi Chapman and Doug Harvey of 1628 Mona Court of the Paradise Bay Subdivision, for a variance on the placement of an accessory structure by requiring additional plans that demonstrates the current status of the property was made by Councilmember Holley with second by Councilmember Fladmark. Motion Passed 5/0.
13. Discuss and take action to adopt Ordinance 2023-03, Annexing all that certain 3.938 acre tract of land situated in the Thomas S. Mitchell Survey, Abstract Number A-488 and being all of the called 3.01 acre tract of land, owned by Aaron Albright of Cedar Creek LotCO, LLC. Motion to adopt Ordinance 2023-03, Annexing all that certain 3.938 acre tract of land situated in the Thomas S. Mitchell Survey, Abstract Number A-488 and being all of the called 3.01 acre tract of land, owned by Aaron Albright of Cedar Creek LotCO, LLC was made by Councilmember Fladmark with second by Councilmember Dumont. Motion Passed 5/0.
14. Discuss and take action to adopt Ordinance 2023-04, Annexing all that certain 23.244 acre tract of land situated in the Thomas S. Mitchell Survey, Abstract Number A-488 and being all of the called 2.05 acre tract and 18.52 acre tract of land, owned by John Litchfield of The Groves at Cedar Creek, LLC. Councilmember Fladmark stated that the legal descriptions of both properties are the same and that all property is legally described in the annexation.

Motion to adopt Ordinance 2023-04, Annexing all that certain 23.244 acre tract of land situated in the Thomas S. Mitchell Survey, Abstract Number A-488 and being all of the called 2.05 acre tract and 18.52 acre tract of land, owned by John Litchfield of The Groves at Cedar Creek, LLC was made by Councilmember Fladmark with second by Councilmember Figueroa. Motion Passed 5/0. Councilmember Fladmark commended Staff and Council for annexing this property. He concluded by stating that it is impressive for a city our size to move this fast.

15. To approve an Economic Development Incentive Agreement between the City of Tool, Texas, and The Groves at Cedar Creek, LLC and Cedar Creek LotCO LLC., Texas corporations, providing economic development incentives to the Companies; and authorizing the City Administrator to execute all necessary documents. Councilmember Holley stated that the post completion date was 18 months but inquired what the start and end date was. Councilmember Figueroa stated that the goal was 18 months but that they have up to five years, and he felt that it would probably take 36 months to complete. Councilmember Figueroa then stated that there will be 34 waterfront homes that would each be roughly 6,000 square feet and will sit on half acre to one and a half acre lots. Councilmember Figueroa concluded by discussing The city of Tool's upfront investment, and the escrow draw process which will be drawn upon starting on home 18. Councilmember Fladmark requested clarification on the call on the property and how that process works. City Administrator Kizzee stated that after talking with the City Attorney, the standard process is the developer would provide receipt of payment and then the City would approve the draw to be taken from the escrow account. Councilmember Figueroa explained that the developers are not signers on the escrow account, that the account is held in their favor. Motion to approve an Economic Development Incentive Agreement between the City of Tool, Texas, and The Groves at Cedar Creek, LLC and Cedar Creek LotCO LLC., Texas corporations, providing economic development incentives to the Companies; and authorizing the City Administrator to execute all necessary documents was made by Councilmember Fladmark with second by Councilmember Figueroa. Motion Passed 5/0.
16. Consider and take appropriate action authorizing the City of Tool to enter into a tax abatement agreement pursuant to the Texas Tax Code Chapter 312 as requested by The Groves at Cedar Creek, LLC and Cedar Creek LotCO, LLC. The property subject to the abatement agreement is located on land within the Tax Abatement Reinvestment Zone Number I located in the city of Tool. Councilmember Figueroa stated that the agreement is for the builders to pay no AdValorem tax until it is sold to a third party and that this agreement is not transferable. Councilmember Fladmark stated that the agreement was for City of Tool taxes only. Councilmember Holley inquired on the length of the agreement. Councilmember Figueroa stated that the agreement was a five-year abatement with a 12 month tail which allows them to up to 12 months to sell the properties or they will need to start paying taxes on these properties. Motion to authorize the city of Tool to enter into a tax abatement agreement pursuant to the Texas Tax Code Chapter 312 as requested by The Groves at Cedar Creek, LLC and Cedar Creek LotCO, LLC. The property subject to the abatement agreement is located on land within the Tax Abatement Reinvestment Zone Number I located in the city of Tool was made by Councilmember Fladmark with second by Councilmember Figueroa. Motion Passed 5/0.
17. Authorize Execution of a Municipal Services Agreement for the Cedar Creek LotCO, LLC, owned by Aaron Albright, for the Proposed Owner-Initiated Annexation of all that certain 3 .938-acre tract of land situated in the Thomas S. Mitchell Survey, Abstract Number A-488 and being all of the called 3.01-acre tract of land. Councilmember Fladmark explained what City Services were listed in the Municipal Services Agreement. Motion to authorize the execution of a Municipal Services Agreement for the Cedar Creek LotCO, LLC, owned by Aaron Albright, for the Proposed Owner-Initiated Annexation of all that certain 3 .938-acre tract of land situated in the Thomas S. Mitchell Survey, Abstract Number A-488 and being all of the called 3.01-acre tract of land was made by Councilmember Fladmark with second by Councilmember Figueroa. Motion Passed 5/0.
18. Authorize Execution of a Municipal Services Agreement for The Groves at Cedar Creek, LLC, owned by John Litchfield, for the Proposed Owner-Initiated Annexation of all that certain 23.244 acre tract of land situated in the Thomas S. Mitchell Survey, Abstract Number A-488 and being all of the called 2.05 acre tract and 18.52 acre tract of land. Councilmember Fladmark stated that these were the same Municipal Services that were described in the previous item and that item is just covering the separate property. Maintenance Supervisor Frank Martin inquired if the City was going to maintain the streets. City Administrator Kizzee stated that if the streets are public streets then the City would maintain them.

Councilmember Figueroa stated that the streets are going to be dedicated to the City. Councilmember Fladmark stated that they will have to file a deed dedicating the streets since it is not in the language. City Administrator Kizzee stated that they have already amended the plat. Councilmember Figueroa stated that it was amended to include street dedication. Maintenance Supervisor Frank Martin inquired what material the streets would be made from to which Councilmember Figueroa stated that the roads would be made of concrete. Motion to authorize the execution of a Municipal Services Agreement for The Groves at Cedar Creek, LLC, owned by John Litchfield, for the Proposed Owner-Initiated Annexation of all that certain 23.244 acre tract of land situated in the Thomas S. Mitchell Survey, Abstract Number A-488 and being all of the called 2.05 acre tract and 18.52 acre tract of land as submitted was made by Councilmember Fladmark with second by Councilmember Dumont. Motion Passed 5/0.

19. General discussion on a City Slogan, as well as other marketing ideas for the City of Tool. Councilmember Figueroa stated that The City of Tool is sized for growth and that we currently have a lot in discussion. He continued by stating that the annexation was completed within three months and we are a block for progress. He concluded by saying the city needed a mantra and asking what do we want to be known as. Councilmember Fladmark asked how the city would get ideas and suggested doing a lottery on Facebook, conducting a poll, or asking for input from the children in the elementary school. Councilmember Dumont suggested the slogan "Keep Tool Cool". Councilmember Fladmark stated that this is the start of that process. City Administrator Kizzee stated that staff will put it on the website for people to submit ideas. Court Clerk Stacy Hamaker stated that currently on the city's website it says "Life is simple, just add water." Councilmember Figueroa stated that the city of Tool needs something more proactive and to show who we are as a city. He continued by saying that we need a sign coming in and leaving the city to show what we stand for. City Administrator Kizzee stated that he will get with staff, Henderson County and Tool Elementary and bring it back before the Council in March.
20. Consider, discuss and take action on Ordinance 2023-05, Traffic Calming Devices. Roland Napoles commended staff for ordinance creation and that he fought for two years to get his road humps and he hoped the ordinance passed. City Administrator Kizzee stated that Mr. Napoles did his homework, and that this ordinance was vetted by staff and under Council direction. Councilmember Holley inquired if this was done at the last meeting. Councilmember Fladmark stated that the city did not have an ordinance in place at the last meeting. Motion to approve Ordinance 2023-05, Traffic Calming Devices, was made by Councilmember Fladmark with second by Councilmember Dumont. Motion Passed 5/0.
21. Award bid #2023-01, 'Oran White Civic Center Renovation' to Lakeside Construction and Remodel for the base bid amount of \$86,891.00, with a contingency amount to be determined. City Administrator Julius Kizzee stated what work was and was not in include in the bid provided by Lakeside Construction and Remodel. Councilmember Figueroa stated that the funds for the renovation of the Oran White Civic Center are from the ARPA Funds and Bond Funds and that this was an aggressive renovation. He concluded by stating that this company was a local company and if the bid was accepted that they would start the project tomorrow. Councilmember Fladmark asked what the contingency amount was for the project. City Administrator Kizzee stated that he put in the Ad that the project not to exceed \$100,000. After amendment, motion to award bid #2023-01, 'Oran White Civic Center Renovation' to Lakeside Construction and Remodel for the base bid amount of \$86,891.00, with a contingency amount not to exceed \$100,000 total was made by Councilmember Figueroa with second by Councilmember Dumont. Motion Passed 5/0.

General Discussions

22. Staff

- a. Police Chief Robert Walker provided an update for Peacemakers and CopSync.
- b. City Secretary Kimberley Price announced the Trash Off that will be held on Earth Day.
- c. City Administrator Kizzee discussed the upcoming budget season.

Closing

23. Next Meeting: March 16th, 2023
24. Adjourn @ 7:42pm.

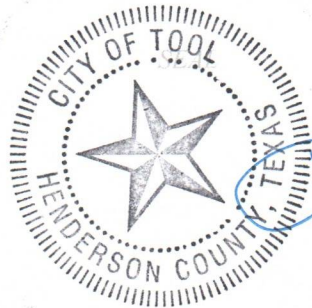
A meeting that is "open to the public", pursuant to the Open Meetings Act, is one that the public is permitted to attend. The act does not entitle the public to choose the items to be discussed or to speak about items on the agenda. If the City Council, during the course of the meeting covered by this notice, should determine that an executive session is required, then such executive session, as authorized by the Texas Open Meetings Act, Texas Government Code, Section 551.001 et seq., will be held by the Council at the date, hour and place given in this notice, concerning but not limited to the following sections and purposes of the Act: 551.071 Private consultation with the city's attorney; 551.072 Deliberations about Real Property; or, 551.074 Discussing personnel or to hear complaints against personnel. Should any final action, final decision or final vote be required in the opinion of the City Council with regard to any matter considered in such executive session, then the final action, final decision or final vote shall be in the open meeting covered by this Notice upon the reconvening of the public meeting.

"Pursuant to Texas Government Code section 551.007, members of the public may speak on an agenda item during the citizens comment section of the meeting or at the time the agenda item is called for discussion by the Mayor. Speakers must sign up with the City Secretary to speak and shall be given three (3) minutes to speak. A speaker needing a translator and/or interpreter may be given six (6) minutes to speak. Criticism of city employees or staff is prohibited. Those wishing to address the Council regarding an item not on the agenda must be a citizen, property owner or business owner of Tool. Comments on such non-agenda items shall be limited to three minutes. The Council will not comment on items not on the agenda; however, the Council may refer the item to city staff for research, resolution or referral of the matter to the Council as a future agenda item."

I certify that the above notice of meeting, a true and correct copy, was posted on the bulletin board in front of Tool City Hall prior to the required 72 hours and that the city's official newspaper was notified.

Passed and approved this 16th day of March 2023.

Tommy Lawhon, Mayor



Attest:

Kimberley Price, City Secretary