

TUESDAY MARCH 21, 2017  
PUBLIC HEARING AND REGULAR COUNCIL MEETING  
6:30 P.M.

## **REGULAR COUNCIL MEETING**

**1. CALL TO ORDER:** Mayor Herron called the City of Hilshire Village Regular Council Meeting to order at 6:30 P.M. at 8301 Westview, Houston, Texas 77055.

**1.1 Invocation:** was given by Council Member Gordy.

**1.2 Pledge of Allegiance:**

**1.3 Present:** were Mayor Russell Herron, Mayor Pro Tem Paul Maddock, Council Members Mike Gordy, Robert Byrne, Robert Swanson and David Gunn. Also present were City Administrator Susan Blevins, Spring Valley Police Lieutenant Schultz, City Attorney Kim Mickelson, Fire Commissioner Shannon Whiting and City Engineer Efrain Him, P.E., HDR, Inc.

## **2. REPORTS TO COUNCIL:**

**2.1 Police Report:** Lieutenant Schultz reported there were no new incidents for the month of March. He stated that a digital speed limit sign was placed on the southbound side of Wirt Road between the 1300 block and the 1100 block. The device collects data of the speed of the vehicle and how many vehicles are traveling down the street. As soon as the data is collected, Lieutenant Schultz will present it to the City Council.

**2.2 Fire Commissioner:** Fire Commissioner Whiting stated the last meeting was on February 22, 2017, and it was a short meeting. She reported the department was 2.51% under budget as of the end of December. The budget for 2016 Plus Surplus is 64K and the plan is to make a recommendation to give each City back a percentage or it will go towards building the new facility. The ladder truck should be delivered around the later part of April or the beginning of May 2017. There will be a Pushing Ceremony where the Fire Fighters will push the Ladder truck into the bay. The Fire Department is hoping for a big turnout for the Ceremony. The department is now fully staffed. A new fire fighter started on February 22, 2017. The Building Committee is looking into the renovation of the Fire Station and has an agreement with Architect Jerod Jackson to design concept designs for the new Fire Station, trying to meet the firefighters' needs. The Village Fire Department's Administrator, Teresa Liggin, passed away due to complications of her Cancer.

## **3. PUBLIC HEARING: Mayor Herron called the Public Hearing to order at 6:37 P.M.**

**3.1** Public Hearing on the proposed amendments to Exhibit A of Chapter 12 of the City's Code of Ordinances, the Zoning Ordinance, specifically by replacing Section 13,

District C-1 Commercial, in its entirety, concerning the development and operation of commercial uses:

**Jim Harbison, # 11 Pine Creek Lane**, said his concerns were with the permit uses on Recreation Facilities. In his mind, the term, "Recreation Facilities", could mean businesses such as Swimming Pool, Basketball, Tennis Courts, Movie Theaters, Bingo Parlors, Game Rooms and Arcades or a Pool Hall. He stated he did not think that this is what the City needs or would encourage. All he is asking for is clarification on the types of Recreation Facilities.

Retail Sales, Food and Beverage establishments also could be things like Pawn Shops, Payday Loan Offices, Laundromats, Game rooms, Smoke Shops, Pool Halls, Lawn Mower Repair Shops or even a Bar. His concerns with those possibilities were with the enforceability of the requirement that all businesses close at 10:00 P.M. According to the Municipal Regulation of Business Hours, you cannot require a nighttime closing based on risks or problems that exist equally in the daytime. Nor can you require a business to close at night because police are required to protect during the late hours or restrict a Convenience Store hours based on the increased crime at night because records show just as many robberies occur in the daytime. You cannot restrict the operating hours of a business that conducts all of its operations indoors nor restrict opening hours to provide employees with shorter working hours. He also stated a closing restriction has to be justified by specific and supportable dangers or conditions.

Jim Harbison feels the draft ordinance proposes concerns regarding the fence separating the commercial property and Pine Creek residences. He stated it will not work for practical reasons such as: who will pay for it, location, requires back to back fencing on the east side of the street, it prohibits a fence from going in the easement, has no construction standards and it's discriminatory.

Council Member Gunn asked Mr. Harbison if he was willing to be on the Zoning Committee. Jim Harbison stated he was not able to commit to the committee but he would be happy to give his input. Mayor Herron stated that Mr. Harbison's written concerns were given to the Council Members for review and that the Zoning and Planning Committee did look at his comments but he could not state if they all were addressed. Mayor Herron stated that the ordinance lists what type of business it will allow and list what activities it will not allow.

Council Member Byrne suggested Mr. Harbison stay for the rest of the meeting because the Committee would address many of his concerns. Jim Harbison stated he thought he made a good case at last month's Council Meeting about why the electric and telephone wires needed to be run underground from the poles to the Commercial Buildings. He felt the public hearings should be a forum not just for citizen comments but also for the Zoning Committee to explain its positions and present responses. He feels the citizens have suggested reasonable revisions, but there were no changes with no explanation of why.

**Brian Baker, 8377 Westview Drive**, stated his only concern was that he needed clarification of the construction and landscaping terms and the timeframe that the changes would need to be completed. He wanted to know if his building would be “grandfathered in” because it had been there so long? Does the change have to occur all at once? He does not want to get a fine for not getting the work done in a timely manner. The ordinance looks reasonable to him; he just needs the clarification. Mayor Herron stated that he thinks many people need the clarification on it and when they get to the discussion, he will ask Attorney Kim Mickelson to explain the rules of being “grandfathered in”.

**Wes Schram, Texas Conference Association of 7<sup>th</sup> Day Adventists’ representative**, stated he was unclear about who was “grandfathered in” and he noticed that a church was not listed as a business nor are some of the businesses the church rents to. He asked if a tenant moved out if the Church would be able to rent to the same type of business and would they have to follow the same rules? He also stated the fence on the back-property line is near an easement, he is unclear where the property line ends and it may be as close as where the wall ends. If that is the case would they put the fence next to the wall of the building, between the buildings or would the fence even be required at all? If the fence is in between the buildings who would pay for the fence and who would put the fence up? Would the City require a survey of the property or does the City take care of the survey?

Mayor Herron stated he has background information on the fence and some illustrations that he will go over during the Agenda Discussion Item. He asked if Mr. Schram knew of any existing businesses rented out by the church that would not fall into those classifications. Wes Schram explained he was not sure all of the types of businesses that the church has as renters. City Administer Blevins stated the church rents to a beauty shop, dentist office, maid service company and a spa. Wes Schram stated that most of those businesses were 9 am to 5pm. Mayor Herron stated he felt all the businesses that they have would fall into the accepted category. City Administrator Blevins stated that the church has a Special Use Permit.

Brian Baker stated that the Texas Alcohol Beverage Commission (TABC) regulates where a bar can set up because of the school across the street. Mayor Herron stated the City cannot override what the state or county regulates.

**3.2** Mayor Herron stated the second Public Hearing was to hear comments on the proposed City’s Code of Ordinances, the Zoning Ordinance, specifically by replacing Section 30.07 Restoration and 30.08 Repair and Alteration.

**Kathleen Stafford, 8205 Burkhart**, stated she was the Zoning Committee Chairperson and she wanted to clarify the difference between restoration and renovation. She said if a person wanted to expand their house within a certain percentage they would have to come in compliance per the Zoning Ordinance. Renovation is the action of renovating, redecoration, refurbishment and Restoration is when you are repairing, fixing, mending or reconditioning.

**The Public Hearing was closed at 7:05 P.M.**

## **The Regular Council Meeting was reconvened at 7:05 PM**

### **4. DISCUSSION**

**4.1 Status Report on the Easement between Pine Creek Lane and the Commercial Area on the west end:** City Engineer Him stated that he met with the City, City Attorney Kim Mickelson and Paul Kwan, surveyor/owner of LandTech, Inc., to decide on the best way to handle the easement situation. It was decided it would be to everyone's best interest for the City to make a public notice to make contact with the heirs of the property. Mr. Kwan was asked to provide the City with the metes and bounds for the public notice. City Attorney Mickelson stated she had received the Metes and Bounds Document and will be working on the legal notices. The City would get judicial recognition that if it belonged to anyone; it now belongs by prescription to the City. It would be best for the City to own not for the ownership to be chopped up between property owners or for them to have to pay taxes on it. Mayor Pro Tem Maddock asked how the procedure would work. City Attorney said the City will make notice and property owners would have thirty (30) days to say they wanted it. If someone claims it as private property they would owe back taxes for the last five (5) years, but it would be minimal. Council Member Gordy asked about the field notes on the survey. City Engineer Him stated he would check with the surveyor.

### **5. ACTION ITEMS:**

**5.1** Council Member Byrne made a motion to approve the City of Hilshire Village Ordinance Number 740 adopting amendments to Exhibit A of Chapter 12 of the City's Code of Ordinances, the Zoning Ordinance, specifically by replacing Section 13, District C-1, in its entirety, concerning the development and operation of commercial uses, seconded by Council Member Swanson. City Attorney Kim Mickelson stated she had some general comments on Jim Harbison concerns. She stated that the Zoning Ordinance is permissive; it tells you what you can do. If it is not listed, it is not permitted. City Attorney Mickelson understands that some of the ordinances seem to be general but if there is a concern, it can be brought to the City Administrator and the Building Official to make those determinations, which would be brought to the Zoning Board to be addressed. On the restricted hours, in some Jurisdictions, there are restrictions on the hours of operation but the City is not one of those Jurisdictions. The City is restricting the hours because of the nature of the community being close to a residential area and the children, which would make it a more defensible ordinance. She stated the change of the tenant with the same type of business would be allowed. City Attorney Mickelson stated it is a state law that the City is prohibited from prohibiting a Pawn Shop so it is a possibility that we would have one. There are some conditions regarding alcohol and beverages with the TABC in regards to having a bar within a certain distance from a school or church so we are precluded from having one. City Administrator Blevins stated she needed clarification to what was acceptable as a recreational business.

Council Member Byrne stated he wanted to amend his motion to add the following amendments to the Zoning Ordinance Number 740. He stated the first amendment under the Permitted Uses was to strike out number 2, "Recreational Facilities". The

second change was number 4 on the Food and Beverage service to strike out the “City and County Ordinance” to read all applicable Government Laws. The third change was under 13.4.7 Fencing Plan note (d) should read “no gate or opening shall be permitted in any fence on the south property line or side fence options”. Lastly, on (e) strike the entire second sentence because the maintenance issues are covered under Chapter 3 Article 3.4 regarding substandard buildings, which includes structures, which would be a fence. On (f) add the word “NF” in the 1st line, after existing add “non-conforming” which would make it clearer to remove or improve. Strike out the “g” in the same section. City Attorney Mickelson said that it should be a new paragraph, not removed, seconded by Mayor Pro Tem Maddock. **A vote was taken to approve the amended motion approving the City of Hilshire Village Ordinance Number 740 including the changes made by Council Member Byrne adopting amendments to Exhibit A of Chapter 12 of the City’s Code of Ordinances, the Zoning Ordinance, specifically by replacing Section 13, District C-1, in its entirety, concerning the development and operation of commercial uses. The vote passed unanimously.**

**5.2** Mayor Pro Tem Maddock made a motion to approve the City of Hilshire Village Ordinance Number 741 adopting amendments to Exhibit A of Chapter 12 of the City’s Code of Ordinances, the Zoning Ordinance, specifically by replacing Section 30.07 Restoration and 30.08 Repair and Alteration and replacing and adding 02:00 Definitions for the reconstruction, enlargement, alteration, repair, renovation and changes in conforming and non-conforming buildings, structures, use and lots within all Zoning Districts, seconded by Council Member Gordy. Council Member Gordy stated that he appreciated Kathleen Stafford’s comments and he felt there needed be some kind of differentiation between restoration changes and damage changes. There are some houses on the tax roll for very little money and if one of these houses needed a small repair and if they happen to have a foundation that was not conforming, they would have to tear the slab out to get it into conformance. Council Member Gordy stated that the intent of the change was not to allow someone to expand his or her house along with a restoration. He stated 50% of Market Value would not be a lot on some of the older homes. Council Member Gordy felt a person should be allowed to do work on the inside of their house without changing the footprint. Mayor Pro Tem Maddock asked if Council Member Gordy had a modification or did he want to have the Zoning Committee make modifications. Council Member Gordy also agreed that the Committee needed to make the modifications. Council Member Gunn also said that there should be the ability to go to the Board of Adjustment to get a special exception written into the ordinance. Mayor Pro Tem Maddock made a motion to table the original motion to approve Ordinance Number 741, seconded by Council Member Gordy. **A vote was taken to approve the motion tabling the agenda item to approve the City of Hilshire Village Ordinance Number 741 adopting amendments to Exhibit A of Chapter 12 of the City’s Code of Ordinances, the Zoning Ordinance, specifically by replacing Section 30.07 Restoration and 30.08 Repair and Alteration and replacing and adding 02:00 Definitions for the reconstruction, enlargement, alteration, repair, renovation and changes in conforming and non-conforming buildings, structures, use and lots within all Zoning Districts. The vote passed unanimously.**

**6. CITIZEN’S COMMENTS: None**

**7. COUNCIL COMMENTS: None**

**8. REPORTS TO COUNCIL:**

**8.1 Engineers Report** – City Engineer Efrain Him stated that Conrad Construction Company had completed the asphalt repairs and the restoration of the yard at # 14 Pine Creek Lane.

ICS, the contractor for **Hilshire Villas Subdivision** has completed the installation of the storm sewer and sanitary sewer system and the respective connections to the City of Houston. They have also completed the installation of the water line system in the subdivision; however, the installation of the water meter, backflow preventer and connection to the City of Houston has not been completed. City Engineer Him stated that HDR has been providing the City with a part-time inspector. He also stated the City of Houston is also making inspections. The contractor should start paving next week.

**Mennonite Church** – City Engineer Him stated that he has received the revised plans for the church and is currently reviewing them.

City Engineer Him has been coordinating with the City and Mr. Bilski on the **10-ft utility easement acquisition for 8399 Westview**. He has also been working with them and the Fire Marshall Rusty Kattner on the fire line size and fire flow-metering requirements. Council Member Gordy asked if the system would be metered. The answer was that it would be metered through the sprinkler system.

**1202 Ridgeley** – City Engineer Him has inspected the driveway and fence work and has requested the contractor to regrade the ditch on Burkhart to drain towards Ridgeley Drive.

City Engineer Him stated he was working with the City on the **Corrosion Control Study** related to the Copper and Lead Exceedance issue and TCEQ's requirement for treatment. City Council discussed orthophosphate, a treatment TCEQ is going to require the City to treat the water.

City Engineer Him stated that after his meeting with Mayor Herron, Mayor Pro Tem Maddock and Council Member Byrne regarding Capital Improvement Projects he looked into cleaning and CCTV inspection of Archley and Friarcreek Drive. He said there was an action item to approve the City to go forth with the project.

**9. ACTION ITEMS:**

**9.1** Mayor Pro Tem Maddock made a motion to authorize payment of HDR Invoice for Engineering Services provided to the City for the Pine Creek/Bridle Spur/Friarcreek Reconstruction Project, Invoice # 24, in the amount of \$3,337.66, seconded by Council Member Byrne. **A vote was taken to approve the motion authorizing payment of HDR invoice for Engineering Services provided to the City for the Pine**

**Creek/Bridle Spur/Friarcreek Reconstruction Project, Invoice # 24, in the amount of \$3,337.66. The vote passed unanimously.**

**9.2** Council Member Byrne made a motion to authorize the City to engage the services of a vendor for the cleaning and CCTV inspection of the sanitary sewer lines on Archley Drive and the Friarcreek Subdivision for a not to exceed amount of \$5,000.00, seconded by Council Member Gunn. City Engineer Him stated that the City was not going to clean the Wirt Road sanitary sewer line because it belongs to the City of Houston. **A vote was taken to approve the motion authorizing the City to engage the services of a vendor for the cleaning and CCTV inspection of the sanitary sewer lines on Archley Drive and the Friarcreek Subdivision for a not to exceed amount of \$5,000.00. The vote passed unanimously.**

**9.3** Council Member Gordy made a motion to approve the City of Hilshire Village Resolution Number 154 finding that CenterPoint Energy's statement of intent to increase rates filed with the City should be denied, finding that the City's reasonable rate case expenses shall be reimbursed by the Company, seconded by Gunn. City Attorney Mickelson explained the City was a member of the Gulf Coast Coalition of Cities who has hired legal representation. The firm recommends the City approve the Resolution. They believe they have reached a settlement; however, they still recommend the City approve the Resolution in case the agreement was not reached. **A vote was taken to approve the motion approving the City of Hilshire Village Resolution Number 154 finding that CenterPoint Energy's statement of intent to increase rates filed with the City should be denied, finding that the City's reasonable rate case expenses shall be reimbursed by the Company. The vote passed unanimously.**

**10. DISCUSSION: None**

**11. ACTION ITEMS:**

**11.1 CLOSED EXECUTIVE SESSION: None**

The City Attorney was excused at this time.

**12. REPORTS TO COUNCIL: (Con't)**

**12.1 City Administrator:** City Administrator Blevins discussed the Complaint log and answered questions. She reported a formal complaint that came in today from the homeowner at 1327 Glourie who was upset with Severn Trent with the way they handled a water leak. He is requesting money back from a leak that was on his side and he will not be doing anything that the City asked of him in the future, if the City does not give him relief on his water bill.

City Administrator stated the City was having an Election. The City water rates increased 2% and will be discussed during budget meetings. The Civic Club contacted the City regarding a request to place a Library Box in the City's Right of Way. City Administrator Blevins asked if one of the Council Members wanted to sponsor this

request. No one responded. Mayor Herron stated Hilshire Village was in charge of the Village Independent Festival this year.

**12.2 Building:** City Administrator Blevins stated the reports were in Council's packet.

**12.3 Treasurer:** City Administrator Blevins stated the reports were in Council's packet.

**13. CONSENT AGENDA:**

**13.1** Mayor Pro Tem Maddock made a motion to approve the Consent Agenda as presented including the disbursements presented to Council and the Minutes from the Regular Council Meeting and Public Hearing of February 21, 2017, and approving Proclamation recognizing the Spring Event to be held April 9, 2017, seconded by Council Member Swanson. **A vote was taken to approve the motion approving the Consent Agenda as presented including the disbursements presented to Council and the Minutes from the Public Hearing Regular Council Meeting of February 21, 2017 and approving a Proclamation recognizing the Spring Event to be held April 9, 2017. The vote passed unanimously.**

**14. REPORTS FROM COUNCIL**

**Mayor Herron:** Mayor Herron reported he had spoken with the Metro and City of Houston representatives about the traffic data, which was collected by the Spring Valley Police Department and asked if they would be interested at looking at it first hand and they are interested. He also mentioned that Joan Bonnington who lives on Bobbitt Street would also be contacting her neighbors to contact the City of Houston about the traffic on Wirt Road.

**15. ADDITIONAL COUNCIL COMMENTS:** None

**16. ANNOUNCEMENTS:** None

**17. ADJOURNMENT:** Mayor Pro Tem Maddock made a motion to adjourn the meeting, seconded by Council Member Byrne. **A vote was taken to approve the motion to adjourn the meeting. The vote passed unanimously. The meeting was adjourned at 8:40 P. M.**

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Russell Herron, Mayor

ATTEST:

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Susan Blevins, City Secretary