

MINUTES
CITY COUNCIL OF THE CITY OF UNIVERSAL CITY, TEXAS
Regular Meeting, Tuesday, January 21, 2020

1. CALL TO ORDER: Mayor John Williams at 6:30 p.m.
2. QUORUM CHECK: Kristin Mueller, City Clerk

Present:

Mayor John Williams
Mayor Pro Tem Richard Neville
Councilmember Tom Maxwell
Councilmember Paul Najarian
Councilmember William Shelby
Councilmember Beverly Volle

Absent:

Councilmember Bear Goolsby

Present:

Kim Turner, City Manager
Manuel Casarez, Fire Chief
Michael Cassata, Development Services Director
Susan Ennis, Library Director
Bill Gabbard, Asst. Police Chief
Matthew Longoria, City Attorney
Kristin Mueller, City Clerk
Matt Otte, Project Manager
Gary Speer, Police Chief

Mayor Williams noted a quorum was present.

3. INVOCATION:

Councilmember Najarian gave the invocation.

4. PLEDGE OF ALLEGIANCE TO THE U.S. AND TEXAS FLAG: Led by Mayor Williams.
5. VOTE TO CONSIDER THE EXCUSE OF ABSENT MAYOR/COUNCILMEMBERS:

Councilmember Maxwell moved to excuse the absence of Councilmember Goolsby. Councilmember Shelby seconded the motion.

Vote: Yeas: Maxwell, Shelby, Neville, Najarian, Volle
Nays: None

Motion to approve carried.

6. AWARDS/PROCLAMATION/INTRODUCTION OF GUESTS:

- Mayor Williams read the *School Choice Week* proclamation declaring January 26 through February 1, 2020 *School Choice Week* in Universal City. He explained that no one was present to accept the proclamation, but it will get mailed out to the recipient.

- City Council read the *National Mentoring Month* proclamation declaring January 2020 *National Mentoring Month* in Universal City. Mayor Williams introduced Sonya Weber-Chapa with the South Central Texas Communities in Schools program. Mrs. Chapa introduced two mentors who have been mentoring for SCUCISD for many years, Gail Snider and Claude Kucinskis. She thanked them for volunteering their time to help students.

- Mayor Williams invited everyone to participate in the It's Time Texas Community Challenge. He explained the rules of the challenge and showed a promotional video that was made to challenge residents and area mayors to participate. Additionally, he and Councilmembers signed pledges supporting participation in the program.

7. CONSENT AGENDA:

Mayor Pro Tem Neville moved to approve the following consent agenda items:

- a) Consider City Council Minutes for the Tuesday, January 7, 2020 Regular Meeting.
- b) Consider Ordinance 658: An Ordinance amending Section 2-6-18 of the Code of Ordinances to establish a fee to defray costs of collecting delinquent fines, fees, court costs, and other debts pursuant to Article 103.0031 of the Texas Code of Criminal Procedure; providing for severability; and establishing an effective date. (2nd Reading).
- c) Consider an appointment to the Library Advisory Commission.
- d) Consider an appointment to the Planning & Zoning Commission.

Councilmember Najarian seconded the motion.

**Vote: Yeas: Neville, Najarian, Maxwell, Shelby, Volle
Nays: None**

Motion to approve carried.

Mayor Williams took a photo with the newly appointed commission members, Catherine Huston and Zachary Carlton.

8. CITIZENS TO BE HEARD: None.

9. BUSINESS:

A. Consider approval of Pay Estimate #5 invoice for the Parkview Estates Drainage Improvements Phase 14 – Construction.

Public Works Project Manager Matt Otte stated that City Staff recommends approval of Pay Estimate #5 in the amount of \$79,036.38 to E-Z Bel Construction.

Councilmember Maxwell moved to approve Pay Estimate #5 invoice to E-Z Bel Construction in the amount of \$79,036.38. Councilmember Najarian seconded the motion.

**Vote: Yeas: Maxwell, Najarian, Neville, Shelby, Volle
Nays: None**

Motion to approve carried.

B. Executive Session: Pursuant to Texas Local Government Code Section 551.071 (entitled “Consultation with Attorney”) City Council shall convene in Executive Session to consult with the City Attorney, regarding pending or contemplated litigation; or a settlement offer; or a matter in which the City Attorney, under the state bar’s rules of conduct, is required to disclose confidentially to City Council, as follows:

- a) **Federal RLUIPA, and Fair Housing Act claims and Texas Religious Freedom Restoration Act claims asserted by the applicant for a Zone Change for a 4.8606 Ac tract located at 401 W. Byrd Boulevard (CB 5768B BLK 8 LOT SW 250FT OF 39) from C1-Neighborhood Services to R5-Multifamily Residential, per Zoning Ordinance 581.**

City Council, City Manager Kim Turner, Development Services Director Michael Cassata, and Matthew Longoria and Lowell Denton with Denton, Navarro, Rocha, Bernal, and & Zech, PC, convened into Executive Session at 6:52 p.m.

C. Reconvene in Open Session: Consider possible action or give direction on the captioned items discussed in Executive Session.

City Council reconvened into Open Session at 7:44 p.m.

Mayor Williams announced no action was taken in Executive Session.

D. PUBLIC HEARING: City Council shall conduct a Public Hearing to receive testimony and public comments on a request for a Zone Change at 401 W. Byrd Boulevard (CB 5768B BLK 8 LOT SW 250FT OF 39) from C1-Neighborhood Services to R5-Multifamily Residential to allow a Group Residential use, per zoning ordinance 581.

Mrs. Turner gave a quick review of Public Hearing procedures and meeting decorum. Then, she reminded City Council that they have the same role tonight as any other meeting; hear the facts, discuss amongst themselves, and render a decision. She explained that while the end use is the same as the initial zone change request in November 2019, the applicant is different, and the zone change request is different. She reminded City Council to consider the request only on what is being considered; C1-Neighborhood Services to R5-Multifamily Residential. She also asked City Council to make their motion in the affirmative so that it is clear on how to vote.

Mrs. Turner said that the 401 W. Byrd was built in 1966 and was vacated by the school district many years ago and has remained empty since. The recent request to zone from C1 Neighborhood Services to R-4 with a CUP, at staff suggestion, was denied. The new request is for C1 to R5 zoning where group homes are permitted by right.

Mrs. Turner then detailed the conversation of her call with the Office of Refugee Resettlement (ORR) Director, Mr. Hayes. She said she asked Mr. Hayes why the ORR was interested in establishing shelters in the San Antonio area? Mr. Hayes said that the ORR already has facilities in the San Antonio area and that the convenience to a Spanish speaking population and medical care are two big reasons that San Antonio is a prime location. She asked why the ORR does not operate the facilities directly. Mr. Hayes responded that the independent firms have lower cost than government operated facilities. Then, she detailed the types of care facilities that the ORR needs in the San Antonio area. Finally, she reported that Mr. Hayes said if San Antonio and the cities around it do not cooperate with their contract awardees, then it is possible that the government would have to create an Influx Care Facility. If that was to take place, they do not have to follow the same rules and regulations as the independent firms.

Mayor Williams then called for the applicant, Grady Morris, Senior Pastor of New Covenant Family Church, 814 Main St., Suite C., to speak.

Mr. Morris gave his personal testimony, stating that he and his wife raised 6 biological children, 6 adopted children, and fostered 20 other children. They have spent over 40 years of their lives nurturing children. He said that he felt called to help the children languishing on the border by removing them from that environment and putting them in a shelter where they can be safe, nurtured, and reunited with their families. Then, Mr. Morris explained that he is the one that reached out to Vision Quest. Vision Quest did not reach out to him. He said that he was compelled by God to go to the building and his initial conversation was with the property owner. After Mr. Morris signed a lease with Mr. Juttemeyer, the property owner, he entered into an

agreement with Vision Quest. He asked the community to join with him in his mission to save the children, not fight against him.

Mr. Morris spoke about his work as a police chief and how he has always had a heart to make his community better. He reminded everyone that at the end of the day, this decision is about the children. He added that the Vision Quest shelter would add approximately 200 jobs to the community with an average pay of \$46,000 per year per person. He then introduced Mr. James McKnight, zoning attorney with Brown & Ortiz, PC.

Mr. McKnight explained how R5 zoning is an appropriate land use for 401 W. Byrd. And, according to classic planning law, the current C1 zoning of the building does not fit the plan because R5 is the classic transition from commercial to single-family residential. He added that the lease gives the property owner the right to request rezoning when the tenant vacates. Then, Mr. McKnight detailed the net benefit to the City. If the zone change was approved, the building would no longer be vacant, there would be security by presence of people, a sprinkler system would be added to the building making it more marketable to future tenants, and it would create jobs and increase property values. Furthermore, he said that there were 85 signatures in support of the zone change.

Mr. Dan Dalton, Attorney for Dalton and Dalton & Tomich, PLC, explained the Religious Land Use and Institutionalized Persons Act (RLUIPA) and the Fair Housing Act. He stated that the City has no compelling reason to deny the church its zone change request and use of its property.

Mr. Morris reiterated that the requested zone change meets the Future Land Use Plan, building codes of the City, and the mission of the church. He also reiterated that the proposed use is for a group home; not a detention center. He asked to appeal to the Councilmembers' moral angel and asked them to join in the mission to save the children.

Mayor Williams opened the Public Hearing at 8:30 p.m.

- Leo Pacheco, State Representative, thanked City Council for doing their job and stated that the citizens he serves asked him to speak out against the zone change. He said that as a State Representative he has not threatened anyone, but he has been threatened with a lawsuit if he was to speak out against this company. He stated that the proposed facility is a detention center because the children are not allowed to leave. He spoke of the City of San Antonio not being threatened by their pending lawsuit and he asked City Council to stay the course and deny the request.

- Brian Hayden, 702 Balboa, declared that he was not in favor of the FLUP or zone change, the citizens are not in favor of the zone change and that they do not want Council to change their vote.

- Lori Putt, 114 Foxglove, asked Council to uphold the decision of the Planning and Zoning Commission. She said she had faith that the Council will do what is best for the city and vote only on how the zoning will affect the neighborhood.

- Jim Douglass, 8503 Acropolis Dr., voiced that these children are entering the states illegally and are illegal aliens. He said that should enter the country legally. He also spoke of politics and how blue and red states differ on immigration. He said these children come over with no medical history and asked that Council vote no on the zone change.

- Daniel Cadena, 441 W. Byrd, shared that he opposed the zone change and asked the Council to vote no.

- Barbara Cummings, 97 Plaza Dr., declared that she is a long-term resident whose heart goes out to the children. She wants a safe place for them, but the proposed facility is not the right choice for Universal City or for the neighborhood. She worries that it would cause disruption and a negative perception for the neighborhood and that it would deter new families from moving into the area.
- Jolene Weichola, 206 Beechwood Ave, spoke of raising her children and grand children in a safe neighborhood and she worries that the group home would make the neighborhood unsafe. She asked the Council to vote to deny the zone change.
- Patty Martin, 310 E. Byrd, mentioned she has lived there for 47 years and does not want the safety of the neighborhood and the City to be compromised by unaccompanied minors; lawbreakers just crossing the border. She agreed that the children needed a safe place, but not in the center of a neighborhood in Universal City.
- Pat Talley, 201 Flinstone, voiced that she was in favor of the zone change request. She said it was important to educate the children and to remember that all Americans came as immigrants.
- Nina Wolf, no address provided, spoke in favor of the zone change.
- Rev Dr. Springs, address illegible, sang "Jesus Loves the Little Children" and read excerpts from Martin Luther King, Jr.'s speech. He spoke about people being fearful of change and ended his time by singing "Jesus Loves the Little Children" again.
- Anthony Moreno, 214 West Wright, said that he lives in Fort Hood but owns property on W. Wright and Lindbergh. He spoke about war and how children will harm adults and said that crossing the border illegally is a crime. He was concerned that the zoning letter he received wasn't very detailed and he asked Council to deny the zone change request.
- Fatima Menendez, 110 Broadway #300, mentioned that she was an attorney for MALDEF and shared the history of Vision Quest abusing children. She also explained why she believed RLUIPA is not applicable to this situation because there is no substantial burden to the church. She also believed that this is request is an improper application of zoning and reminded Council that they are there to serve the citizens of Universal City. She asked Council to deny the zone change request.
- Wanita Morris, no address provided, said she was pleased to hear of the tranquility that exists in the neighborhood. She said she has raised 22 children and have been to the parks in Universal City. She thinks the children on the border need help and that it's wrong to call them deviant or criminals just because of how they look or where they come from. She said the children are alone, hungry, and scared, and we need to help those in need.
- Shelly Reynolds, 103 Circle Dr., indicated that she has lived in Universal City since 2001 and proclaimed that it is federal tax dollars funding this facility and that there are already 35 facilities of this type in Texas. She also said that there are currently 6,000 beds in these facilities and only 1,358 are being used. She shared that a facility in Carrizo Springs opened with 1,300 beds and never had more than 400 people in it at a time. It closed one month after opening. She asked Council to uphold the decision of the Planning & Zoning Commission.
- Alicia Thomas, PO Box 754, Cibolo, spoke in favor of the zone change and would like to give the children a safe place to go. She also reiterated that it is just temporary housing and the shelter would give jobs to people in the community.

- Tinesha Wilson, 1 Haven for Hope Way, revealed her personal trials as an adult and believes the children on the border are having to face those same trials but as children. She said she was grateful that God heard her cries and is hopeful that he would hear the cries of the children on the border.

- Tammy Banks, 529 Dukeway, declared that Vision Quest is being deceptive and are bullying their way into Universal City. She said that illegal immigrants often come with health issues and possibly gang relations.

- Cheryl Bassett, 410 Parkview, argued that the property is currently zoned as C1 and needs to stay that way to help preserve the original character of the neighborhood. She told Council that if they allowed the change, all the current residents would move away, and no one will want to purchase the homes in that area. She asked Council to deny the zone change and told Vision Quest to take their shelter to Carrizo Springs.

Mayor Williams announced a quick intermission to allow for stretching and a restroom break at 9:13 p.m.

At 9:20 p.m., Mayor Williams reconvened the meeting and the Public Hearing continued.

- Michelle Mays, 106 Wildridge Trail, proclaimed that the children are not bad children and do need help, but not from a for-profit company hiding behind the veil of a church. She agreed that Vision Quest should just open the shelter in Carrizo Springs instead and that Vision Quest does not need to threaten Universal City with a lawsuit. She reminded Council to listen to the voice of the people who actually live in Universal City as most of the people speaking in favor of the zone change do not live in Universal City.

- Claude Kucinskis, 8531 Marathon Dr., said that he too was an immigrant, but he immigrated from France legally and with a sponsor. He said that the age group proposed for the shelter is not children, but juveniles – the perfect age for trouble. He said Vision Quest has a track record of poor performance and he is strongly opposed to them becoming a part of the community.

- Barbara Kelly, 106 Wildridge Trail, stated that she has a hard time believing that minors can travel through the country and to the U.S. border all alone. She noted that she spoke with 100 residents in the area and none of them are in favor of the group home.

- Caleb Schaefer, 106 Granada, shared that he has been a Universal City resident since 2012 and that he is a Christian and believes in helping people in need. But he is not interested in helping a for-profit company. He has 6 boys and between the ages of 11-17 are the hardest years because they have their own ideas and agendas. He asked Council to deny the zone change.

- Lisa Irwin, 12814 El Dorado, mentioned that she believes that the children at the border need to be cared for, but that Universal City is landlocked and needs to be mindful of what is brought into the community. She said that children who face great trials need great care and Vision Quest cannot provide that care. She asked Council to stand their ground and deny the request for a zone change.

- David Robinson, 12707 Marathon Dr., thanked Council and staff for their due diligence and care and concern for the City. He asked Council to vote down the zone change.

- Chance Moreno, 1676 Perrington, San Antonio, said that the central concern should be about the care of the children while in Vision Quests care. He read articles that addressed the poor

treatment of children by Vision Quest staff, including how they failed to provide toothpaste and soap, would complete unnecessary strip searches and give the children dirty clothes to wear. He opposed the zone change.

- Sandy Peters, 529 W. Byrd, spoke of the civic improvements in the area and her concern of decreasing property values. She asked City Council to stand firm and deny the request.

- Tommy Calvert, 101 W. Nueva, thanked Council for their service and time. He said that with cities like Gatesville, Texas building their economic futures on detention centers and prisons, it is unbelievable that in the 268,497 square miles of Texas, Vision Quest could not find a community that would house them without subjecting the city to frivolous lawsuits and divisive debates. He declared that he does not take seriously their litigious threats. He argued that Vision Quest does not follow the commands of the Heavenly Father because they harm and hinder children in their care. He requested that the Council look to Texas Municipal League or the City of San Antonio to aid them in tightening up the zoning and land use laws in order to prevent the abuse of having to repeat this process multiple times in such a short period of time. He thanked all the citizens for standing strong and assured they will be back as often as needed to voice their opposition.

- Cindy Warren, 7445 Myrtle Trail, San Antonio, but works at 202 W. Byrd, said that her life work is about helping people and sometimes it works out well and other times it does not. She said that she does not have to fear 11-17-year-old children in the neighborhood and asked Council to approve the zone change.

- Joe Warren, 7445 Myrtle Trail, San Antonio, shared that he has been the Pastor at the church at 202 W. Byrd for 30 years and mentioned that he has members “for” and “against” the zone change, but believes it should not divide the community. He said he spoke personally with Harold from Vision Quest and believe he is a man of integrity and good character. He shared that he thought the children are filtered and complete background checks at the border. He voiced that he would like to see the facility in Universal City.

- Roberta Castano, 158 Winn, claimed that Universal City is diverse and not racist and welcomes everybody. She said her parents were immigrants and immigration should be done legally. There are other places for the children to go and she stated that group home is not a good fit for Universal City.

- Ken Moore, 624 West Oak, articulated that he is appalled that the request is being reconsidered. He said that the applicant can't pick and choose verses of the Bible to make a valid point. He said often children are being brought over by the drug cartels and that housing the children is a political issue motivated by money, not a religious issue. He opposed the zone change.

- Diana Lira, 313 W. Lindbergh, exclaimed that she came to the meeting because there was a flyer on her door. She said that the zone change has already been denied twice and needs to be denied again. She suggested that the City use that building for other civic uses, like a senior citizens center or a YMCA, because the children would not get the attention that they need at a Vision Quest shelter.

- Dominic Villa-Lira, 313 W. Lindbergh, said he is thirteen and that he does not want to grow up with a detention center next door. He also said that kids should be with their parents, not in a detention facility.

- Katy Murdz, 215 Kings Court, San Antonio, spoke on behalf of SA Stands – a coalition for immigration rights. She said that ORR plays a part in separating families and that Vision Quest

does not put the children first because they are a for-profit company. She asked Council to deny the request.

- Sean Villasano, 7314 Far West, Live Oak, announced that he is a candidate for District 119 State Rep and asked Council to deny the request because the focus needs to be on the at-risk youth already in the community. He said he has seen this area grow and change and the group home would not help the community flourish.

- Orlando Sanchez, 102 Apache Circle, thanked Council and citizens who participated in the Public Hearing. He stated that he works at True Life Church at 733 Byrd and has had the responsibility and joy of serving his neighborhood. He voiced that 401 W. Byrd would be an excellent location for this facility because of the abundance of Spanish speaking residents and medical care facilities. He asked Council to consider why the group home needs to happen and to ignore the fear and pass the zone change.

Mayor Williams closed the public Hearing at 10:08 p.m.

- E. Discuss & Consider Ordinance 655-B-2019 (PC 526, ZC 211): An Ordinance amending the Zoning Classification of property, located at 401 W. Byrd, Universal City, Texas (CB 5768B BLK 8 Lot SW 250FT of 39) from C1-Neighborhood Services District to R5-Multifamily Residential District; providing for non-severability; and establishing an effective date. (First Reading).

Councilmember Maxwell moved to approve Ordinance 655-B-2019, amending the Zoning Classification of 401 W. Byrd from C1 to R5-Multifamily Residential District. Councilmember Najarian seconded the motion.

There being no discussion, Mayor Williams called for the vote.

Councilmember Maxwell said the zoning change does not represent the residential integrity of the area nor the density requirements for the zone change and voted no.

Councilmember Najarian said after hearing the citizens and the recommendation of the Planning & Zoning Commission, he is denying the request because he believes the rezoning of that area does not serve the public good of the citizens in the community.

Mayor Pro Tem Neville prefaced his vote with the statement that the Council is not allowed to discuss anything on an agenda prior to a Council meeting as it is a Federal offense to do so. He said he does not think that the proposed use is the best use for the facility and voted no.

Councilmember Shelby said regardless of the religious appearance of this zone change request and regardless of how the relationship was negotiated, this appears to be a for-profit company utilizing a religious entity in order to obtain the zoning that was originally sought out. He said he does not believe that the zone change is warranted and voted no.

Councilmember Volle voted no and said that she feels the current zoning is correct and protects the health, safety, welfare, and residential character of that neighborhood. She said the neighborhood has worked long and hard to get where it is, and she doesn't want to see it change for the worse.

Vote: Yeas: None.

Nays: Maxwell, Najarian, Neville, Shelby, Volle

Motion to approve denied unanimously.

Mayor Williams said with a vote of 0-5, the motion does not pass.

10. CITY MANAGER COMMENTS:

Mrs. Turner:

1. Reminded that local historian Mike Hoffman will be giving the history of Randolph Field at the Universal City Public Library tomorrow, January 22nd;
2. Invited Council to attend Snowfest on February 15th at Universal City park from 3-9 p.m.;
3. Reminded Council that election packets are available and must be returned by February 14th;
4. Announced that there are two craft breweries coming to Universal City in the near future but will not give details because they will be requesting funding from the Economic Development Corporation; and
5. Asked Chief Casarez to give a breakdown of the Fire Department personnel training and certifications. Mr. Casarez first gave thanks to the staff at Olympia Hills for hosting an incredible banquet and to Lori Putt for providing the cake and then announced the certifications received by his staff this year.

11. COUNCILMEMBER COMMENTS:

Councilmember Najarian thanked citizens for showing up for the Public Hearing again, whether for or against the zone change.

Councilmember Volle thanked everyone for attending and said she received a few e-mails from residents regarding the issue.

Mayor Pro Tem Neville said that Council is not elected to serve a portion, but every citizen of Universal City. He said that Councilmembers are not paid but volunteer their time to serve the City. He thanked everyone who attend the meeting.

Councilmember Maxwell thanked everyone who spoke tonight, specifically the thirteen-year-old boy who voiced his opinion.

Councilmember Shelby echoed the thanks for everyone attending the meeting.

12. MAYORAL COMMENTS:

Mayor Williams thanked all the citizens in attendance for their input and democracy. He also invited everyone to participate in the It's Time Texas Community Challenge community yoga work outs hosted by the Fire Department on February 5th and February 19th at 9 a.m.

13. ADJOURNMENT: Mayor Williams adjourned the meeting at 10:21 p.m.

ATTEST:

John Williams, Mayor

Kristin Mueller, City Clerk