

## **WOODWAY CITY COUNCIL MINUTES**

February 22, 2021 – 5:30 P.M.

The Woodway City Council met in a regular meeting via a virtual Zoom meeting, on Monday, February 22, 2021, at 5:30 p.m. The following individuals were in attendance:

Mayor: Jane Kittner  
Mayor Pro Tem: Vic Sober  
Councilmembers: Scott A. Giddings, David Mercer, David Russell and Storey Cook  
Absent: Amine Qourzal  
City Manager: Shawn Oubre  
City Secretary: Donna Barkley  
City Staff: Lenny Caballero, Bret Crook, John Norman and Keith Lowrey  
Contract Staff: None  
Registered Guests: Dustin Kleider with Tex-Mix  
David Marek with CP&Y  
Ken Cooper, 107 W. Ridge Lane, Woodway  
Billy Davis, 23001 Woodway Drive, Woodway  
Daniela Weaver, 1113 Tod Trail, College Station, Texas

### **CALL MEETING TO ORDER**

Mayor Kittner called the meeting to order at 5:30 p.m.

### **INVOCATION**

#### 1. INVOCATION

Mayor Pro Tem Sober provided the invocation.

### **PRESENTATIONS AND VISITORS**

#### 2. HEAR VISITORS

Ken Cooper, 107 W. Ridge Lane, Woodway, Texas, came forward to speak regarding the proposed Cement Batch Plant. Mayor Kittner asked him to wait until the public hearing to speak which is listed as Item No. 4A. No other visitors came forward to speak at this time.

#### 3. RACIAL PROFILING REPORT – PUBLIC SAFETY DEPARTMENT

Dr. Oubre provided that the Texas Occupation Code requires TCOLE, who is a licensing state agency for law enforcement to collect individual based data in accordance with the Code of Criminal Procedures and summarize it and present it to City Council for acceptance by March 1<sup>st</sup> every year.

Chief Crook stated this is required every year. Basically, we are required to have a policy with the following seven items in place:

1. The definition of what constitutes racial profiling
2. Strictly prohibit any racial profiling by the officers
3. Implement process for individuals to file a complaint if he/she feels the officer engaged in racial profiling

## WOODWAY CITY COUNCIL MINUTES

Page 2

February 22, 2021 – 5:30 p.m.

4. Public education relating to the complaint process which we use social media
5. Require corrective action if encountered
6. Collection of information relating to motor vehicle stops – all included in the packet
7. Submit the report to TCOLE and the governing body of the municipality

We submitted to TCOLE last week. In your packet, you have a lot of raw data. The analysis is what sums up all those numbers. For 2020, we determined that our racial profiling policy is in compliance. It is also in compliance with state law regarding the complaint process. It is available on-line or in person. We did receive one complaint in 2020 and it was turned over to internal affairs and deemed to be unfounded.

We had a total of 6454 stops. The data includes the race or ethnicity of individuals contacted on all traffic stops to include whether those individuals were issued citations, warnings, or were arrested as well as to whether they were subject to a search. A copy of the report was provided in the agenda packet.

Chief Crook answered questions.

### **PUBLIC HEARINGS AND RELATED ACTION**

4. A. PUBLIC HEARING ON APPLICATION TO DEVELOP IN A PLANNED DISTRICT (CONCRETE BATCH PLANT) LOT 2, BLOCK 1, OF THE SURBER ADDITION TO THE CITY OF WOODWAY, MCLENNAN COUNTY, TEXAS, LOCATED AT 22024 WOODWAY DR.

Mayor Kittner opened the public hearing. Speaking in favor of the application were:

- Dustin Kleider, President of Tex-Mix. He stated that the plant in Woodway would meet the demand that we are seeing in the area. They have four requested variances that they would like to have approved.
- David Marek with CP&Y, is assisting the applicant in developing the site plan and the site development portion of the project. On any of the specific variances he will be glad to answer any questions or anything else you may have on the project.

Speaking in opposition were:

- Ken Cooper, 107 W. Ridge Lane, Woodway, Texas, stated he has concerns with the traffic on the access road. Big trucks pulling out obviously continuing down that road from time to time if this is approved. Not sure of the environmental impact. I am in favor of concrete plants around town, just not sure if I'm in favor of this one at that particular location. Would like to know more about how this will be laid out and what the potential for these issues might be.
- Billy Davis, 23001 Woodway Drive, Woodway, Texas, stated that he was very involved in the litigation that prevented the City of Waco from expanding the landfill and everyone knows the reasons why that made sense. It is for those exact same reasons it doesn't seem to make sense to put a cement plant facing Highway 84. It will have the same traffic issues, the same damage to the roadways and who knows what the environmental issues are. It doesn't make sense to have a big victory and negate that by allowing a cement plant to become forefront on Highway 84 as you enter

## WOODWAY CITY COUNCIL MINUTES

Page 3

February 22, 2021 – 5:30 p.m.

the City of Woodway. I don't know for sure what the variance requests are. The Mayor stated the Council will review the variances after the public hearing is closed. Mr. Davis stated that from a public standpoint, without knowing the variances, it is harder to zero in on perhaps what impact they will cause. It doesn't make sense to allow this type of industry on a main corridor of the City of Woodway.

- Daniela Weaver, 1113 Todd Trail, College Station, Texas and her mother owns property at 22014 Bush Drive, Woodway, Texas. She is not really speaking in opposition, and came in late so didn't hear everything. She was at the previous Planning & Zoning meeting and recalls them discussing getting rid of the berms or not having to build them if there are no residential areas next to it. Maybe this should be considered since there is residential right across the street. Regarding the traffic, it will be on Bush Drive first.

With no-one else to speak in favor or in opposition, the Mayor closed the public hearing.

### B. DISCUSSION AND CONSIDER ACTION ON APPLICATION TO DEVELOP IN A PLANNED DISTRICT (CONCRETE BATCH PLANT) LOT 2, BLOCK 1, OF THE SURBER ADDITION TO THE CITY OF WOODWAY, MCLENNAN COUNTY, TEXAS, LOCATED AT 22024 WOODWAY DR.

Dr. Oubre provided that this Application to Develop is for a batch plant. Mr. Kleider represents the company and Mr. Logan was the applicant. In your packet you will see the notification made to the property owners within 200 feet of the property in question. On February 9, 2021, Planning and Zoning Commission held the first of the two required public hearings. During that meeting the applicant submitted three verbal requests and the Planning and Zoning Commission would not consider those based on them being in a verbal form. They only approved the Application to Develop for you to consider tonight. Since the Planning and Zoning Commission did not submit a recommendation for those variances, it will take a super majority on your part tonight for you to approve one or any of the variances. Since there are six of you participating tonight, that super majority number will be four of you.

The variances requested are as follows:

1. Not require the screening for the dumpster on site;
2. Not to do away with the entire berm along Highway 84, but just the area that impacts the drainage on site getting it to the TxDOT drainage way that carries it off the property;
3. Do away with required screening from the adjacent residential property; and
4. Do away with the screening around the mechanical equipment on the ground

Dr. Oubre provided city perspective regarding the cosmetic aspect but also the fact that it helps to contain the debris that may fall out of the dumpster. Mr. Marek provided more specific information on each of these variances.

There were questions and discussion.

Councilmember Mercer moved to disapprove the request for the Application to Develop in a planned district (concrete batch plant) Lot 2, Block 1, of the Surber Addition to the City of Woodway, McLennan County,

## WOODWAY CITY COUNCIL MINUTES

Page 4

February 22, 2021 – 5:30 p.m.

Texas, located at 22024 Woodway Drive along with all the requested variances. Councilmember Russell seconded and the motion passed with a super majority vote of Mayor Kittner, Mayor Pro Tem Sober, Councilmember Mercer, Councilmember Russell and Councilmember Cook, with Councilmember Giddings voting opposed.

### **ITEMS FOR INDIVIDUAL DISCUSSION, CONSIDERATION AND/OR ACTION**

5. **DISCUSSION AND CONSIDER ACTION ON MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD FEBRUARY 8, 2021, AT 5:30 P.M.**

Councilmember Mercer moved to approve the Minutes of the regular City Council meeting held February 8, 2021, at 5:30 p.m. Mayor Pro Tem seconded and the motion passed unanimously with the councilmembers present.

6. **DISCUSSION AND BRIEFING CONCERNING THE CORONAVIRUS (COVID-19) AND ANY ACTIONS NECESSARY THERETO**

Dr. Oubre provided the following:

- Cases, recovered and deaths reported for the State of Texas provided
- Texas has received a little over six million vaccines. Of these, 4.3 million have been administered throughout the 254 counties
- The Health District will distribute 1,500 first round and 1,500 second round vaccines Thursday through Saturday at McLane Stadium

There are no items in need of action.

7. **DISCUSSION AND BRIEFING CONCERNING THE RECENT SEVERE WINTER WEATHER WITH PROLONGED FREEZING TEMPERATURES AND ANY ACTIONS NECESSARY THERETO**

Dr. Oubre provided this item is for updates and any possible items that may need action.

- President Biden originally approved 77 counties out of 254 to receive disaster assistance. We are in the originally approved counties. Today, he approved an additional 31 counties.
- The President has approved Category B expenses which is equipment and personnel used directly for this effort. This could be pre-staging expenses during and post-disaster expenses on the recovery side.
- Staff is working on codifying the expenses
- This disaster declaration is known as DR4586. The Governor has been proactive in some of his orders. He has become flexible on requiring certain registered or qualified plumbers within the state to get assistance to homeowners and businesses so they can get going again. He has also scheduled meetings with legislative committees, the House State Affairs Committee, the House Energy Resources Committee, the Senate Business on Commerce and the Senate Juris Prudence Committee will all meet this week to talk about recovery, ERCOT and other associated problems that were experience during the disaster.
- Individuals can apply for damage they sustained to their own personal property through [www.disasterassistance.gov](http://www.disasterassistance.gov) to formally make the application. Once they start the process it is a

## WOODWAY CITY COUNCIL MINUTES

Page 5

February 22, 2021 – 5:30 p.m.

- relationship between the individual property owner and FEMA.
- ATMOS does not service any of the heavy industrial electricity makers. I received an email from our consortium and they didn't find any shortages nor do they provide any gas to any electric generating stations.
- As you know in my briefings, I can't say enough about the quality of work the employees did for the citizens of Woodway and the motoring public during the storm.
- We are currently in winter averaging. Every January and February we do a winter averaging of the consumption of those two months. The average decides what your calculation will be per thousand gallons for your sewer charge. We had sixty-four calls during the ten-day period from residents throughout the City regarding water. Some people chose to drip or use water consumption to avoid and hopefully not have a busted pipe. My question is, instead of using February 2021 for the second month to average, would you consider using February 2020 which is a more holistic view of actual consumption that is not storm related.

There was a brief discussion.

Councilmember Russell moved to use the February 2020 water usage to calculate the second month for the 2021 average sewer rates. Councilmember Cook seconded and the motion passed unanimously by the councilmembers present.

### 8. DISCUSSION AND CONSIDER ACTION SALE OF THE CARLEEN BRIGHT ARBORETUM HOUSE BY REALTOR OR SEALED BID. IF SOLD BY REALTOR, CITY COUNCIL WILL SELECT REALTOR FROM LIST RECOMMENDED BY CITY MANAGER

Dr. Oubre stated that Ms. Bright was a big supporter of the City. Upon her death, she left an endowment that supports the Carleen Bright Arboretum and she left her house for certain usages within the City. The definition of the uses was more for overflow from the Arboretum and Whitehall senior citizens type uses or for a small gathering/meeting place. It also stipulates that if we don't use it, we shall dispose of it and take proceeds and put back into the endowment for future maintenance of the Arboretum area. We talked at a previous meeting about the steps to put it on the market, to sell it and how to use those proceeds. Its appraised value is \$270,000.00.

There was a brief discussion.

Mayor Pro Tem Sober moved to list the Carleen Bright House with a realtor. Councilmember Russell seconded and the motion passed unanimously by the councilmembers present.

Councilmember Giddings moved to use Camille Johnson as the realtor to list the Carleen Bright House property. Councilmember Cook seconded and the motion passed unanimously by the councilmembers present.

### 9. DISCUSSION AND CONSIDER ACTION ON ACCEPTANCE OF "CERTIFICATION OF UNOPPOSED CANDIDATES" AND ON ORDINANCE 21-01, DECLARING UNOPPOSED CANDIDATES IN THE MAY 1<sup>ST</sup> GENERAL CITY ELECTION TO BE ELECTED TO OFFICE AND CANCELLING THE ELECTION (*ANÁLISIS Y CONSIDERACIÓN DE LAS ACCIONES SOBRE "CERTIFICACIÓN DE CANDIDATOS SIN OPOSICIÓN" Y SOBRE LA ORDENANZA 21-01, DECLARANDO CANDIDATOS SIN OPOSICIÓN EN LAS ELECCIONES GENERALES DE LA CIUDAD DEL 1 DE MAYO DE 2021 QUE SERÁN ELEGIDOS PARA SUS FUNCIONES Y CANCELANDO LA ELECCIÓN*)

## WOODWAY CITY COUNCIL MINUTES

Page 6

February 22, 2021 – 5:30 p.m.

Councilmember Giddings moved to accept the “Certification of Unopposed Candidates by the City Secretary” and adopt Ordinance 21-01, declaring Storey Cook (Ward 2, Place1) and Gayle R. Avant (Ward 3, Place 1) elected to office and cancelling the general election ordered for May 1, 2021. Councilmember Russell seconded, Mayor Kittner read aloud the caption of the ordinance as required, and the motion passed unanimously by the councilmembers present.

### **CITY MANAGER AND CITY COUNCIL REPORTS**

#### 10. CITY MANAGER’S REPORT

Mr. Oubre provided updates on the following:

- Due to the sewer line project going through the Arboretum, we will close the entrances to the Arboretum on March 8<sup>th</sup>
- Update on Steve Sorrells’ project on the retail side of Badger Ranch

#### 11. CITY COUNCIL REPORTS

Councilmember Russell stated that the upcoming Parks and Recreation Commission meeting scheduled for February 25<sup>th</sup> has been cancelled due to lack of agenda items.

### **CLOSING ITEM**

#### 12. CONSIDER ACTION ON ADJOURNMENT

Councilmember Russell moved to adjourn the meeting. Councilmember Cook seconded the motion, and the motion passed unanimously by the Councilmembers present. The meeting adjourned at 7:02 p.m.

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Donna Barkley, City Secretary

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Jane Kittner, Mayor