



**CITY COUNCIL**  
**City of McLendon-Chisholm, Texas**  
**May 25, 2017**  
**Minutes**

City Council Present:	Robert Steinhagen	Mayor
	Adrienne Balkum	Council Member
	James Herren	Council Member
	Wayne Orchard	Mayor Pro Tem
	Scott Turnbull	Council Member
Staff Present:	David Butler	City Administrator
	Stephanie Galanides	City Secretary
	David Paschall	City Attorney

Mayor Steinhagen called the meeting to order at 6:31 p.m. Council Member Herren delivered the Invocation and led the recitation of the Pledge of Allegiance to the United States and Texas flags.

**CITIZENS COMMENTS.**

Cyndi Lorton, 261 Meadowpark Lane, and Chairman of the Board of Adjustment (Board), suggested that during the upcoming review of the Code of Ordinances, specific attention be given to the City's masonry requirements to provide for consideration for items such as project creativity and quality and the character of the vicinity, particularly in older neighborhoods

Herman Larkin, 8 Greenhollow Lane, asked each Council Member to vote their conscience. Larkin stated that there should be a City Plan to guide development and transportation planning.

Robert Jones, Chief of the McLendon-Chisholm Volunteer Fire Department (MCVFD), provided information regarding response times and call volume, highlighting the critical six-minute time-frame to save a heart attack victim.

Bob Hermann, 1248 Wales Drive, inquired regarding plans for the annual budget for the 2017-2018 fiscal year. Hermann expressed his opinion the MCVFD was under-funded and expressed concerns that, because they are a separate entity, the MCVFD could pack up and go somewhere else.

Jeff Deats, 1124 Chisholm Ridge Drive, in the City's extraterritorial jurisdiction (ETJ), expressed concern regarding the effect on future budgets should property valuations cease being increased.

**Recognition of Outgoing Council Member Gary Lovell.**

The Mayor presented a plaque to Gary Lovell in appreciation for his 6 years of service on the City Council. Lovell stated that he had enjoyed his 6-year adventure and expressed confidence in the current City Council.

**May 12 and May 13, 2017 Minutes; discussion and action.**

**MOTION: APPROVE THE MINUTES OF MAY 12, 2017 AND APPROVE THE MINUTES OF MAY 13, 2017 AS REVISED.**

MOTION MADE: ORCHARD

SECONDED: HERREN

APPROVED: UNANIMOUS (Vacant: Place 4)

**Vacancy in City Council Place 4 position; discussion and possible action:**

- a) **Appointing a person to fill the vacancy and to serve until the next regular municipal election on May 5, 2018 and approval of Resolution making the appointment;**
- b) **Ordering a Special Election to be held on Tuesday, November 7, 2017 for the purpose of electing a person to fill the vacancy and to serve until the next regular municipal election on May 5, 2018; or**
- c) **Leaving the seat vacant until May 5, 2018.**

**MOTION: DEFER ACTION REGARDING THE VACANCY IN PLACE 4 ON THE CITY COUNCIL IN ORDER TO PROVIDE TIME TO REVIEW APPLICATIONS.**

MOTION MADE: TURNBULL

SECONDED: ORCHARD

APPROVED: UNANIMOUS (Vacant: Place 4)

The item will be included on the June 13 agenda.

**Extraterritorial Jurisdiction (ETJ) negotiations between McLendon-Chisholm & Rockwall.**

- a.) **Update & discussion.**
- b.) **Action regarding letter to citizens.**

Council provided background regarding the March 3, 2017 submission of a request for the City's consent to the creation of a Water Control Improvement District (WCID) on property in the City's extraterritorial jurisdiction (ETJ). State law provides cities the right to provide water and sewer to their ETJ, which prevents a water district from being established. The request submittal begins a 90-day clock for the City to respond to the request (June 1, 2017). When a city cannot provide water services, the next step, which starts a new 120-day clock, is for the landowner/developers to petition the City to make available to the area water & sewer services (September 29, 2017). If within the 120 days after the date the City receives the petition the City fails to contract landowner/developers to provide the services that failure constitutes the City's consent to the creation of the water district the owners may then go to the Texas Commission on Environmental Quality [TCEQ] and ask the TCEQ to create the district. The TCEQ is required to create the district upon a finding the City doesn't have the ability to serve or fail to make a legally binding commitment with sufficient funds to provide the services at a reasonable cost to the landowner. Council concerns included:

- Lack of any authority to regulate density, zoning and construction in the ETJ;
- The proposed plan to place multi-family apartments/townhomes along the City's border;
- The proposed plan to add commercial development along the City's border;
- The proposed density
- Impact of development in the ETJ that is vastly inconsistent with the City's culture;
- Impact on roads;
- Inevitable increase of traffic congestion;
- The right of a WCID to condemn personal property of M-C citizens to create new traffic thoroughfares and roads;
- Increased demand for public safety services including Fire Protection; and
- Proposed legislation (SB 715) to essentially strip away the power given to Home Rule cities to involuntarily annex land within their ETJ.

Orchard expressed support for authorizing the Mayor to negotiate ETJ boundary matters with the City of Rockwall. He highlighted that the City holds no actual governing authority about what is developed inside the ETJ and that the submission to create a WCID started a proverbial time-clock that the city cannot stop. Orchard emphasized that the landowner/developers, and not the City, created the urgency that has led the Council to open negotiations with the City of Rockwall which has power and authority that M-C does not, including, as a Home Rule city, the authority to involuntarily annex the tracts of land in question.

Mayor Steinhagen echoed Orchard's points, emphasizing the City's lack of authority to govern what is developed inside the ETJ and noted that the establishment of a "water district" (WCID) removes all limitations on density established by Rockwall County and that a water district is a "city unto itself," as they are the natural precursor to the establishment of a Municipal Utility District [MUD]. Steinhagen emphasized that the negotiations are restricted to the four tracts of land and that despite the rumors being perpetuated, no properties existing inside of the city limits are being negotiated. The Mayor affirmed the Council's commitment to protecting the open spaces and more rural lifestyle desired by its citizens, to keeping taxes low by limiting the size and scope of government and to holding development to the standards specified in the Comprehensive Plan. Steinhagen highlighted the benefits of the release of these properties from M-C's ETJ, which would likely be annexed into the city of Rockwall, that include:

- The elimination of the current, and prevention of the proposed, WCID's, as Rockwall can supply water and sewer services as well as Rockwall's unwillingness to allow the establishment of [MUDS] and, with one small exception, Public Improvement Districts [PIDS];
- Rockwall's power to:
  - regulate density, (Rockwall's comprehensive plan does not allow for any more multifamily apartment complexes),
  - zoning standards, and

- require that all structures comply with the City's construction standards, which must be inspected;
- Requiring the developers to pay for roads into and out of the development as well as working to draw traffic away from the city of MC;
- Transferring any properties annexed into the City of Rockwall out of the fire district that currently exists inside of McLendon-Chisholm Volunteer Fire Department's [MCVFD] jurisdiction. Steinhagen argues that this would be a significant reduction to the size of the MCVFD's fire district, where two-thirds of the district falls outside of the M-C City limits, which would naturally lessen the financial burden paid by M-C taxpayers (90% of the fire department budget), though the city makes up just one third of the total fire District (the remaining 10% is funded through sales tax collected by Rockwall County and divided among cities inside the county)
- The City of Rockwall will be able to provide for the kinds of government amenities that homeowners moving into high density developments, like the ones being proposed, will likely expect, but that M-C cannot provide without massive growth in government;
- The willingness of Rockwall city leaders to prohibit high density residential and commercial development along the MC City border; and
- The assurance by Rockwall city leaders that a significant portion of the city's open-space requirement on new developments be placed along the MC City border.

Misty Ventura of Shupe Ventura, PLLC, attorney for the four landowner/developers of the properties in M-C's ETJ, which is stacked adjacent to one another, the first of which, that is contiguous to the City and that submitted the March 3, 2017 WCID request, the second tract, which is contiguous to the first and that already has a WCID in place following lengthy negotiations that failed to meet a compromise between her and the M-C Mayor (Gary Moody) in 2014, and the third tract that is contiguous to the second and that submitted a WCID request earlier in the month (the fourth tract is contiguous to the first tract, and the city limits of both M-C & Rockwall, has not yet submitted a WCID request), participated in the discussion regarding ETJ boundary negotiations.

Ventura detailed the proposed development plan for the first of the four tracts (approximately 4,100 acres), which is 641.7 acres adjacent to the Sonoma Verde development (across Edwards Rd) net [excluding] the 100-year flood plain (158.4 acres) and perimeter right-of way (75 acres), totals 408.3 [buildable] acres where flex/mixed-use [commercial/multi-family townhomes & apartments] makes up 53.4 acres of that total. Ventura stated that the proposed density for single family residential amounts to 4.5 net units to the acre, 10 units to the acre for townhomes, and 28 units per acre for multi-family apartments.

Ventura indicated that her clients were willing to negotiate with the City. Ventura stated that the property owners were not however willing to meet the City's 1.5-acre minimum lot size. Ventura provided information regarding the WCID development financing tool.

Former Mayor Gary Moody attested to Ventura's credibility in negotiating highlighting his experience as a member of city council and then again as mayor. Steinhagen noted that one of the tracts of land that is included in this ETJ issue has already established a water district, which came after months of negotiations between Moody and Ventura had failed to reach a compromise, adding that, just as now, the property owner/developer was under no compulsion to negotiate in the first place and yet the City spent thousands of taxpayer dollars in legal fees in hopes that something could be worked out to the City's benefit.

Councilman Herren asked if her clients would be willing to stop the clock so that public hearings could be held where citizens could weigh in on the proposed developments and then vote through a survey as to whether or not the council should move forward, Ventura replied that her clients would certainly be willing to go through such a process, but she would advise her clients not to stop the clock to do so.

Councilman Turnbull asked if her clients would be willing to stop the time clock that started with the submission of the request for the City's consent to the formation of a WCID so that the Council could have more time to negotiate, Ventura replied that she would advise her clients against it.

Councilman Herren stated that the City has no positional advantage from which to negotiate, highlighting the fact that nothing is compelling them to come to the table where they could just walk away at any time, just as they've already done. Heron stated that time is an enemy for the City, so it makes sense for the landowner/developers to try and get us to the table for prolonged negotiations that could end up eliminating our City's options once we run out of time. Herren asked Ventura how it is that the landowner/developers were willing to negotiate. Ventura replied that her clients want to be good neighbors and desire to enhance the community and stated that despite the failed efforts to negotiate with the city on one of the tracts in question that resulted in the establishment of a water district, she had negotiated successfully with the City several times in the past, including both the Triple Creek and Sonoma Verde developments.

The following persons expressed concerns regarding ETJ negotiations with the City of Rockwall:

- Todd Ahren, 1520 Sterling Ridge Court (not a citizen of M-C), stated that the City should be welcoming of these kinds of developments as it brings in more revenue to the City, which makes it possible to add more amenities that most who live in his development, High Point Lake Estates, want and desire; that people are moving out of the City because of the "no growth" mentality of city leaders; also stated that the City should do more to entice more businesses in the city;
- Steve Hatfield, 1081 State Highway 205, stated that these decisions are difficult but highlighted that the developers are willing to negotiate;
- Gary Moody, 1406 State Highway 205, highlighted the motivation for M-C to become a City was to prevent them from being overcome by Rockwall and argued that this ETJ release is opening the door to being overcome by Rockwall;

- Paul Davis, (Address was not provided.), stated that he voluntarily annexed his property into the City and thinks that the council should try to find a way to bring this development into it too;
- Jeff Deats, 1124 Chisholm Ridge Drive (not a citizen of M-C), believes that the City should try to negotiate because it provides for a future tax base;
- Leigh Wilcoxson, 1750 Connie Lane, raised objection to the notion that the negotiations could not be slowed down;
- David Lewis, 1223 FM 550, stated he and his neighbors want to see more development and more businesses inside the City; that his father-in-law is a developer but M-C has a reputation as being too difficult for developers to want to build;
- Christine Jones (not a citizen of M-C), expressed frustration that the City Council is not taking steps to try and negotiate, questioned the validity of the citizen survey, shared her story of negotiating with developers in Dallas, which was a four-year process that netted great success;
- Troy Reich, 441 Briar Glen Lane, argued that the City Council should do what the former Council did when they negotiated the Sonoma Verde Development Agreement, which did nothing to hurt the City; and
- Judy Moss, 525 Wallace Road, believes that the City should get something from Rockwall in exchange for the ETJ, however, both Ventura & City Attorney attested to laws that prohibit such an exchange.

Items discussed and concerns expressed included:

- Overall concerns regarding the City potentially giving up ETJ;
- Opposition on the part of property owners outside of the City of McLendon-Chisholm where, by giving this ETJ up, and should Rockwall then involuntarily annex those tracts, the newly established ETJ (1.5-mile halo around the newly annexed city limits) would extend into their development, where Rockwall could then involuntarily annex their neighborhood;
- The belief that the City could effectively negotiate with the property owner/developers regarding items such as density, construction materials, fencing and buffers;
- If and how the City would benefit if ETJ boundaries were revised;
- Loss of future property tax revenue deriving from development on the subject property; and
- Annexation options pertaining to the property.

Mayor Steinhagen challenged the idea that this development is a future tax base for the City reiterating that the City has no power to involuntarily annex properties in its ETJ, which would mean that the property owners in the future would have vote to voluntarily be annexed into our City adding that landowner/developers are most certainly going to have to create a Municipal Utility District [MUD] to finance the proposed development, where the perpetual assessment on each lot is likely to be more than what citizens inside the City are currently paying in municipal property taxes. Steinhagen questioned the rationale of those who may believe that these property owners inside these

developments would someday vote to be voluntarily annexed into the City, because they would be voting to pay more taxes for no added city amenities. He further stated that should the City ever obtain the power to involuntarily annex, which would only occur if the voters elected to become a home rule city, once the population hits 5,000, the likelihood of City leaders actually going through with that is infinitesimal, noting Ms. Ventura's density figures about the proposed development of the closest of the four tracts to the City, which he calculates to be somewhere around 2,500 units, times two voters in each, amounts to a minimum of 5,000 voters just in that one tract, which he noted is the smallest of the four, where he argued that those voters would most certainly use their voting block to throw the officials on the city council that made that decision out of office. Steinhagen concluded that if the four tracts were left in the ETJ, those developments would never become a tax base for City but an unregulated City unto itself, which he believes will be an ever-present burden to our community.

Steinhagen stated the benefits of Rockwall taking this ETJ and annexing them into their city will eliminate the ability for these developers to create MUD's or PID's, as well as severely limit the density, including the prevention of apartment complexes from being built as it does not comply with the Rockwall's Comprehensive City Plan, and ensure compliance with their building standards that would otherwise go unregulated. He stated that he places more trust in his neighbor in Rockwall than in the landowner/developers from Arizona.

Mayor Steinhagen recessed the meeting at 9:09 p.m. to remove a citizen who violated rules of decorum. The Mayor reconvened the meeting at 9:26 p.m.

The Mayor recessed the meeting at again at 10:11 p.m. and reconvened the meeting at 10:16 p.m. There was discussion regarding drafting a letter to citizens regarding ETJ matters and regarding how to distribute the letter, but no action was taken.

#### **Reports and Announcements;**

- a.) Financial Reports for April 2017.
- b.) Building Official Report for April 2017.
- c.) Emergency Services Corporation (Mayor Pro Tem.)
- d.) Rockwall County Sheriff Activity for April 2017.
- e.) McLendon-Chisholm Volunteer Fire Department and EMS Activity for April 2017.
- f.) Other reports or announcements.

The reports were included in the Council packet.

#### **EXECUTIVE SESSION**

The Mayor recessed the meeting to go into Executive Session (Closed Meeting) in accordance with Government Code §551.071: Consultation with Attorney to conduct a private consultation with the City Attorney to seek advice on a matter in which the duty of the attorney to the City Council under the Texas Disciplinary Rules of Professional conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act at 10:25 p.m. Steinhagen reconvened the meeting at 11:48 p.m. and stated that no action was taken in executive session.

**Executive Session Items; discussion and possible action:**

**Resolution determining the costs of Phase #2 authorized improvements to be financed by the Sonoma PID, approving a Preliminary Service and Assessment Plan for Phase #2 of the Sonoma PID and calling a public hearing for June 13, 2017 to consider an Ordinance levying assessments on property located in Phase #2; discussion and action.**

Sonoma PID Administrator Abdi Yassin of MuniCap presented and answered questions regarding the PRELIMINARY Service and Assessment Plan for the Sonoma PID Phase #2.

**MOTION: APPROVE RESOLUTION 2017-16R DETERMINING THE COSTS OF PHASE #2 AUTHORIZED IMPROVEMENTS TO BE FINANCED BY THE SONOMA PID, APPROVING A PRELIMINARY SERVICE AND ASSESSMENT PLAN FOR PHASE #2 OF THE SONOMA PID AND CALLING A PUBLIC HEARING FOR JUNE 13, 2017 TO CONSIDER AN ORDINANCE LEVYING ASSESSMENTS ON PROPERTY LOCATED IN PHASE #2.**

MOTION MADE: ORCHARD  
SECONDED: TURNBULL  
APPROVED: UNANIMOUS (Vacant: Place 4)

**ETJ negotiations.**

The Mayor will invite Misty Ventura to a meeting the week of May 30 to discuss options for negotiations with property owners in the City's extraterritorial jurisdiction. Butler and Paschall will be included in the meeting.

**New City website; discussion & possible action.**

Turnbull stated that development on the City's new website was near completion and that final payment should be made. Balkum will verify that the site is stable and meets expected standards.

**Landscaping improvements proposals; discussion and action.**

The item was deferred to the June 13 meeting.

**Authorization for the Mayor to sell current equipment and items that are unnecessary or superfluous in order to fund purchases of other items to better meet the needs of the city; discussion and action.**

The item was deferred to the June 13 meeting.

**Outdoor (Tornado) warning systems: discussion and possible action.**

The Mayor stated that he was researching outdoor warning systems. No action was taken by the Council.

**Establish goals, assign directives, form ad hoc committees, schedule Workshops, Special Meetings and/or time during Regular Meetings to review and make recommendations for the following:**



- a) **Land Development:**
  - 1) **Comprehensive Plan and State Law;**
  - 2) **Zoning Ordinance and State Law;**
  - 3) **Subdivision Regulations and State Law; and**
  - 4) **Construction Codes.**
- b) **Code of Ordinances,**
- c) **Extraterritorial Jurisdiction (ETJ),**
- d) **Communications.**

The item was deferred to the June 13 meeting.

**Resolution approving policy for requiring an Acknowledgement of Compliance Requirement and Commitment from members of the Planning and Zoning Commission; discussion and action.**

The item was deferred to the June 13 meeting.

**Proposed change to the procedure of appointments to the Planning and Zoning Commission; discussion and possible action.**

The item was deferred to the June 13 meeting.

**City-provided iPads & data plans for Councilmembers & staff; discussion and possible action.**

The item was deferred to the June 13 meeting.

**Public posting of official notices, including the City Hall bulletin board; discussion and action.**

The item was deferred to the June 13 meeting.


The meeting was adjourned at 11:59 p.m.

APPROVED:



Robert Steinhagen, Mayor

ATTEST:



Lisa Palomba, City Secretary



