



**CITY COUNCIL**  
**City of McLendon-Chisholm, Texas**  
**September 13, 2016**  
**Minutes**

City Council Present:	Nathan Hodges	Mayor
	Gary Lovell	Mayor Pro Tem
	Jerry Klutts	Council Member
	Wayne Orchard	Council Member
	Patrick Short	Council Member
	Robert Steinhagen	Council Member
Staff Present:	David Butler	City Administrator
	Stephanie Galanides	City Secretary

Mayor Hodges called the meeting to order at 6:30 p.m. Short delivered the invocation. Attendees recited the Pledges of Allegiance to the United States and Texas flags.

**CITIZENS COMMENTS.**

Bev Stibbens, 279 Partridge Drive and member of the Board of Adjustment stated she disagreed with and resented statements on a neighborhood social network post made by Steinhagen that indicated that members of the Planning and Zoning Commission and Board of Adjustment supported positions of former Mayor Donegan. Stibbens stated that she does not agree with Donegan, often vigorously, and expressed disappointment that Steinhagen had not taken her call two hours before the city council meeting regarding the post. Stibbens stated her opinion that in the instance that the Board of Adjustment was abolished and its authorities relegated to the Council, it would be unfair for residents to be required to request variances from the body that created the zoning regulations.

Mike Donegan, 2620 Ridgelake Lane clarified that Planning and Zoning Commission Chairman Jay Webb was not a builder in the Sonoma Verde addition as indicated in the aforementioned social network post. Donegan urged City Council and citizens to elevate communications to issues rather than opinions. Donegan expressed support for the proposed budget as drafted and asked that the Council give more deliberate thought and planning to future budgets with long-term planning for public safety, services, staff and utilities. Donegan stated that the proposed location of the Rockwall County Radio System Tower at the intersection of League Road and S Hwy 205 was not ideal and that there should be better communication between the City and the County.

Steve Hatfield, 1081 S Hwy 205, expressed disappointment regarding the proposed location of the Rockwall County Radio System Tower in the heart of the City's General Business zoning district. Hatfield suggested that should the City yield to the County's decision, an interlocal agreement with provisions regarding maintenance and notification regarding modifications be drafted in order that the City can timely inform citizens. Hatfield acknowledged the service of the Council and stated that there should be an end to name-calling and divisiveness and that citizens and Council should work together respectfully and courteously for the City's future.

**Discussion and action regarding the Preliminary Plat of Egan Acres consisting of two residential lots on 4.3 Acres currently described as Tract 4-7 in the H. K. Newell Survey Abstract 0167 and situated at 2811 Rochelle Road – submitted by Frances Egan.**

Webb reported that the Planning and Zoning Commission [Commission] voted unanimously to recommend approval of the plat on September 1. Steinhagen apologized to Egan for statements, that she may have interpreted as disrespectful, he made on June 14 when her zoning change request regarding the subject property was considered. Steinhagen stated that, at the time, he had not fully understood the nature of her zoning change request, which was why he asked questions and was concerned when the Commission reported that no opposition to the change had been submitted, when in fact a letter from a neighbor who had strong opposition to the change was in the hands of the Council.

**MOTION: APPROVE THE PRELIMINARY PLAT OF EGAN ACRES CONSISTING OF TWO RESIDENTIAL LOTS ON 4.3 ACRES CURRENTLY DESCRIBED AS TRACT 4-7 IN THE H. K. NEWELL SURVEY ABSTRACT 0167.**

MOTION MADE: STEINHAGEN  
SECONDED: SHORT  
APPROVED: UNANIMOUS

There was discussion regarding the condition recommended by City Planner Mike Coker and included in the Commission's motion to recommend approval that the 30-foot building line be removed from the preliminary plat. Webb confirmed, stating that the 30-foot building line specified on the plat was inconsistent with the City's zoning ordinance provision that requires 75-foot front yard setback. Steinhagen amended the motion to read as follows:

**MOTION: APPROVE THE PRELIMINARY PLAT OF EGAN ACRES CONSISTING OF TWO RESIDENTIAL LOTS ON 4.3 ACRES CURRENTLY DESCRIBED AS TRACT 4-7 IN THE H. K. NEWELL SURVEY ABSTRACT 0167 PROVIDED THAT THE 30-FOOT BUILDING LINE IS REMOVED FROM THE PRELIMINARY PLAT.**

MOTION MADE: STEINHAGEN  
SECONDED: SHORT  
APPROVED: UNANIMOUS

**Presentation by Robert Steinhagen to report the results of a citywide voter survey conducted on behalf of Citizens for Representative Government.**

**Discussion and action regarding conduct of a survey to gauge citizens input regarding the annual budget, the property tax rate, future growth, types of development desired and future vision for the City.**

**Presentation, discussion and direction to repeal Section 1-15 of the Zoning Ordinance (Chapter 14 of the Code of Ordinances), establishing a Board of Adjustment, and transfer all responsibilities of the Board of Adjustment to the City Council in accordance with Section 211.008 of the Texas Local Government Code.**

**Presentation, discussion and direction to repeal Section 1-5 of the Zoning Ordinance (Chapter 14 of the Code of Ordinances), establishing a Planning and Zoning Commission, and transfer all responsibilities of the Planning and Zoning Commission to the City Council in accordance with Section 211.007 of the Texas Local Government Code.**

Addressing Commission Chairman Jay Webb, Steinhagen clarified that Webb was not a builder in the Sonoma Verde addition, apologized for the inaccuracy in his social network post and stated he would write a retraction. Addressing Stibbens, Steinhagen stated that the inference in the aforementioned post was that many of the Board of Adjustment and Planning and Zoning Commission members supported former Mayor Donegan's positions and that her name was not specified.

(Orchard arrived at 6:58 p.m.)

Steinhagen delivered a presentation that included results of a survey conducted on behalf of his grassroots organization, Citizens for Representative Government, and a case for amending the City's Code of Ordinances to repeal provisions establishing the Board of Adjustment (Board) and the Planning and Zoning Commission (Commission) and relegating the responsibilities of both to the City Council as allowed by State law.

Steinhagen recommended that a new citywide survey be conducted to request citizen input regarding topics including vision and preferences for the City's future growth and development, budget priorities and property tax rate. He noted that because there is insufficient time to conduct such a survey prior to the approval of the budget and property tax rate scheduled for September 27, Steinhagen stated his intention to move that the effective tax rate (\$0.141822 per \$100 valuation) be adopted rather than the current tax rate (\$0.152025 per \$100 valuation) as proposed on August 23. Steinhagen confirmed that adoption of the effective tax rate would result in deficit spending, that he was not willing to decrease funding for the MCVFD and that he had suggestions for cost-saving measures and reduction of government. Steinhagen answered questions from Short regarding details of the survey conducted in early 2016.

Steinhagen reviewed the state required process for cities that have a Commission verses those that do not, citing State law governing "General Law, Type A" cities, which provides a city council the right to conduct the business of both the Commission and/or Board. Steinhagen noted that the City Council is already required by law to replicate the process of the Commission which he argued creates an unnecessary bureaucracy for citizens in a city with less than 2,000, where both the Commission and the City Council are dependent on the City Planner's expertise to dot the proverbial "i's" and cross the proverbial "t's." Steinhagen noted that the Board is a quasi-judicial body where the only option for appeal is a court of law, arguing that without the presence of the city attorney, who is present for most Council meetings, the city is at greater risk. He also handed out and read from a 2011 TCAA Summer Conference presentation which highlighted four pitfalls for Boards to avoid, one of which includes an emphasis on proper training of Board members, as many, including all of M-C's, erroneously base their opinions on determining "if a hardship exists," which the recommendation contends demonstrates a member's "lack of understanding as to the nature of a variance request," arguing that "if there were no hardship, the applicant would not have made the request for a variance," asserting "the question that the Board must decide is whether the applicant's hardship is 'unnecessary,' when the applicant cannot take some course of action because of some requirement contained in the zoning ordinance," where the basis of their determination is "if all of the factors listed in the city's zoning ordinance for granting a variance weigh in the applicant's favor." Steinhagen expressed concerns that because current and past Board decisions are based on "whether a member see's a hardship or not" the city is being placed in legal jeopardy. Steinhagen pointed out that anyone can appeal a Board ruling, including the complainant, the complainant's neighbor, or any citizen, which, Steinhagen contended, makes the Council better suited to consider appeals which currently go to the Board since, as elected officials, the Council can better weigh the risks of the options and decide which position is worth fighting.

Steinhagen argued that eliminating the Commission and Board would save staff time, from having to publish public notice of their meetings, prepare their meeting agendas, along with supporting documents, and write their Minutes, which saves taxpayer dollars and eliminates unnecessary redundancy. Steinhagen noted that the Commission does good work but that it is work that provides minimal benefit.

**MOTION: DIRECT STAFF TO PROCEED WITH DRAFTING OF ORDINANCES AMENDING CHAPTER 14, ZONING OF THE CODE OF ORDINANCES TO: 1.) REPEAL SECTION 1-15 ESTABLISHING A BOARD OF ADJUSTMENT, AND TRANSFER ALL RESPONSIBILITIES OF**

**THE BOARD OF ADJUSTMENT TO THE CITY COUNCIL; AND 2.) REPEAL SECTION 1-5, ESTABLISHING A PLANNING AND ZONING COMMISSION, AND TRANSFER ALL RESPONSIBILITIES OF THE PLANNING AND ZONING COMMISSION TO THE CITY COUNCIL.**

MOTION MADE: STEINHAGEN

There was discussion regarding the motion. Short noted that the intent of state law that provides that the City Council "may" rather than "shall" appoint a Board was not addressed in Steinhagen's presentation. Steinhagen was unaware of the reason(s) behind the 1993 amendment when questioned by Short, whose own research on the matter was also indeterminate, but who argued that it was probably intended for small communities that did not have volunteers willing to serve, an argument, which Steinhagen challenged as baseless, offering to postpone the motion until the next meeting so that facts could be established, which Short discounted as unnecessary. Mayor Hodges voiced strong objection to the motion citing the experience of the Commission's members, making special note of Jay Webb's experience as a homebuilder, which brings a level of understanding that few hold when reviewing applications and considering the city's building standards. Councilman Lovell offered his opinion that eliminating the Commission and Board may send the wrong message to citizens. Councilman Orchard shared his concern that the motion may be throwing the proverbial baby out with the bathwater, that the issue the Council should be concerned with is that members or both bodies be citizens of the city and that they conform to the Council's direction, which should be made clear in more frequent meetings together. Other items discussed included procedures for land use and variance applications and the value of volunteer participation, experience and Commission recommendations.

SECONDED: KLUTTS

MOTION WAS NOT APPROVED.

FOR: KLUTTS, STEINHAGEN

OPPOSED: LOVELL, ORCHARD, SHORT

Hodges recessed the meeting at 8:41 p.m. The Mayor reconvened the meeting at 8:50 p.m.

**Discussion regarding site for Rockwall County Radio System Tower.**

Rockwall County Commissioner for Precinct 3 Dennis Bailey provided background and answered questions regarding the search for a suitable site for a radio system tower to service the portion of the County that includes McLendon-Chisholm. Bailey stated that subsequent to the deal to purchase of a portion of Tract 15-2 in the L. Easterwood Abstract No. 79 falling through, the County recently acquired Lot 1 in the Rives Acres addition situated at the intersection of League Road and State Highway 205. Bailey explained that that state law allows the proposed use of the already platted lot for public safety and public health purposes. Orchard and Steinhagen expressed disappointment that the County had not communicated with the City Council that the purchase of Tract 15-2 had fallen through in order that options, including city-owned property might be discussed. Bailey stated that timing was short and that his impression from previous discussions with the Council was that there was not majority support for installation of a radio tower on city-owned property in the vicinity of City Hall. Bailey stated further that use of any unplatted property would have required that the property be platted and that variances be granted, both of which would have lengthened the process. Items discussed included communications between the County and the City, notifications by the County to neighboring property owners, minimizing the impact of the tower, whether space on the tower might be leased for additional antennas and authority regarding the use and installation.

**PUBLIC HEARING - To receive input regarding the Proposed Annual Budget for the Fiscal Year that begins October 1, 2016 and ends September 30, 2017.**

The Mayor opened the public hearing at 9:45 p.m.

Gary Nickel, 612 Kentwood Drive, expressed support for the proposed budget and for funding for the McLendon-Chisholm Volunteer Fire Department (MCVFD) and concern regarding transferring funds from reserves to balance the budget.

Mark Kipphut, 31 Fireside Drive, expressed support for the proposed budget and support for the MCVFD. Kipphut suggested that there be discussions to clarify the relationship between the City and the MCVFD.

Herman Larkin, 8 Greenhollow Lane, commended the Council for their work on the budget and expressed concern regarding financing a deficit from reserve funds.

Robert Quinn, 1401 Corra Drive, expressed agreement with previous statements of support for the Budget and the MCVFD and concern regarding the use of reserve funds. Quinn noted that reserves are vital in the event of a major storm or event.

Michael Davis, 106 Chaney Place, expressed concern regarding deficit spending and surprise by the growth of the budget since the adoption of the annual budget for the 2015-2016 fiscal year. Davis urged caution regarding reliance on new construction and increased valuations and regarding deficit spending.

There being no others present to provide input regarding the proposed budget, Hodges closed the public hearing at 10:03 p.m. The Mayor stated that the budget was scheduled to be adopted on September 27, 2016 at the regular City Council meeting.

**PUBLIC HEARING – To receive input regarding the Proposed Tax Rate of \$0.152025 per \$100 valuation on all taxable property within the corporate limits of the City as of January 1, 2016.**

The Mayor opened the public hearing at 10:04 p.m.

Gary Nickel stated that he would rather there be a higher tax rate than use reserve funds to balance the budget.

Herman Larkin and Bev Stibbens expressed support for maintaining the current tax rate of \$0.152025 as proposed.

Mark Kipphut, stated that he is willing to pay the tax rate required to run the City and asked that the Council work to reduce line item expenses.

There being no others present to speak regarding the proposed tax rate, Hodges closed the public hearing at 10:14 p.m. The Mayor stated that this was the 1<sup>st</sup> of two public hearings and that the 2<sup>nd</sup> public hearing would be conducted at a special meeting scheduled for September 20 at 6:30 p.m.

**Discussion regarding Proposed Budgets for the Fiscal Year that starts October 1, 2016 and ends September 30, 2017.**

Steinhagen stated that he would be proposing that the effective tax rate be adopted. There was discussion regarding a correction to an accounting entry for franchise fees from IESI (Progressive Waste) and options for plan review and building inspection services.

**Discussion and action regarding the Minutes of August 9 and August 23, 2016.**

**MOTION: APPROVE THE MINUTES OF AUGUST 9, 2016 AND DEFER ACTION REGARDING THE MINUTES OF AUGUST 23, 2016.**

MOTION MADE: STEINHAGEN  
SECONDED: SHORT  
APPROVED: UNANIMOUS

**MOTION: ADJOURN THE MEETING (10:22 P.M.).**

MOTION MADE: SHORT  
SECONDED: KLUTTS  
APPROVED: UNANIMOUS

APPROVED:

ATTEST:

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Gary Lovell, Mayor Pro Tem

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Stephanie Galanides, City Secretary