



CITY COUNCIL
City of McLendon-Chisholm, Texas
Meeting Minutes
June 11, 2019

The City Council of the City of McLendon-Chisholm convened in Regular Session on Tuesday, June 11, 2019, at City Hall, 1371 West FM 550, McLendon-Chisholm, Texas, with the following members present:

ATTENDING:	Keith Short	Mayor
	Jim Bloom	Mayor Pro Tem (Absent)
	Herman Larkin	Council Member
	Lorna Kipphut	Council Member
	William Dahl	Council Member
	Trudy Woessner	Council Member
Staff Present:	Lisa Palomba	City Administrator/City Secretary
	Michael Halla	City Attorney

1. CALL TO ORDER

Mayor Short called the meeting to order at 6:32 p.m.

2. Council Member Larkin delivered the Invocation and led the Pledge of Allegiance to the U.S. and Texas Flags.
3. Mayor Short announced the Rules of Decorum are in place and are to be observed throughout the meeting.

4. CITIZEN COMMENTS

Lance Agee, 1509 Via Toscana, Addressed the Council regarding Items 6.1., 6.4., and 6.5. Mr. Agee appeared before the Council to discuss the bonds. He pointed out that the City has a budget of 1.2 million dollars. The bond that is being sought is ten million dollars. He asked the Council to be prudent in putting the City in that position where it is responsible for that full amount of money should the development go under. He stated he had an exchange with Russell Phillips about amenities that aren't complete. He also talked to previous Council and asked them not to proceed with the bonds at that time which were about two million dollars. They postponed it for one meeting and then they granted the money. He asked the Council not to give a bond until they have a timeline to guarantee that financials will be provided throughout the entire time that the bond is being issued, and that the amenities have been completed before the issuance of the bond. He also asked the Council Members to recuse themselves if they might have a conflict of interest with Sonoma Verde.

Robert Davis, 1258 Livorno Dr. Mr. Davis appeared to address the Council regarding Item 6.1 and the Sonoma Verde amenities and the PID. He stated no developers or builders ever told them there was to be a single community center and a single pool. He was told that at each entrance there was to be an activity center and a pool. He proposed they change the size of the lots to 1.5 acres to reduce the number of houses so they don't have to share the amenities with so many people. The builders lied to them. He wants them to give a timeline that tells what they are going to be doing and make them do it like they were supposed to.

Jody Wright, 1513 Barrolo Dr. Ms. Wright appeared to address Sonoma Verde issues. She stated the HOA fees have gone up with no additional amenities as they have been promised. We have numerous code violations in our neighborhood. She stated she would like there to be more transparency in all the communications. She asked that no additional funds be granted to this developer unless they have fulfilled their commitments to the residents.

Mark Russo, 1519 Barrolo Dr. Mr. Russo was present to address the notification of public hearings to the citizens. He stated he hopes there is a standard or a policy that everyone in the community will get notifications.

Liberty Tribe, 1514 Siena Ln. Ms. Tribe asked, regarding the PID, what percentage of the development is to be built versus being sold as a salesman to us. We have elderly, disabled people that live in this subdivision who should not have to pay PID. We have totally disabled Vietnam veterans who should not have to pay. We have disabilities with children in the homes – they should not have to pay. We need to understand, as a community, what phase we go through. When do we stop paying those taxes? There are no answers anywhere.

Jerry Neatherlin, 1216 Livorno Dr. Mr. Neatherlin addressed the Council regarding the HOA in Sonoma Verde. He has been told they don't have a HOA, but they pay dues. He feels they need an association to represent them.

5. APPROVAL OF CITY COUNCIL MEETING MINUTES

5.1 MAY 28, 2019

MOTION: APPROVE MINUTES OF MAY 28, 2019 AS PRESENTED.

MADE BY: Council Member Kipphut
SECONDED: Council Member Larkin
APPROVED: Unanimously

6. ITEMS FOR CONSIDERATION

6.1. SONOMA VERDE DEVELOPERS WILL DISCUSS SONOMA VERDE AMENITIES AND PRESENT A TIMELINE OF FUTURE IMPROVEMENTS

Chris Cuny, Civil Engineer, residence 2 Horizon Court, which is also the location of his business. He has been involved in this project since 2004 when it was purchased and development began. He gave a brief history of the project and how they got where they are now. He presented the following information:

1. There is approximately 550 acres in the development
2. Worked with the city on a developer agreement
3. Density was two units per acre with a blend of lots
4. 1100 total lots on the 500 acres
5. Zoned and approved with zoning now in place
6. Provided sewer for Sonoma Verde exclusively
7. Dedicated land for an elementary school
8. Provide sewer capacity for commercial development along 205
9. The City owns the water lines that are in Sonoma Verde
10. Built storm sewer system with curb and gutter within the subdivision
11. Built wider roads
12. Agreed to pave League Road
13. Voluntarily annexed the property
14. Development agreement included the amenity center, the swimming pool, League Road, landscaping improvements. There are "planned to be" trails, and other parks which are to be built.

Mr. Cuny stressed that there will be no affect on Phase 1 and there is no financial impact on the City.

Rich Alberque, representing the owner and developer of Sonoma Verde, explained improvements and the timeline as provided to the City by the Developer. They purchased the property in mid-August 2018. They have changed the management company for the HOA. He presented the following information:

Improvements Currently Under Construction

- **League Road:** We have completed the initial section from our development to where the road jogs with a concrete road instead of resurfacing the existing road. The remaining section will be resurfaced in the next 30 days (weather permitting) and the improvement to League Road will be totally completed ahead of the PD requirement.

Future Improvements for Phase 2

- **Trail:** The trail is proposed to extend along the north side of the ballfields along the frontage of Cortana Lane. Additional trails will be done as future phases are

completed. The trail will be installed upon completion of the filling and grading of the ball fields. Project time frame is September/October 2019.

- **Ballfields/Open Space:** The area just north of the amenity center consists of approximately 9 acres. The tract includes a dry detention area with two soccer fields and a baseball field to be constructed with the completion of Phase 2. The site is extremely low and it will require the importing of fill to construct the fields. Because the site requires fill, we will need to find a dirt source on site. Our engineers will take elevations on the site and prepare a grading plan which should be completed in June. Depending on the amount of dirt required, we will begin filling the site in the August/September time frame after the Phase 2 improvements are accepted by the City. Depending on the amount of dirt required, we will begin filling the site in the August/September time frame after the Phase 2 improvements are accepted by the City. Assuming we have enough fill available, the dirt work should be completed by the end of September. The fields will then be graded and irrigated. The site should be seeded in October after the hot months are over. The fields will be seeded with rye at that time and in the spring, the fields will be over seeded with Bermuda. The Bermuda will need to establish itself in the spring before play can begin. The fields should be ready June/July, 2020, depending on the weather.
- **Amenity Center Pavilion Remodel:** There were no plans or promises of remodeling the existing amenity center. Due to requests for enclosing part of the center to provide a space for year-round use, we are proceeding to remodel one side of the pavilion. The plans for the remodel are in process. During the next two to three months, we will finalize the plans, submit to the City for approval for construction. The construction will not begin until the end of the swimming season. Construction will likely begin in October and be completed by the end of the year.

He stated the development includes a pool which is resort size, a lake, a pond, tennis courts, basketball courts, and open space.

He stressed how important it is for the developer and the HOA to be happy. The developer subsidizes the HOA while the development is in progress.

Council Member Woessner pointed out that the PID is strictly for roads, sewer, water and drainage. The PID has nothing to do with the HOA or the amenities. She feels things are getting blurred.

Council Member Dahl questioned a remark made by Russell at the previous meeting regarding a large parcel of land that will be a ballpark, but was previously allocated for senior living.

Mr. Alberque stated that is incorrect. When the PD was approved, that land was always open space.

Mr. Cuny explained that in the original concept plan there was an area designated for senior living. With the development in place now, that has been taken off the table and the actual ballfields have been expanded beyond what was initially planned.

Council Member Dahl asked for clarification if the senior living amenity can be moved to another location or has been removed completely.

Mr. Alberque answered that no other area has been designated for that use.

Joey Howell, a partner in the development, stated that there was no senior center designated in the original concept plan. An amendment to the concept plan did allow for a senior center as an optional use. Most developers have agreed that more ballfields is a better use at this time. We did have meetings with the homeowners and most of them agreed they did want more ballfields.

Council Member Dahl stated he has a lot of constituents who are concerned about the lack of senior living. That area being on a previous plan, and then being removed, makes him concerned about it.

Mr. Alberque responded that the market dictates what type of use is established. They have talked with developers who develop that type of use and there is an interest. There is a possibility that in the future they might make one of their areas with an age restricted use. That is on the table and they are interested in pursuing that.

Council Member Woessner asked if they can just make changes without notifying anyone.

Mr. Cuny stated that if the concept plan is changed, they will have to go back through P&Z and the Council for an amendment.

Council Member Kipphut stated that she believes there has been a breakdown in communications between the HOA and the residents.

Phillip Duncan, Management Team member, responded that the point is well taken and that is one of their main focuses right now. They have been working on this for the last three to four months. The new management team is excellent at what they do and their communications are being improved as well as getting better community involvement.

Council Member Woessner explained that the Council is hearing from residents and that is why they are asking questions. They want improved communication with the residents.

Council Member Larkin asked for the name of the new management company.

Mr. Duncan replied it is CCMC Management.

NO ACTION

6.2. CONDUCT A PUBLIC HEARING REGARDING ASSESSMENTS LEVIED AGAINST CERTAIN ASSESSABLE PROPERTY WITHIN THE SONOMA PUBLIC IMPROVEMENT DISTRICT

Mayor Short opened the public hearing at 7:37 p.m.

Adrienne Balkum, 1518 Firenza Ct.

The PID Act requires the service plan to cover a period of at least five years. The service plan is required to define the annual projected costs and indebtedness for the Authorized Improvements undertaken within the PID during a five-year period. It is anticipated that it will take approximately 12 months for the Major Improvements to be constructed and approximately 12 months for the Improvements to be constructed. After each phase it is expected that each phase will correspond with a Service and Assessment Plan update for that Future Phase.

The service plan shall be reviewed and updated at least annually for the purpose of determining the annual budget for Administrative Expenses, updating the estimated Authorized Improvement costs, and updating the Assessment Roll. Any update to this Service and Assessment Plan is herein referred as an "Annual Service Plan Update."

As Future Phases are developed, this Service and Assessment Plan will be amended to include costs of Authorized Improvements for those Future Phases. The PID Administrator and the Bond Council are here to give you that information that is related to the plan.

The information such as the evidence provided in the updates and reviewed by the City Council it is your job to confirm with city officials and contractors such as the PID Administrator, Bond Council, City Inspectors if what is provided checks out in these documents. Of course you can view the areas to see if there are roads, sewer and other infrastructure items listed have been produced. These men and women were hired to represent Our City – they are the ones who spent hours to produce these presentations to present to you these updates which have to be spot on accurate. Please do your due diligence in being prepared for the City Council Meetings by spending the time in reading these documents.

The questions that was asked at the last Council Meetings such as had the developer kept his promises such as amenities was not associated with the financial related obligations that was presented to you. Yes, the developer has met his obligations in the PID agreement. Having the developer to provide a timeline of future amenities for the City Council to be on a future agenda I guess is fine. Mainly to be informational purposes.

Based on the information that was provided from Mr. Phillips, to me was nothing more than a public relation act of disclosing about the trails, ballfields and remaining road construction of League Road. It's not really any different information that was provided at the 2018 Annual HOA meeting.

Unfortunately, there are rumors being said that the City Council is going to deny these bonds solely to have the developer provide amenities based on what a handful of property owners may have been saying. It's concerning to me for several reasons.

In what Mr. Phillips had provided to property management, the HOA Board, the residents all of this was already determined for these amenities: ballfields, park, sand volleyball court, tennis court, basketball court, swimming pool, amenities center, walking trails and ponds. Again none of the amenities were included in the Service Assessment Plan.

As far as any future amenities goes, whether it is another pool, playground or other structures that should be decided on the future Sonoma Verde HOA board. That board will be when the residents are elected as board of directors. As it stands and based on what I have witnessed it would be better for those who actually live in the Sonoma Verde development to generate those ideas, present to the residents the costs of options and information. And from there be able to facilitate for the residents to vote on what they want.

Mr. Phillips is a man of integrity. I know that he is committed to keep his agreement compliant with the City. In 2016, when I came forward regarding evidence of roads that were needing improvements he met with me and the City Administrator. Which he timely had those road areas repaired. Mr. Phillips is pretty reasonable to work with I think if there are areas that is infrastructure related he will do his part to remedy it. I do find that when you have a variety of variables such as weather, several groups of actual labor of crews for engineering to construction – It can appear as if he is just not moving fast enough.

On items 6.3 and 6.4 I do believe based on the information provided to you that the City Council should vote for the adoption of the ordinance authorizing the issuance and sale of the Special Assessment Revenue Bonds as well as the documents provided. And to adopt an ordinance to approve the construction, funding and acquisition agreements.

Also, it would be a good idea to inquire of the new PID Administrator for your own personal knowledge about what is in place for delinquency for those property owners who have made claims that they will not pay for their PID and what are some things that are provided in these agreements what will happen to the Reserve Fund monies.

Finally, as some of you serve on a HOA Board when you hear citizens share concerns about amenities let me remind you that as a City Council you should tell those residents to speak about those issues with their HOA.

Michelle Nickleberry, 1520 Sienna Lane

Ms. Nickleberry stated she is so confused about what is really going on with all the information being put out. She thinks things need to be put in writing. One of her concerns is what they can legally do about these issues. She asked for facts, not opinions. Her last question is if the bonds can be withheld or delayed and why or why not.

Robert Quinn, 101 Corrona Dr.

Mr. Quinn stated he was someone who had posted information on facebook. He stated he heard stories about the PID before they bought the property and was told they had a

list of all the things the PID covers including the amenities. He stated he was lied to right up front. The plan has changed. The map keeps changing. Every new map has less on it. He reported that the pool is often filthy. They complain all the time about mud in the streets, work sites being left with garbage everywhere, potholes, cracked sidewalks, lots that aren't being mowed that are overgrown with weeds

Lance Agee, 1509 Via Toscana

The plan between the City and the Developers changed unilaterally. They should not be able to do that. They can't come in and change things they have agreed to without bringing it back to the City Council. There is discrimination on one of the facebook pages. Public notices should be sent out to everyone in the community. League Road – the City is sending people through a HOA, through the PID without letting people know. You can't be selective when sending notices, you have to send them to the larger area. If Sonoma Verde defaults, who is responsible? Does it come back on the homeowners? Until someone does what they say they are going to do, don't give them a penny. The Council needs to hold them accountable. There is a repeated record of failure with Sonoma Verde. You can't change contracts without both parties agreeing to it. We want Sonoma Verde to be what it's supposed to be.

Kirk Wilson, T. Wilson & Associates, Inc., 1800 Valley View Lane, Farmers Branch, Texas

I specialize in PID assessments. The assessments tonight only affect the new developer and the new phase, not on the prior developer. The developer agreement has been complied with 100%. The service assessment plan that is before you tonight is in compliance as well. Each individual lot has a levy, and whoever owns that lot has to pay those levies. In this case, the developer owns all those lots so he will have to pay those levies until such time as builders come along or homeowners, and they will pay going forward. If a property owner does not pay, there is a process to remedy that. If the developer doesn't pay, he could lose his property. No money tonight is going to the prior developer. It would be contrary to the interest of all of Sonoma Verde to penalize the new developer based on the prior developer.

Council Member Kipphut asked what would happen if the developer didn't build on any more lots and walked away from the project. Would he still be responsible for the assessments?

Mr. Wilson – They would still owe the assessments on all the lots they currently own.

Council Member Woessner asked what the worst-case scenario would be for the City.

Mr. Wilson responded that the City doesn't have a risk. You are responsible for making sure the facts in the offering document are correct to the best of your knowledge. You are responsible for making sure assessments are paid and enforce collection just like you do property taxes.

Jody Wright stated that she was told that if she paid off her portion of the bond, there would be no other changes. Now they are told they will be charged an administrative fee.

Mr. Wilson replied there are no administrative fees if the assessment is paid off.

Robert Davis – Is the PID assessment a loan or a tax and can it be renegotiated?

Mr. Wilson responded it is neither a loan or a tax – it is an assessment.

Jason Avery asked if his levy will go up. Mr. Wilson stated it will not change.

Chris Cuny stated this bond doesn't affect other phases at all.

Ms. Nickelberry asked for confirmation that assessments are not going up in Phase 1C and Phase II. She also pointed out there is a fee that goes on forever.

Mr. Wilson confirmed there will be no impact on them.

Mayor Short called a break at 8:23 p.m.

Mayor Short call the meeting back to order at 8:35 p.m.

Adrienne Balkum - Just to make sure that it is clear. Obviously as we just said that anything that is said about the HOA, that those homeowners need to talk to the HOA, their HOA Board or their property manager. But as far as the City Council's concern if you are hearing complaints from residents as I heard tonight, like there is trash and all these different things. Well, there is a way to facilitate that complaint and you can go to the City to make that complaint and we have a City Inspector to go and investigate that. To review those areas like the pool or the debris in parts of the development. Those are some things that can be done as well as complain to their HOA and property management.

Mr. Wilson did correct there is a supplemental charge right now for road maintenance. That supplemental fund is needed for maintenance.

Ms. Nickelberry – Has not had question of legality of any type of question about the PID or the legality of developer agreements if these can be changed.

Balkum - Okay I kinda know a little bit about this. One of the biggest things that we did on the City Council we wanted to address alot of these questions typical FAQs. We worked with Municap (former PID Administrator). We worked with Municap to develop those questions and it is on the actual city website, Sonoma Verde PID FAQs there is a bunch of questions there about 12 questions there. As well as on Municap's website. I believe when P3Works (the New PID Administrator) I would hope that they would have the same similar questions, like the legal questions, obligations and stuff like that. All of the SAPs and the documents related to this PID should also be quicklinks. That's all that it needs to be. Just as it has been with Municap and the City's page.

Mayor Short closed the public hearing at 8:44 p.m.

NO ACTION

6.3. CONSIDER THE ADOPTION OF AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF "CITY OF McLENDON-CHISHOLM, TEXAS, SPECIAL ASSESSMENT REVENUE BONDS, SERIES 2019 (SONOMA PUBLIC IMPROVEMENT DISTRICT IMPROVEMENT AREA #2 PROJECT) AND APPROVING VARIOUS DOCUMENTS RELATED TO SUCH BONDS

MOTION: ADOPT ORDINANCE 2019-06 AUTHORIZING THE ISSUANCE AND SALE OF "CITY OF McCLENDON-CHISHOLM, TEXAS, SPECIAL ASSESSMENT REVENUE BONDS, SERIES 2019 (SONOMA PUBLIC IMPROVEMENT DISTRICT AREA #1 PROJECT)

**MADE BY: Council Member Kipphut
SECONDED: Council Member Larkin**

Council Member Kipphut stated she feels it is the responsibility of the City Council to determine if agreements are in compliance. They should also work with their inspectors to ensure safety and cleanliness of the development.

APPROVED: 3-1 (Kipphut, Dahl, Larkin in favor Council Member Woessner voting Nay; Mayor Pro Tem Bloom absent)

6.4. CONSIDER THE ADOPTION OF AN ORDINANCE APPROVING A CONSTRUCTION, FUNDING, AND ACQUISITION AGREEMENT RELATED TO THE SONOMA PUBLIC IMPROVEMENT DISTRICT AND AUTHORIZING THE MAYOR TO EXECUTE AND DELIVER SUCH AGREEMENT

MOTION: APPROVE ORDINANCE 2019-07 APPROVING A CONSTRUCTION, FUNDING, AND ACQUISITION AGREEMENT RELATED TO THE SONOMA PUBLIC IMPROVEMENT DISTRICT AND AUTHORIZING THE MAYOR TO EXECUTE AND DELIVER SUCH AGREEMENT

**MADE BY: Council Member Kipphut
SECONDED: Council Member Larkin
APPROVED: 3-1 (Kipphut, Dahl, Larkin in favor; Council Member Woessner abstaining; Mayor Pro Tem Bloom absent)**

6.5. DISCUSSION AND ACTION CONSIDERING AN AMENDMENT TO THE AGREEMENT FOR FIRE PROTECTION SERVICES AND INTEGRATION BETWEEN THE McLENDON-CHISHOLM VOLUNTEER FIRE DEPARTMENT (MCVFD) AND THE CITY OF McLENDON-CHISHOLM TRANSFERRING OWNERSHIP OF MCVFD STATION 2 TO THE CITY

MOTION: APPROVE AN AMENDMENT TO THE AGREEMENT FOR FIRE PROTECTION SERVICES AND INTEGRATION BETWEEN THE McLENDON-CHISHOLM VOLUNTEER FIRE DEPARTMENT (MCVFD) AND THE CITY OF McLENDON-CHISHOLM TRANSFERRING OWNERSHIP OF MCVFD STATION 2 TO THE CITY

MADE BY: Council Member Kipphut
SECONDED: Council Member Dahl
APPROVED: Unanimously

6.6. DISUCSSION AND DIRECTION REGARDING THE FISCAL YEAR 19-20 BUDGET ADOPTION CALENDAR

City Administrator Palomba introduced this item. She presented a calendar outlining the dates needed in order to pass the budget in a timely manner.

NO ACTION

9. EXECUTIVE SESSION

- 9.1. Recess into Executive Session (Closed Meeting) in accordance with Texas Government Code: Section 551:071(2) Consultation with City Attorney on a matter in which the duty of the attorney to the government body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter regarding possible fire station location sites and options for placement and methods of placement of said fire station in the city limits.**

Council adjourned into Executive Session at 8:54 p.m.

10. RECONVENE REGULAR MEETING

Council reconvened into regular session at 9:23 p.m.

11. EXECUTIVE SESSION ACTION

No Action

7. UPDATE, DISCUSSION AND DIRECTION TO STAFF

Mayor Short reported that tornado sirens are being looked at. He also stated he has assigned each new Council Member certain areas of responsibility.

8. COUNCIL MEMBER REPORTS AND ANNOUNCEMENTS

- 8.1. Mayor Short's announcements including events, area happenings, and general information**

He spent last week in training regarding law enforcement in a school setting. He also stated he will be involved in a charity event next Saturday. Also, he will be involved in Baubles & Bags again this year in September. This charity benefits the Child Advocacy Center.

Mayor Short also reminded everyone to remember the upcoming July 4th celebration.

8.2. Mayor Pro Tem Bloom's announcements including Economic Development Advisory Panel and Emergency Services Corporation – Mayor Pro Tem Bloom Absent

8.3. Council Member Kipphut's announcements – None

8.4. Council Member Larkin's announcements including Veterans Memorial Brick Campaign Committee

Reported that brick sales have gotten off to a good start.

**8.5. Council Member Woessner's announcements – None
Mm**

8.6. Council Member Dahl's announcements

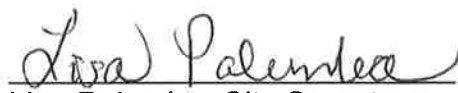
Would like to see more transparency regarding the budget.

10. ADJOURN

There being no further business to discuss, Mayor Short adjourned the meeting at 9:44 p.m.

ATTEST:

APPROVED:


Lisa Palomba, City Secretary


Keith Short, Mayor

