

The City of West University Place

A Neighborhood City

CITY COUNCIL

Bob Fry, Mayor
Susan Sample, Mayor Pro Tem
Ed Heathcott, Councilmember
Joan Johnson, Councilmember
Dick Yehle, Councilmember

STAFF

Michael Ross, City Manager
Alan Petrov, City Attorney
Thelma Lenz, City Secretary

CITY COUNCIL MEETING MINUTES

The City Council of the City of West University Place, Texas, met in a special meeting/workshop and regular meeting on **Monday, March 23, 2015**, in the Municipal Building, 3800 University, West University Place, Texas beginning at **5:30 p.m.**

SPECIAL MEETING (held in the Conference Room at 5:30 p.m.)

Agenda Items were as follows:

Call to Order. Mayor Fry called the meeting to order at 5:30 p.m. in the Conference Room. Council and Staff in attendance were: Mayor Pro Tem Sample, Councilmembers, Heathcott, Johnson and Yehle, City Manager Ross, City Secretary Lenz, City Attorney Petrov, Assistant City Manager/Public Works Director Peifer, Police Chief Walker and Communications Manager.

1. City Facilities Master Planning – Citizen Survey

Matters related to the citizen survey results. *Recommended Action: Discuss and take any desired action.*

Dr. Richard Murray, Director for the Center of Public Policy at the University of Houston, presented. He said his understanding is that the survey was conducted because Council feels they are at a fork in the road and either need to proceed with the swap with the West U Baptist Church (WUBC) or WUBC would very likely proceed independently, which would likely preclude some of the long terms plans the City has for developing the Municipal Campus.

Dr. Murray said the survey included two basic option questions, which were:

- Should the City proceed with the proposed swap with the West University Baptist Church (WUBC) – i.e. "do you support or oppose that, have no opinion or are not sure?" He said about 49 percent of the total sample (a plurality) was supportive of proceeding, 35 percent were opposed, about 12 or 13 percent were not sure, and 2 or 3 percent did not answer; and
- In addition to those two basic questions, the survey asked a half dozen other questions, which is fairly common in surveys, such as how long have you lived in the City, your relative location to City Hall, how closely have you followed this issue, what media or other sources of information have you used?, etc.

Dr. Murray also stated the following:

- A minority of people, about 17 percent, said they were following this issue very closely and half did not respond. He said of those who did respond, about 1 in 6 percent felt strongly

about the issue and were more likely to be opposed to the option of the City proceeding with the land swap and a few more were supportive of the City doing nothing.

- A larger number of people who responded said they had followed the issue somewhat and they were consistently in agreement with moving forward.
- The intense opposition is diluted by the broader response from residents throughout the City.
- There is a very passionate minority opposition, but it is also clear that they don't speak to the larger community of the City who are more comfortable with whatever is being suggested by Council.
- It is an interesting survey, but he doesn't anticipate it will settle the issues because on one hand there is intensity of opposition among the minority and a broader level of support from people who don't care as passionately about it. He said this is one of things he was charged with finding out and the pattern comes through pretty clear.
- Overall, there was a good survey response rate and he is comfortable that the results of the survey reflect the broader opinion of the City.

Mayor Fry said he believes that Dr. Murray has done what was asked of him. He then provided time for questions from the audience.

David Kuykendall spoke to ask Dr. Murray if he was aware that the WUBC had input into the informational brochure and requested that they had requested that nothing negative be put into the brochure.

Dr. Murray said after the brochure was drafted, it was brought to his attention.

Mr. Kuykendall asked Dr. Murray if he thinks that WUBC's input could have influenced people's responses. Dr. Murray responded that he didn't know, but it's possible.

Mr. Kuykendall asked if the questionnaire was pretested and Dr. Murray responded that it wasn't.

Another resident, who did not announce name or address, spoke to ask Dr. Murray if the group that tends to support Council's direction were less informed about the City's plan. Dr. Murray responded that the people who were more supportive did report a pretty high level of media usage, so it wasn't really a big difference there. He said the big difference was in the level of passion.

Ben Ballanfant spoke and asked a question, but the recorder did not pick up the question in its entirety.

Another resident, who did not announce name or address, spoke to ask Dr. Murray how well informed does he think the participants were in terms of the costs of the proposals, because these are major projects and he's not sure that the informational brochure contains enough information.

Dr. Murray responded that the informational brochure was mailed out to all residents, so he believes there was some educational level before the survey was distributed on the nuts and bolts of this issue.

Brennan Reilly spoke to say that the two main survey questions were the opposite of each other, yet were asked two different ways and received fairly different responses. He said, typically, when surveys are testing people's answers, they are trying to get the same responses, so is the

discrepancy, in particular the "no answer" reviews, between the two questions call into question the confidence of the answers.

Dr. Murray responded he doesn't think so. He said he thinks it is better practice to give people the opportunity to say they want either option. He said the fairly extensive verbal comments capture a lot of that.

Mr. Reilly asked if it is accurate to say that the 14 percent were exclusively supports of the City taking no action?

Dr. Murray responded that very few people supported both options, so just about everybody who supported Option 1, opposed Option 2.

Another resident said when you weigh the opposed and not opposed and the not sure, it is surmised that residents are overwhelming "for" the actions of Council, but to her it seems that it is somewhat equal, because she is not seeing the same thing he is seeing.

Dr. Murray said there is no question that the opposition is clearly more substantial among people who feel intensely. He said when the larger population (the 80+ percent that don't feel intensely, but who did respond to the survey) weighed in it shifted to a large plurality, a little less than 50 percent. He said intensity and direction are two very different things in opinion surveys.

There were no more questions from the audience.

2. City Facilities Master Planning – Finalize Master Plan

Matters related to the City's Long Range Facilities Master Plan. *Recommended Action: Authorize staff to finalize the 2015 Facility Master Plan and bring back to City Council for approval.*

City Manager Ross presented and stated that Council noted that the 2015 Master Plan needed to be formally brought before Council for adoption. He said before the second meeting in April, staff will meet with PGAL, finalize the facilities Master Plan and bring the final plan back to Council for discussion and consideration.

Councilmember Yehle asked how would that incorporate, or not incorporate, the swap concept. City Manager Ross said that would get resolved as staff brings the document forward.

Mayor Fry said part of the problem is that the City has had facilities planning done in the past and had there been something in writing as to what had been done, it would have made things a whole lot easier this go around. He said the idea for this is to get it in writing and put it in the files for future councils.

City Manager Ross said he will bring the final plan forward when it is ready.

At 5:58 p.m., Mayor Fry recessed the special meeting/workshop and convened into Executive Session.

Present for Executive Session were: Mayor Fry, Mayor Pro Tem Sample, Councilmember Joan Johnson, Councilmember Dick Yehle, City Manager Ross, City Attorney Petrov, City Secretary Lenz, ACM/Public Works Director Peifer. Councilmember Heathcott recused himself.

3. City Facilities Master Planning - Real Estate

Matters related to the value or transfer of real property and other real estate matters with the West University Baptist Church and other properties in the 3800 blocks of University and Amherst. *Recommended Action: Discuss and take any desired action.*

This item was held in closed executive session in accordance with Section 551.072 in Chapter 551, Open Meetings Act, of the Texas Government Code (discussion about the value or transfer of real property and other real estate matters) and Section 551.071 in Chapter 551 of the Texas Government Code (consultation with legal counsel to seek or receive legal advice).

At 6:26 p.m., Mayor Fry closed the Executive Session and reconvened the Special Meeting/Workshop.

4. Adjourn

With no action taken, Mayor Fry closed the Special Meeting/Workshop at 6:26 p.m.

REGULAR MEETING (held in the Council Chambers at 6:30 p.m.)

Agenda Items were as follows:

Call to Order. Mayor Fry called the meeting to order at 6:30 p.m. in the Council Chambers. Council and Staff in attendance were: Mayor Pro Tem Sample, Councilmembers Heathcott, Johnson and Yehle, City Manager Ross, City Secretary Lenz, City Attorney Petrov, Assistant City Manager/Public Works Director Peifer, Police Chief Walker and Communications Manager Barber.

Councilmember Heathcott led the Pledge of Allegiance.

Secretary Lenz confirmed that the Notice of the workshop and regular meetings was duly posted in accordance with the Texas Government Code, Chapter 551.

5. Parks Master Plan

Matters related to approval of the City's Parks Master Plan. *Recommended Action: Approve the City's 2015 Parks Master Plan. Mr. Tim O'Connor, Parks and Recreation, Director*

Parks and Recreation Director O'Connor presented and introduced the Parks Master Planning Task Force – Melissa Pifko (Parks Board Chair), Kevin Boyle (Parks Board Vice-Chair), Susan Reeves (Parks Board member), Mark Prescott (Friends Board Chair), Pieter Vrancken (Senior Board Chair), Phyllis Cohen (former Mayor Pro Tem), John Old (former Senior Board member), Councilmember Dick Yehle, Councilmember Joan Johnson, Jim Patterson (Principal of White Oak Studio) and Susan White (Assistant Director of Parks and Recreation).

Mr. O'Connor said the Parks Master Planning effort began with the City retaining Jim Patterson and his team to lead the Task Force and staff through the process to development the 2015 Parks Master Planning document. He said the Task Force met regularly, produced a citizen's survey, conducted several town hall meetings, solicited feedback from residents and citizen boards and eventually developed a proposed plan that staff is asking Council to adopt. He said they are confident in stating that the entire process has been deliberate and effective in delivering the citizens of West University Place a road map that will serve the city in maintaining and improving its parks and recreational facilities for at least the next decade.

With no questions, staff requested that City Council formerly adopt the proposed 2015 Parks Master Plan.

Councilmember Johnson moved to accept the 2015 Parks Master Plan. Councilmember Yehle seconded the motion. **MOTION PASSED.**

Ayes: Fry, Sample, Heathcott, Johnson, Yehle
Noes: None
Absent: None

Mr. O'Connor said the Parks Master Plan would be posted on the City's website no later than Wednesday of this week.

6. Parks Master Plan – Task Force Recognition

Matters related to the recognition and appreciation of the work done by the Parks Master Planning Task Force. *Recommended Action: Recognize Task Force Members.*

Mayor Fry and City Council then recognized the Task Force and presented them with a token of the City's appreciation.

7. Public Comments

This was an opportunity for citizens to speak to Council relating to agenda and non-agenda items.

Alida Drewes, 6112 Fordham Street spoke to say that her topic is appropriate since people are getting awards for our wonderful parks. She said today she enjoyed the beautiful park and Senior Center in Bellaire, because she is not allowed to utilize the facilities in West University Place. She said if she goes into the Senior Center or into a park to enjoy a beautiful day, she would be fined \$500. Ms. Drewes said she has lived in the City for over 60 years, pays taxes and until recently had used the services of West University Place and is not sure exactly what she did to be banned. She said she knows her constitutional rights are being violated, because she is told not to talk to people when she is on the sidewalk outside the library, not to telephone people inside her own home because she is telephoning the wrong people, and not to voice concerns. She said when she gives input she is ignored or condemned or the laws are changed. Ms. Drewes said disabled senior citizens need better public servants.

Stan McCandless, 3712 Rice Boulevard, spoke regarding the citizen survey. He said the two questions sent out to about 10 percent of the citizens generated about 44 pages of feedback and asked if the residents are suppose to digest that in the time given in tonight's workshop? He said this is the crux of one of the big problems in the City, so he thinks there should be another workshop to further explain the results so that those that are interested can have an opportunity to digest it all because it is a very complicated issues. Mr. McCandless said he is for the church building the Youth Center at the original location, but thinks it is absurd to think of the Super Block 30 years from now.

Chuck Marshall, 4142 Riley, spoke to ask a question of the City Attorney. He asked if the City of West U is a co-applicant with the church for a special exception for the Milton property, is that a conflict of interest being that it is the Zoning Board of Adjustment and the City Council voting for or against that proposal? He also said, in regards to Agenda Item 9, he doesn't see how Council can proceed to approve \$199,000 expenditure for architecture design for moving the Maintenance Facility since it hasn't been approved to move it.

City Attorney Petrov responded to Mr. Marshall regarding the special exception. He said the Zoning Board of Adjustment is a quasi-judicial Board and is a separate entity from the City Council; therefore, Council doesn't have any influence over ZBA decisions so there is no conflict of interest.

Eddie Matthews, 5906 Fordham, spoke regarding the Facilities Master Plan. He said he appreciates the information provided in the past through the PGAL presentation in November and the informational brochure distributed last month, but said he is still concerned about the potential costs of both the property swap and the relocation of the Maintenance Facility. He said he encourages Council to make the costs and information available to the residents before any final decisions are made, because at the end of the day it's the residents who are going to have to pay the costs.

Brennan Reilly, 3731 Rice Boulevard, wished to defer his comments until Item 9 was discussed.

Councilmember Yehle spoke to say that this is a complicated issue with lots of moving parts and so it is very difficult to come up with an answer based on one component. He said one of the moving parts is the Maintenance Facility, which Councils have discussed for years about moving out of the City Center to somewhere else. He said Dincans is the logical place, but it should probably be investigated further.

Councilmember Yehle said the second thing is, without even thinking about the West U Baptist Church's immediate plans, several years ago he saw a map of the City Center and said to himself "gosh that looks messy" and it just cried to have some form of swap done to get the church's properties consolidated and the City's properties consolidated so both entities could use their land in a more efficient and sensible manner. He said the church would need more and more land to make sense of the disconnected bits of property that it has and it strikes him that by consolidating the church's properties, it would confine them and allow them to think about how to most efficiently use their property.

Councilmember Yehle said another concept is the RLUIPA law regarding what the church can and cannot do. He said on advice from the City Attorney and from an expert in the area, as well as other attorneys, basically the church can prosecute its religious activities on whatever land it owns. He said WUBC is already using a special exception for its Youth Center on Amherst; so, the rules that the City has gives the church an avenue to explore development of a special exception if it meets certain tests. He said, therefore, the church is working within the City's rules to accomplish what it wants to do, so at the end of the day if the City goes ahead with the swap, the church and the City will both be well positioned. He said, in addition, the Youth Center is one that is oriented towards teenagers and the City has been trying to find ways to serve that population better; so, three different groups of people will benefit from this. He said there are plenty issues regarding costs, other properties, etc., but these are just a few of his views surrounding the issues being looked at today.

Councilmember Johnson spoke regarding costs and said the City can't get costs until it moves forward on Item 9, so the City doesn't have costs to provide today.

Mayor Pro Tem Sample said when reviewing the survey, Appendix 1 states "*while West U has zoned these lots (the ones behind City Hall) as residential, Federal law and court decisions indicate that the Baptist Church has the right to develop this property for a clearly religious purpose despite local municipal rules.*" She said this is misleading because it is not "despite local municipal rules", it is because the City's local ordinances state that a church is a primary use in a residential area, which was passed in 2005. She said the church received a special exception to put their Youth

Center right where they want to put it now and the City's law pretty much says they don't have to do too much else if they want to put the same thing for a special exception where they already have it.

Mayor Pro Tem Sample pointed out that in 2005 that the City allowed for a special exception for a 43 foot gym for the church and she was hard pressed to find anybody complaining about the law passing or about the gym. She said the church, within the terms of the residential zoning that the City allows, can build up to 16,000 square feet on the designated properties, so thank goodness that isn't before Council.

Mayor Pro Tem Sample said the proposed Youth Center is 7,000 square feet residential scale sized building on three lots, and is within the provisions of the City's current zoning laws. She said the City has every intention to enforce its residential scale zoning on any construction, but fortunately, or unfortunately, City laws currently allow a church to have a primary structure in a residential area and so that puts the City up against a wall. She said they are within their rights to do what they are proposing and (some) people are asking Council to break the City's own ordinances and bend the rules against one particular entity. She doesn't think anyone would want to start a trend like that.

Mayor Pro Tem Sample said when the survey asked if "you want the youth center here or there" that was a real question because they can put it in the originally proposed location anyway according to City laws as they are currently. So for those people who were angry and refused to answer the question, they wasted a vote because that is what's on the table for the City.

For the record, Mayor Fry said that Councilmember Heathcott is a member of the WUBC and has recused himself from every deliberation had on this issue.

8. City Facilities Master Planning – Authorization

Matters related to a resolution authorizing the City Manager to perform all necessary actions that further the City Council's goals regarding the City's Long Range Facilities Master Planning. *Recommended Action: Approve resolution authorizing the City Manager to act on behalf of the City.*

Mayor Fry said in the City's history, there has been very good master planning done of facilities, but they were never formally recorded. He said the City could have saved a lot of time and effort had a previous City council actually done that, so that is what is being done with this motion – to have the Master Plan put in writing and accepted by the City so future City Councils can have it. He said it doesn't mean future Councils' have to follow it, but it gives them the opportunity to have it and make future planning easier.

City Manager Ross said this item is also to adopt a resolution that authorizes the City Manager to take the actions necessary to investigate the feasibility of the sale or exchange of property with the WUBC, as well as to reiterate the actions of the City Manager taken heretofore to investigate the sale or exchange of property that are hereby approved and supported by City Council and specifically includes, but is not limited to, the authorization for a special exception for the property at 3826 Milton Street for use by the WUBC. He said staff recommends Council approve the resolution.

Councilmember Yehle moved to approve authorizing the City Manager to take the described actions as necessary to investigate the feasibility of the sale or exchange of property with West University Baptist Church and to take actions to create a finalized Master Plan. Councilmember Johnson seconded the motion. **MOTION PASSED.**

Ayes: Fry, Sample, Johnson, Yehle

Noes: None
Absent: None
Abstain: Heathcott

9. Dincans Public Works Maintenance Facility – Architectural Design Services

Matters related to approval of the design of the Dincans Public Works Maintenance Facility and Animal Shelter. *Recommended Action: Authorize the City Manager to execute the architectural design contract with PGAL in an amount not to exceed \$199,000.*

Brennan Reilly, 3731 Rice Boulevard, spoke to say that he is disappointed in Council's approval of the action that authorizes the City Manager to engage in the land swap. He said the comments made by Council has shown him that it has refused to take into account changed circumstances since this issue was first moved by Councilmember Heathcott on October 17th.

Mr. Reilly said Councilmember Yehle's remark that the Youth Center will benefit all residents in West U and that it would be open to non-members is not true. He said Reverend Patterson made it quite clear during the pre-briefing hearing at the Zoning Board of Adjustment (ZBA) meeting that the facility would be for church members only.

Mr. Reilly said that Councilmember Yehle stated that the City's zoning laws permit the church to build as primary use in a residential area a facility for religious workshop, but said that is wrong to the extent that it is a high occupancy facility and high occupancy facilities like the Youth Center are not permitted without a special exception. He said the church has the burden to show that this facility will not substantially increase traffic or on-street parking and that it is compatible with the residential property. He said they cannot build without the exception and the City's laws do not give the WUBC carte blanche to build in a residential property area. Mr. Reilly said the City's laws protect residents right now and to the extent that they don't protect residents, they as City Councilmembers can make a motion to change it.

Mr. Reilly said the City is about to have a real survey in the City on May 9th. He said in 47 days there will be an election and it will show what residents really think, because there are a group of candidates who are strongly opposed to the actions the City is taking and they will be running against a group of candidates who are in favor of the status quo. He said whoever is doing long-term with this City, they are dealing with the wrong people because this City government is about to change and the citizens that are being and have ignored are about to be heard.

Mayor Pro Tem Sample spoke to state that a "special exception" is a fairly low hurdle compared to a "variance" and the property that the church is already on has a special exception for the very same use, so though it is not a slam dunk it's a fairly routine motion. She reiterated that the City has already approved a special exception in the past for that area for a Youth Center and with minor modifications they can have it renewed for the new Youth Center. She said she didn't mean to indicate earlier that the church could do whatever it wants, but said it is a very low hurdle they are facing right now.

Mayor Fry reiterated that City Council has no control. He said this goes to ZBA for a ruling and that is where this will be decided.

After hearing from the public, Assistant Public Works Director Beach presented this item for approval of a design contract with PGAL for the construction of the new maintenance facility that will be on Dincans. He said the costs include all of the services from architectural, electrical, civil and up to data cabling and security.

In response to Mayor Pro Tem Sample inquiry about an estimate, City Manager Ross stated that a detailed construction estimated from the architect will be forthcoming.

Mayor Fry said the reason this is being done is because this facility is long past its useful life and the plans will be needed at some point, whether now or in the future.

Councilmember Johnson moved to authorize the City Manager to execute a design services contract with PGAL in an amount not to exceed \$199,000. Councilmember Yehle seconded the motion. **MOTION PASSED.**

Ayes: Fry, Sample, Johnson, Yehle
Noes: None
Absent: None
Abstain: Heathcott

10. Consent Agenda

All Consent Agenda items listed are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council member requests in which event the item will be removed from the Consent Agenda and considered in its normal sequence on the agenda.

A. City Council Minutes

Approve City Council Minutes of March 9, 2015. *Recommended Action: Approve Minutes.*

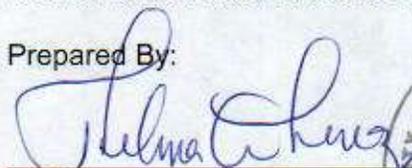
Councilmember Yehle moved to approve the Consent Agenda as presented. Mayor Pro Tem Sample seconded the motion. **MOTION PASSED.**

Ayes: Fry, Sample, Heathcott, Johnson, Yehle
Noes: None
Absent: None

11. Adjourn Regular Meeting

With no further business to discuss, Mayor Fry adjourned the Regular Meeting at 7:10 p.m.

Prepared By:


Thelma A. Lenz, City Secretary



4/13/15
Date Approved