

**Regular City Council Meeting
Meeting Minutes**



Tuesday, January 26, 2021 @ 6:30 PM

**Anna ISD Board Room
201 E. 7th Street, Anna, Texas**

The City Council of the City of Anna met at 6:30 PM, on January 26, 2021, at the Anna ISD Board Room, located at 201 E. 7th Street, to consider the following items.

1. Call to Order, Roll Call and Establishment of Quorum.

Mayor Pike called the meeting to order at 6:30 PM.

2. Invocation and Pledge of Allegiance.

Council Member Carver led the Invocation and Mayor Pike led the Pledge of Allegiance.

3. Neighbor Comments.

4. Reports.

City Secretary Carrie Land administered the Oath of Office to newly-appointed Police Chief, Dean Habel.

5. Work Session.

a. Bond Program Information (Economic Development Manager Taylor Lough)

Staff reviewed the Bond Election process, draft ordinance calling a May 2021 Bond Election, most recent financial projection scenarios, and a draft voter guide and frequently asked questions.

6. Consent Items.

Consent items c, d, and f were removed from consent.

MOTION: Council Member Toten moved to approve consent items a, b, e, h, g, and i. Council Member Ussery seconded. Motion carried 7-0.

- a. Approve Council Meeting Minutes for December 15, 2020, January 12, 2021, Joint Meeting and January 12, 2021. (City Secretary Carrie Land)
- b. Review minutes of the December 3, 2020, Joint Community Development and Economic Development Corporation meeting. (Director of Economic Development Joey Grisham)
- c. Approve a Resolution approving a Chapter 380 Grant Agreement with First Texas Homes, Inc. (Economic Development Director Joey Grisham)

Staff was recently contacted by Doug Duffie, CPA, who proposed a Chapter 380 Agreement for sharing his client's (First Texas Homes, Inc.) use tax paid in connection with building materials used by First Texas to build new homes in the City of Anna. The City of Anna entered into a similar agreement with Bloomfield Homes in 2017.

A Texas Direct Payment Permit (i.e., use tax permit) allows a Texas taxpayer to self-assess and pay use taxes on materials purchased for use or consumption as opposed to paying sales taxes directly to suppliers based on suppliers' place of business (primarily in larger metropolitan cities). First Texas anticipates using a Texas Direct Payment Permit to pay use taxes each month directly to the Comptroller based on locations where materials are first-used at job sites.

In order to limit administrative costs for the City, First Texas is required to pay use taxes monthly, but will request semi-annual grants based on payments received by the City from January – June, then again for the period from July – December of each year during the ten-year term of the Agreement. This allows the City to verify receipt of all local use taxes received from First Texas prior to payment of any grant. New local use taxes will be able to be independently verified by comparing a copy of First Texas's individual monthly use tax returns related to the City of Anna with amounts received from the Comptroller that were attributed to First Texas Homes, Inc.

Since First Texas will pay 100% of the system, accounting, audit defense, and other ongoing administrative costs tied to paying use taxes, and since none of the upfront or ongoing tax compliance costs will be paid by the City, the Grant was requested based on 64% of Anna's 1.25% General City Use Tax, but none of the incremental .75% CDC Use Tax.

The City will obtain a net 1.2% of the 2% combined City / CDC Tax and First Texas Homes will receive .8% of the combined 2% City tax (roughly 60% for the City/CDC and 40% for First Texas Homes).

Based on First Texas' suppliers' current places of business, the City would not receive any local sales tax revenue from First Texas's suppliers in the absence of the proposed 380 Agreement, and this approach will generate net new

tax revenue for the City without incurring any new costs.

FINANCIAL IMPACT: Based on First Texas Homes' 204 undeveloped lots in Anna in the Hurricane Creek communities, the company anticipates each new home will generate roughly \$672 in net City / CDC tax revenues (net of Grants) and \$448 in net benefits for First Texas Homes that will be used to recover the company's costs for use tax compliance. The City will retain 36% of the 1.25% General City use taxes collected and remitted for materials used on 204 homes to be built in Anna plus 100% of the incremental .75% CDC Use tax. Over the build-out period of the new homes in Anna, and presuming no inflation in the cost of building materials, Anna's "net" City tax revenues after Grants are anticipated to be \$51,408 for the General Fund plus \$85,680 for the CDC (total of \$137,008) and \$91,392 for First Texas Homes. If building material costs increase during the term of the Agreement or if First Texas purchases new undeveloped lots in Anna and builds incremental new homes in the City, the benefits could increase.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ANNA, TEXAS APPROVING A CHAPTER 380 GRANT AGREEMENT WITH FIRST TEXAS HOMES, INC.

MOTION: Council Member Miller moved to approve. Council Member Toten seconded. Motion carried 7-0.

- d. Approve a Resolution approving a Chapter 380 Grant Agreement with Riverside (East) Homebuilders, LTD. (Economic Development Director Joey Grisham)

Staff was recently contacted by Doug Duffie, CPA, who proposed a Chapter 380 Agreement for sharing his client's (Riverside (East) Homebuilders, Ltd.) use tax paid in connection with building materials used by Riverside (East) to build new homes in the City of Anna.

A Texas Direct Payment Permit (i.e., use tax permit) allows a Texas taxpayer to self-assess and pay use taxes on materials purchased for use or consumption as opposed to paying sales taxes directly to suppliers based on suppliers' place of business (primarily in larger metropolitan cities). Riverside (East) anticipates using a Texas Direct Payment Permit to pay use taxes each month directly to the Comptroller based on locations where materials are first-used at job sites.

In order to limit administrative costs for the City, Riverside (East) is required to pay use taxes monthly, but will request semi-annual grants based on payments received by the City from January – June, then again for the period from July – December of each year during the ten-year term of the Agreement. This allows the City to verify receipt of all local use taxes received from Riverside (East) prior to payment of any grant. New local use taxes will be able to be independently verified by comparing a copy of Riverside (East)'s individual

monthly use tax returns related to the City of Anna with amounts received from the Comptroller that were attributed to Riverside (East) Homebuilders, Ltd.

Since Riverside (East) will pay 100% of the system, accounting, audit defense, and other ongoing administrative costs tied to paying use taxes, and since none of the upfront or ongoing tax compliance costs will be paid by the City, the Grant was requested based on 64% of Anna's 1.25% General City Use Tax, but none of the incremental .75% CDC Use Tax.

The City will obtain a net 1.2% of the 2% combined City / CDC Tax and Riverside (East) Homes will receive .8% of the combined 2% City tax (roughly 60% for the City/CDC and 40% for Riverside (East)). Based on Riverside (East)'s suppliers current places of business, the City would not receive any local sales tax revenue from Riverside (East)'s suppliers in the absence of the proposed 380 Agreement, and this approach will generate net new tax revenue for the City without incurring any new costs.

FINANCIAL IMPACT: Based on Riverside (East)'s 120 undeveloped lots in Anna in the Green Meadows community, the company anticipates each new home will generate roughly \$540 in net City / CDC tax revenues (after Grants) and \$360 in net benefits for Riverside (East) that will be used to offset the company's costs for use tax compliance and audits. The City will retain 36% of the 1.25% General City use taxes collected and remitted for materials used on 120 homes to be built in Anna plus 100% of the incremental .75% CDC Use tax.

Over the build-out period of the new homes in Anna, and presuming no inflation in the cost of building materials, Anna's "net" City tax revenues after Grants are anticipated to be \$24,300 for the General Fund plus \$40,500 for the CDC (total of \$64,800) and \$43,200 for Riverside (East). If the cost of building materials increase during the term of the Agreement or if Riverside (East) purchases new undeveloped lots in Anna and builds incremental new homes in the City, the benefits will increase.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ANNA, TEXAS APPROVING A CHAPTER 380 GRANT AGREEMENT WITH RIVERSIDE (EAST) HOMEBUILDERS, LTD.

MOTION: Council Member Ussery moved to approve. Council Member Carver seconded. Motion carried 7-0.

- e. Approve a Resolution approving the annual renewal for Fire Dispatch Services. (Chief Ray Isom)

This item is the annual renewal for fire department dispatch services through Collin County Sheriff's Office. Fire Department dispatch services are at no cost to the City. This service, which includes 9-1-1 call takers, fire, and EMS operational communications is vital to the basic functionality of the fire department.

Collin County provides dispatch services for both Anna PD and Anna FD. The County, through the Sheriff's Office, owns and operates communication facilities used in dispatching its law enforcement and emergency service personnel. Collin County provides dispatch services to Anna Fire Rescue as a courtesy, with no fee to the City, and will continue to do so throughout this agreement period. The City desires to continue obtaining dispatch services from the County as it is the only feasible method to accomplish this. Collin County collects and stores the City's data as it relates to dispatch services. This agreement remains in effect through September 30, 2021, and will be renewed at such time.

A RESOLUTION OF THE CITY OF ANNA, TEXAS APPROVING THE RENEWAL OF THE INTERLOCAL DISPATCH SERVICES AGREEMENT WITH COLLIN COUNTY, TEXAS

- f. Approve a Resolution approving a zoning amendment initiation by City Council for Planned Development No. 08-2002 (PD # 08-2002). The initiation would allow for a public hearing to be called to consider an amendment to the Permitted Uses element within the existing planned development. The public hearings would be March 1, 2021, for the Planning and Zoning Commission and March 23, 2021 for the City Council. (Director of Development Services Ross Altobelli)

A neighbor is requesting City Council initiate a zoning amendment for PD # 08-2002 that would allow for a public hearing to consider an amendment to the Permitted Uses element within the existing planned development. With City Council initiating the zoning amendment it will allow a neighbor to proceed forward with a zoning amendment to allow for a Registered family home at her residence. The process will follow City Council hearing and notice requirements which include a required public hearing and written notice to all owners of property located within the area proposed to be changed (Lakeview Estates Phase 1 & 2) and within 200 of the property boundary.

A RESOLUTION INITIATING A ZONING AMENDMENT TO PLANNED DEVELOPMENT NO. 08-2002 AND SETTING PUBLIC HEARINGS UNDER SECTION 9.04.043 OF THE ANNA CITY CODE OF ORDINANCES FOR PUBLIC COMMENT AND CONSIDERATION OF SAID ZONING AMENDMENT TO ALLOW REGISTERED FAMILY HOME.

MOTION: Mayor Pike moved to approve. Council Member Atchley seconded. Motion carried 4 - 3. Miller, Vollmer, and Toten opposed.

- g. Approve a Resolution regarding The Woods at Lindsey Place, Preliminary Plat. (Director of Development Services Ross Altobelli)

David Booth, DR Horton-Texas, Ltd., has submitted an application for approval of a preliminary plat for The Woods at Lindsey Place. This is a multi-use development consisting of residential, multifamily, and commercial land uses located on 275± acres located at the northwest and southwest corners of future Rosemond Parkway and future Ferguson Parkway. Zoned PD-MU.

A RESOLUTION OF THE CITY OF ANNA, TEXAS APPROVING A PRELIMINARY PLAT FOR THE WOODS AT LINDSEY PLACE.

- h. Approve a Resolution approving an Interlocal Agreement with the City of Van Alstyne to acquire a portion of their Take or Pay Water Purchase for the water year 2019-2020 and authorize the City Manager to sign the agreement. (Finance Director Alan Guard)

The City of Anna has agreed to purchase a portion of the City of Van Alstyne's Take or Pay water purchase. Each year the City Council is required to pass a Resolution approving that year's purchase through an interlocal agreement. This year's purchase is for 15,546,000 gallons at a rate of \$1.765 per thousand gallons for a total of \$27,438.25.

- i. Approve a Resolution approving a contract with GCEC for Internet Upgrades. (IT Manager Kevin Johnson)

This is an amendment to a contract with GCEC; that, will upgrade the City's existing internet from 100mbps to 1Gbps (1000mbps) at the new City Hall/PD. The dark fiber will provide us with private fiber connectivity for Public Works, Fire Station, and Waste Water directly into City Hall to take advantage of the upgraded internet speeds. The extra internet circuit for the Fire Department is a quality of life upgrade that is needed to provide Public Safety with private internet.

7. Items For Individual Consideration.

- a. Conduct a public hearing/Consider/Discuss/Action on an Ordinance approving amendments to Article 9.02 Subdivision Regulations, Article 9.04 Zoning Ordinance, and Article 9.05 Signs of Chapter 9 Planning and Development Regulations of the City of Anna Code of Ordinances in order to amend various sections in order to improve staff efficiency, modernize language, and provide general clean-up of regulations. (Director of Development Services Ross Altobelli)

This request is to amend Article 9.02 Subdivision Regulations, Article 9.04 Zoning Ordinance, and Article 9.05 Signs of Chapter 9 Planning and Development Regulations and related sections of the City of Anna Code of Ordinances in order to amend various sections in order to improve staff efficiency, modernize language, and provide general clean-up of regulations. The amendments proposed are for the following topics:

- a. Minimum frontage requirement
- b. Retaining wall ownership
- c. Clarify "Impractical size" and fee collection for Park Land Dedication
- d. Consistency with the Texas Alcoholic Beverage Code (TABC), Chapter 109

Miscellaneous Regulatory Provisions

- e. Thoroughfare Overlay District
- f. Food and beverage overlay district
- g. Uses: garden (patio) homes & zero-lot line
- h. Uses: indoor commercial amusement, health club, gymnasiums, gymnastic or dance studio
- i. Uses: restaurants, private clubs, brewpubs, tasting rooms, wineries, and breweries
- j. Uses: personal service shops
- k. Uses: veterinarian clinics
- l. Flag Poles
- m. Subdivision signage maximum copy area

AN ORDINANCE OF THE CITY OF ANNA, TEXAS AMENDING THE CITY'S CODE OF ORDINANCES BY AMENDING CHAPTER 9 (PLANNING AND DEVELOPMENT REGULATIONS); PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR A PENALTY CLAUSE NOT TO EXCEED \$2,000 OR THE HIGHEST PENALTY AMOUNT ALLOWED BY LAW, WHICHEVER IS LESS; AND, PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

Mayor Pike opened the public hearing at 6:56 PM.

No comments.

Mayor Pike closed the public hearing at 6:57 PM.

MOTION: Council Member Miller moved to table. Council Member Ussery seconded. Motion carried 7-0.

After Closed Session City Council returned to the item and took action.

MOTION: Council Member Miller moved to approve. Mayor Pike seconded. Motion carried 7-0.

- b. Consider a Resolution awarding the Foster Crossing Roadway Improvement Project to Reliable Paving, Incorporated, in an amount not to exceed \$795,769.04. (Director of Public Works Greg Peters, P.E.)

Foster Crossing Road is shown to be a future 4-lane divided roadway in the City of Anna Master Thoroughfare Plan. The development of Pecan Grove Phase 2-4 along the north side of the road was required to include the construction of the north half of this future 4-lane road along the development's frontage of Foster Crossing.

The developers of Pecan Grove Phase 2-4 chose to escrow the construction funding for the road in lieu of constructing the road themselves. As such, City staff has bid the project and will manage the project as a City CIP roadway improvement project.

The City completed a public bid process for the project in accordance with Local Government Code. Four bids were received, with the lowest qualified bid being received from Reliable Paving, Incorporated, for \$795,769.04.

Staff has reviewed Reliable Paving, Inc.'s, experience and references and finds Reliable Paving, Inc., to have the necessary experience, staff, and equipment to perform the job. Therefore, staff is recommending that the City Council approve a resolution awarding the project to Reliable Paving, Inc.

Staff notified neighbors who reside on Foster Crossing Road of this agenda item. The project includes concrete driveway connections for each existing home on the road within the project limits. In addition, staff has offered to each neighbor the opportunity to have a meeting with the contractor and City staff to discuss specific details related to their driveways, access, and the construction schedule when the contractor is ready to proceed. Staff will ensure that all neighbors in the area have access to their property throughout construction, and that all driveways and adjacent right-of-way is returned to existing condition or better.

The total project cost is \$795,760.04. The developers of the adjacent project (Pecan Grove Phase 2-4) have escrowed construction funding for the project. The project funding will be paid for through Roadway Impact Fees collected from the development, with the escrow being reimbursed to the developer as impact fees are collected from the development to reimburse the City for the road construction.

MOTION: Council Member Vollmer moved to approve. Council Member Toten seconded. Motion carried 7-0.

- c. Consider/Discuss/Action on appointment of the 2021 Boards and Commissions Interview Committee. (City Secretary Carrie Land)

MOTION: Mayor Pike moved to appoint Stan Carver, Josh Vollmer, Randy Atchley, and Danny Ussery as alternate. Council Member Miller seconded. Motion carried 7-0.

- d. Consider/Discuss/Action on EDC/CDC Appointments. (City Manager Jim Proce)

The Interview Committee had conducted interviews in December and nominated Matthew Seago.

MOTION: Council Member Miller moved to appoint Matthew Seago to Place 5, with a term expiring May 2021. Council Member Toten seconded. Motion carried 7-0.

- e. Approve an Ordinance Amending the FY2020 - 2021 Budget to add 4.5 FTEs and funding for a Fire Apparatus to the General Fund and unfreeze 2.0 FTEs

in the Utility Fund. (City Manager Jim Proce)

The proposed budget amendment includes funding for the following purposes:

Revenue for building permits is exceeding FY2021 budget projections as a result of the explosive growth in our community. This explosive growth is also resulting in the need for additional staff in order to maintain the quality of services for our neighbors.

This budget amendment will add additional staffing as noted:

- Convert a part-time Administrative Assistant to full-time in the City Manager's Office to assist with human resources needs and administrative help. (0.5 FTEs)
- The position of IT Desk Help will be added to Information Technology to help with the additional technology needs of the growing staff, virtual meetings management and record keeping of same, and integration of off-site hardware to facilitate telecommuting needs as a result of COVID-19 impacts. (1.0 FTEs)
- A Development Services Technician will be added to Development Services Department to help with the additional workload associated with the consistently large number of building permits expected and experienced. (1.0 FTEs)
- Two Police Officers to expand patrol capabilities and fund the development of diversity in hiring in public safety through the use of the police academy. (2.0 FTEs)

Additionally, the Utility Department will be unfreezing 2.0 FTEs. These positions were frozen to ensure that the new utility rate structure would provide adequate funding to keep the Utility Fund fiscally sound. After an analysis of the first quarter, staff has determined that the population growth and the new utility rate structure will allow for these positions to be unfrozen, resuming the prior staffing levels to support construction inspection and utility maintenance needs. These would be hired immediately. Lastly, this amendment includes funding for fire pumper truck that was purchased that was formerly owned by the City of Coppell. The expectation was for this expenditure to be recorded before the end of FY2020. Because the truck was not delivered until October, the expense was recorded against the FY2021 budget. Funding is available in the General Fund fund balance.

MOTION: Council Member Atchley moved to approve. Council Member Toten seconded. Motion carried 7-0.

8. **Closed Session (Exceptions).**

Under Tex. Gov'T Code Chapter 551, The City Council May Enter Into Closed Session To Discuss Any Items Listed Or Referenced On This Agenda Under The Following Exceptions:

- a. Consult with legal counsel regarding pending or contemplated litigation and/or on matters in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551 of the Government Code (Tex. Gov't Code §551.071). Charter provisions; personnel policies; Council procedures; City

ordinances.

- b. Discuss or deliberate the purchase, exchange, lease, or value of real property (Tex. Gov't Code §551.072).
- c. Discuss or deliberate Economic Development Negotiations: (1) To discuss or deliberate regarding commercial or financial information that the City has received from a business prospect that the City seeks to have locate, stay, or expand in or near the territory of the City of Anna and with which the City is conducting economic development negotiations; or (2) To deliberate the offer of a financial or other incentive to a business prospect described by subdivision (1). (Tex. Gov't Code §551.087). Proposed developments.
- d. Discuss or deliberate personnel matters (Tex. Gov't Code §551.074). Boards and Commissions

MOTION: Council Member Vollmer moved to enter Closed Session. Council Member Miller seconded. Motion carried 7-0.

Mayor Pike recessed the meeting at 7:33 PM.

Mayor Pike reconvened the meeting at 8:36 PM.

Council went back to Agenda Item 7a. for action.

9. Consider/Discuss/Action on any items listed on any agenda - work session, regular meeting, or closed session - that is duly posted by the City of Anna for any City Council meeting occurring on the same date as the meeting noticed in this agenda.

No action.

10. **Adjourn.**

Mayor Pike adjourned the meeting at 8:37 PM.

Approved on February 9, 2021.



Mayor Nate Pike

ATTEST:

Carrie L. Land
City Secretary Carrie L. Land