

**City Council Workshop
MINUTES
February 12, 2024 at 6:00 PM**

CALL TO ORDER

Mayor Byron Sanford called the meeting to order at 6:00 p.m.

Present:	Byron Sanford	Mayor
	Carol Langley	City Council Place #1
	Casey Olson	City Council Place #2
	Sara Countryman	City Council Place #3
	Stan Donaldson	City Council Place #5
Absent:	Cheryl Fox	City Council Place #4
Also Present:	Gary Palmer	City Administrator
	Dave McCorquodale	Director of Planning & Development
	Caleb Villarreal	City Attorney
	Katherine Vu	City Engineer
	Diana Titus	Deputy City Secretary

WORKSHOP ITEMS:

1. Kendig Keast Collaborative – Informal Overview of Professional Planning Services/Q&A
Mr. Gary Palmer, City Administrator, said they are coming up with a large planning project that they are getting ready to launch. He said Kendig Keast Collaborative was the most qualified bidder on this project and they have been working with Mr. Bret Keast, CEO of Kendig Keast on a scope of work for this contract.

Mr. Palmer introduced Mr. Keast to present some of the services they provide and talk about some of the prior cities they have worked for with similar projects.

Mr. Keast stated he is a part-time resident of Montgomery. He said he has spent a fair amount of time here and watching things unfold and develop over the last decade, is very excited to join with his neighbors in helping lay out a plan for how they are going to grow in the coming years.

Mr. Keast said he has been doing this for 35 years and that he worked for the City at one point in his career. They have done all the zoning work for all the communities surrounding the Houston area.

His company does both planning and ordinance work, generally they will work with each of you and want to stay in communication with you and make sure that the work they do is matching your expectations and what you see for the future of the community.

As you know you had Texas A&M students a while back that did a plan, but they will be supplementing that with a land use plan that will show your future planning area where Montgomery may end up

ultimately and will identify the types and patterns and character of development for those different areas, in other words they envision where there could be commercial areas and different types of commercial continuing for some industrial development to different types of housing whether it is single-family, attached housing, multi-family and then also a road plan.

Mr. Keast went into depth with his explanation, covering the county road plan, which while is the biggest road network map it does not get detailed enough into the local community roadways. He also noted that Buffalo Springs Development Agreement has expired, so that will need some land planning as well.

He went on to state that right now the city has a Zoning Ordinance and a Subdivision Ordinance, he will work on a unified development ordinance a combination of both and make sure there are no conflicts or inconsistencies. He added that working closely with the city council is key to make sure the vision of the city is within the finished product.

Connectivity is also looked at between developments, where streams, creeks and trails through open spaces are looked at without penalizing the developer.

It is his intention to develop a decision criterion, in order to approve or deny project submittals which is beneficial to the city, the developer and the community.

Mr. Keast addressed the scope of work, stating that having met with staff he wants to develop a community outreach and build a rapport, staff and he will meet to develop a strategy for that. He stated the next steps occur once the contract is executed, he will then layout a project schedule to include timelines, meetings etc., and periodically would meet with the advisory committee, which he recommends is made up of at least one or two members of council and or Planning and Zoning Commission. He would also meet with city council to keep them fully informed.

Mayor Byron Sanford said everything he is hearing he wished would have happened years ago to get ahead but maybe they did not know all the information before. He asked if this could protect or guide them now or at least very soon because there are things in the works and people are about to buy property.

Mr. Keast said yes they are aware of that and they put in interim regulations so things they need to do now to make sure they are set up to address those things in short term. As you know, it will be a year out or even further before they are adopting the ordinance. They will be moving some of those things to start right away so they can give you good guidance to address those things that may be coming soon.

Councilmember Sara Countryman asked what seems to be the biggest challenge from working with other cities.

Mr. Keast said he thinks from his perspective it is figuring out what your vision for the community is and there are two ways to go about it. You can let things happen and try and do the best you can as you go and then there is having good plans and ordinances to help guide you. He said it is trying to figure out how high to set the bar and where this community wants to be ultimately.

Councilmember Sara Countryman said she hears a lot of they are still a small town and is assuming the bar will be set high to be choosey.

Mr. Keast said there is a market here, they want to be here and develop here so it is a matter of saying they want the development that they want and holding out for the development that they get. They talked about having advisory committee meetings but also talked about maybe having some neighborhood meetings, or even jumping in on some of the activities there are in the park.

Councilmember Sara Countryman asked if they take feedback from those that do not live within the City limits.

Mr. Keast replied the City is a general law community until you get past 5,000 in population but they will plan for that so when he talks about the planning area you only have certain city limits in ETJ right now and that ETJ will expand when you reach that population so they want to start anticipating and they may need to work with Conroe and others to work out boundary agreements.

Councilmember Sara Countryman asked how they ensure it is the people in the City they listen to.

Mr. Keast said obviously they want to know if they are within the city limits and will accept all comments but want to know who is in and who is out and who their stakeholders are. In 20 years from now some of those people outside the city limits may come inside the city limits.

Councilmember Casey Olson asked when the meetings with the citizens will happen and can they go to the HOA meetings.

Mr. Keast said they did discuss working through the HOA's as that is a good way to do it. He said they will spell out the scope of work in regard to how many meetings and he will find out from staff on how many HOA's there are. If they do not do that well, we may have them all at the public hearing at the end saying I did not know about this. He said it is in all of their interests to make sure we are communicating with them early.

Mr. Palmer said they talked about doing HOA's and some of our special events to have some type of engagement there, but these are things they are still working on. He added that the overall process wise, he thinks they are looking at a relatively large steering committee of maybe 15 with a diverse makeup. He said this committee is going to be tasked to doing a lot of work because the way this is going to happen is the entering process Mr. Keast and his team are going to go through they will be doing this in chunks and sending it back to them, the steering committee, along with City staff and they will be tasked with going through and making sure they are capturing everything they need to capture.

Councilmember Sara Countryman asked if you submit a timeline.

Mr. Keast said they will give them a timeline of dates of what will be delivered and every meeting through the duration of the project.

Mr. Palmer said there is a draft timeline in the packets that you can see and believes they discussed about a year from start to finish.

Mr. Keast said he should also mention that when they are done this ordinance it will be in a web based interactive format so if you have people from Dallas or from Little Rock that want to invest here they will be able to get on it very easily and find everything they need to know to develop in this community. There will also be a map that is tied in with the Central Appraisal District so when you type in an address it will show you what applies to that address.

Councilmember Sara Countryman asked if it will be on the City's website or a portal you host.

Mr. Keast responded that they host it but they will give the city a URL that is put on the website and when you click it, it will launch the ordinances.

Councilmember Casey Olson asked if there is an upkeep fee for that.

Mr. Keast replied that there is and since you are a very small community it will be a very small fee.

Councilmember Casey Olson asked what the upkeep fee is and what is it based on.

Mr. Keast said he believes it is \$1,500 annually and they give you upgrades for the software, tech support, they are hosting it and it is 99.99 guaranteed uptime.

Councilmember Casey Olson asked what is the fee based on. He heard him say small community so what is it based on assuming it goes up, and what does that increase look like.

Mr. Keast said it would not increase until they get over 5,000 in population then goes to \$2500.

Mr. Caleb Villarreal, City Attorney asked what about legislation changes when there is new legislation that comes out, do you monitor the new legislation to make sure that it is updated and codified.

Mr. Keast said yes all the codification is done locally and any ordinances that are adopted by this body will be codified and in the online code within two weeks.

Councilmember Sara Countryman asked that with the likes of Home Depot coming and a large CTE campus for our ISD, as those things are built your plans are fluid so you will implement them.

Mr. Keast responded with Home Depot already on the way, had they gone out and did this before then they would have made sure their outdoor storage would have been enclosed and screened and not using the parking lot for storing things and made sure it is not the typical orange standard building, but that is water under the bridge at this point. They can set up new applications and forms to help you get organized and they can lay this out in the scope of work to make sure you are all headed in the right direction.

Councilmember Sara Countryman said she is imagining the ordinance to be in their language and not what she interprets or the words are different than what they interpret because that is where they are today.

Mr. Keast said it is wishy washy and gray with a lot of things left out. They would rather help you be more clear and articulate about what you want to do and write in black and white in the ordinance so the developer coming in knows where your bar is at before they come in rather than saying okay we are going to build this and how do you want it to look and you say you do not know; we do not have a plan or any regulations to help guide us.

Councilmember Stan Donaldson said he is concerned about their budget as it is pretty tight right now and would like to know how would they get paid.

Councilmember Casey Olson said it is already in the budget.

Mr. Palmer said they have \$130,000 right now. He said they projected \$100,000-\$120,000 to get this projected started. He added they are still working out the scope of work so they do not know how much it is going to cost.

Councilmember Stan Donaldson said they do projects and they do them well but some of the cities come back and they are on like a consignment or fee so it is like a give and take type of thing. He said in other words they are going to pay so much what are they going to get for their money and then later on they can use them as a reference for getting everything rolling if something happens then they can go to Mr. Keast for some advice.

Mr. Keast said his vision is to be a resource for this community for years to come. He said if you ask them to do something over and above or outside the scope of work then you can authorize that or I will authorize that.

Councilmember Casey Olson said the biggest thing is if they plan it correctly and they get their ordinances locked in and clear you do not need a lot of help because that is what the ordinance and the plan is for.

Councilmember Stan Donaldson said they need something in writing that everyone agrees with.

Mr. Palmer said the scope of work and the contract will need to come to council for approval so you will see everything in there.

Mr. Keast said they are very reliable, diligent, and thorough and put everything on the table so they are very transparent through the entire process. He said they will be transparent with council and the community members.

Councilmember Stan Donaldson said it is very refreshing to hear.

Councilmember Sara Countryman asked if they are voting on this tomorrow night.

Mr. Palmer said no it is still in the draft phase for the scope of work and as soon as he gets that done and it aligns with the budget then he will bring it to council for consideration.

2. Informal Presentation and Discussion of Proposed 56-acre Residential Development on Lone Star Parkway

Mr. McCorquodale said a couple years ago there was a project Summer Wind that was a 56-acre tract just to the east of Lone Star Parkway and Buffalo Springs in between the dentist office and the Buffalo Springs section on Lone Star Parkway.

Councilmember Casey Olson asked if it was the outer circle.

Mr. McCorquodale responded yes, the developers at the time came to the City and under the Buffalo Springs development agreement granted variances to the 2004 ordinance. He said now that the development agreement is no longer in place those no longer apply. Before starting any of that process they wanted to introduce you to the developers and give a quick overview of the project to get some feedback on your thoughts.

Councilmember Casey Olson said this was actually proposed to them back in June of 2022. An older gentleman presented the project and tried to explain to them that smaller lots did not make him more money. He said he was glad the project has come back to them because this is the one he was very upset about when they allowed him to do the variances. He added one of the main concerns they had with this project was the density amount on Lone Star Parkway especially since it only has the one entrance and exit in one spot and is right before the stop light that is about to go in.

Councilmember Carol Langley asked if they are connected to the gentleman that came.

Mr. Kyle McAndrews, Land Acquisition Manager for Taylor Morrison Homes said they are the new developer under contract. He introduced Mr. Richard Bautista, Vice President of Land Acquisition, and Mr. Jonathan White from L Squared Engineering who they are also working with. They are a building developer with a presence of 20 markets across the country. They were just recently awarded with Lifestory Research's America's Most Trusted Home Builder for the ninth consecutive year.

He added in 2023 in Houston they did 923 home closings and are looking to expand and to grow into new markets such as Montgomery and think this site is the perfect opportunity for them to do so. The land is currently designed for 187 50-foot lots. It is their understanding that council prefers larger side yard setbacks so they are going to propose a variance for a minimum of 55-foot lots which would result in 170 lots rather than the 187.

He continued stating that they are building their 35-foot-wide home product which is a new line for them so with a 55-foot lot that would leave 10-foot side lots on either side of the home to meet the 20-foot minimum between the homes that are required today. Acknowledging that the previous variances have expired with the expiration of the Buffalo Springs development agreement so they will be bringing these new variances to you. This 55-foot minimum they are proposing to be 10-feet larger than the 45 that was previously granted. If they were to stick with a 75-foot minimum council proposed today the lot count would go down to 124 lots which does become difficult economically.

He said their homes will range from 1,800 square feet to under 3,000 square feet. On the smaller end there is the three bedroom, two bath one-stories and the larger end is the five bedroom, four bath larger two-stories. The homes vary by materials based on the elevation and plan but are primarily brick and stucco. The average home price they are proposing today would be around \$360,000 for the community to start and believes this is well in line with the new home market in the area.

He stated that with the approval of 55-foot lots they would get have the first completed homes as soon as the end of 2025. The completion of the project would be just over \$60 million in value at three to three and a half years later is what they are projecting

He added it is a beautiful site and a great location and hopes they can work with the City to bring the project to Montgomery.

Councilmember Casey Olson asked what the build lines with the variance proposal are.

Mr. McAndrews said 55-foot lots with 35-foot home pad with 10 feet on either side of the house to the fence, the variance they are seeking would be minimum lot size and minimum lot width. He said the previous variance at 45-foot, he thinks the total lot count was 211 that had a single entrance and with 55-foot it has a breakdown of 170. He also added the City Engineer recommendation did propose a street to the west which will go back to the remaining acreage at the corner of Buffalo Springs Drive that will give another entrance. In addition, this will also be subject to the Fire Marshal's approval.

Councilmember Casey Olson said he knows where they have the retention pond on the picture which basically backs up to a cul-de-sac. He asked where they want to put the other egress.

Developer representative replied the other would be on the west side.

Councilmember Sara Countryman asked if that is residential or commercial.

Mr. McCorquodale said it is zoned planned development and it could be essentially anything except industrial.

Councilmember Stan Donaldson asked what is the street width.

Developer representative replied it is 28-feet wide.

Councilmember Sara Countryman asked if the homes start at \$360,000 and if that is the high end and would the community be gated, also would it have an HOA.

The Developer replied \$360,000 is the average, and said the lowest is probably \$335,000 to \$340,000 and all the way up to \$400,000 on a 2,800 square foot home. He said all of their two-story homes are all five bedrooms with two bedrooms down so they are able to pack a lot of house in a smaller foot print. The community would not be gated and yes an HOA would be established.

Councilmember Casey Olson said the engineers had done a feasibility study for Summer Wind and based on that particular density we were still good, so lessening our density the feasibility study should be relatively simple.

Ms. Katherine Vu, WGA said yes it may be a couple of simple updates to study as things have changed since the original study was done but by no means would it require a full, completely new study, just an update.

Councilmember Casey Olson said based on the information from their last workshop with the other developer where they were wanting smaller lots, this plays right into that as far as it fits the plan with the 55-foot lots because they originally approved 45-foot lots and they counted them in their count of they have this many small lots and this many small homes and they counted those homes in their count.

Councilmember Sara Countryman asked what is Terra Vista, 45-foot, or 55-foot.

Ms. Vu said 50-foot.

Developer representative said the Town Creek Crossing is 60's, Hills of Town Creek is 50's, Pulte's is all 45's.

Councilmember Casey Olson said this actually fits based on their house count.

Councilmember Carol Langley asked where there other subdivisions are located.

Developer representative said they have a big presence in the Cypress area, Grand Parkway and West Road, they have two large subdivisions called Alpine Cypress and Bridge Creek and that is probably where you would get the best ideas as to what they would be developing. He said they have another project that just opened up at FM 1464 in the Richmond area with 40, 50, and 60-foot lots where they have sold 50 homes in three months. There are others such as Cross Creek Ranch, Wood Forest, and have had a pretty heavy presence in The Woodlands for a long time. Now they are looking at Montgomery.

Councilmember Casey Olson asked if it is 55-foot they are going to request.

Developer representative said 55-foot.

Councilmember Carol Langley asked what is the name of this subdivision.

Developer representative said they do not have one yet.

Councilmember Sara Countryman said they are in nine other states, and have a net worth of \$5.6 billion as of February 7th.

Developer representative said they are the seventh biggest in the country and the ninth biggest in Houston and rapidly growing. They had \$8 billion in revenue last year.

Councilmember Stan Donaldson asked if the homes are all electric.

Developer representative replied yes.

Councilmember Carol Langley asked if it backs up to the creek which is Waterstone.

Developer representative said correct, the whole green space outside the park is 11 acres but the pond will be eight acres.

Councilmember Casey Olson said they have some issues with that creek and the fact your retention is there is helpful but they will have some strict guidelines on how to deal with that creek.

Developer representative said obviously it will go through engineering and they understand the nature and requirements and ideas they have to just continue to make it better because anything you put there is going to be under scrutiny most likely. He said they are showing they have way more retention.

Councilmember Carol Langley asked if the pond is backing up to the other small subdivision there.

Developer representative said yes they will keep that pond in place and will put an overflow stretcher there so that the new pond will receive that water as it rises. The new pond will be offline but it will accept flow through that line.

3. Review and Discussion on the Capital Improvements Plan Projects and Certificates of Obligation Funding

Ms. Vu, City Engineer said what they want to do is bring an update on the certificates of obligation and the projects this is going into. Page one is the summary and what they are hoping to do is throughout the lifetime of the loan they will be bringing this back to you with updates on where each of the projects stands, how much money has been spent toward it, and if anything changes in the expected amount they will be bringing this to you regularly. Adding each of the projects that was included for the \$3.5 million loan and the projects (shown on the handout) are what they discussed. Putting in water plant #2 improvements, water plant #4 engineering, your sanitary sewer for both phase I and II and then Town Creek, plant, engineering only. All of that combined was slightly over \$3.5 million. She said the reason they are okay with this is because a lot of these projects can also be put in impact fees. The delta from the \$3.5 million to the \$3.69 million that is covered by impact fees and they are not anticipating any of that coming out of the operating budget.

Ms. Vu stated they already received impact fees from Montgomery Bend and in this fiscal year they are expecting another large payment from Montgomery Bend and Redbird Meadows as soon as they do a final plat and in regard to the rise column costs there has been a change she would like to discuss on the 2023 sanitary sewer rehab in which she will discuss in a minute. She said this column is where there are any changes they will bring to you. The closing cost to date is an estimate and she will need to get a final number from Maryann but it is around \$35,000 and then what is expected in the future.

Ms. Maryann Carl, Finance Director said they have the full \$3.5 million. She said the way it was structured they were able to receive the full \$3.5 million.

Ms. Vu said she would like to discuss the sanitary sewer rehab phase I. The field work is wrapping up with Cruz Tech who have done a great job. They have received a couple of pay estimates from them and already they are in the process review with the third submittal.

Ms. Vu said one thing that came up in construction is at the trunk line going through Lone Star Estates it showed that when they had this televised the contractor informed them it was a 12-inch line and from their records they always thought it was a 10-inch line, but from the video it showed a 12-inch line and so they would not need to upsize it. This changes things in the manner of that line needs to be upsized to a 12-inch to make room for the growth in the City.

Cruz Tech gave them a price to pipe burst this line from a 10-inch to a 12-inch. Their price was \$55 linear foot including manhole work that would need to be done which they find to be extremely fair. She said if they were to do that project separately the price would be higher than \$55 a foot. They do feel that \$55 is a good price and Cruz Tech is experienced in pipe bursting.

Councilmember Casey Olson said he is not familiar with that process.

Ms. Vu said with pipe bursting they stick a bit in the pipe and break it open and the same time they are breaking the original pipe they will slide a larger pipe right through it. She said it is non-invasive and is actually one of the best non-invasive ways to enlarge a pipe. This pipe is a good candidate for it because they are only going up one size from a 10 to a 12. Usually you can go one or two sizes with that process and anything more than that is not usually recommended.

Councilmember Sara Countryman asked how long are the sections.

Ms. Vu responded they can do a couple thousand feet at a time.

Councilmember Stan Donaldson asked how many feet do they need to do.

Ms. Vu stated 3,050 linear feet for this first stretch.

Councilmember Sara Countryman asked if it is \$55 a foot.

Ms. Vu said yes at \$55 a foot.

Ms. Vu said at \$55 a foot that is \$167,750.

Councilmember Casey Olson asked if that was total cost and if it includes the pipe.

Ms. Vu said that includes the pipe and is all in. For the pipe bursting it would be \$167,750.

Ms. Vu said there is work they were originally expecting to do on that line that would then not have to happen because you are getting a brand new pipe. Some of what is currently in the contract would be removed and there would be a little bit of a savings.

Councilmember Sara Countryman asked what is the lifespan of the pipe.

Ms. Vu said it is PVC so around 50 years.

Councilmember Casey Olson asked if it was a quarter inch thick.

Ms. Vu said yes.

Councilmember Carol Langley asked if this is going to the old sewer plant, and if they could get to all of this pipe and if they are not through on College Street.

Ms. Vu said correct, it is going straight to Lift Station #2 and the old sewer plant which is why this is needing to be upsized because this is handling all the growth on the west side. They can get to all of the pipe, the green lines on the map are essentially complete and that is not needing to be touched with what they are discussing here. They start at the manhole on College Street and then head north and take that all the way through.

Ms. Vu added since Cruz Tech gave them such a good price, and if you remember this is broken into two phases. There is a phase I and phase II. Ms. Vu said phase II was supposed to be pipe bursting south of College Street from the manhole right outside of City Hall across SH 105 and then back on the west side of the park up to College Street.

Ms. Vu said the bright blue line on the map is the scope of the sanitary sewer rehab phase II. She said she noticed in the manhole where it ends, manhole 199A that is where that orange line starts and so a

portion of this blue line is an 8-inch line. They asked Cruz Tech to give them a price to go from an 8-inch to a 12-inch and their price came back as \$75 a linear foot. It is a different size bit which is understandable and which explains the price difference. She mentioned that \$75 is also a very good price to go from an 8-inch to a 12-inch.

Councilmember Casey Olson said it looks like there are different sections as some are eight and some are 10 and some are 12.

Ms. Vu said phase II was actually broken up into two chunks. She said there is a chunk from College Street to this manhole (pointing to the map) and then all of this right here is going through to the west side of the park and did not need to be touched. The next section they would need to start is manhole #410 and then take it across SH 105 to the manhole right out here (pointing to the map.)

Councilmember Casey Olson asked how old is the blue pipe, as he was trying to figure out who the person was that said we could go 8-inch to 10-inch and back to 8-inch and that was going to be okay.

Ms. Vu said she did not know the exact date, this has been a bottle neck area in the City. They have known about it and just trying to find the right time to take care of it. They have a contractor on site what they are proposing is to include this section in their contract as well. Basically just shifting it from phase II to phase I and still get the work done. That work would be an additional \$28,575, which is less than what they had in their cost estimate because they are already onsite and they do not have to pay start up fees again and everything goes in with the new contractor. That is really where that change comes from on this summary sheet going from the 75 to \$828,118.

Councilmember Casey Olson asked what the original was for the whole thing.

Ms. Vu said for the orange portion it was \$167,750 and this is \$28,575. This contract if you remember there was a quantity issue on pavement when they first presented this to Council. In the pavement between square footage and square yards it got crossed so there is a multiplier of nine difference. The project was awarded at the contract price of \$837,528 and you are under the contract price. When this was first presented she made sure to mention the pavement issue and what they were expecting to spend around \$705,000 which is what you have on the summary. From a contract standpoint this is still under the contract amount where the funds will come from what they are proposing and still coming from the loan so you have the funds available. The work needs to be done but they wanted to bring it forward to you and make sure this was something you were open to as well.

Ms. Vu said they talked it over with staff and they are comfortable with it, but of course Council has the final say.

Councilmember Casey Olson asked if the original amount was \$850,000 and how much were they under that price.

Ms. Vu said the original contract price was \$837,528. If you corrected the pavement there was around \$132,000 left which give you the \$705,000 that they were originally expecting to be spent. Adding this extra work in takes the contract price to \$828,118.

Councilmember Casey Olson asked if they budgeted to \$835,000.

Ms. Vu said they did not. In the budget they budgeted for \$705,000 because they knew that is what it would actually end up being. From a paperwork standpoint when it comes to a legal change order since it is technically a contract reduction because they are also reducing the pavement quantities to go ahead and make that correction at the same time. This would technically need to come to you for approval. This is a large scope change though and they wanted to make sure to get it in front of you and would not do without your consent.

Councilmember Casey Olson said it also changes the price of phase II.

Ms. Vu said it does. Phase II went from \$250,000 to \$160,000. She said it is just shifting the cost and the scope from phase II up to phase I so it is almost a break even.

Councilmember Sara Countryman asked if this was by design.

Ms. Vu said not necessarily by design, it just worked out well.

Councilmember Casey Olson said it is around \$25,000 more to do all the extra work.

Ms. Vu said yes.

Mayor Sanford said and get it right for not only what you can see in growth, but many years to come.

Ms. Vu said exactly. It will be brand new pipe and this pipe will be set for 50 years. She said in the sanitary sewer world any time there is a turn or a bend there is a manhole so it gives them a clear stopping point where they can stop and pivot. She said they are not trying to bend sanitary sewer pipe. That is something they did back in the 70's and is not allowed today.

Councilmember Sara Countryman asked if there is going to be a retention 20 percent more than this or 20 percent less than this.

Ms. Vu said what you are seeing is all there will be. All of the other field work for phase I project is done.

Councilmember Stan Donaldson said it is like a change order where we are adding to phase I.

Ms. Vu said this is a change order by contract because they are adding to their scope. There will be a change order processed and added to their contract.

Councilmember Casey Olson asked what does it do to the finish date.

Ms. Vu said they are ready to pipe burst whenever they get the green light.

Councilmember Sara Countryman asked how long is it going to take.

Ms. Vu said in a week, as far as what else is going on in the project, they have received several videos and they have to send a camera through the line after they are done that shows it works. They need to verify they did and there is nothing they have to go back and redo. She said they are in the process of reviewing those videos and after they complete all of this their field work is done.

Ms. Vu said if Council is good with this they will give Cruz Tech the green light.

Mr. Villarreal, City Attorney said it depends on what the contract says but you are right as that is what it should state.

Councilmember Sara Countryman asked if they would put it in the monthly report so there is a record of it, asked how much of the City is still left with the old eight and 10 inch pipes. Asked what about underneath McCown Street and the Historic District.

Ms. Vu said they will put it in the monthly report and will include a copy of the change order. Since it is a reduction it can be signed at the staff level or if you would prefer to see it again at the Council meeting you can ratify the change order at the next Council meeting. Ms. Vu said there is quite a bit still left. The Historic District has already been done. That was the first project that Cruz Tech did not see.

Councilmember Casey Olson asked if it will be on the agenda tomorrow.

Ms. Vu said it will be on the second February meeting agenda.

4. Review and Discussion on an Ordinance to Regulate Development Progress in the City

Mr. Villarreal said this ordinance is an amendment to their current subdivision ordinance. This ordinance will permit for the expiration of permits and dormant projects. State law allows you to place these expiration terms on these projects but you need to have an ordinance that says you can do that. Right now they do not have that ordinance and right now the way the ordinance reads it is a permit expiration period of two years. If a permit or the developer has not completed a project within two years or has not begun the project, the permit expires and then the statute also provides for what is called dormant projects when there is not substantial completion made toward the project the project expires.

He said he thinks Council is well aware of some of these developments that have been going on for 15 and 20 years and this will allow them to control some of those building sizes and lot sizes and locks in these developers. He says it freezes the regulation and rules at the time the development application is submitted. For example, when these guys submit their development application those rules are applicable to the developer until the project is complete but say they permit next month and they sit on the project for five years. This ordinance allows us to say, no your permit is dormant and you need to come before Council again because the new rules are applicable. It just gives them more control. He said this is very common in almost every city he works with.

Councilmember Sara Countryman said the project they are talking about, there was a variance already that was permitted, but has expired so that is different than what you are talking about here.

Mr. Villarreal said it is similar and they have gone back and forth with City staff on this and they really did not push back on their position. They are similar because those variances run with the land but the way they interpreted the approval process was we have a new developer, a new developer sending a new application and then project is also defined in the statute and they interpreted this to mean a new project. However, with this ordinance in place that will not be a problem anymore because they will not have someone coming to them with the same property 10 or 15 years later.

Councilmember Sara Countryman said she just wants to make sure they are not liable to the person who already has the variances and there is a neighborhood there that he cannot come back.

Mr. Villarreal said they already brought those issues to a head to see what their position was. Their interpretation is this is a new project submitted by a totally new developer and is a whole new slate. However, just to avoid uncertainty in the future it is best to have one of these ordinances that allows them to place these expiration periods.

Councilmember Sara Countryman asked is that what drove this.

Mr. Villarreal responded yes.

Councilmember Casey Olson asked besides the timeline, can they add a change of ownership.

Mr. Villarreal responded yes you can.

Councilmember Casey Olson asked if the original project variances go with the property or does it when you change ownership.

Mr. Villarreal said they would go with the land.

Councilmember Casey Olson said with the new ordinance it would not run with the land anymore it would run by project and if they could add a change of ownership to it.

Mr. Villarreal said the new ordinance would run with the land but they are allowed to place an expiration period on that if they are not making any progress, and yes they probably could add a change of ownership

Councilmember Casey Olson said it would be here it is, he sold it. A lot of times these developers will sell stuff and no one knows about it and all of sudden they are building and it is a new developer.

Mr. Villarreal said typically in their development agreements they can only assign a project with their consent so they know when they are going to sell or convey that property to different owners.

Councilmember Sara Countryman said Taylor Morrison comes in and they build 25 percent of their houses and go bankrupt. A new developer comes in and says they do not want the 55 I want to go to 45 for the remaining houses. What happens there and what are they liable for would it be the original 55.

Councilmember Casey Olson said that is why he is talking about ownership and writing it in as ownership changes. They either have to say they are locked in with whatever the variance was or they have to bring them back and they have to reapply.

Mr. Villarreal said correct and typically too in entering into a development agreement with this new developer the agreement will stipulate on if they sell to someone else or if they do not develop. He said it will account for those different scenarios.

Mayor Sanford said just have a statement that says if the ordinance is attached to a given development of land any subsequent changes in ownership they must follow that agreement for that land.

Mr. Villarreal said that is correct.

Councilmember Stan Donaldson said he does not understand. He said the discussion says that on the individual permit that is two years but on five years it is for an entire project. He asked why do you separate the two.

Mr. Villarreal said the way the law reads there is sometimes more than one permit for a project as there are series of permits. He said you have the original permit and then maybe five or six additional permits. If they are not making progress toward the project as a whole, you are allowed to call the project dormant and require them to come back to Council. They are either bound by the previous regulations or the regulations that are placed at the time that the developers continue developing the property. There is a difference there.

Councilmember Stan Donaldson said the project has five years though, not two years.

Mr. Villarreal said that is correct if there is no progress made for the completion of the project. If the project sits stagnant for five years it is then a dormant project and they are allowed to say no because theoretically the previous developer Summer Wind, if they were to push back and say you approved these variances and we want to move forward with this project they would have had an issue there but now they can call the project dormant because there has been no substantial completion for five years and they need to come to Council.

Councilmember Casey Olson said back to Stan's point. Five years or two years. He said it is not defined well to him.

Mr. Villarreal said it is two years for the permit.

Mr. McCorquodale said as an example if someone wanted to build a parking lot and they submitted several plans for a parking lot expansion as this happened at Heritage Place. The person came to them and said he has an approved set from the engineers and you approved this and it was around two or three years old. At the time we told him we are sorry but the engineers had put a note on there that these are good for 12 months. He could have pushed back and said no you do not have anything to stop me but instead he said he would get a new set of plans. This would be an individual permit. He said say someone like these guys tonight they have to go through the platting but then they need to obtain a grading and drainage approval from the engineers and get a utility systems layout that would be the multiple steps where they have gotten through the grading and drainage but have not gotten to the utilities yet. They would still be allowed the five year window. If it is a single site and they are doing one thing it is two year window.

Mr. Villarreal said there is also a substantial change provision. Whenever there is a substantial change to a project it denies the City and the public fair notice and the City Administrator is allowed to say the recognition of basic rights be denied. Specifically substantial change is defined in the ordinance such as acreage, number of buildings, density so all those substantial changes they can push back on someone changing their application.

Mr. Villarreal said because they are amending the subdivision ordinance they need to call a public hearing and post in the newspaper. This will not take effect until the second meeting in February.

Mr. Palmer said tomorrow at the meeting they will need to call a public hearing.

ADJOURNMENT at 7:23 P.M.

Submitted by: Diana Titus
Diana Titus, Deputy City Secretary,

Date Approved: 3-12-2024

Edited and Reviewed by:

Nici Browe
Nici Browe TRMC, City Secretary

Byron Sanford
Byron Sanford, Mayor

