



CITY OF UHLAND

City Council Regular Meeting Minutes

Wednesday, June 3, 2020 at 6:00 p.m.

City Hall Council Chambers, 15 North Old Spanish Trail, Uhland, Texas

Notice was given of a Regular Meeting of the City Council of the City of Uhland, Texas to be held at 6:00 p.m. on Wednesday, June 3, 2020 via Zoom Conference. Councilmembers and members of the public not attending the meeting in person did so remotely by web or telephone.

On March 16, 2020, and until further notice or until the state disaster declaration expires, the Governor of the State of Texas suspended certain sections of the Texas Open Meetings Act. Therefore, this meeting was posted and held in accordance with those sections of the Texas Open Meetings Act in effect as of the date of the posting of this agenda.

A. CALL TO ORDER. Mayor Hunter called the meeting to order at 6:00 p.m.

- 1. Roll Call.** Mayor Vicki Hunter, Councilmembers Jessica Hodge, Naomi Schrock, Brian Heideman, Daniel Heideman and Mark Garonzik were present.
- 2. Declaration of Quorum.**
- 3. Pledges of Allegiance to the Flags of the United States and State of Texas.**

B. PUBLIC COMMENTS

Daniel Heideman stated that County Line Special Utility District ("County Line SUD") would like the items brought up during Mark Garonzik's May 13, 2020 public comment scheduled at a future Council Meeting so that they can be addressed by County Line SUD staff.

Allison Garcia, 15 N. Plum Creek Road, expressed the following concerns about a wastewater line that was installed on her property by County Line SUD: smell of sewage upon entry to property; stagnant water on side of road by gate; water running across driveway and down N. Plum Creek; and erosion of terrace along N. Plum Creek (photos provided). She was unsuccessful in getting these matters resolved with County Line SUD therefore she filed a

complaint with the Texas Commission on Environmental Quality (TCEQ) due to environmental concerns that this may be sewage.

C. PUBLIC HEARING

None.

D. CONSENT AGENDA

- 1. May 13, 2020 Special City Council Meeting Minutes**
- 2. Financials of April 2020**

Moved by Councilmember B. Heideman to approve Consent Agenda, seconded by Councilmember Schrock. The motion carried by the following vote:

Aye: Councilmembers Hodge, Schrock, B. Heideman, D. Heideman and Garonzik.
Nay: None.
Abstain: None.

E. CITY STAFF REPORTS

- 1. Coming Up:**
July – Review of Feasibility of City to Acquire Cemetery; Zoning Ordinance Review; Review of Ordinance 151; Building and Construction Regulations
August - Review of 1445 Interlocal with Counties; Appointment of Planning and Zoning Commission (P&Z) Members; 2020 Budget Review / 2021 Budget Proposal
September – Emergency Management Plan
October – Appointment of Economic Development Committee (EDC) Members

F. DISCUSSION ONLY ITEMS

- 1. Franchise Fees for any Utility Company for Water or Wastewater**

Councilmember Garonzik asked if County Line SUD was paying franchise fees. Councilmember D. Heideman answered that to date, County Line SUD has not paid franchise fees.

Councilmember Garonzik inquired if utility entities are required to participate in franchise agreements. Legal Counsel Aker explained that utility entities participate in franchise agreements to use City right of way, it waives certain permitting processes and fees versus paying a franchise fee.

Councilmember Garonzik asked which entities presently had franchise agreements. Legal Counsel Aker responded that currently there are electric and gas franchises.

Councilmember Garonzik stated that franchise fees have been discussed in prior meetings as early as 2014, he asked why County Line SUD does not have a franchise agreement and what would be considered normal. Legal Counsel Aker explained that entities can choose to pay regular permit fees, etc. and not to have a franchise agreement.

Councilmember D. Heideman stated that the issue of franchise agreements has not previously discussed.

Councilmember Garonzik noted that there should be a record of any previous discussions and asked if the City Administrator could pull the records. Legal Counsel Aker stated that she did provide a sample document for wastewater when the City approved the CenterPoint Energy franchise agreement.

Councilmember D. Heideman noted that franchise fees are passed through to customers.

Councilmember B. Heideman explained that most utilities use public right of way, but County Line SUD obtains easements from individuals on private property. He gave County Line SUD an easement years ago and would hesitate to approve a franchise agreement; it would force County Line SUD to tax him for already having that water line.

Councilmember D. Heideman stated that County Line SUD has always said they want the City to benefit from this, but we need to get together and figure it out.

Councilmember Garonzik noted that there are constituents that are not pleased with how their property has been used by County Line SUD. Private property is being taken from citizens, he asked if they have a right to say no. Legal Counsel Aker stated this needs to be addressed under Item #4.

Mayor Hunter stated that County Line SUD is willing to work with City.

2. Requests of Certificate of Necessity's (CCN's), or Lack thereof, for Wastewater Utilities within the City Limits of Uhland as being Pursued by Southwest Engineering, County Line Utilities, Plum Creek Utilities and Other Utility Companies

Councilmember Garonzik asked how many entities are associated with Mr. Heideman and County Line SUD.

Councilmember D. Heideman explained that 2-3 years ago Kronenberg purchased property and was looking for someone to do the wastewater treatment and collection services. Hays CISD was looking at doing a facility as well. Discussions were held regarding the possibility of County Line SUD participating with them to bring wastewater to the rest

of the community and the City was in favor of this occurring. *(See attached MOU between the City, County Line SUD and Cotton Gin Utility Company, LLC - approved at the November 1, 2017 Council Meeting.)* Councilmember D. Heideman further explained that funds have been provided by the School District. Greenberg owns Plum Creek Utility. County Line SUD does the collection, contracted to do the treatment and has applied for CCN (which is about 60 days from getting approved).

Legal Counsel Akers stated that she was aware of three CCN applications: two County Line SUD applications and one from Gristmill Utility District.

Councilmember Hodge asked when CCN's are typically required and submitted. Legal Counsel Aker explained that CCN's are required by the PUC and they have a rigorous application process that must be followed.

Councilmember Hodge asked if County Line SUD has done everything it needs to do. Legal Counsel Aker explained that for a CCN to overlap a city's jurisdiction, a consent letter must be obtained from that city. County Line SUD's applications do overlap the City of Uhland's jurisdiction, but the City has not received a request to provide a letter of consent. When CCN applications come to a city to request letter of consent, the city typically has a process. Legal Counsel Aker added that the City did receive a request from another party and it is scheduled to go before the Planning and Zoning Commission.

Christ Betz, County Line Board of Director, asked Councilmember Garonzik if he wanted to stop all the wastewater projects. Councilmember Garonzik explained that he was a proponent as long as it goes through all of the proper procedures, the City and constituents should have a voice. He added that he is against the fact that it leans toward developers, but current residents are unable to connect to system. The City of Uhland has had a reputation of having "good ole boy" mentality, we need to do our best that we do not have that type of reputation and that everyone is playing fair. He added that it sounds like County Line SUD has a public relations nightmare, there is sewage running down Plum Creek and residential property.

Councilmember D. Heideman stated that there is no sewage running down Plum Creek.

Christ Betz asked Councilmember Garonzik if it was fair for him to talk, he needs to come clean on his involvement in this and the fact that he is negotiating and discussing it with County Line SUD and SW Engineering. He needs to be open and honest about where this is coming from, because he has not been.

Councilmember Garonzik stated that he has been forthcoming. It affects him just as it does other individuals, he just happens to sit on City Council. He added that SW Engineering and County Line SUD did approach him to purchase an easement. He is a bit offended by the statement that he is not being open.

Legal Counsel Aker reminded everyone that the discussion needed to stay on topic.

Councilmember D. Heideman stated that the process started about 2 years ago and has been discussed at every meeting. Everyone was in agreement for this to go forward. The City of Uhland did not have a Planning and Zoning Commission when this started. County Line SUD and Plum Creek came to the City multiple times and were told there were no permits needed. He stated that Councilmember Garonzik has only been on the Council for approximately one year and needs to educate himself because this has been going on for several years. He agreed that County Line and Plum Creek need to abide by the regulations. There are regulations in place now that did not exist that that time. There are certain permits that they have been informed are needed and they have applied for those permits. He then encouraged Councilmember Garonzik and anyone else interested to come to every Board Meeting and Council Meeting to get the facts.

Mayor Hunter added that when BVRT came they were up front and told the City that they did not have to ask for approval since the City is not involved in water, but they wanted to be up front that they were coming in with wastewater and sewer and they were going to try to get it for benefit of all not just the developers. She added that most of this needs to be addressed to County Line SUD and not to the City.

Councilmember Garonzik agreed with the Mayor and added that he understands that not all residents will have the option to connect, but there needs to be a compromise.

Councilmember D. Heideman stated that it should be a partnership, but the City would have to come up with about \$2 million. He added that Councilmember Garonzik is complaining that citizens are not getting services, but County Line SUD has to build a lift station. County Line is getting tired of all these rumors and if you feel City needs to be in charge bring the money to the table.

3. Conflict of Interest with Elected Officials as it Relates to County Line and Other Utility Companies

Christ Betz, County Line SUD Board of Directors, stated that the Mayor was previously also a Board Member of County Line SUD but concerns were raised last August. There is a lot of work to be done and only a small group who are willing to get involved. A lot of research was done into the matter, but rather than continue to spend money, the Mayor resigned from County Line SUD and we were not able to figure out if she could have continued.

Councilmember Garonzik asked the City Attorney if there were any apparent Conflict of Interests in the current setup.

Mayor Hunter added that there is a Conflict of Interest Affidavit that Council is required to complete.

Legal Counsel Aker explained that as a rule she has Council and Boards fill out Conflict of Interest forms every year after the election, beyond that it is up to the individual to fill them out.

Councilmember Hodge added that they are also to abide by those regulations. Legal Counsel Aker agreed and stated that there are a number of issues.

Councilmember Hodge asked if they are required to self-police. Legal Counsel Aker confirmed that and stated that the Conflict of Interest forms advise others that there may be a Conflict of Interest.

Councilmember Schrock noted that at the beginning of Council Meeting it came up that there may be a conflict.

Legal Counsel Aker asked the two members not present in chambers to stop by City Hall and renew their Conflict of Interest Affidavit's. She asked that if they did not have a conflict, write "N/A" across form and sign it, it makes easier to keep track of possible conflicts. She added that it is her duty to supply the form but cannot make them fill them out or sign them.

- 4. City Recourse and/or Options as it Pertains to Relocating a Wastewater Lift Station Scheduled and in Process for Agricultural Zoned Property Southwest of Cotton Gin Road within the City Limits of the City of Uhland and Opposition by City Constituents Including Safety Concerns and Clarification by SUD on their Plan A and Plan B Versions for 15" Sewage Line Running Through Personal Properties**
 - a. What are the Property Owners Rights?
 - b. Has Money Already been Exchanged Prior to City Council Approval on this Project
 - c. What Other Options are Available
 - d. Why has this not been Presented to the Planning & Zoning Commission (P&Z)
 - e. How is County Line Wastewater Project being Financed and is there an Impact for Liability for Future Water as it Relates to the City of Uhland

Mayor Hunter advised that County Line SUD wishes to meet with Councilmember Garonzik and discuss his concerns, they are trying to make it right.

5. Connectivity Fees for County Line SUD Wastewater Services

Councilmember Garonzik asked why connection fees are \$6,000, but Kyle only charges \$2,000.

Councilmember D. Heideman stated that citizens need to come to Board Meetings.

Mayor Hunter noted that Councilmember Schrock had questioned whether the City could change any fee, these questions need to go to County Line SUD.

Councilmember Garonzik stated that his concerns are with revitalizing the City of Uhland, the connectivity fees seem extreme. Legal Counsel Aker explained that it needs to be addressed to the Public Utility Commission.

Chris Betz, County Line SUD Board of Directors, stated that with regard to those fees, a portion does go through committee and public hearings in addition they are regulated. He added that the City of Kyle has close to 50 times the population of Uhland and they have had the infrastructure for a long time. He added that he would like to discuss this with Councilmember Garonzik, this is all public information, but no one has asked.

Councilmember Garonzik stated that he appreciated it, he wants this to be a viable option and does not want to scare off potential developers.

6. RFP - Grant Administration for the General Land Office Community Development Block Grant Mitigation Grant Funds (GLO CDBG MIT) for Application(s) and with Funding Administration of the Project(s)

Councilmember Garonzik stated that he was able to get clarification on this matter from Judy Langford and no longer had any questions.

Judy Langford of Langford Community Management Services, Inc., Grant Administrator, provided a brief overview.

Councilmember Garonzik asked if it had to be used for flooding issues. Judy Langford responded that it could be used for other things.

Councilmember Garonzik asked if a SUD could reach out to the City and ask to use the funds. Judy Langford explained that it mattered how it tied back in, Plum Creek could be one potential area.

Councilmember Garonzik stated that the City did previously apply and receive grant funds and handed it to County Line SUD. Judy Langford confirmed that it had been done a number of times.

Councilmember Garonzik asked if the City was able to access funds from the grants.

Councilmember Schrock explained that this is just the starting, they have not applied for or been awarded.

Councilmember Garonzik asked for clarification about a grant that was approved last month. Legal Counsel Aker stated that the question is off agenda topic.

Councilmember Garonzik stated that it was a clerical error and could be addressed at a later time.

Councilmember D. Heideman stated that these need to be addressed at County Line SUD, not at City Council.

Legal Counsel Aker added that there is no decision to be made by City at this time.

Councilmember Garonzik noted that he was in favor of having City water and sewer, it would be beneficial for all residents in Uhland.

Mayor Hunter suggested Councilmember Garonzik discuss this with Chris Betz of County Line SUD.

7. RFP - Engineering for the General Land Office Community Development Block Grant Mitigation Grant Funds (GLO CDBG MIT) for Application(s) and with Funding Design/Bid and Construction Oversight of the Project(s)

Mayor Hunter advised Councilmember Garonzik that if there were specific questions he had regarding information on file he could address them to the City Administrator.

G. DISCUSSION AND POSSIBLE ACTION ITEMS

Uhland Economic Development Corporation (EDC)

1. 90-Day Extension (from next physical meeting), Victor Garza's Contract

Moved by Councilmember B. Heideman to extend Victor Garza's contract for 90-days after the EDC has their next physical meeting, seconded by Councilmember Schrock. The motion carried by the following vote:

Aye: Councilmembers Hodge, Schrock, B. Heideman, D. Heideman and Garonzik.
Nay: None.
Abstain: None.

Uhland Planning and Zoning Commission (P&Z)

None.

City of Uhland

1. 2018-19 Audit

Donald L. Allman, CPA, PC, provided an overview of the 2018-19 Audit performed by his firm.

Moved by Councilmember Schrock to accept the Audit, seconded by Councilmember B. Heideman. The motion carried by the following vote:

Aye: Councilmembers Hodge, Schrock, B. Heideman, D. Heideman and Garonzik.
Nay None.
Abstain: None.

2. Second Amendment to Caldwell Valley Development Agreement

Moved by D. Heideman to approve the Second Amendment to Caldwell Valley Development Agreement, seconded by B. Heideman. The motion carried by the following vote:

Aye: Councilmembers Hodge, Schrock, B. Heideman, D. Heideman and Garonzik.
Nay None.
Abstain: None.

3. Personnel Policy

Moved by Councilmember Hodge to approve the Personnel Policy, seconded by Councilmember Garonzik. The motion carried by the following vote:

Aye: Councilmembers Hodge, Schrock, B. Heideman, D. Heideman and Garonzik.
Nay None.
Abstain: None.

4. City Administrator Job Evaluation

After discussion, it was noted that either Mayor Hunter or Legal Counsel Akers would send evaluation forms to Council.

5. Ordinance No. 246, City Fee Schedule: Repealing Ordinance No.'s 178, 168, 123, 90, 83 and all Other Parts of Ordinances in Conflict

Moved by B. Heideman to adopt the City Fee Schedule, Ordinance No. 246: Repealing Ordinance No.'s 178, 168, 123, 90, 83 and all Other Parts of Ordinances in Conflict, seconded by Councilmember Hodge. The motion carried by the following vote:

Aye: Councilmembers Hodge, Schrock, B. Heideman, D. Heideman and Garonzik.
Nay None.
Abstain: None.

6. Eminent Domain and Condemnation – Rights of City Property Owners and Procedures with SUD and Possibly TxDOT

Councilmember Garonzik asked about citizen's rights. Legal Counsel Aker explained that it would be the same as if the City were doing eminent domain, there are certain requirements that must be met for a government entity to take property by eminent domain. Property owners must file a petition to contest in District Court, typically the eminent domain paperwork would have that information on it.

Councilmember Garonzik stated that at a previous County Line SUD meeting a condemnation was approved, this is a sensitive issue and not just with County Line SUD.

Councilmember Hodges stated that she believed it had been a determination, but a condemnation.

Legal Counsel Aker explained that if a public entity has the authority, it is up to them to determine which property they need and when. There are specific guidelines that must followed. The Texas Municipal League does have a lot of information about city's rights and processes. The City cannot tell other entities what they can and cannot do.

No action was needed or taken on this item.

H. EXECUTIVE SESSION

None.

I. ANNOUNCEMENTS

Public comments regarding SH 21 must be made prior to Saturday at SH21corridor.com.

ADJOURNMENT

Meeting adjourned at 8:30 p.m.

Approved July 8, 2020


Traci R. McGinley, City Secretary

Public Comment Submitted

From: Allison Garcia <allisongarcia@msn.com>

Sent: Monday, June 1, 2020 1:21 PM

To: City Secretary <citysecretary@uhlandtx.us>

Subject: Public forum at June 3rd City Council Meeting

I would like to speak at public forum at the June 3rd City Council regarding my concern about the Waste Water line on my property, 15 N Plum Creek Rd.

I am attaching pictures.









MEMORANDUM OF UNDERSTANDING

The following terms set forth the understanding between the County Line Special Utility District ("District"), the City of Umland ("City"), and Cotton Gin Utility Company, LLC ("CGU") (collectively, the "Parties") regarding the construction, operation, permitting, and maintenance of a wastewater collection and treatment system within the boundaries of the District. This MOU represents the understanding between the parties and does not constitute a binding contract.

WHEREAS, the District is a Special Utility District organized under the Texas Constitution and governed by Chapter 65 of the Texas Water Code, also considered a conservation and reclamation district under Article XVI, Section 59, of the Texas Constitution; and

WHEREAS, the City is a Type A General Law municipality located in Hays and Caldwell Counties, created in accordance with Chapter 6 of the Texas Local Government Code, and operating pursuant to the enabling legislation of the State of Texas; and

WHEREAS, CGU is a Texas limited liability company that provides wastewater utility services in Texas; and

WHEREAS, the District and the City seek to provide wastewater and reclaimed water services to their constituents and property owners located within their respective territories; and

WHEREAS, CGU is proceeding with the permitting, construction, operation, and maintenance of a retail wastewater collection and treatment system and reclaimed water system to serve the approximately 366-acre Cotton Gin Development located on the west side of Cotton Gin Road and the approximately 20-acre development on the east side of Cotton Gin Road, both located within the boundaries of the District and the City; and

WHEREAS, the Parties desire to enter into a public-public-private partnership to support the provision of sewer service within the boundaries of the City and the District; and

WHEREAS, the Parties agree that CGU's provision of wholesale wastewater and reclaimed water service within the boundaries of the City and of the District would afford the community with the best and most efficient method of providing service in a timely and cost effective manner; and

NOW THEREFORE, the District, the City, and CGU understand and agree as follows:

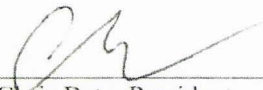
1. The District and the City will provide CGU with a letter of support that CGU may use to support and expedite obtaining the necessary permits and authorizations from various local, State, and federal regulatory authorities, including the Texas Commission on Environmental Quality and the Public Utility Commission of Texas for the permitting,

construction, operation, and maintenance of a wastewater treatment facility. The Parties agree to work together to resolve any issues that could delay the issuance of any necessary permits or authorizations.

2. This MOU will terminate after 18 months if CGU is unable to obtain the necessary permits to provide wastewater service to the District.

Effective and agreed to as of the date of the last signature.

County Line Special Utility District

By: 
Chris Betz, President

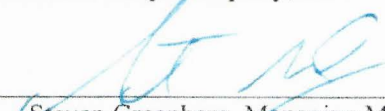
Date: 11/20/2017

City of Uhland

By: 
Bryan Geiger, Mayor

Date: 11-1-2017

Cotton Gin Utility Company, LLC

By: 
Steven Greenberg, Managing Member

Date: 12/6/2017