

**City Council Minutes**  
**Tuesday, April 28, 2020**

On the 28<sup>th</sup> day of April 2020, at 6:30 p.m., the City Council of the City of Hurst, Texas, convened in Regular Meeting at City Hall, 1505 Precinct Line Road, Hurst, Texas, by telephone conference to advance the public health goal of limiting face-to-face meetings to slow the spread of the Coronavirus (COVID-19) with the following members present:

Henry Wilson	)	Mayor
Larry Kitchens	)	Mayor Pro Tem
David Booe	)	Councilmembers
Cathy Thompson	)	
Bill McLendon	)	
Jon McKenzie	)	
Cindy Shepard	)	
Clay Caruthers	)	City Manager
Matthew Boyle	)	Assistant City Attorney
Rita Frick	)	City Secretary
Sunny Patel	)	Director of Information Technology

With the following Councilmembers absent: none, constituting a quorum; at which time, the following business was transacted:

The meeting was called to order at 6:30 p.m.

Councilmember Jon McKenzie gave the Invocation.

Mayor Wilson noted the telephonic meeting due to the COVID-19 pandemic and suspended the Pledge of Allegiance for the meeting. Mayor Wilson provided rules of procedure for the telephone conference meeting.

**CONSENT AGENDA**

1. Consider approval of the minutes for the March 24, 2020 and April 16, 2020 City Council meetings.
2. Consider Resolution 1767 authorizing the city manager to meet match requirements for expenditures under the Tarrant County Home Investment Partnership Program.
3. Consider Resolution 1768 regarding the City of Hurst continued participation in Tarrant County's Community Block Grant, Home Investment Partnership, and Emergency Solutions Grant Consortium for fiscal years 2021 – 2023.

4. Consider authorizing the city manager to enter into an Engineering Services Contract with Freese and Nichols, Inc. for engineering services for 2021 Water and Wastewater Impact Fee Update Study.
5. Consider authorizing the city manager to enter into a contract for professional services to develop a Risk and Resilience Assessment and Emergency Response Plan in accordance with the America's Water Infrastructure Act of 2018.

Councilmember Kitchens moved to approve the consent agenda. Motion seconded by Councilmember Shepard. Motion prevailed by the following vote:

Ayes: Councilmembers Booe, Kitchens, Thompson, McLendon, McKenzie and Shepard  
No: None

#### **PUBLIC HEARING(S) AND RELATED ITEM(S)**

6. Conduct a public hearing and consider the issue of levying civil penalties, possible revocation of the Certificate of Occupancy and status of the repairs for the property located at 450 E. Hurst Blvd, Hurst, Texas; Lot A3, Block 14, of the Holder Estates subdivision (Dakota Place Apartments)

Mayor Wilson announced a public hearing to consider the issue of levying civil penalties, possible revocation of the Certificate of Occupancy and status of the repairs for the property located at 450 E. Hurst Blvd, Hurst, Texas; Lot A3, Block 14, of the Holder Estates subdivision (Dakota Place Apartments) and recognized City Attorney Matthew Boyle who noted the many prior public hearings in the case and noted the powerpoint presentation and annotated timeline and associated exhibits and requested Mayor Wilson include these items in the record and official case records kept by the City Secretary. Mayor Wilson agreed to the entry of the records. Mr. Boyle stated the case was last on the Council agenda March 24, 2020, scheduled as a public hearing, and postponed to tonight. He stated the owner and owner's counsel was provided written notice and an invitation to participate in the hearing. Mr. Boyle reviewed the powerpoint presentation stating as declared by the City Council in the September 24, 2019 Order, the Dakota Place Apartments has been and remains a substandard complex that endanger the life, limb, health, property, safety, or welfare of the public or its occupants. He reviewed the February 2019 studies and reports noting that on April 25, 2017, the counsel for the Dakota Place Apartments provided, in writing, that if additional testing is desired, we the Dakota Place Apartments owners request that the City have an engineer conduct those tests and let us know so we can observe. Following that request by the counsel to the owner, the City did exactly that by engaging Childress Roof and Structural Assessment, Farmer Environmental Group and Bureau Veritas and all three provided written reports and are on record in this case. All three of those reports clearly show evidence of substandard conditions of the apartment complex. He reviewed the current status noting, as of today, the roof repairs on Building 2 remain incomplete. Those repair efforts were undertaken without the oversight of a certified engineer and the roof still has leakage issues. There has been no application to this date for an application for a building permit

for any roof repairs on Buildings 1, 3, and 4. After a Stop Work Order was issued for conducting work illegally, without a permit more than once, a Building Permit was finally applied for and granted in order to properly fix the stairways, except for Building 1. Finally, the owner obtained a building permit to move forward with Building 1 and those stairs repair today. Mr. Boyle next moved to the slide "Review of Timeline" as we have gone over before, the City's records on this case go back to, at least, September 29, 2015 with sewage backups and November 2015 with roof leaks. He noted that on July 11, 2016, the owner was ordered to replace all four roofs in the complex. He reviewed other issues occurring over the years and noted August 15, 2016, the owner's own engineer recommended a unit by unit inspection of the 2<sup>nd</sup> story units regarding the roofs. In December of 2018, the City engaged Bureau Veritas to inspect the property just as it had been requested by the lawyer for the apartment complex owner. Mr. Boyle reviewed the next slide "Updated Events" noting Council's Orders on this case began on September 24, 2019, with the declaration the property to be substandard and provided a deadline by which to complete the full repair of the buildings or the alternative the buildings be demolished. There is no question today the buildings have not been brought into full compliance, and, as such, the Council has issued additional orders assessing conditional civil penalties. All of those prior assessments of civil penalties became final because the property was not brought into timely compliance. Three months ago a permit was issued for the repair and replacement of the roof on Building 2, and those repairs are still not completed. Only today was a building permit issued for the replacement and repair of the stairs on Building 1. He reviewed the next series of six slides, which are pictures of the condition of the roof on Building 2 as of April 25, 2020. Those pictures indicate evidence of the continued existence of leakage including mold, moisture, failing decking and the use of unapproved materials. Mr. Boyle noted that this is a public hearing and, before he reviewed his recommendation, he wanted to point out that in advance of today hearing, Council was provided a copy of the Dakota Apartment's Counsel's request that the Council take no action relative to the Dakota Place Apartment complex based in part on an illness of their lawyer and the claimed inability for them to get inspectors and or contractors on the property. Mr. Boyle stated that it has been unequivocally crystal clear from the outset of all of the declarations and orders that it has always been, and remains permissible for commercial/residential renovations to take place with all the ancillary services to support that. He stated in addition, this has been going on since 2015, and the requirement to replace the roofs dates back to 2016. That this is just a continuation of much too little, way too late from the City's perspective. He stated this is a public hearing and the Dakota Place ownership and lawyers were invited to participate and we welcome that. Mr. Boyle stated, based on the fact that the property has still not been brought up to compliance with the Council's September 24, 2019 order, we respectfully request the City Council's consideration of an order emailed to you, which assesses additional civil penalties against the property owner and invites them back next month for a public hearing at which time we hope they have finally brought the complex into full compliance.

Mayor Wilson invited the public to speak and recognized Gary Waldron, 1905 Hurstview Drive, Hurst, Texas. In response to Mr. Waldron's questions, Mr. Boyle stated the owner, independent of the civil penalties, owes in excess of \$10,500 in reinspection fees, in which they are many months delinquent. That he believes the total civil penalties

assessed to date, is \$84,000, if his math is correct. The initial Council order is to put the property owner on notice of the declaration that the property was declared substandard and to give him a reasonable amount of time to bring into compliance. The City's goal has never been, and is not today, to assess and collect civil penalties. The City's goal is to encourage the property owner to take responsibility for their own obligation to provide residents a healthy and safe place to call home. Mr. Boyle stated the property owner has repeatedly failed to meet that obligation, leaving the City no choice but to pursue all available alternatives. Mr. Boyle also noted that as far as each of the prior civil penalties that have gone final, a lien has been placed on the property to secure the recovery of those penalties and as such the property owner is clear to move forward with repairs, independent of prior penalties.

There being no one else to speak, Mayor Wilson closed the public hearing.

Councilmember Kitchens noted this has been going on since 2016 so approaching full four years the City has been trying to work with the owner to bring to code and, more importantly, to address the health, safety and welfare of the residents in the apartments. He noted the City has made many attempts to work with the owner and there has been no real response from the owner to work through the process. He noted the assessments the order is talking about is conditional, and if they bring the complex into compliance by May 26, 2020, the City may consider waiving the assessment. Councilmember Kitchens stated it appears there is no representation this evening by the owner or the attorney, and Mr. Boyle indicated it appears to be so, in that they did not request to speak.

Councilmember Kitchens moved to accept the recommended Order. Motion seconded by Councilmember Booe. Motion prevailed by the following vote:

Ayes: Councilmembers Booe, Kitchens, Thompson, McLendon, McKenzie and Shepard  
No: None

7. Conduct a public hearing and consider Ordinance 2436, first reading, for SP-19-13 (Urban Infrasconstruction), a site plan for Lot 1, Block 1, Central Park Northeast Addition, being 5.05 acres located at 110 Central Park Drive

Mayor Wilson announced the public hearing to consider Ordinance 2436, first reading, for SP-19-13 (Urban Infrasconstruction), a site plan for Lot 1, Block 1, Central Park Northeast Addition, being 5.05 acres located at 110 Central Park Drive and recognized Executive Director of Planning and Development Michelle Lazo who reviewed the proposed site plan. Ms. Lazo stated the developer Michael Angler should be on the call to answer questions and noted the site plan is for 5.05 acres. She stated the applicant is proposing to construct an office building with 3,952 square feet and a separate warehouse with 2,000 square feet and will have a large secured storage yard for vehicles and equipment. Ms. Lazo stated there will be an entrance on Highway 10 and Central Park Drive for the heavy equipment. She also noted the large number of utility easements across this property made landscaping more difficult so the applicant will be limited on

new landscaping options. She noted a large area of trees to be removed and that they are not required to be mitigated due to the grading and detention area.

Mayor Wilson recognized Architect Mike Angeles, 7291 Glenview Drive, North Richland Hills, who stated he didn't have anything to add to Ms. Lazo's presentation.

There being no one else to speak, Mayor Wilson closed the public hearing.

In response to Councilmembers' questions, Mr. Angeles stated the business has grading type equipment, a majority of pickups with tools, and employees 85 people. He stated the drive in the back of the property is to be used by the heavy equipment, and would not impact the Sonic entrance. He stated the owner indicated he plans to utilize a car wash on Highway 10 and that they will try their best to not have the large equipment interact with the passenger cars.

Councilmember Thompson moved to approve SP-19-13 Urban Infraconstruction with the stipulation the new monument sign location be provided on the site plan for City Council and Ordinance 2436 on first reading. Motion seconded by Councilmember McLendon. Motion prevailed by the following vote:

Ayes: Councilmembers Booe, Kitchens, Thompson, McLendon, McKenzie and Shepard  
No: None

8. Conduct a public hearing and consider Ordinance 2437, first reading, for SUP-19-09 (Heman Convenience Store), a special use permit for Lot 2, Block A, Oakwood Park East Addition, being .46 acre located at 116 W. Bedford Eules Road

Mayor Wilson announced a public hearing to consider Ordinance 2437, first reading, for SUP-19-09 (Heman Convenience Store), a Special Use Permit for Lot 2, Block A, Oakwood Park East Addition, being .46 acre located at 116 W. Bedford Eules Road and recognized Executive Director of Planning and Development Michelle Lazo who reviewed the proposed case stating the proposed specific use permit is for a convenience store, the property is zoned MU-PD and the mixed use overlay does not permit outside gas stations, but does permit gas sales as an accessory to primary use with plan approval. She reviewed the building elevations noting a brown brick veneer structure with tan stucco and stone veneer accents around the base, the storefront glass will have standing seam metal awnings around the perimeter; and the gas canopy columns will be clad with brick veneer and stone accents. Ms. Lazo stated the drives to be located on Bedford Eules Road will be combined to one and the drive on Norwood Drive will move. She stated the signage request is building signage on the front elevation of the building and the south and east side of the gas canopy.

Mayor Wilson recognized applicant Michael Alheart, 1913 Middleton Drive, Mansfield, Texas, who stated Ms. Lazo has done a good job and that he would answer any questions.

There being no one else to speak, Mayor Wilson closed the public hearing.

In response to Councilmembers questions, Mr. Alheart stated if the dumpster capacity is not large enough, the pickup times must be increased to maintain a clean property. City Attorney Matthew Boyle reviewed the Chapter 211 of the Local Government Code and Council's prerogative based on a specific use permit. He explained that based on that law and the City's zoning ordinance, the Council has full prerogative in its consideration. Council discussed the number of existing gasoline and convenience stores in the area.

Councilmember Thompson moved to not approve SUP-19-09 Heman Convenience Store. Motion seconded by Councilmember Booe. Motion prevailed by the following vote:

Ayes: Councilmembers Booe, Kitchens, Thompson, McLendon, McKenzie and Shepard  
No: None

9. Conduct a public hearing and consider Resolution 1765 providing for a declaration of Non Objection to the Property Senior Housing (Gala at Central Park) in the City of Hurst

Mayor Wilson announced a public hearing to consider Resolution 1765 providing for a declaration of Non Objection to the Property Senior Housing (Gala at Central Park) in the City of Hurst and recognized City Manager Clay Caruthers who reviewed the formation of the Public Facility Corporation for not only this proposed project, but other economic opportunities in the future. He noted previous approval for an age restricted 55+ apartment community and land agreement for Central Park, LP, for property near the recreation center and explained the application for a 9% Housing Tax Credit for Gala at Central Park had been denied, but this Resolution of Non Objection was for a new application for the 2020 4% Housing Tax Credits. He explained the developer is closely associated with Gardner Capital and staff does recommend passage.

Mayor Wilson recognized Gala at Central Park representative Ryan Combs who stated this item is basically a continuation of what the Hurst Public Facility Corporation did earlier this evening and reaffirms to the State of Texas the application for funding allowing the completion of application. In response to Councilmembers' questions, Mr. Combs reviewed the timeline for the project noting funding approval should be completed during the summer, then the building plan and permitting process would begin and he hoped construction would start soon after and take approximately 16 to 18 months.

There being no one else to speak, Mayor Wilson closed the public hearing.

Councilmember Shepard moved to Resolution 1765 in support for the proposed "Gala At Central Park" age restricted (55+) apartment home development. Motion seconded by Councilmember McKenzie. Motion prevailed by the following vote:

Ayes: Councilmembers Booe, Kitchens, Thompson, McLendon, McKenzie and Shepard  
No: None

**PLAT(S)**

10. Consider P-19-08 Central Park Northeast Addition, a final plat of Tracts 5D2B and 5D2C Hamilton Bennett Survey Abstract 138 to Lot 1, Block 1, Central Park Northeast Addition, being 5.05 acres located at 110 Central Park Drive

Mayor Wilson recognized Executive Director of Planning and Development Michelle Lazo who reviewed the application for a final plat to develop a new construction office with heavy equipment storage. She stated the engineering plans have been reviewed and accepted.

Councilmember McKenzie moved to approve P-19-08 Central Park Northeast Addition. Motion seconded by Councilmember McLendon. Motion prevailed by the following vote:

Ayes: Councilmembers Booe, Kitchens, Thompson, McLendon, McKenzie and Shepard  
No: None

11. Consider P-20-02 Stem Place Addition, a final plat of Tract 24B1 William Wallace Survey Abstract 1607 to Lot 2, Block 1 Stem Place Addition, being .37 acre located at 808 Reed Street

Mayor Wilson recognized Executive Director of Planning and Development Michelle Lazo who reviewed the application by Fuente de Vida IP for a final plat. She stated the pastor is requesting the plat in order to add a rear patio area for his congregation and that no engineering plans are required. In response to Councilmembers' questions regarding use and lighting, Ms. Lazo stated this is a cleanup plat and they are adding a couple of easements. She stated this was not a large structure and that the patio was on the east side of the building. She stated the plat is an administrative function and they are not required to have a public hearing to add the patio cover.

Councilmember Thompson moved to approve P-20-02 Stem Place Addition. Motion seconded by Councilmember McLendon. Motion prevailed by the following vote:

Ayes: Councilmembers Booe, Kitchens, Thompson, McLendon, McKenzie and Shepard  
No: None

**RESOLUTION(S)**

12. Consider Resolution 1766 authorizing the City of Hurst's application to the Regional Transportation 2020 Safe Routes to School – Infrastructure (SRTS) call for projects

City Manager Clay Caruthers reviewed the proposed resolution authorizing the application for the 2020 Safe Routes to School – Infrastructure (SRTS) call for projects noting utilization of funds for sidewalks and school flashers for Shady Oaks, Donna Park and Hurst Hills Elementary Schools. He stated the total estimated engineering and construction costs is \$1,108,000 and that all of the engineering/environmental costs, as well as 20% of the construction costs would be the City's responsibility. Mr. Caruthers stated the City is not obligated if funds are received and the 80% match by federal/state is provided on a reimbursement basis.

Councilmember Booe moved to approve Resolution 1766 authorizing the City of Hurst to make application to the North Central Texas Council of Governments 2020 Transportation Alternatives / Safe Routes to School (SRTS) Call for Projects. Motion seconded by Councilmember Kitchens. Motion prevailed by the following vote:

Ayes: Councilmembers Booe, Kitchens, Thompson, McLendon, McKenzie and Shepard  
No: None

13. Consider Resolution 1769 denying Oncor Electric Delivery Company LLC's Application for Approval of a Distribution Cost Recovery Factor (DCRF)

Assistant City Manager Clayton Fulton reviewed the proposed resolution noting as in the past, staff has brought a resolution denying Oncor's application for approval of a distribution cost recovery factor. He noted the City's participation with other area cities to hire a consultant to review the case, and that last year there was a 16.6% reduction in the rate from the original request. He stated the proposed rate, for an average customer, would add approximately .88 cents to the bill. In response to Councilmembers' questions, Mr. Fulton stated he wasn't sure of the number of member cities in the consortium, but most of the mid-cities are participants.

Councilmember Shepard moved to approve Resolution 1769 denying Oncor Electric Delivery Company, LLC's Distribution Cost Recovery Factor application. Motion seconded by Councilmember Thompson. Motion prevailed by the following vote:

Ayes: Councilmembers Booe, Kitchens, Thompson, McLendon, McKenzie and Shepard  
No: None

### **OTHER BUSINESS**

14. Consider authorizing the city manager to take any and all action necessary regarding the closing and rescheduling of city events, programs and facilities

City Manager Clay Caruthers noted this item was discussed in the work session, and that he would review a few key points. He stated the City operates under the Hurst Way, being customer service oriented, providing public service and maintaining financial

sustainability, all three being important. He stated it was painful tonight to discuss canceling summer programming, Stars and Stripes and aquatics, but the recommendation is necessary, and many cities are contemplating similar actions. Mr. Caruthers stated, although he has the authority to schedule programs, service and staffing, there is a public safety issue in terms of COVID-19. In following the county and governor's orders, Phase I does not include the programming and staff is unsure when the green light to open will be given leaving much uncertainty. Mr. Caruthers stated, normally, staff would be preparing for summer programs but believes it is not wise to move forward at this time. He also explained the reduction in service is absolutely necessary at this time due to the state of the economy and is the responsible action as financial stewards. He stated staff launched the fiscal contingency plan and reiterated the Hurst community is not alone in feeling the COVID-19 impact. He explained staff is taking actions to suspend hiring of vacant positions, and reduce expenditures, travel, training and maintenance and steps have been taken to reduce employee compensation, schedules and benefits. He stated it is not an easy time right now, and he wants to assure everyone that staff is painstakingly analyzing the budget and service levels and feel these actions are the prudent, wise and right thing to do. He stated he appreciates the Council affirming what they asked him to do through his hiring and the Charter to have him manage. He stated he has the responsibility for these decisions, but came before the Council in that these are not routine matters.

Mayor Wilson expressed his confidence of City Manager Caruthers ability to make the necessary decisions and to communicate with the Council so they have the opportunity to express any major objections. Councilmembers expressed appreciation for the tough decisions being made and applauded staff's efforts during this time and that this would be a journey and not a quick trip.

Mayor Wilson recognized Bethany Heard, 8359 Harwood Road, North Richland Hills, Texas, who expressed her appreciation for the decisions being made during these difficult times.

Councilmember Kitchens moved to authorize the city manager to take any and all action necessary regarding the closing and rescheduling of city events, programs and facilities. Motion seconded by Councilmember McLendon. Motion prevailed by the following vote:

Ayes: Councilmembers Booe, Kitchens, Thompson, McLendon, McKenzie and Shepard  
No: None

15. Consider authorizing the city manager to enter into a contract for construction of the Valley View Branch Channel Repairs from East Pipeline Road to Plaza Boulevard

City Manager Caruthers stated staff is scrutinizing all capital expenditure items at this time, but this project is to correct a failure on Valley View Branch. He stated Executive Director of Public Works Greg Dickens recommends the repairs and that they need to

move forward with the project. He stated funding is available through the 2019 certificates of obligation and that the repairs are from east Pipeline Road to Plaza Boulevard in an amount not to exceed \$600,000.

Councilmember McKenzie moved to authorize the city manager to enter into a Contract with Klutz Construction, LLC, for the Valley View Branch Channel Repairs from east Pipeline Road to Plaza Boulevard, in the amount of \$590,514.00, which includes the base bid plus the additive alternate A, with a contingency of \$9,486.00, for a total amount not to exceed \$600,000.00. Motion seconded by Councilmember Thompson. Motion prevailed by the following vote:

Ayes: Councilmembers Booe, Kitchens, Thompson, McLendon, McKenzie and Shepard  
No: None

16. Review of upcoming calendar items – Mayor Wilson noted that he and City Manager Caruthers are exploring the idea of an in person meeting the first Council meeting in May if they can meet the social distancing requirements. City Manager Caruthers also noted that staff is taking the tactic of delaying City openings beyond the private sector and that he is working with staff to ensure they properly plan for a safe opening and that the budget can sustain the costs incurred. He stated staff will make public announcements as they start to open. At this time no openings were occurring at the conference center, library, recreation, and senior centers. He stated the Governor made it clear seniors are the most vulnerable so staff will be very cautious for the seniors.
17. City Council Reports - Items of Community Interest – Mayor Pro Tem Kitchens noted a series of meetings his National of League of Cities (NLC) Technology Committee has held and that many cities in the east and northeast are in charge of running the school districts, and lack internet and Wi-Fi service for the students. He stated NLC is exploring ways to address this issue with the federal government. He noted that even in the Hurst-Euleless-Bedford ISD, there are families that have lost jobs and children that do not have internet access. Mayor Wilson noted his recent Texas Municipal League Risk Pool meeting and the discussion regarding a virtual annual conference rather than meeting in Grapevine this year.

**PUBLIC INVITED TO BE HEARD – A REQUEST TO APPEAR CARD MUST BE COMPLETED AND RETURNED TO THE CITY SECRETARY TO BE RECOGNIZED.**

Mayor Wilson recognized Gary Waldron, 1905 Hurstview Drive who inquired if the City is considering conducting board meetings at city hall. Mr. Caruthers stated they are currently conducting board meetings on an as needed basis for business purposes and that no decisions have been solidified.

Mayor Wilson also recognized Andrea Taylor, 429 Englewood Lane, who inquired if the City will live stream the City Council meetings. City Manager Caruthers stated not at this time, but will continue to have the opportunity for people to tap in to a meeting.

Mayor Wilson stated the meetings are being taped and uploaded.

The Mayor did not recess to Executive Session.

**EXECUTIVE SESSION in Compliance with the Provisions of the Texas Open Meetings Law, authorized by Government Code, Section 551.071, Consultation with City Attorney to seek advice regarding Pending or Contemplated Litigation or Settlement Offers (Dakota Place Apartments) and to reconvene in Open Session at the conclusion of the Executive Session**

18. Take any and all action ensuing from Executive Session – No action was taken.

**ADJOURNMENT** – The meeting adjourned at 7:49 p.m.

**APPROVED** this the 12<sup>th</sup> day of May 2020.

**ATTEST:**

  
Rita Frick, City Secretary

**APPROVED:**

  
Henry Wilson, Mayor