



MEETING AGENDA
City Council
REGULAR SESSION CITY COUNCIL
August 3, 2021

HAL BALDWIN MUNICIPAL COMPLEX COUNCIL CHAMBERS
1400 SCHERTZ PARKWAY BUILDING #4
SCHERTZ, TEXAS 78154

CITY OF SCHERTZ CORE VALUES

Do the right thing
Do the best you can
Treat others the way you want to be treated
Work cooperatively as a team

AGENDA
TUESDAY, AUGUST 3, 2021 at 6:00 p.m.

City Council will hold its regularly scheduled meeting at 6:00 p.m., Tuesday, August 3, 2021, at the City Council Chambers. In lieu of attending the meeting in person, residents will have the opportunity to watch the meeting via live stream on the City's YouTube Channel.

Call to Order

Opening Prayer and Pledges of Allegiance to the Flags of the United States and State of Texas.
(Councilmember Dahle)

A. Mayor Pro-Tem Oath of Office - Oath of Office administered to Councilmember Michael Dahle.
(B. Dennis)

Presentations

- Purple Heart Day (Mayor/Councilmember Heyward)

Employee Recognition

- 20 year service pin recognition - A. J. Arriaga (M. Browne)

New Employee Introductions:

- EMS: LaSean Anderson, Frank Flores Jr., Jeremy Sanders, Joshua Sturgess, Brad Laughridge - Paramedic; Jysun Cardenas, Hai Dinh Part-Time Paramedic, Amber Cockrum - EMS Billing

Specialist

- Inspections: Erin Noah - Building Inspector
- Library: Carah Scherr - Library Clerk
- Police: David Espinoza, Benjamin Guerrero - Police Officer

City Events and Announcements

- Announcements of upcoming City Events (B. James/C. Kelm/S. Gonzalez)
- Announcements and recognitions by the City Manager (M. Browne)
- Announcements and recognitions by the Mayor (R. Gutierrez)

Hearing of Residents

This time is set aside for any person who wishes to address the City Council. Each person should fill out the speaker's register prior to the meeting. Presentations should be limited to no more than 3 minutes.

All remarks shall be addressed to the Council as a body, and not to any individual member thereof. Any person making personal, impertinent, or slanderous remarks while addressing the Council may be requested to leave the meeting.

Discussion by the Council of any item not on the agenda shall be limited to statements of specific factual information given in response to any inquiry, a recitation of existing policy in response to an inquiry, and/or a proposal to place the item on a future agenda. The presiding officer, during the Hearing of Residents portion of the agenda, will call on those persons who have signed up to speak in the order they have registered.

Consent Agenda Items

The Consent Agenda is considered self-explanatory and will be enacted by the Council with one motion. There will be no separate discussion of these items unless they are removed from the Consent Agenda upon the request of the Mayor or a Councilmember.

1. **Minutes** – Consideration and/or action regarding the approval of the minutes of the meeting of July 27, 2021. (B. Dennis)

Discussion and Action Items

2. **Ordinance No. 21-F-30** - Consideration and/or action approving an Ordinance by the City Council of the City of Schertz, Texas amending Chapter 90, of the Code of Ordinances, Article V, Water and Wastewater Capital Recovery Fees; Repealing all Ordinances or Parts of Ordinance in Conflict with this Ordinance, and providing an effective date. (***First Reading***) (C. Kelm/S. Williams)

Roll Call Vote Confirmation

Workshop Discussion

Police Department Training Program - Workshop discussion regarding the Police Department Training Program. (C. Kelm/M. Hansen/M. Bane/H. Murphy)

Requests and Announcements

- Announcements by the City Manager.
- Requests by Mayor and Councilmembers for updates or information from staff.
- Requests by Mayor and Councilmembers that items or presentations be placed on a future City Council agenda.
- Announcements by Mayor and Councilmembers
 - City and community events attended and to be attended
 - City Council Committee and Liaison Assignments (see assignments below)
 - Continuing education events attended and to be attended
 - Recognition of actions by City employees
 - Recognition of actions by community volunteers

Adjournment

CERTIFICATION

I, BRENDA DENNIS, CITY SECRETARY OF THE CITY OF SCHERTZ, TEXAS, DO HEREBY CERTIFY THAT THE ABOVE AGENDA WAS PREPARED AND POSTED ON THE OFFICIAL BULLETIN BOARDS ON THIS THE 30th DAY OF JULY 2021 AT 1:30 P.M. WHICH IS A PLACE READILY ACCESSIBLE TO THE PUBLIC AT ALL TIMES AND THAT SAID NOTICE WAS POSTED IN ACCORDANCE WITH CHAPTER 551, TEXAS GOVERNMENT CODE.

BRENDA DENNIS

I CERTIFY THAT THE ATTACHED NOTICE AND AGENDA OF ITEMS TO BE CONSIDERED BY THE CITY COUNCIL WAS REMOVED BY ME FROM THE OFFICIAL BULLETIN BOARD ON ____ DAY OF _____, 2021. TITLE: _____

This facility is accessible in accordance with the Americans with Disabilities Act. Handicapped parking spaces are available. If you require special assistance or have a request for sign interpretative services or other services, please call 210-619-1030.

The City Council for the City of Schertz reserves the right to adjourn into closed session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by the Texas Open Meetings Act.

Closed Sessions Authorized: This agenda has been reviewed and approved by the City's legal counsel and the presence of any subject in any Closed Session portion of the agenda constitutes a written interpretation of Texas Government Code Chapter 551 by legal counsel for the governmental body and constitutes an opinion by the attorney that the items discussed therein may be legally discussed in the closed portion of the meeting considering available opinions of a court of

record and opinions of the Texas Attorney General known to the attorney. This provision has been added to this agenda with the intent to meet all elements necessary to satisfy Texas Government Code Chapter 551.144(c) and the meeting is conducted by all participants in reliance on this opinion.

COUNCIL COMMITTEE AND LIAISON ASSIGNMENTS

Mayor Gutierrez Audit Committee Investment Advisory Committee Main Street Committee	Councilmember Scagliola – Place 5 Cibolo Valley Local Government Corporation - Alternate Hal Baldwin Scholarship Committee Interview Committee for Boards and Commissions - Alternate Schertz-Seguin Local Government Corporation
Councilmember Davis– Place 1 Interview Committee for Boards and Commissions Main Street Committee - Chair Schertz Housing Authority Board TIRZ II Board	Councilmember Scott – Place 2 Interview Committee for Boards and Commissions Schertz Animal Services Advisory Commission
Councilmember Whittaker – Place 3 Audit Committee TIRZ II Board	Councilmember Dahle – Place 4 Cibolo Valley Local Government Corporation Interview Committee for Boards and Commissions TIRZ II Board
Councilmember Heyward – Place 6 Animal Advisory Commission Audit Committee Investment Advisory Committee Main Street Committee	Councilmember Brown – Place 7 Main Street Committee Schertz-Seguin Local Government Corporation - Alternate

CITY COUNCIL MEMORANDUM

City Council Meeting: August 3, 2021
Department: City Secretary
Subject: Minutes – Consideration and/or action regarding the approval of the minutes of the meeting of July 27, 2021. (B. Dennis)

BACKGROUND

The City Council held a Regular City Council meeting on July 27, 2021.

RECOMMENDATION

Recommend Approval.

Attachments

07-27-2021 draft minutes

DRAFT

MINUTES REGULAR MEETING July 27, 2021

A Regular Meeting was held by the Schertz City Council of the City of Schertz, Texas, on July 27, 2021, at 6:00 p.m. in the Hal Baldwin Municipal Complex Council Chambers, 1400 Schertz Parkway, Building #4, Schertz, Texas. The following members present to-wit:

Present: Mayor Ralph Gutierrez; Mayor Pro-Tem Jill Whittaker; Councilmember Mark Davis; Councilmember Rosemary Scott; Councilmember David Scagliola; Councilmember Allison Heyward; Councilmember Tim Brown

Absent: Councilmember Michael Dahle

City City Manager Dr. Mark Browne; Assistant City Manager Brian James;
Staff: Assistant City Manager Charles Kelm; City Attorney Daniel Santee; City Secretary Brenda Dennis; Assistant to the City Manager Sarah Gonzalez; Deputy City Secretary Sheila Edmondson

Call to Order

Opening Prayer and Pledges of Allegiance to the Flags of the United States and State of Texas. (Mayor Pro-Tem Whittaker)

City Events and Announcements

- Announcements of upcoming City Events (B. James/C. Kelm/S. Gonzalez)

Assistant to the City Manager Sarah Gonzalez provided the following information:

- Thursday, July 29th

Popsicle Party

Pickrell Park Pool

6:00 – 7:00 PM

Cool off with popsicles provided by Parks & Recreation staff.

- Saturday, July 31st

Star Party

Crescent Bend Nature Park

8:30 – 11:00 PM

Members of the San Antonio Astronomical Society will provide telescopes for participants to view the night sky.

- Tuesday, August 3rd

Next regular scheduled Council meeting

National Watermelon Day

Pickrell Park Pool

5:00 – 7:00 PM

Watermelon slices, themed games, and activities.

- Tuesdays, September 7th through October 12th

Fall 2021 Adult Cornhole League (Ages 21 and up)

6:00-10:00 PM

Registration open online at www.schertz.com

\$25.00 registration fee, includes team t-shirt

- Sundays, September 12th through October 17th

Fall 2021 Adult Kickball League (Ages 21 and up)

6:00-10:00 PM

Registration open online at www.schertz.com

\$25.00 registration fee, includes team t-shirt

- November 2nd

The City of Schertz will be holding its General Election on November 2, 2021, for the purpose of electing Council Members in Place 6 and Place 7 for a three-year term, from November 2021 to November 2024.

Any candidate desiring to have his or her name on the Official Ballot shall file with the City Secretary an application in writing in the form prescribed by the Texas Election Code declaring themselves a candidate. The filing date is no sooner than July 17, 2021, (but since the 17th falls on a Saturday and City offices are closed) the date moves to Monday, July 19, 2021, and no later than Monday, August 16, 2021, by 5:00 p.m. Qualifications for Candidacy can be found online at www.schertz.com as well as the Candidate packet. Candidate packets are also available in the City Secretary's Office.

- Announcements and recognitions by the City Manager (M. Browne)

Dr. Browne provided the following information:

- Wednesday, September 8

City of Schertz will be hosting a Luncheon for the Military Affairs Office from Randolph AFB

- Thursday, September 23

City of Schertz will be hosting a Luncheon for the Region 8 Texas City Manager's Association

- Saturday, October 2

“Get Prepped” Emergency Preparedness Block Party

1400 Schertz Parkway - next to Public Safety Buildings.

Demo, tours, static displays, activities, giveaways and food. Event is to help residents prepare for an emergency/disasters.

- Announcements and recognitions by the Mayor (R. Gutierrez)

Mayor Gutierrez stated he received an email from Mr. and Mrs. Fernandez who wanted to thank City Employee Diego Martinez for his help today. Mr. and Mrs. Fernandez's car broke down on FM 1518 and Diego stopped, helped them get their car off the road and drove them home. Mayor Gutierrez thanked Diego for helping the Fernandez's.

Hearing of Residents

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Mayor Gutierrez recognized the following who spoke:

- Donald Schaezler, 19349 Old Wiederstein Rd - Mr. and Mrs. Schaezler are Directors at the Warbler Woods Bird Sanctuary, which is located near the Busch Subdivision. Mr. Schaezler objects to the petition for a waiver for an on-site sewage facilities for Busch Subdivision.

Consent Agenda Items

The Consent Agenda is considered self-explanatory and will be enacted by the Council with one motion. There will be no separate discussion of these items unless they are removed from the Consent Agenda upon the request of the Mayor or a Councilmember.

Mayor Gutierrez read the following items into record:

1. **Minutes** – Consideration and/or action regarding the approval of the minutes of the meeting of Special Joint Workshop with City Council and Planning and Zoning Commission on July 9, 2021, and the Regular City Council Meeting on July 13, 2021. (B. Dennis)
2. **Resolution No. 21-R-75** - Consideration and/or action approving a Resolution authorizing the City of Schertz to enter into Service Agreements with Beyer Mechanical and Premier Comfort for on-call HVAC services and Gerard Electric and CRI Electric for on-call Electrical services. (C. Kelm/S. Williams/S. McClelland)
3. **Resolution No. 21-R 71** - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas authorizing the city staff to enter into a purchase agreement with Aries Industries for the purchase of a sewer main camera. (C. Kelm/S. Williams/S. Mayfield)
4. **Resolution No. 21-R-77** - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas, authorizing the City Manager to enter into a task order agreement with AACOG for Emergency Medical Services on Joint Base San Antonio - Randolph. (C. Kelm/J. Mabbitt)
5. **Ordinance No. 21-S-27**- Consider and make a recommendation on a request for a Specific Use Permit to allow a monopole tower, telecommunications facility on approximately 0.056 acres of land generally located north-east of the intersection of FM 3009 and FM 78, also known as 200 FM 3009, also known as Guadalupe County Property Identification Numbers 153960, City of Schertz, Guadalupe County, Texas. (B. James / L. Wood / E. Delgado)

Final Reading

6. **Resolution No. 21-R-70** - Consideration and/or action approving a Resolution by the City Council of the City of Schertz authorizing the purchase of vehicle maintenance equipment from JF Petroleum Group as part of the Fleet Maintenance Building Project and other matters in connection therewith. (C. Kelm/S. Williams/S. McClelland)
7. **Resolution No. 21-R-67**- Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas authorizing the water CCN transfer from New Braunfels Utilities in the Rolling Hills Ranch Development to the City of Schertz. (C. Kelm/S. Williams/S. Mayfield)
8. **Resolution No. 21-R-73** – Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas, authorizing a Task Order Agreement with Terracon Consultants, Inc., for Geotechnical Services related to the Schertz Street Preservation and Maintenance Program and authorizing budget expenditures for the project and other matters in connection therewith. (B. James/K. Woodlee/J. Nowak)
9. **Resolution No. 21-R-74** - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas authorizing a revision of the Not To Exceed Amount of an approved contract with D&S Concrete Constructors for the CSJ#0915-46-050 Schertz Pedestrian Routes and Bike Lanes Project, increasing the total amount from \$1,286,000 to \$1,311,600. (B. James/J. Nowak)
10. **Resolution No. 21-R-69** - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas approving a request for a Schertz Main Street Local Flavor Economic Development Grant for 405 Main. (M. Browne/B. James)

Mayor Gutierrez asked Council if there were any items they wished to be removed for separate action. No items were asked to be removed for separate action.

Moved by Councilmember Allison Heyward, seconded by Councilmember Mark Davis To approve Consent Agenda Items 1-10.

AYE: Mayor Pro-Tem Jill Whittaker, Councilmember Mark Davis, Councilmember Rosemary Scott, Councilmember David Scagliola, Councilmember Allison Heyward, Councilmember Tim Brown

Passed

AYE: Mayor Pro-Tem Jill Whittaker, Councilmember Mark Davis,
Councilmember Rosemary Scott, Councilmember David
Scagliola, Councilmember Allison Heyward, Councilmember Tim
Brown

Passed

Discussion and Action Items

- 11. PC2021-022** – Pursuant to Section 21.12.15 of the Unified Development Code, Conduct a Public Hearing on a request to appeal a Planning and Zoning Commission determination request for a waiver related to on-site sewage facilities for the Busch Subdivision, on approximately 5-acre tract of land generally located 4,700 feet east of the intersection of Old Wiederstein Road and Cibolo Valley Drive, City of Schertz, Guadalupe County, Texas. (B. James/L. Wood/M. Harrison).

Mayor Gutierrez recognized Assistant City Manager Brian James who provided a brief overview on the request for a waiver related to on-site sewage facilities. The applicant is proposing a septic system to serve the property which is approximately a 5-acre tract of land to serve a single residence. The request was originally presented to the Planning and Zoning City and denied. The UDC allows the applicant to appeal the decision to the City Council. The City sent out public hearing notices and the city received seven responses in opposition to allowing the waiver request. Staff is recommending denial of the waiver request.

Mayor Gutierrez opened the public hearing and recognized the following:

- Donald Schaezler, 19439 Old Wiederstein Rd- operates Warbler Woods Bird Sanctuary, a 501-c3 charitable foundation. His concerns include surface run-off, ground contamination and odors from septic tanks. Mr. Schaezler provided a written document which listed additional environmental concerns if the waiver was approved.
- Susan Schaezler, 19439 Old Wiederstein Rd- co-operates the Warbler Woods Bird Sanctuary and does not support the applicant's waiver request to approve a septic system to be installed on the property. Ms. Schaezler's concerns included surface water run off the septic system area towards her property that has a well that is only 1300' away from the Busch Subdivision. She has read the details of the application, but states it does not address all the issues.
- Michele Debs, 5538 Verbena Rd, San Antonio, TX - spoke on behalf of the applicant who is requesting a waiver on the denial by Planning and

Zoning Commission to install a septic system on their 5-acre property. She noted the adjoining neighbors have septic systems and does not understand why they support the denial request. Ms Debs stated the cost to hook up to sewer included \$105,000 to \$262,000. The cost could increase due to the area where the proposed manhole would be is 25ft deep and in rock.

Mayor Gutierrez closed the public hearing.

12. **PC2021-022** - Consideration and action on an appeal of a Planning and Zoning Commission determination regarding a request for a waiver related to on-site sewage facilities for the Busch Subdivision, on approximately 5-acre tract of land generally located 4,700 feet east of the intersection of Old Wiederstein Road and Cibolo Valley Drive, City of Schertz, Guadalupe County, Texas. (B. James/L. Wood/M. Harrison).

Mayor Gutierrez opened the floor for discussion. City Councilmembers stated they understood the applicant's wish to put a septic system in, however there was a similar situation a few years back with an applicant on FM 1103 and that final decision was to have that applicant tie into the sewer system. City Council wishes to maintain consistency and follow the UDC.

Councilmember David Scagliola made a motion to uphold the Planning and Zoning decision to deny the applicant a septic tank system on his property.

Moved by Councilmember David Scagliola, seconded by Mayor Pro-Tem Jill Whittaker

AYE: Mayor Pro-Tem Jill Whittaker, Councilmember Mark Davis, Councilmember Rosemary Scott, Councilmember David Scagliola, Councilmember Allison Heyward, Councilmember Tim Brown

Passed

13. **Resolution No. 21-R-72** - Consideration and/or action approving a Resolution authorizing a contract with R.L. Jones LP for construction of the Elbel Storm Drain and Overlay Project and authorizing budget expenditures for the project. (B. James/K. Woodlee/J. Nowak)

Mayor Gutierrez recognized City Engineer John Nowak who provided an update on the Elbel Storm Drain and Overlay Project. Staff opened up the bids for the Elbel Project and costs came in a little higher than anticipated. The project can be funded by transferring funds from the SPAM (Street

Preservation Maintenance Program) and reduce the planned SPAM projects. The amount needing to be transferred is \$314,000.00. Staff is recommending transferring the funds from the SPAM program and fully fund the Elbel Storm Drain and Overlay Project.

Moved by Councilmember David Scagliola, seconded by Councilmember Allison Heyward

AYE: Mayor Pro-Tem Jill Whittaker, Councilmember Mark Davis, Councilmember Rosemary Scott, Councilmember David Scagliola, Councilmember Allison Heyward, Councilmember Tim Brown

Passed

- 14. Resolution 21-R-68** - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas approving the City of Schertz Fiscal Year 2021-2022 Water and Wastewater Rates and other matters in connection therewith. (C. Kelm/S.Williams/S. McClelland)

Mayor Gutierrez recognized Public Work Director Suzanne Williams who reviewed the CIP Projects that would be funded with the FY 2021-2022 Water and Wastewater Rate increase. Ms. Williams recognized Ms. Megan Kirkland with NewGen Stragedies and Solutions who provided a PowerPoint presentation regarding the Water and Wastewater Rate Study with the following highlights:

- Presented the Rate History of Water and Wastewater from 2018 to current(Note: FY2021-no water or wastewater rate increase)
- Regional Bill Comparison: 10 Local Cities- currently Schertz is #5
- Summary of Issues Facing Utilities: Growth, Capital Improvement Projects, SSLGC Water Purchases (Guadalupe Plant), Simplify Rate Structure
- Simplify Rate Structure- explained the new rate structure for water/wastewater tier rates
- 5-Year Outlook - Water Revenue Requirement and Wastewater Revenue Requirement
- Rate Revenue Scenarios with: 3% vs. 4% rate increase

Mayor and City Council discussed the following:

- Discussed the 3% vs. 4% rate increase
- Raising rates by only 3% - unable to do all the projects needed and possibly risking infrastructure by pushing back projects.
- Rating the projects in order of need
- Water quality

- American Relief Plan-distributing funds

Moved by Councilmember Allison Heyward, seconded by Councilmember Tim Brown

AYE: Mayor Pro-Tem Jill Whittaker, Councilmember Mark Davis, Councilmember Rosemary Scott, Councilmember David Scagliola, Councilmember Allison Heyward, Councilmember Tim Brown

Passed

- 15. Council Rule 21-CR-01** - A Rule Established by the City Council of the City of Schertz, Pursuant to the City Council Rules of Procedure, Establishing a Subcommittee, which shall include three City Councilmembers, three Planning and Zoning Commissioners and Staff to review and make recommendations with regard to changes or updates to the PDD Standards, New Zoning District and the Tree Mitigation Program. (Mayor/Council)

Mayor Gutierrez stated he spoke to Chairman Glen Outlaw of the Planning and Zoning Commission who appointed Commissioner Ken Greenwald, Commissioner Earl Platt and Commissioner Jimmy Odom to the Subcommittee. Mayor Gutierrez appointed Mayor Pro-Tem Jill Whittaker, Councilmember Michael Dahle and Councilmember David Scagliola. The Subcommittee will meet and make recommendations for City Council to approve. This Subcommittee is subject to the open meetings act and will have agendas posted.

Moved by Councilmember Allison Heyward, seconded by Councilmember Rosemary Scott To approve Council Rule 21-CR-01.

AYE: Mayor Pro-Tem Jill Whittaker, Councilmember Mark Davis, Councilmember Rosemary Scott, Councilmember David Scagliola, Councilmember Allison Heyward, Councilmember Tim Brown

Passed

Workshop

- 16. Appointment of the Mayor Pro-Tem** - Discussion and consideration and/or action regarding the confirmation, appointment or election of the Mayor Pro-Tem. (Mayor/Council)

Mayor Gutierrez read and explained the responsibilities of the Mayor

Pro-Tem Office. Mayor Gutierrez thanked Mayor Pro-Tem Jill Whittaker for her service from February 2021 to July 2021. Councilmember Michael Dahle is next in rotation for the Mayor Pro-Tem position (August 2021-February 2022)

Moved by Councilmember David Scagliola, seconded by Councilmember Mark Davis To approve the appointment of Councilmember Michael Dahle as the next Mayor Pro-Tem.

AYE: Mayor Pro-Tem Jill Whittaker, Councilmember Mark Davis, Councilmember Rosemary Scott, Councilmember David Scagliola, Councilmember Allison Heyward, Councilmember Tim Brown

Passed

Roll Call Vote Confirmation

Mayor Gutierrez recognized Deputy City Secretary Sheila Edmondson who provided roll call vote confirmations for Items 1-16.

Closed Session

Mayor Gutierrez recessed the regular meeting into Closed Session at 7:24 pm and the following item into record:

17. The City Council will meet in Closed Session pursuant to Texas Government Code Section 551.072, Deliberation Regarding Real Property, to deliberate the purchase or value of real property; to wit: property necessary for future expansion of FM 3009 south of FM 78.

Reconvene into Regular Session

Mayor Gutierrez reconvened back into regular session at 7:59 p.m.

- 17a. Take any action based on discussions held in closed session under Agenda Item 17.

No action taken.

Requests and Announcements

- Requests by Mayor and Councilmembers for updates or information from staff.

No items requested.

- Requests by Mayor and Councilmembers that items or presentations be placed on a future City Council agenda.

No items requested.

- Announcements by Mayor and Councilmembers

- City and community events attended and to be attended
- City Council Committee and Liaison Assignments (see assignments below)
- Continuing education events attended and to be attended
- Recognition of actions by City employees
- Recognition of actions by community volunteers

Mayor Gutierrez recognized the following:

Mayor Pro-Tem Whittaker attended the Reynoso Agency Farmers Insurance Ribbon Cutting Ceremony.

Councilmember Allison Heyward attended CADCA Conference, Access Medical Urgent Care Ribbon Cutting, 2021 Balcones Heights Jazz Festival, Wendy Swan Public Input Meeting and the TMRS Virtual Conference.

Adjournment

Mayor Gutierrez adjourned the meeting at 8:03 p.m.

Ralph Gutierrez, Mayor

ATTEST:

Brenda Dennis, City Secretary

CITY COUNCIL MEMORANDUM

City Council Meeting: August 3, 2021
Department: Public Works
Subject: Ordinance No. 21-F-30 - Consideration and/or action approving an Ordinance by the City Council of the City of Schertz, Texas amending Chapter 90, of the Code of Ordinances, Article V, Water and Wastewater Capital Recovery Fees; Repealing all Ordinances or Parts of Ordinance in Conflict with this Ordinance, and providing an effective date. (*First Reading*) (C. Kelm/S. Williams)

BACKGROUND

The City is authorized by its charter and Chapter 395 of the Local Government Code to impose impact fees, also referred to as Capital Recovery Fees. These fees are used to finance infrastructure that is demanded by new development. Over time, internal processes have changed and this Ordinance is being updated to accurately reflect how impact fees are assessed to the customer, as well as clarifying language to align with Chapter 395 and the City's internal language used in planning and development.

GOAL

The Ordinance is being updated to clarify to the customer how and why impact fees are collected, as well as to ensure the City is collecting the appropriate amount of impact fees to support the infrastructure needed, due to growth.

COMMUNITY BENEFIT

As new development continues to grow in the City, demands are placed on the Water and Wastewater Systems to provide a safe and reliable water supply to its residents and businesses. Updating this Ordinance with current processes enables the City to collect appropriate, consistent, and fair impact fees to support the Water and Wastewater Systems. In addition, updating this Ordinance ensures the language is consistent with Chapter 395 and the internal processes of the City for ease of understanding for the customer.

SUMMARY OF RECOMMENDED ACTION

Staff recommends City Council approve the first reading to amend Ordinance 21-F-30.

FISCAL IMPACT

No Fiscal impact.

RECOMMENDATION

Staff recommends City Council approve the first reading to amend Ordinance 21-F-30.

Attachments

Ordinance 21-F-30
Chapter 90 redline changes

ORDINANCE NO. 21-F-30

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS AMENDING CHAPTER 90 OF THE CODE OF ORDINANCES, ARTICLE V, WATER AND WASTEWATER CAPITAL RECOVERY FEES, REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, The City is authorized by its charter and Chapter 395 of the Local Government Code to impose impact fees, also referred to as Capital Recovery Fees. These fees are used to finance infrastructure that is demanded by new development.

WHEREAS, The Ordinance is being updated to clarify to the customer how and why impact fees are collected, as well as to ensure the City is collecting the appropriate amount of impact fees to support the infrastructure needed, due to growth; and

WHEREAS, As new development continues to grow in the City, demands are placed on the Water and Wastewater Systems to provide a safe and reliable water supply to its residents and businesses. Updating this Ordinance enables the City to collect appropriate, consistent, and fair impact fees to support the Water and Wastewater Systems. In addition, updating this Ordinance ensures the language is consistent with Chapter 395 and the internal processes of the City for ease of understanding for the customer.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS:

Section 1. That Chapter 90, Article 5 be amended as set forth in Exhibit A.

Section 2. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

Section 3. All ordinances, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters resolved herein.

Section 4. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 5. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 6. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

Section 7. Pursuant to Section 4.09(e) of the City Charter, by vote of not less than two-thirds of the members of the City Council present at the meeting at which this Ordinance was first considered, the City Council has determined that an emergency exists which requires immediate action, and this Ordinance is hereby adopted on a single reading, and this Ordinance shall be effective upon the date hereof and any publication required by law.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS, THAT THIS ORDINANCE WAS PASSED and APPROVED on first reading this the 3rd day of August, 2021.

PASSED, APPROVED and ADOPTED on second reading this the ____ day of August, 2021.

APPROVED:

Ralph Gutierrez, Mayor

ATTEST:

Brenda Dennis, City Secretary

DIVISION 1. - GENERALLY

Sec. 90-139. - Short title.

This article shall be known and cited as the Water and Wastewater Capital Recovery Fees Article.

(Code 1976, § 19-106)

Sec. 90-140. - Intent.

This article is intended to impose water and wastewater capital recovery fees, as established in this article, in order to finance public facilities, the demand for which is generated by new development in the designated service area.

(Code 1976, § 19-107)

Sec. 90-141. - Authority.

The city is authorized to enact this article by its charter and chapter 395, as amended, the Local Government Code, (Senate Bill 336 enacted by the 70th Texas Legislature) and its successors, which authorize home rule cities, among others, to enact or impose impact fees (Capital Recovery Fees) on land within their corporate boundaries or extraterritorial jurisdictions, and on persons with whom they have a water or wastewater service contract, as charges or assessments imposed against new development in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions necessitated by and attributable to such new development. The provisions of this article shall not be construed to limit the power of the city to adopt this article pursuant to any other source of local authority, nor to utilize any other methods or powers otherwise available for accomplishing the purposes set forth herein, either in substitution of or in conjunction with this article. Guidelines may be developed by resolution or otherwise to implement and administer this article.

(Code 1976, § 19-108)

Sec. 90-142. - Definitions.

As applied in this article, the following words and terms shall have the same meaning and definition as contained in Section 395.001 of the Texas Local Government Code, as amended (the "ACT"), be used:

Assessment means the determination of the amount of the maximum capital recovery fee per service unit which can be imposed on new development pursuant to this article.

Building permit is an official approval issued by the city for the construction, repair, alteration, demolition, or occupancy to a building or structure.

~~*Building permit* means written permission issued by the city for the construction, repair, alteration or addition to a structure.~~

Capital construction cost of service means costs of constructing capital improvements or facility expansions, including and limited to the construction contract price, surveying and engineering fees, project management fees, land acquisition costs (including land purchases, court awards and costs, attorney's fees, and expert witness fees) and the fees actually paid or contracted to be paid to an independent qualified engineer or financial consultant preparing or updating the capital improvements program who is not an employee of the city.

Capital improvement means any of the following facilities that have a life expectancy of three or more years and are owned and operated by or on behalf of a political subdivision: Water supply, treatment, and distribution facilities; wastewater collection and treatment facilities; and storm water, whether or not they are located within the service area; facilities

Capital improvements advisory committee (advisory committee) means an advisory committee, consisting of the planning and zoning commission, including one regular or ad hoc member who is not an employee of the city and is a representative of the real estate, development, or building industries, and including one member representing the extraterritorial jurisdiction of the city if fees are to be assessed in the extraterritorial jurisdiction; which committee is appointed to regularly review and update the capital improvements program in accordance with the requirements and functions described in of the act.

Capital improvements program (CIP) means a plan which identifies water and wastewater capital improvements or facility expansions pursuant to which capital recovery fees may be assessed.

Capital recovery fee means an impact fee for water or wastewater facilities as defined herein. fee to be imposed upon new developments, calculated based upon the costs of facilities related to the development that creates the need for such facilities. Capital recovery fees do not include dedication of rights-of-way or easements, or construction or dedication of site-related water distribution or wastewater collection facilities required by other ordinances of the city code; or fees placed in trust funds for the purpose of reimbursing developers for oversizing or constructing water or sewer mains or lines.

City means City of Schertz.

City council (council) means governing body of the City of Schertz.

Commercial development means all development which is neither residential nor industrial.

Comprehensive plan (master plan) means the comprehensive long-range plan, adopted by the city council, which is intended to guide the growth and development of the city which includes analysis, recommendations and proposals for the city regarding such topics as population, economy, housing, transportation, community facilities and land use.

Duplex means a structure on a single lot designed to accommodate two dwelling units, as authorized under the city's zoning regulations.

Existing development means all property within the service area which has a water or wastewater connection.

Facility expansion means the expansion of the capacity of an existing facility which serves the same function as an otherwise necessary new capital improvement in order that the existing facility may serve new development. Facility expansion does not include the repair, maintenance, modernization, or expansion of an existing facility to better serve existing development.

Final subdivision plat means the map, drawing or chart on which is provided a subdivider's plan of a subdivision which has received final approval by the planning and zoning commission or city council and is recorded with the office of the county clerk of the county in which subdivision is located.

Final Plat is a map or drawing of specific land showing the location and boundaries of individual parcels of land subdivided into lots, with streets, alleys and easements drawn to scale. This process requires final approval by the City Planning and Zoning Commission or City Council and is recorded with the office of the County Clerk of the County (s) in which the parcel is located.

Fourplex means a structure on a single lot designed to accommodate four dwelling units, as authorized under the city's zoning regulations.

Growth-related costs means capital construction costs of service related to providing additional service units to new development, either from excess capacity in existing facilities, from facility expansions or from new capital facilities. Growth-related costs do not include:

- ~~(1) Construction, acquisition, or expansion of public facilities or assets other than capital improvements or facility expansions identified in the capital improvements program;~~
- ~~(2) Repair, operation, or maintenance of existing or new capital improvements or facility expansions;~~
- ~~(3) Upgrading, updating, expanding, or replacing existing capital improvements to serve existing development in order to meet stricter safety, efficiency, environmental, or regulatory standards;~~
- ~~(4) Upgrading, updating, expanding, or replacing existing capital improvements to provide better service to existing development;~~
- ~~(5) Administrative and operating costs of the city; and~~
- ~~(6) Principal payments and interest or other finance charges on bonds or other indebtedness, except for such payments for growth-related facilities contained in the capital improvements program.~~

Industrial development means development which will be assigned to the industrial customer class of the water or wastewater utilities; generally development in which goods are manufactured, or development which is ancillary to such manufacturing activity.

Impact fee means a charge or assessment imposed by a political subdivision against new development in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions necessitated by and attributable to the new development. The term includes amortized charges, lump-sum charges, capital recovery fees, contributions in aid of construction, and any other fee that functions as described by this definition. The term does not include:

- (A) dedication of land for public parks or payment in lieu of the dedication to serve park needs;
- (B) dedication of rights-of-way or easements or construction or dedication of on-site or off-site water distribution, wastewater collection or drainage facilities, or streets, sidewalks, or curbs if the dedication or construction is required by a valid ordinance and is necessitated by and attributable to the new development;
- (C) lot or acreage fees to be placed in trust funds for the purpose of reimbursing developers for oversizing or constructing water or sewer mains or lines; or
- (D) other pro rata fees for reimbursement of water or sewer mains or lines extended by the political subdivision.

Land use assumptions means a description of the service area, and projections of changes in land uses, densities, intensities, and population ~~therein in the service area~~ over at least a ten-year period, adopted by the city, as may be amended from time to time, upon which the capital improvement program is based.

Living Unit Equivalent (LUE) means basis for establishing equivalency among and within various customer classes based upon the relationship of the continuous duty maximum flow rate in gallons per minute for a water meter of a given size and type compared to the continuous duty maximum flow rate in gallons per minute for a five-eighths-inch diameter simple water meter, using American Water Works Association C700-C703 standards. LUE'S for water meters are as follows:

METER SIZE AND TYPE	LUE'S
5/8 " Simple	1.0
¾" Simple	1.5
1" Simple	2.5

1½" Simple	5.0
2" Simple	8.0
2" Compound	8.0
2" Turbine	10.0
3" Compound	16.0
3" Turbine	24.0
4" Compound	25.0
4" Turbine	42.0
6" Compound	50.0
6" Turbine	92.0
8" Compound	80.0
8" Turbine	160.0
10" Compound	115.0
10" Turbine	250.0
12" Turbine	330.0

New development means subdivision of land; ~~or~~ the construction, reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of any structure; or any use or extension of the use of ~~the~~ land; any of which increases the number of service units ~~for water or wastewater service or~~ and requires the purchase of a new water or wastewater servicetap. New development includes the sale of water or wastewater taps resulting from the conversion of an individual well, or septic or other individual waste disposal system, to the city's water or wastewater utility.

Offset means the amount of the reduction of a capital recovery fee designed to fairly reflect the value of system-related facilities, pursuant to rules herein established or administrative guidelines, provided and funded by a developer pursuant to the city's subdivision regulations or requirements.

Residential development means a lot developed for use and occupancy as a single-family residence, ~~two-family, or multi-family residential, a duplex, a triplex or a fourplex.~~

Service area means an area within the corporate boundaries and within the extraterritorial jurisdiction of the city as defined by the Municipal Annexation Act Chapter 43, as amended, Local Government Code, to be served by the water and wastewater capital improvements or facilities, expansions specified in the capital improvements program applicable to the service area.

Service unit means a standardized measure of consumption, use, generation, or discharge attributable to an individual unit of development calculated in accordance with generally accepted engineering or planning standards and based on historical data and trends applicable to the political subdivision in which the individual unit of development is located during the previous 10 years for a particular category of capital improvements or facility expansions, expressed in living units equivalent (LUEs).

Single-family residence ~~means~~ single-family dwelling unit(s), as authorized under the city's zoning regulations.

Site-related facility means the improvement or facility which is for the primary use or benefit of a new development and/or which is for the primary purpose of safe and adequate provision of water or wastewater facilities to serve the new development, and which is not included in the capital improvements program, and for which the developer or property owner is solely responsible under subdivision and other applicable regulations.

Superintendent means the superintendent of the city water and wastewater utilities. For purposes of this chapter, in the absence of the Superintendent, the Director of Public Works' designee will have authority.

System-related facility means a capital improvement or facility expansion identified which is designated in the capital improvements plan and which is not a site-related facility. A system-related facility may include a capital improvement which is located offsite, within or on the perimeter of the development site.

Tap purchase means the filing with the city of a written application for a water or wastewater service connection tapwater or wastewater existing lines or mains and/or the acceptance of applicable fees by the city for the connection or service. The term "tap purchase" shall not be applicable to a master water meter or master wastewater connection purchased from the city by a wholesale customer such as a water district, political subdivision of the State of Texas, or other wholesale utility customer; nor shall it be applicable to a meter purchased for and exclusively dedicated to fire protection.

~~*Triplex* means a structure on a single lot designed to accommodate three dwelling units, as authorized under the city's zoning regulations.~~

Wastewater facility means an improvement for providing wastewater service, including but not limited to, land easements, treatment facilities, lift stations, or interceptor mains. Wastewater facility excludes wastewater lines or mains which are constructed by developers, the costs of which are reimbursed from charges paid by subsequent users of the facilities and which are maintained in dedicated trusts. Wastewater facilities also exclude dedication of on-site wastewater collection facilities required by valid ordinances of the city and necessitated by and attributable to the new development.

Wastewater facility expansion means the expansion of the capacity of any existing wastewater improvement for the purpose of serving new development, not including the repair, maintenance, modernization or expansion of an existing wastewater facility to serve existing development.

Wastewater improvements plan means the portion(s) of the CIP, as may be amended from time to time, which identifies the wastewater facilities or wastewater expansions and their associated costs which are necessitated by and which are attributable to new development, and for a period not to exceed ten years, and which are to be financed in whole or in part through the imposition of wastewater facilities fees pursuant to this article.

Water facility means an improvement for providing water service, including, but not limited to, land or easements, water supply facilities, treatment facilities, pumping facilities, storage facilities, or transmission

mains. ~~Water~~ The definition of water facility excludes (1) water lines or mains which are constructed by developers, the costs of which are reimbursed from charges paid by subsequent users of the facilities and which are maintained in dedicated trusts. ~~Water facilities also exclude; and (2) the~~ dedication of right-of-way or easements or construction or dedication of on-site water distribution facilities required by valid ordinances of the city and necessitated by and attributable to the new development.

Water facility expansion means expansion of the capacity of any existing water improvement for the purpose of serving new development, not including the repair, maintenance, modernization or expansion of an existing water facility to serve existing development.

Water improvements plan means portion of the CIP, as may be amended from time to time, which identifies the water facilities or water expansions and their associated costs which are necessitated by and which are attributable to new development, and for a period not to exceed ten years, and which are to be financed in whole or in part through the imposition of water facilities fees pursuant to this article.

Wholesale customers means water or wastewater customers of the city's utilities who purchase utility service at wholesale rates for resale to their retail customers.

(Code 1976, § 19-109)

Sec. 90-143. - Applicability of capital recovery fees.

- (a) This article shall be uniformly applicable to new development which occurs within the water and wastewater service areas, except for new development which occurs within the service areas of the city's wholesale customers.
- (b) No new development shall be exempt from the assessment of capital recovery fees as defined in this article.

(Code 1976, § 19-110)

Sec. 90-144. - Capital recovery fees as conditions of development approval.

No application for new development shall be approved within the city without assessment of capital recovery fees pursuant to this article, and no water and wastewater connection, or service, shall be issued unless the applicant has paid the capital recovery fees imposed by and calculated hereunder.

(Code 1976, § 19-111)

Sec. 90-145. - Establishment of water and wastewater service areas.

- (a) The water and wastewater service areas are established as shown on the service area map which has been adopted by city council and is on file in Public Works, the city secretary's office.
- (b) The service areas shall be established consistent with any facility service area established in the CIP for each utility. Additions to the service area may be designated by the city council consistent with the procedure set forth in Tex. Local Government Code, ch. 395 and its successors.

(Code 1976, § 19-112)

~~Sec. 90-146. — Land use assumptions.~~

~~Land use assumptions used in the development of the capital recovery fees are shown on the zoning map on file in the city secretary's office. These assumptions may be revised by the city council according to the procedure set forth in Tex. Local Government Code, ch. 395 and its successors.~~

(Code 1976, § 19-113)

Sec. 90-147. - Service units.

- ~~(a)~~ Service units means the standardized measure of consumption, use, generation, or discharge attributable to an individual unit of development calculated in accordance with generally accepted engineering and planning standards, expressed in LUEs.
- ~~(ab)~~ Upon application for a building permit (for properties inside the city corporate limits) or upon tap purchase (for properties outside the city corporate limits), service units for the property in question shall be calculated based on living units equivalent as determined by
- (1) the size of the water meter(s) for the development, or alternatively;
 - (2) if in the judgment of the superintendent such compensation overstates or understates the impact of such new development, the superintendent may calculate the living units equivalent based on historical data and trends applicable to the political subdivision in which the individual unit of development is located during the previous 10 years; or alternatively;
 - (3) if in the judgment of the superintendent such compensation overstates or understates the impact of such new development, the superintendent, at the cost and expense of the applicant, may obtain an engineer's report prepared by a qualified professional engineer licensed to perform such professional engineering services in the state, which demonstrates that the number of LUE's of service for the new development will be different.
- ~~(be)~~ If a fire demand meter (tap) is purchased for a property, the meter size utilized to calculate the number of LUE's shall be the dimension of the portion of the fire demand meter which reflects the meter size which would provide only domestic service to the property. Said reduced meter size shall then be utilized to calculate the number of LUE's.
- (1) The meter types used to calculate the number of LUE's shall be either simple or compound meters.
 - (2) To avoid the use of fire flow volumes for calculating domestic usage, the owner of any property for which a fire demand meter is purchased shall be required to execute a restrictive covenant on a form approved by the city attorney, which covenant shall acknowledge the right of the city to assess such capital recovery fees to subsequent owners of the property at the full meter size. Said covenant shall be executed prior to the purchase of the fire demand meter and shall be filed in the deed records of the county.
- ~~(ce)~~ Upon application for a building permit for lots for which no water meter has been purchased, service units for wastewater for said property shall be established by a professional engineer licensed in the state, retained by the applicant at no cost to the city, and shall be approved by the superintendent.
- ~~(de)~~ The city council may revise the service units designation according to the procedure set forth in the act.

(Code 1976, § 19-114)

Sec. 90-148. - Capital recovery fees per service unit.

- (a) The maximum capital recovery fee per service unit for each service shall be computed by dividing: (i) the growth-related ~~to the~~ capital construction cost of service for new development, less the amount of any credits against such amount that are attributable to rate or future tax contributions to CIP funding by, (ii) the total number of new service units anticipated to be needed within the service area. The capital construction cost of service and the projected number of new service units shall be based on the land use assumptions for the service area as established as part of the CIP. The maximum capital recovery fees per service unit for each service shall be established by category of capital

improvements and shall be set forth in ordinances and exhibits thereto as are adopted from time to time.

- (b) Exhibits may be amended by the city council according to the procedure set forth in the act.
- (c) Current capital recovery fees for water/wastewater shall be as established from time to time by ordinance and exhibits attached thereto.

(Code 1976, § 19-115)

Sec. 90-149. - Assessment of capital recovery fees.

- (a) The assessment of the capital recovery fee applicable to such development shall be a prerequisite to the approval of any subdivision of land or of any new development.
- (b) Assessment of the capital recovery fee for any new development shall be made as follows:
 - (1) For a development which is submitted for approval pursuant to the city's subdivision regulations following the effective date of this article, assessment shall be at the time of final plat approval, and shall be the amount of the capital recovery fee per service unit then in effect, as set forth in section 90-148(a). The city may provide the subdivider with a copy of fees and assessments prior to final plat approval, but such shall not constitute assessment within the meaning of this article.
 - (2) For a development which has received final plat approval prior to the effective date of this article or for which no re-platting is necessary, assessment shall be upon issuance of building permit (for properties within the corporate boundaries) or upon tap purchase (for properties outside the corporate boundaries).
 - (3) Water demand related solely to fire protection is not subject to assessment of a capital recovery fee. However, if the fire protection capacity of the fire demand meter is routinely utilized for domestic purposes as evidenced by the registration of consumption recorded on the city's meter-reading and billing systems, the current owner of the property, on the date of such determination, shall be assessed the current capital recovery fees for the fire protection capacity which has been converted to domestic capacity by its routine usage as domestic capacity.
- (c) Following assessment of the capital recovery fee pursuant to subsection (b), no additional capital recovery fees or increases thereof shall be assessed against that development unless the number of service units increases, as set forth under section 90-147.
- (d) Following the lapse or expiration of approval for a plat, a new assessment must be performed at the time a new application for such development is filed.

(Code 1976, § 19-116)

Sec. 90-150. - Calculation of capital recovery fees.

- (a) Upon application for a building permit (for properties within the corporate boundaries of the city) or upon application for a water or wastewater tap (for properties outside the corporate boundaries of the city), the city shall compute the capital recovery fees due from the applicant in the following manner:
 - (1) The number of LUE's shall be determined by the size of the water meter purchased or by evaluation of the superintendent or engineering firm, as determined according to section 90-147 of this article.
 - (2) LUE's shall be summed for all meters purchased for the development.
 - (3) The total service units shall be multiplied by the appropriate per-unit fee amount determined as set forth in section 90-148 of this article.

- (4) Fee credits and offsets shall be subtracted as determined by the process prescribed in section 90-148 of this article.
- (b) The amount of capital recovery fee due for a new development shall not exceed an amount computed by multiplying the fee assessed per service unit pursuant to section 90-148 of this article by the number of service units generated by the development.

(Code 1976, § 19-117)

Sec. 90-151. - Collection of capital recovery fees.

- (a) No building permit shall be issued and no tap shall be purchased or service provided until all capital recovery fees have been paid to the city, or until a "notice of capital recovery fee due" is recorded as provided in this section, except as provided otherwise by contract.
- (b) Capital recovery fees shall be collected at the time of building permit issuance (for properties within the corporate boundaries of the city) or at the time of tap purchase (for properties outside the corporate boundaries).
- (c) In the event that a water or wastewater tap is sold as the result of a conversion from an individual well, or septic or other individual waste disposal system, the appropriate capital recovery fee shall be collected at the time of tap purchase, except as provided below:
 - (1) At the request of the applicant, and with the approval of the superintendent, the capital recovery fees for such customers may be paid in increments over a period of not more than 12 months, with interest computed on the unpaid balance at the statutory rate as set forth in state law.
 - (2) If the applicant chooses this extended payment option, the applicant shall, as a condition of tap sale, sign and file with the city clerk, and consent to the recordation of, a "notice of capital recovery fee due", which shall be recorded as a lien against the subject property. The city shall release the lien held only upon payment in full of the capital recovery fees and any late penalties and applicable interest.
 - (3) Late payments shall subject the applicant to a penalty of ten percent of the amount due and additional interest in addition to all other remedies available to the city as lien holder.
- (d) Upon the request of an applicant, the city may, at its sole discretion, determine that lump sum payment by a fee payer would result in undue economic hardship and may enter into a payment agreement subject to the provisions below and according to guidelines established by the city, as amended from time to time.
 - (1) At the request of the applicant, and with the approval of the superintendent, the capital recovery fees for customers may be paid in increments over a period of not more than 12 months, with interest computed on the unpaid balance at the statutory rate as set forth in state law.
 - (2) If the applicant chooses this extended payment option, the applicant shall, as a condition of tap sale, sign and file with the city clerk, and consent to the recordation of, a "notice of capital recovery fee due", which shall be recorded as a lien against the subject property. The city shall release the lien held only upon payment in full of the capital recovery fees and any late penalties and applicable interest.
 - (3) Late payments shall subject the applicant to a penalty of ten percent of the amount due and additional interest in addition to all other remedies available to the city as lien holder.
 - (4) Customer hardship cases, at the discretion of the superintendent, may be assisted with a financial assistance plan not to exceed 12 months with a ten percent administrative fee for handling the paperwork.
- (e) It shall be the policy of the city to attempt to revise any contracts which might exist with wholesale customers, or which in the future may be entered into for wholesale service, in such a manner that

capital recovery fees are collected from the wholesale customer according to the number of LUE's attributable to each retail meter for new development within the wholesale customer's service area.

(Code 1976, § 19-118)

Sec. 90-152. - Offsets and credits against capital recovery fees.

- (a) The city shall offset the present value of any system-related facilities, pursuant to rules established in this section, and which have been dedicated to and have been received by the city, including the value of rights-of-way or capital improvements constructed pursuant to an agreement with the city, against the amount of the capital recovery fee due for that category of capital improvement due from the contribution.
- (b) The city shall credit capital recovery and pro rata fees which have been paid pursuant to this chapter of the city Code prior to the effective date of this article, and during the period following adoption of this article, against the amount of a capital recovery fee due for that category of capital improvement, subject to guidelines established by the city.
- (c) All offsets and credits against capital recovery fees shall be subject to the following limitations and shall be granted based on this article and additional standards promulgated by the city, which may be adopted as administrative guidelines.
 - (1) No offset credit shall be given for the dedication or construction of site-related facilities.
 - (2) The unit costs used to calculate the offsets shall not exceed those assumed for the capital improvements included in the capital improvements program for the category of facility within the service area for which the capital recovery fee is imposed.
 - (3) If an offset or credit applicable to a plat has not been exhausted within ten years from the date of the acquisition of the first building permit issued or connection made after the effective date of this article or within such period as may be otherwise designated by contract, such offset or credit shall lapse.
 - (4) In no event will the city reimburse the property owner or developer for an offset or credit when no capital recovery fees for the new development can be collected pursuant to this article or for any amount exceeding the total capital recovery fees due for the development for that category of capital improvement, unless otherwise agreed to by the city.
- (d) An applicant for new development must apply for an offset or credit against capital recovery fees due for the development either at the time of application for final plat approval or at the time of building permit application (for properties within the corporate boundaries) or at the time of tap purchase (for properties outside the corporate boundaries), unless the city agrees to a different time. The applicant shall file a petition for offsets or credits with the city.
- (e) The available offset credit associated with the plat shall be applied against a capital recovery fee at time of the first fee payment for properties within that plat in the following manner:
 - (1) Such offset or credit shall be prorated equally among all living units equivalent within the development, as calculated in section 90-147 of this article, and remain applicable to such LUE's, to be applied at the time of filing and acceptance of an application for a building permit (or at the time of tap purchase for properties outside the corporate boundaries) against capital recovery fees due.
 - (2) If the total number of LUE's used by the city in the original offset or credit calculation described in subsection (1) is eventually exceeded by the number of total LUE's realized by the actual development, the city may, at its sole discretion, collect the full capital recovery fee exclusive of any associated offsets or credits for the excess LUE's.
 - (3) At its sole discretion, the city may authorize alternative credit or offset agreements upon petition by the owner.

(Code 1976, § 19-119)

Sec. 90-153. - Establishment of accounts.

- (a) The city finance department shall establish separate interest-bearing accounts in a bank authorized to receive deposits of city funds, for each major category of capital facility for which a capital recovery fee is imposed pursuant to this article.
- (b) Interest earned by each account shall be credited to that account and shall be used solely for the purposes specified for funds authorized in section 90-154 of this article.
- (c) The city's finance department shall establish adequate financial and accounting controls to ensure that capital recovery fees disbursed from the account are utilized solely for the purposes authorized in section 90-154 of this article. Disbursement of funds shall be authorized by the city at such times as are reasonably necessary to carry out the purposes and intent of this article; provided, however, that any capital recovery fee paid to the city shall be expended within a reasonable period of time, but not to exceed ten years from the date the fee is deposited into the account.
- (d) The city finance department shall maintain and keep adequate financial records for each account, which shall show the source and disbursement of all revenues, which shall account for all monies received, and which shall ensure that the disbursement of funds from each account shall be used solely and exclusively for the provision of projects specified in the capital improvements program as system-related capital projects. The city finance department shall also maintain such records as are necessary to ensure that refunds are appropriately made under the provision in section 90-156 of this article.

(Code 1976, § 19-120)

Sec. 90-154. - Use of proceeds of capital recovery fee accounts.

- (a) The capital recovery fees collected pursuant to this article may be used to finance or to recoup capital construction costs of service. Capital recovery fees may also be used to pay the principal sum and interest and other finance costs on bonds, notes or other obligations issued by or on behalf of the city to finance such capital improvements or facilities expansions.
- (b) Capital recovery fees collected pursuant to this article shall not be used to pay for any of the following expenses:
 - (1) —Construction, acquisition or expansion of ~~public facilities capital improvements~~ or assets other than ~~capital improvements or facility expansions~~ ~~those identified for growth-related costs for the appropriate utility~~ in the capital improvements program;
 - (2) Repair, operation, or maintenance of existing or new capital improvements or facilities expansions, ~~unless growth-related;~~
 - (3) Upgrading, expanding or replacing existing capital improvements to serve existing development in order to meet stricter safety, efficiency, environmental or regulatory standards;
 - (4) Upgrading, expanding or replacing existing capital improvements to provide better service to existing development; provided, however, that capital recovery fees may be used to pay the costs of upgrading, expanding or replacing existing capital improvements in order to meet the need for new capital improvements generated by new development; or
 - (5) Administrative and operating costs of the city.

(Code 1976, § 19-121)

Sec. 90-155. - Appeals.

- (a) The property owner or applicant for new development may appeal the following decisions to the superintendent:
 - (1) The applicability of a capital recovery fee to the development;
 - (2) The amount of the capital recovery fee due;
 - (3) The application of an offset or credit against a capital recovery fee due;
 - (4) The amount of the refund due, if any.
- (b) The burden of proof shall be on the appellant to demonstrate that the amount of the capital recovery fee or the amount of the offset or credit was not calculated according to the applicable capital recovery fee schedule or the guidelines established from determining offsets and credits.
- (c) The appellant may appeal the decision of the superintendent in writing to the city manager. If the appeal is accompanied by a bond or other sufficient surety satisfactory to the city manager in an amount equal to the original determination of the capital recovery fee due, the development application or tap purchase may be processed while the appeal is pending.

(Code 1976, § 19-122)

Sec. 90-156. - Refunds.

- (a) Any capital recovery fee or portion thereof collected pursuant to this article which has not been expended within ten years from the date of payment, shall be refunded, upon written application therefore by the record owner of the property at the time the refund is paid. If the capital recovery fee was paid by another governmental entity, such refund shall also include interest calculated from the date of collection to the date of refund at the statutory rate as set forth in article 1.03, title 79, (article 5069-1.03, Texas Revised Civil Statutes Annotated, as amended)(Vernon's Ann. Civ. St. art. 5069-1.03), or any successor on the amount of the capital recovery fee.
- (b) If a refund is due pursuant to subsection (a) of this section, the refund of unexpended fee payments, including interest from the date of payment, shall be made to the current record owner or governmental entity.
- (c) Upon completion of all the capital improvements or facilities expansions identified in the capital improvements program upon which the fee was based, the city shall recalculate the maximum fee per service unit using the actual costs for the improvements or expansions. If the maximum fee per service unit based on actual cost is less than the fee per service unit paid, the city shall refund the difference, if such difference exceeds the fee paid by more than ten percent. The refund to the record owner or governmental entity shall be calculated by multiplying such difference by the number of service units for the development for which the fee was paid, and interest due shall be calculated upon that amount.
- (d) Upon the request of an owner of the property on which a capital recovery fee has been paid, the city shall refund such fees if:
 - (1) Existing service is available and service is denied; or
 - (2) Service was not available when the fee was collected and the city has failed to commence construction of facilities to provide service within two years of fee payment; or
 - (3) Service was not available when the fee was collected and has not subsequently been made available within a reasonable period of time considering the type of capital improvement or facility expansion to be constructed, but in any event later than five years from the date of fee payment.
- (e) The city shall refund an appropriate proportion of capital recovery fee payments in the event that a previously purchased water meter is replaced with a smaller meter, based on the LUE differential of the two meter sizes and the per-LUE fee at the time of the original fee payment, and if capital recovery fees have not been expended in support of the previous meter, less an administrative charge of \$50.00.

- (f) Petition for refunds shall be submitted to the superintendent on a form provided by the city for such purpose. Within one month of the date of receipt of a petition for refund, the superintendent must provide the petitioner, in writing, with a decision on the refund request, including the reasons for the decision. If a refund is due to the petitioner, the superintendent shall notify the city treasurer and request that a refund payment be made to the petitioner. The petitioner may appeal the determination to the city council, as set forth in section 90-155 of this article.

(Code 1976, § 19-123)

Sec. 90-157. - Updates to plan and revision of fees.

The city shall review the land use assumptions and capital improvements program for water and wastewater facilities at least every three years, the first three-Year period which shall commence from the date of the adoption of the capital improvements program referenced herein. The city council shall accordingly then make a determination of whether changes to the land use assumptions, capital improvements program or capital recovery fees are needed and shall, in accordance with the procedures set forth in the act, either update the fees or make a determination that no update is necessary.

(Code 1976, § 19-124)

~~Sec. 90-158. - Functions of advisory committee.~~

~~(a) — The functions of the advisory committee are those set forth in the act, and shall include the following:~~

- ~~(1) — Advise and assist the city in adopting land use assumptions;~~
- ~~(2) — Review the capital improvements program regarding water and wastewater capital improvements and file written comments thereon;~~
- ~~(3) — Monitor and evaluate implementation of the capital improvements program;~~
- ~~(4) — Advise the city of the need to update or revise the land use assumptions, capital improvements program and capital recovery fees; and~~
- ~~(5) — File a semiannual report evaluating the progress of the city in achieving the capital improvements program and identifying any problems in implementing the plans or administering the capital recovery fees.~~

~~(b) — The city shall make available to the advisory committee any professional reports prepared in the development or implementation of the capital improvements program.~~

~~(c) — The council shall adopt procedural rules for the committee to follow in carrying out its duties.~~

(Code 1976, § 19-125)

State Law reference— Advisory committee, Tex. Local Government Code, § 395.058.

Sec. 90-159. - Agreement for capital improvements.

- (a) The city council may approve the owner of a new development to construct or finance some of the public improvements identified in the CIP. In the case of such approval, the property owner must enter into an agreement with the city prior to fee collection. The agreement shall be on a form approved by the city, and shall establish the estimated cost of improvement, the schedule for initiation and completion of the improvement, a requirement that the improvement shall be completed to city standards, and any other terms and conditions the city deems necessary. The superintendent shall review the improvement plan, verify costs and time schedules, determine the amount of the applicable

credit for such improvement to be applied to the otherwise applicable capital recovery fee before submitting the proposed agreement to council for approval.

- (b) The city and such owner either may agree that the costs incurred or funds advanced will be credited against the capital recovery fees otherwise due from the new development, or they may agree that the city shall reimburse the owner for such costs from capital recovery fees paid from other new developments which will use such capital improvements or facility expansions, which fees shall be collected and reimbursed to the owner at the time the other new development records its plats.

(Code 1976, § 19-126)

Sec. 90-160. - Use of other financing mechanisms.

- (a) The city may, at its sole discretion, finance water and wastewater capital improvements of facilities expansions designated in the capital improvements program through the issuance of bonds or other obligations, through the formation of public improvement districts or other assessment districts, or through any other authorized mechanism, in such manner and subject to such limitations as may be provided by law, in addition to the use of capital recovery fees.
- (b) Except as herein otherwise provided, the assessment and collection of a capital recovery fee shall be additional and supplemental to, and not in substitution of, any other tax, fee, charge or assessment which is lawfully imposed on and due against the property.
- (c) The council may decide that the city shall pay all or part of capital recovery fee due for a new development taking into account available offsets and credits pursuant to duly adopted criteria.

(Code 1976, § 19-127)

Sec. 90-161. - Capital recovery fees as additional and supplemental regulation.

- (a) Capital recovery fees established by this article are additional and supplemental to, and not in substitution of, any other requirements imposed by the city on the development of land or the issuance of building permits or the sale of water or wastewater taps or the issuance of certificates of occupancy. Such fees are intended to be consistent with and to further the policies of city's comprehensive plan, capital improvements program, zoning ordinance, subdivision regulations and other city policies, ordinances and resolutions by which the city seeks to ensure the provision of adequate public facilities in conjunction with the development of land.
- (b) This article shall not affect, in any manner, the permissible use of property, density of development, design, and improvement standards and requirements, or any other aspect of the development of land or provision of public improvements subject to the zoning and subdivision regulations or other regulations of the city, which shall be operative and remain in full force and effect without limitation with respect to all such development.

(Code 1976, § 19-128)

Sec. 90-162. - Relief procedures.

- (a) Any person who has paid a capital recovery fee or an owner of land upon which a capital recovery fee has been paid may petition the city manager to determine whether any duty required by this article has not been performed within the time so prescribed. The petition shall be in writing and shall state the nature of the unperformed duty and request that the act be performed within 60 days of the request. If the city manager determines that the duty is required pursuant to this article and is late in being performed, he shall cause the duty to commence within 60 days of the date of the request and to continue until completion.

- (b) ~~The council may grant a variance or waiver from any requirement of this article, upon written request by a developer or owner of property subject to this article, and only upon finding that a strict application of such requirement would, when regarded as a whole, result in confiscation of the property.~~

(Code 1976, § 19-129)

Secs. 90-163—90-192. - Reserved.

CITY COUNCIL MEMORANDUM

City Council Meeting: August 3, 2021
Department: Police Department
Subject: Police Department Training Program - Workshop discussion regarding the Police Department Training Program. (C. Kelm/M. Hansen/M. Bane/H. Murphy)

BACKGROUND

Policy/Training Reviews and Updates (Police Department)

Currently, the department is reviewing all of its policies and updating them. This review is an internal and external review by our Officers, Legal Team, and outside experts to ensure all policies are up to date with current statues. In parallel with the policy updates, our Police Officer training is being updated to include the policy updates and latest improvements in Community Policing. Lowell Denton has developed and is providing personal training to the entire Department on policy development, implementation, and potential impacts to the community. Overall, this is a significant investment in our Department to provide the high level of service to our Community expected of and provided by our Officers.

Police Application (App) (H. Murphy)

The Schertz Police Department has introduced a new mobile application (app) with the goal to help improve our communication with the citizens of Schertz and the surrounding area. It is an interactive app which includes Resource Mapping, Push Notifications, Weather Alerts, Public Health Alerts, Direct Contact Calling, and more. Citizens may submit a crime tip directly through the app.. By empowering people through technology, the Schertz Police Department will be able improve its efforts in Community Policing.

The Police Department will be providing an update regarding their new QR Code.

To utilize this QR code below to download our Schertz Police Department smart phone application:

Iphone:

- 1) Open your camera application
- 2) Hold your camera over the QR code until you get a notification at the top of the screen to open the code in Safari
- 3) Click on notification, which will bring you to the app store
- 4) Click download

If you're running Android 8 or later, you can scan a QR code by long-pressing the home button and selecting *Lens*. Then point your camera at the QR code, tap the magnifying glass icon, and tap the pop-up notification.

1. **Press and hold the home button.**
2. **Then tap *Lens*.** This is the circle surrounded by lines to the left of the four colored buttons at the bottom of your screen.

Note: A prompt will appear if it's your first time to use this feature. If it does, simply choose *Allow*. If you don't have Google Assistant on your Android, you can download the Google Lens app from the Google Play Store.

3. **Point your camera at the QR code.** You don't have to fill the entire screen, but make sure that all four corners of the QR code are in view.
4. **Then tap the magnifying glass icon to scan the QR code.** You can find this at the bottom of

your screen.

5. **Finally, tap the pop-up notification.** You will then be directed to the information or action embedded in the QR code. This could open a webpage, open the Google Play Store, save a contact, and more.

Survey (A. Kraft)

The Police Services Survey was created to give the police department a better understanding of the progress we make and to identify community concerns. To access the survey, residents can scan a QR code or go to the police department website and provide direct feedback to our Police Department. The Police Department and City of Schertz will use this feedback to evaluate our service to the City.

To utilize this QR code to download our Schertz Police Department Customer Survey:

1. Open your camera application
2. Hold your camera over the QR code until you get a notification at the top of the screen to open the code in Safari
3. Once the survey opens you can fill in the blanks and submit.

If you're running Android 8 or later, you can scan a QR code by long-pressing the home button and selecting *Lens*. Then point your camera at the QR code, tap the magnifying glass icon, and tap the pop-up notification.

- I. Press and hold the home button.
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