REGULAR MEETING LOCKHART CITY COUNCIL

APRIL 2, 2019

6:30 P.M.

CLARK LIBRARY ANNEX-COUNCIL CHAMBERS, 217 SOUTH MAIN STREET, 3rd FLOOR, LOCKHART, TEXAS

Council present:

Mayor Pro-Tem Angie Gonzales-Sanchez

Councilmember Juan Mendoza

Councilmember Jeffry Michelson

Mayor Lew White

Councilmember John Castillo

Councilmember Kara McGregor

Councilmember Brad Westmoreland

Staff present:

Steve Lewis, City Manager

Dan Gibson, City Planner

Pam Larison, Finance Director

Sean Kelley, Public Works Director

Monica Parra, Animal Control Officer

Monica Parra, Animai Condoi Officei

Connie Constancio, City Secretary

Rob Tobias, Economic Development Director

Shane Mondin, Building Official

Emma Rocha, Utility Supervisor

JJ Wells, Attorney attending on behalf of City Attorney Peter Gruning

<u>Citizens/Visitors Addressing the Council:</u> Representatives of the Hays-Caldwell Women's Center; Adrianna Cruz and John Ellis of the Greater San Marcos Partnership; James Prince of Prince Development; Dan Broulett of DR Horton; and Citizens, Savannah Anderson, Justin Dubeck, Donna Townsen, Robert Mendez, Jr., Pam Cantwell, Ellen Massey, Ronda Reagan, and Mike Cernock.

Work Session 6:30 p.m.

Mayor White opened the work session and advised the Council, staff and the audience that staff would provide information and explanations about the following items:

PRESENTATION ONLY

A. ACKNOWLEDGEMENT AND PRESENTATION TO VOLUNTEERS AT THE LOCKHART ANIMAL SHELTER.

Mayor White and Monica Parra, Animal Control Officer, presented plaques to Savannah Anderson and Justin Dubeck for their dedication for volunteering at the Lockhart Animal Shelter.

B. PRESENTATION OF A PROCLAMATIONS DECLARING APRIL AS CHILD ABUSE AWARENESS AND PREVENTION MONTH AND SEXUAL ASSAULT AWARENESS AND PREVENTION MONTH.

Mayor White presented proclamations to Representatives of the Hays-Caldwell Women's Center.

C. READING OF PROCLAMATION DECLARING APRIL AS "FAIR HOUSING MONTH".

Mayor White read the proclamation and declared April as Fair Housing Month.

DISCUSSION ONLY

A. PRESENTATION AND DISCUSSION TO RECEIVE UPDATE FROM THE GREATER SAN MARCOS PARTNERSHIP AND THE LOCKHART ECONOMIC DEVELOPMENT'S (LEDC) ONGOING PROJECTS.

Rob Tobias and Adrianna Cruz of the Greater San Marcos Partnership (GSMP) provided an update about economic development projects. There was discussion regarding the GSMP's business recruitment efforts in the Hays and Caldwell County areas.

B. DISCUSS MINUTES OF THE CITY COUNCIL MEETING OF MARCH 19, 2019.

Mayor White requested corrections to the minutes. There were none.

C. DISCUSS RESOLUTION 2019-10 APPROVING THE CAPITAL AREA COUNCIL OF GOVERNMENTS (CAPCOG) AIR QUALITY PROGRAM FISCAL YEAR 2020 LOCAL FUNDING.

Mr. Lewis stated that CAPCOG was requesting support of additional funding from participating city and county governmental entities to maintain the CAPCOG's Air Quality Program. The proposed Resolution expresses the City of Lockhart's intent to support an increase in annual dues.

Mayor White stated that the City of Lockhart's annual dues increased slightly and that there is an ozone monitoring station in Caldwell County to assist with monitoring ozone levels.

D. DISCUSS ORDINANCE 2019-09 AUTHORIZING UTILITY CUSTOMERS TO OPT-OUT OF UTILIZING THE ADVANCED METER INFRASTRUCTURE (AMI) METERS AND TO ADD A REQUIREMENT TO PAY A METER EXCHANGE FEE AND A MONTHLY METER READING FEE.

Ms. Larison stated that the City of Lockhart currently charges a \$25.00 fee to customers for monthly readings of analog meters that were installed at the customers' request. However, it has come to staff's attention that an ordinance would need to be enacted to change the utility fee schedule. This ordinance will address any requests that are made to opt-out of using the AMI meters for both water and electric and to revert back to using the analog meters. The fee includes re-installation of analog meters and a monthly cost for manual readings instead of the AMI radio-read from City Hall. As compared to other cities, staff proposes a one-time set-up fee of \$100 and a monthly \$25 charge for manual reading. Staff presented a revised ordinance from what was in the Council packet to include meter exchange fees for both electric and water. Ms. Larison requested approval.

E. DISCUSS APPEAL BY PRINCE DEVELOPMENT OF THE CONSTRUCTION BOARD OF APPEALS' RULING FOR THE DRIVEWAY, FLATWORK, AND POOL DECKING AT 1025 MAPLE STREET.

Mr. Mondin stated that James Prince of Prince Development, failed to call for inspections in January 2019 before concrete was poured for a driveway, flatwork from the driveway to the pool, and the concrete decking around the pool. Mr. Prince furnished pictures of the driveway reinforcement. Using the photos as reference, it appeared that the reinforcement did not meet the City of Lockhart's minimum standard for driveways as adopted in July 1997 because he used welded wire and rebar that was spaced 24 inches apart instead of 18 inches. Per local amendment of the International Building Code, Section 1907 – Minimum Slab Provisions prohibits the use of welded wire for reinforcement unless construction plans are sealed by a Texas Licensed Engineer. On February 21, 2019, the Construction Board of Appeals (CBOA) met and unanimously ruled that the driveway, flatwork and pool decking be removed and reinstalled according to City of Lockhart Standards. Copeland Engineering, Prince Development's Consultant, submitted a letter certifying that his opinion is that the driveway and deck meets or exceeds the City of Lockhart's

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construction standards. Staff does not agree with the engineer's opinion because, in staff's opinion, it is virtually impossible to suspend the wire mesh while pouring the concrete. The homeowners were allowed to move into the home after the contractor and the homeowners signed a Memorandum of Understanding that indicated that a certificate of occupancy will not be issued until this issue is resolved.

Councilmember Michelson questioned the City's policy of informing contractors of the current building code and inspection requirements. Mr. Mondin replied that the Inspection Department holds a preconstruction meeting with newly licensed general contractors before the first building permit is issued to inform them about the City's building regulations and to receive a Contractor Handbook. The general contractor and the sub-contractor's thereafter sign an affidavit acknowledging receipt of the handbook and of their knowledge of the City's building codes and regulations. The handbooks are also available to the public upon request.

There was also discussion regarding Prince Development's history with regards to past construction projects in Lockhart. Mr. Mondin stated that there were also compliance issues when Prince Development last built a home in Lockhart about 10 years ago.

Mayor White requested the following to address the Council:

James Prince, Liberty Hill, Texas, requested approval of the appeal. He apologized for missing the required pre-pour inspection. He stated that an engineer certified in a letter, that the driveway and deck meets and exceeds the City of Lockhart's construction provisions. He stated that Prince Development is providing a 10-year warranty for the deck and driveway. He stated that the driveway consisted of both wire and rebar that was spaced 24 inches apart instead of 18 inches, and added non compacted soil underneath the layer of compacted sand. There was discussion.

Donna Townsen, owner of 1025 Maple, stated that she would be willing to agree to remove the flatwork if the Council felt that they were getting an unacceptable product. She reminded the Council that two engineers with TRC Solutions and Copeland Engineering, certified that the driveway meets or exceeds the City's construction standards. Even though the Construction Board of Appeals voted to deny the variance, and because two engineers approved the existing driveway and deck specifications, she requested approval of the appeal. She explained that demolishing the driveway would cause a burden to her family.

Councilmember Michelson questioned the history of driveway variance processes. Mr. Mondin replied that most variance requests of uninspected driveways are denied by the Construction Board and the contractors are thereafter required to remove the driveway and rebuild it to the City's building regulations.

Councilmember Michelson asked the Attorney if the developers and city's engineers both approved the work, does the engineer's certifications supersede the City's regulations. JJ Wells, Attorney, replied that staff has followed the steps as required in the City's building regulations when a pre-pour inspection was not conducted. The question about the dependability of the driveway would become a civil matter amongst the homeowner and the builder after the Council makes a decision.

Councilmember Michelson also asked if the 10-year warranty on the driveway would follow the home regardless of the owner. Mr. Wells replied that the 10-year warranty could be noted in the deed and that future issues with the driveway would be a civil matter amongst the current or previous homeowner and the builder.

F. DISCUSS ORDINANCE 2019-08 AMENDING CHAPTER 46 "SIGNS", SECTION 46-4 "PROHIBITED SIGNS AND LOCATIONS", AND CHAPTER 50 "STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES", SECTION 50-6 "LANDSCAPE INTRUSIONS AND OBSTRUCTIONS IN PUBLIC SIDEWALKS AND STREETS" OF THE CODE OF ORDINANCES, TO ESTABLISH STANDARDS FOR THE USE OF THE PUBLIC SIDEWALKS IN THE CENTRAL BUSINESS DISTRICT FOR OBJECTS SUCH AS TABLES, CHAIRS, FLOWER POTS, MERCHANDISE, PORTABLE STATUTES, SMALL SIGNS, AND OTHER PROMOTIONAL ITEMS ASSOCIATED WITH ABUTTING BUSINESSES.

Mr. Gibson stated that this topic was last discussed at the Council's meeting on March 19th, where the Council reached a consensus on the wording of an ordinance to regulate the use of the public sidewalks downtown. The amendment changes the name and adds standards for allowable obstructions of the public sidewalks with a height limit of six feet in the CCB district. Because portable signs are one common type of such obstruction, it is also necessary to amend the sign ordinance to add an exemption allowing portable signs on public sidewalks in the CCB district. There was discussion.

G. DISCUSS ROAD CONSTRUCTION AND REIMBURSEMENT AGREEMENT BETWEEN CONTINENTAL HOMES OF TEXAS, L.P., AND THE CITY OF LOCKHART, FOR AN EXTENSION OF MAPLE STREET IN CONJUNCTION WITH THE DEVELOPMENT OF THE PROPOSED VINTAGE SPRINGS SUBDIVISION.

Mr. Gibson stated that the proposed Vintage Springs Subdivision will be platted in phases, and each phase will include constructing a portion of Maple Street. The first phase will include the extension of Maple Street from its current dead end at the northeast corner of the Meadows at Clear Fork Subdivision, Section 3, to Mockingbird Lane. That extension will have two segments. The eastern segment, connecting to Mockingbird Lane, is adjacent to Section 1A of the Vintage Springs Subdivision and is the responsibility of the developer. The western segment connects the existing dead end to the west end of the eastern segment, and is the responsibility of the City since it does not abut any portion of the Vintage Springs Subdivision. This agreement provides for the developer to construct the City's portion subject to reimbursement by the City for the engineering and construction costs of that segment. Dollar amounts need to be inserted in Section 6 of the agreement. The city engineer questioned various parts of the construction, so the developer's engineer is still working on addressing those concerns and a new estimate is expected prior to the Council meeting.

Dan Broulett of DR Horton explained that they request that the Council approve an understanding of the reimbursement agreement to Continental Homes of Texas for costs associated with the road construction to the parkland portion in all phases of the Vintage Springs Subdivision development. The agreement with the reimbursement dollar amount will be returned to the Council once the developer has obtained all the bids for the road construction. There was discussion.

RECESS: Mayor White announced that the Council would recess for a break at 8:20 p.m.

REGULAR MEETING

ITEM 1. CALL TO ORDER.

Mayor Lew White called the meeting of the Lockhart City Council to order at 8:35 p.m.

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ITEM 2. INVOCATION, PLEDGE OF ALLEGIANCE.

Mayor Pro-Tem Sanchez gave the Invocation and led the Pledge of Allegiance to the United States and Texas flags.

ITEM 3. CITIZENS/VISITORS COMMENTS.

Mayor White requested citizens to address the Council. There were none.

ITEM 4-A. HOLD A PUBLIC HEARING ON APPLICATION ZC-19-02 BY ROBERT MENDEZ FOR A ZONING CHANGE FROM RHD RESIDENTIAL HIGH DENSITY DISTRICT TO CLB COMMERCIAL LIGHT BUSINESS DISTRICT ON LOT 1, BLOCK 1, RMSR SUBDIVISION, CONSISTING OF 0.142 ACRE LOCATED AT 115 SOUTH GUADALUPE STREET.

Mayor White opened the public hearing at 8:37 p.m. and requested the staff report.

Mr. Gibson stated that although the subject property has been zoned high density residential at least since 1974, the existing building had long been used for commercial and storage purposes. However, because it has not been used as a business for a period exceeding six months, and has been disconnected from utilities so long that there is no account of record for it, commercial use is no longer grandfathered and the property would have to be converted to a residential use that is allowed in the RHD district. Due to the size of the lot, the only possible residential use would be a single-family dwelling. The owner wishes to make the building available for occupancy by a low intensity commercial use such as an office or barber/beauty shop. The small size of the subject property and existing building will undoubtedly limit the type and intensity of any commercial uses that would be allowed in the location by the proposed CLB zoning. Mr. Gibson outlined the uses allowed by-right in the CLB and the CMB zoning districts. The same rezoning of the subject property was attempted in 2014, when the Planning and Zoning Commission voted 4-1, with one abstention, to recommend approval. The City Council voted 4-3 in favor, but approval failed due the fact that a protest by owners of more than 20 percent of the land area within 200 feet required a supermajority vote of at least six favorable votes. This time, three residents of the area spoke in opposition of the proposed rezoning at the Planning and Zoning Commission hearing, and subsequently submitted a written protest, including a narrative explaining their reasons. The portions of the lots owned by them, plus one-half of abutting street rights-of-way, is 34 percent of the total area within 200 feet of the subject property. Because it exceeds 20 percent of the land area within 200-feet, this zoning change can be approved only with an affirmative vote of at least six votes of the City Council. Mr. Gibson stated that Planning and Zoning Commission's motion to deny failed with a tie vote and that staff does not have a recommendation since both residential and commercial uses could be an option.

Mayor White requested the applicant to address the Council.

Robert Mendez, Jr., 908 S. Main Street, requested approval of the zoning change. He stated that he grew up in the neighborhood and that he has owned the property for years. Because the property has been vacant for so many years and due to the amount of garbage that collects on the property, he decided to sell it. His intent is to allow a small business to utilize the building/property. He reminded the Council that there is an attorney's office and the City offices across from the property.

Mayor White requested the following to address the Council:

Pam Cantwell, Realtor, 13755 FM 82, spoke in favor of the zoning change. She stated that she believes that the property would be suitable for a small business such as a realtor's office or hair stylist. She stated that the property is priced high but she believes that a buyer that is willing to pay the high price would most likely be a suitable and responsible business owner.

Mayor White requested additional citizens in favor of the zoning change to address the Council. There were none.

Mayor White requested the following citizens against the zoning change to address the Council:

Ellen Massey, 402 W. San Antonio Street, spoke against the zoning change. She requested that the property behind her home remain zoned residential and stated that a business behind her home would make the traffic situation coming in and out of her home more dangerous than it currently is.

Ronda Reagan, 412 W. San Antonio Street, spoke against the zoning change. She provided information about property values in reference to small homes. Small homes are popular, and she believes that a small home would either sell or rent quickly with a high profit.

Mike Cernock, 422 W. San Antonio Street, spoke against the zoning change. He stated that he believed that the request would create a spot zoning and that the commercial use of the property is not consistent with the future land use plan. He stated that he might have supported the rezoning if the intended use were known.

Mayor White requested additional citizens in favor of or against the zoning change to address the Council. There were none. He closed the public hearing at 9:20 p.m.

ITEM 4-B. DISCUSSION AND/OR ACTION TO CONSIDER ORDINANCE 2019-07 AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF LOCKHART, TEXAS, TO RECLASSIFY THE PROPERTY KNOWN AS LOT 1, BLOCK 1, RMSR SUBDIVISION, LOCATED AT 115 SOUTH GUADALUPE STREET, FROM RHD RESIDENTIAL HIGH DENSITY DISTRICT TO CLB COMMERCIAL LIGHT BUSINESS DISTRICT.

There was discussion.

Mayor Pro-Tem Sanchez made a motion to approve Ordinance 2019-07, as presented. Councilmember Castillo seconded. The motion failed by a vote of 3-4, with Mayor White and Councilmembers Westmoreland, McGregor and Michelson opposing.

ITEM 5. CONSENT AGENDA.

Councilmember Michelson made a motion to approve consent agenda items 5A, 5B, and 5C, as amended. Mayor Pro-Tem Sanchez seconded. The motion passed by a vote of 7-0.

The following are the consent agenda items that were approved:

- 5A: Approve minutes of the City Council meeting of March 19, 2019.
- 5B: Approve Resolution 2019-10 approving the Capital Area Council of Governments (CAPCOG) Air Quality Program Fiscal Year 2020 Local Funding.
- 5C: Approve Ordinance 2019-09 authorizing utility customers to opt-out of utilizing the Advanced Meter Infrastructure (AMI) meters and to add a requirement to pay a meter exchange fee and a monthly meter reading fee, as amended.

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ITEM 6-A. DISCUSSION AND/OR ACTION TO CONSIDER APPEAL BY PRINCE DEVELOPMENT OF THE CONSTRUCTION BOARD OF APPEALS' RULING FOR THE DRIVEWAY, FLATWORK, AND POOL DECKING AT 1025 MAPLE STREET.

Mayor Pro-Tem Sanchez stated that she did not believe that the contractor intentionally violated city codes. She stated that she believes that since two engineers providing their opinion that the driveway meets or exceeds the City's building regulations, she will vote in favor of the appeal.

Councilmember Michelson asked for clarification about the City enforcing the 10-year warranty of the driveway and decking for all owners within a 10-year period. Mr. Wells replied that the terms of the warranty would be a part of the contract between the contractor and the homeowner as two private parties, and that the City would not be involved with the duration of the warranty provisions.

Councilmember Castillo suggested that variances be resolved before the homeowners be allowed to move in. He spoke against the appeal because he did not believe the Council should set precedence on approving these types of variances.

Councilmember McGregor stated that she would vote in favor of the appeal and suggested that staff research methods to avoid these types of situations in the future.

Mayor White spoke against approving the appeal because he believed that each building contractor should be required to follow the City's building regulations.

Councilmember Michelson stated that because two engineers certified that the driveway and decking met and exceeded the City's building regulations, he would vote in favor of the appeal.

Construction Board of Appeals' ruling for the driveway, flatwork, and pool decking at 1025 Maple Street.

Mayor Pro-Tem Sanchez seconded. The motion passed by a vote of 5-2, with Mayor White and Councilmember Castillo opposing.

DISCUSSION AND/OR ACTION TO CONSIDER ORDINANCE 2019-08 ITEM 6-B. "SIGNS", "PROHIBITED SIGNS AMENDING CHAPTER 46 **SECTION** 46-4 LOCATIONS", AND CHAPTER 50 "STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES", SECTION 50-6 "LANDSCAPE INTRUSIONS AND OBSTRUCTIONS IN PUBLIC AND STREETS" OF THE CODE OF ORDINANCES, TO ESTABLISH SIDEWALKS STANDARDS FOR THE USE OF THE PUBLIC SIDEWALKS IN THE CENTRAL BUSINESS DISTRICT FOR OBJECTS SUCH AS TABLES, CHAIRS, FLOWER POTS, MERCHANDISE, AND **OTHER PROMOTIONAL** PORTABLE STATUTES, SMALL SIGNS, ASSOCIATED WITH ABUTTING BUSINESSES.

There was discussion regarding changing the height limit for objects of items that are against the building from 6 to 8 feet.

Councilmember McGregor made a motion to approve Ordinance 2019-08, with the deletion of the six-foot height limitation. Councilmember Castillo seconded. The motion passed by a vote of 4-3, with Mayor White, Mayor Pro-Tem Sanchez and Councilmember Michelson opposing.

ITEM 6-C. DISCUSSION AND/OR ACTION TO CONSIDER A ROAD CONSTRUCTION AND REIMBURSEMENT AGREEMENT BETWEEN CONTINENTAL HOMES OF TEXAS, L.P., AND THE CITY OF LOCKHART, FOR AN EXTENSION OF MAPLE STREET IN CONJUNCTION WITH THE DEVELOPMENT OF THE PROPOSED VINTAGE SPRINGS SUBDIVISION.

Mayor Pro-Tem Sanchez made a motion to approve the agreement, as presented. Councilmember Mendoza seconded. The motion passed by a vote of 7-0.

ITEM 6-D. DISCUSSION AND/OR ACTION REGARDING APPOINTMENTS TO VARIOUS BOARDS, COMMISSIONS OR COMMITTEES.

Mayor White requested appointments to boards and commissions. There were none.

ITEM 7. CITY MANAGER'S REPORT, PRESENTATION AND POSSIBLE DISCUSSION.

- Economic Development Updates:
 - o ACC (Austin Community College) began their new workforce training programs in Lockhart at the LISD Cisneros Campus on March 26.
 - o The Culinary Room featured by HEB at https://www.youtube.com/watch?v=OpaAlCvxT40 (Retired Spurs guard Bruce Bowen in ad).
 - Lockhart's designation as Opportunity Zone drawing investment interest.
 - O Visionary Fiber Technologies, a company engaged in technology transfer from Texas State University in San Marcos, plans to open in April.
 - The Turner Company is nearing completion of the first phase of its precast concrete plant at FM-142/Cistern Road.
 - Stanton Apartments expect to have first phase completed by May and all completed by fall 2019;
 all 148 apartments are market rate.
 - Lockhart Springs Apartment are under construction and expected to be completed by late 2019;
 40 of 48 units are income restricted, 8 units are market rate.
 - Valero Gas Station along FM-142/City Line Road is nearing completion and plans to open by end of April.
- Events:
 - o Sip n Stroll will be held on April 6 in downtown Lockhart.
 - o Kiwanis 1K and 5K runs on April 13th.
 - O Clark Library is hosting Fiesta del Mariachi event on Saturday, April 27 at 6:30 p.m.
- GBRA is in the process of finalizing the City's Wastewater Discharge Permit Applications for both of our wastewater treatment plants. Staff will bring this item to Council on April 16th. Permits must be renewed through TCEQ every five years. Our current permits expire February 2020.
- Legislative Update.
- Update on SB 2414/HB 4427 regarding a proposed non-tolled four lane divided highway connecting I-35 north of New Braunfels with SH 130 in Guadalupe County.
- City participation in a Law Enforcement Best Practices Recognition Program.
- City staff has replaced the landscaping around the marquee signs located at MLK Jr. Industrial Blvd. and South Colorado Street with decomposed granite and decorative boulders.
- Scheduled City cemetery cleanup is complete.
- The Municipal Court cleared 80 warrants during the 2019 Warrant Round Up.
- Staff began the City Attorney Request for Qualifications process with a deadline date of April 12.

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ITEM 8. COUNCIL AND STAFF COMMENTS - ITEMS OF COMMUNITY INTEREST.

Councilmember Westmoreland invited everyone to the Sip-n-Stroll event this weekend.

Councilmember Mendoza thanked the Electric Department for adding additional lighting at FM 672 and at the old Carver School.

Mayor Pro-Tem Sanchez congratulated the Lockhart Little League for a successful opening ceremony on Saturday. She expressed condolences to the family of Dr. Donnie Wilson for their loss. She inquired about the status of the Facility Naming Policy. Mr. Lewis replied that staff is working on the final draft to present to the Council soon.

Councilmember McGregor invited everyone to the Old Settlers Music Festival as well as other free music events around the square next weekend.

Councilmember Castillo invited everyone to upcoming events. He thanked staff for their work and a special thank you to the Lockhart Fire Department for doing their best to provide public safety.

Councilmember Michelson invited everyone to the First Friday event. He expressed condolences to the family of Phillip Taylor, former Mayor of Mountain City, Texas for their loss.

Mayor White congratulated the Lockhart Little League for successful opening ceremony. He congratulated Carcara for a successful one-year anniversary. He also invited everyone to the First Friday event, and he thanked the Greater San Marcos Partnership for providing an update about economic development efforts.

ITEM 9. ADJOURNMENT.

Mayor Pro-Tem Sanchez made a motion to adjourn the meeting. Councilmember Mendoza seconded. The motion passed by a vote of 7-0. The meeting was adjourned at 10:04 p.m.

PASSED and APPROVED this the 16th day of April 2019.

CITY OF LOCKHART

Low White, Mayor

ATTEST:

Connie Constancio, TRMC

City Secretary

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