



450 Thunder Head Lane • P.O. Box 1150 • Annetta, Texas 76008 • (817) 441-5770

City Council Meeting Minutes

The City Council of Annetta met in a regularly scheduled meeting on Thursday, July 15, 2021, at 5:30 p.m. in the Annetta Town Hall at 450 Thunder Head Lane to consider the following agenda:

Dustin Schmitt hosted the WebEx and gave an introduction and instructions to the panelists and attendees.

WORK SESSION

- I. **Call to order.** Mayor Sandy Roberts called the meeting to order at 5:40 p.m. There was one person online via WebEx.
- II. **Roll call/Quorum check.** A quorum check revealed that Mayor Roberts and Council Members Shane Mudge, Kent Stasey, Jim Causey and Bruce Pinckard were all present. Council Member Danny Coffman was absent. Also present was Jamee Long, City Secretary.
- III. **PUBLIC INFORMATION ACT (PIA) TRAINING.** Andrea Russell, attorney with Taylor, Olson, Adkins, Sralla, Elam, conducted a PIA training for the Town Council and public. Ms. Russell presented a Power Point presentation and discussed the scope and process of the PIA. She stated that the Act gives the public the right to ask for information held by the city. The process of the Act is set forth in the Local Government Code and there are certain steps a city must follow under the Act. Ms. Russell stated that a PIA request must be in writing and cannot be a verbal request. The public can ask for copies of information or ask to inspect copies of information. This information can be either electronic or paper. Ms. Russell stated that the city can release the information or ask for a clarification of the request and/or narrow the request. The city cannot ask why the information is being requested. Ms. Russell stated that the city will never recoup their costs for staff time and expense for the PIA requests. She stated that in certain instances \$15 an hour can be charged for labor plus the time to locate, compile, print or reproduce the information. The city can also charge \$.10 per page for copying. The cost estimate to the requestor must be in writing and the requestor must agree to the costs before the city performs the work. If the cost is more than \$100, the requestor will need to pay a 50% deposit prior to the city gathering the requested documents. Council Member Mudge asked if the labor rate would be paid to the individuals gathering the documents. Ms. Russell stated that only city staff would be paid for their time spent gathering information. Council Member Causey asked if an unpaid council member that had spent 17 hours gathering information would be paid. Ms. Russell stated that the council member's time could be charged to the requestor but that the council member would not be paid. Council Member Causey asked if the requestor does not specify how they want the documents, then how should the city produce the documents. Ms. Russell stated that if the requestor does not specify how they want the documents, the city should provide copies. Ms. Russell stated that if the information is confidential, then the request would be

sent to the Attorney General for a ruling. Council Member Stasey asked if attorneys' fees could be recovered. Ms. Russell stated that attorneys' fees cannot be recovered due to a PIA request. Ms. Russell stated that a request must meet a 50 page threshold before labor can be charged. She stated that if the information can be quickly obtained, it must be released promptly. She stated that "promptly" means "as soon as possible." Ms. Russell stated that if a city has a small staff or skeleton crew, the requestor may not get the information as quickly as a city that has a larger staff. She stated that there is a misconception that information must be released when a PIA request is made within 10 business days. Ms. Russell stated that the 10 business day rule is calculated from the day the city received the request until the day an Attorney General ruling was requested. She stated there is a 10 business day rule for submitting the request to the Attorney General for a ruling on whether the information must be released. There is no "hard and fast rule" the information must be released within 10 business days, but the requestor must be advised of an estimate on how long before the information is released. When the city requests a clarification, the clock is stopped until the requestor responds with their clarification. If the requestor does not respond with a clarification by the deadline, the request is withdrawn. If the city estimates that the cost of the request exceeds \$40, a cost estimate is sent to the requestor. The requestor can agree to the charges or change their request. The cost estimate of the request must be sent prior to the information is gathered. City staff will perform cost tests to calculate the cost estimate. The general rule under the PIA is that everything created by the city and public officials is public information. She stated there are exceptions in the Local Government Code for public information such as statutes, common law and case law regarding legal exceptions that require cities to withhold information. Citizen, Guy Wilson, stated that he is the secretary for the Planning & Zoning Commission. He said that he takes notes during the meeting but then types up the minutes when he goes home. He asked if his notes are subject to a PIA request. Ms. Russell stated that after the official minutes are approved, you no longer need to keep your notes. Council Member Pinckard stated that he occasionally keeps notes during meetings and then he gives his notes to the City Secretary. Mr. Pinckard stated that establishing good practices is key. Ms. Russell also stated that the Town would need to follow their records retention policy. She discussed missing a deadline and the mandatory and discretionary exceptions in the law. Mandatory exceptions are the type that requires the city to withhold information but still requires an Attorney General opinion. Discretionary exceptions are when a deadline is missed and the Attorney General does not get sent a letter timely, then exceptions are waived. She stated that draft documents are subject to a discretionary exception. Council Member Pinckard stated that rather than a staff person making a decision that could possibly backfire, the correct process is what's really important. Mr. Pinckard stated that citizens don't always understand the process. He stated it is very important to follow the process even though it may not meet an individual's deadline. This is in order to protect the interests of the city and citizens. Mr. Pinckard stated that the "city is the citizens." The processes are in place for all citizens. He stated that this may seem difficult, but this could be avoided if the requestor is more clear in their request for information. He stated that the process can be very expensive, very time consuming and no one is well served and the citizens bear the costs in one way or another. Ms. Russell stated that someone may feel it is a simple request, but the document has a date of birth, so an Attorney General opinion must be requested. She stated this is the law for everyone. Mayor Roberts stated that the law applies to all cities. Ms. Russell discussed previous determinations that have been made by the Attorney General's office. She discussed the standard information determination. This is when the city has already received an Attorney General opinion and another requestor requests the same information. It is not required to request another Attorney General opinion. The prior ruling can be applied to the new request. She discussed the "applied to all" determination. These are determinations that the Attorney General has made that apply to all cities. There is an "applied to all" determination which are determinations that the Attorney General puts out that apply to all cities and that do not require a ruling. Ms. Russell discussed the "applied to you" determination that cities can request from the Attorney General that could be a certain redaction going forward. This determination only applies to certain categories of information. The most common "applied to you" determination is used by law enforcement. She discussed the temporary custodian being a past or present officer or employee who, while transacting official business, creates or receives public information that has not been provided to the public information officer. This includes text messages, posts to social

media and notes. If this is being done in your official capacity, that is public information and should be given to the public information officer and is subject to retention requirements. Citizen, Guy Wilson, requested that Ms. Russell clarify "in your official capacity." Ms. Russell stated that it is difficult to take off your "public official hat" and that any comment on social media regarding city business is an open record. She stated that if you post to Facebook, whether your account is public or private, regarding city business this must be retained pursuant to the Town's records retention policy. You can transfer these records to the public information officer or preserve them on a privately owned device in separate backup form to comply with records retention. Council Member Causey asked if the City Secretary is copied on an email or it is addressed to her, does it relieve him of the obligation of keeping it on his device. Ms. Russell said that once it is in the possession of the public information officer, it does not need to be kept any longer. Council Member Causey asked if there was an open records request that requested the information and Jamee was copied on the email, would he need to produce anyway. Ms. Russell stated that it would depend on how the open records request was worded. Council Member Mudge asked if he were commenting on an issue that was not city related but another entity, would this be considered as official city business. Ms. Russell stated that it would be an issue if several members were commenting on the same post it could be considered a quorum and could be an Open Meetings Act violation. Council Member Pinckard stated that a response could trigger hours and hours of work for a FOIA response. He stated information requests should be directed to the city's email at info@annettatx.gov. Council Member Stasey stated that it is more about open communication but in reality it is the opposite because communication can be cumbersome to keep up with and could be a liability to keep up with. He stated that communication needs to be kept in a controlled environment so it is accessible. Ms. Russell stated that social media can be a great tool for communicating with citizens on announcements or successes. City Secretary, Jamee Long, asked about everyone turning in their notes and how this could be searchable for an open records request. Ms. Russell stated that the records retention schedule would need to be followed regarding notes. Council Member Mudge asked if the state has a records retention policy. Ms. Long stated the city has adopted the Texas State Library and Archives Commission's records retention policy. Ms. Russell stated that the public information officer has the duty to obtain records for open records requests from public officials. Once the public information officer requests public officials to search their records pursuant to an open records request, the burden is then on the public official and the public official has 10 days to respond and get the information back to her. The 10 day deadline for the city does not begin until the public information officer receives the information back from the public official. Ms. Russell stated that if the public official does not get the information back to the city in a year, it's not on the city. She stated there are some potential penalties if a public official fails to comply. Ms. Russell discussed the technical definition of public information being anything written, produced, collected and maintained by the city or for the city or by an individual officer or employee of the city in his or her official capacity and the information pertains to official city business. She explained the definition of official city business is if the information is created by, received by or maintained by an employee in their official capacity or on behalf of the governmental body. Ms. Russell stated that every form of information in any location covered by the Act as it pertains to city business is an open record. She stated that it does not matter what device the information is stored. Ms. Russell advised to keep your personal separate from your city business even if it requires 2 cell phones, 2 email addresses and 2 filing cabinets. Council Member Stasey stated that it would be the public official's choice but would make things easier to have 2 devices. Citizen, Guy Wilson, asked if the law could confiscate your personal device. Council Member Stasey and Ms. Russell confirmed that if there was a lawsuit, the personal device could be confiscated. Mr. Wilson asked how common is that situation. Ms. Russell stated that it has occurred but is not common. She stated that personal information on a public account is subject to the PIA. Council Member Causey asked if he had a city email account, city laptop and city phone, if someone accidentally sends a personal email to his city account should he not answer the email? Ms. Russell said that you will not open your entire personal email account if someone sends you an email about city business and you do not answer. She recommends forwarding the emails related to city business to your city email account and respond from there. Ms. Russell discussed common exceptions to PIA requests and private information. She stated that dates of birth and emails addresses are considered private. Council Member Causey asked if

he has a city laptop, can he just hand the laptop to the citizen to review if there is a request. Ms. Russell stated that there could be information that would be considered confidential so that would not be possible. Council Member Pinckard stated that the process can be burdensome for public officials. Council Member Stasey stated that everything would need to be reviewed prior to release. Mr. Stasey also discussed the costs associated with PIA requests. He thanked Ms. Russell for the information she presented tonight. Ms. Russell thanked the council for requesting the information. The workshop ended at 6:53 p.m. and Mayor Roberts requested a break for a few minutes.

Mayor Roberts reconvened the meeting at 7:00 p.m.

- IV. **Pledge of Allegiance/Invocation of Prayer.** Council Member Shane Mudge led the pledge and Council Member Bruce Pinckard gave the invocation.
- V. **Roll call/Quorum check.** A quorum check revealed that Mayor Roberts and Council Members Shane Mudge, Kent Stasey, Jim Causey and Bruce Pinckard were all present. Council Member Coffman was absent, but joined the meeting via WebEx at 7:30 p.m. Also present was Jamee Long, City Secretary.
- VI. **Public Comments:** There were no public comments and one person was joining via WebEx.
- VII. **Consent Items: Reports from City Staff and Commission or Committees:**
 - a. Consider the approval of Minutes from the Regular City Council Meeting on June 17, 2021.
 - b. Public Works Report.
 - c. Financial Report.

Council Member Pinckard moved to accept all consent items as written, Council Member Stasey seconded the motion, with all aye. Motion passed unanimously.

- VIII. **New Business:**
 - a. **Discussion and Action:** Consider (1) selecting an offeror for the labor, materials, construction and installation of one Paluxy Formation public water supply well and related appurtenances for the Lakes of Aledo water system, and (2) authorizing the Mayor to negotiate and execute a final contract with the selected offeror. Council Member Causey moved to discuss this item, Council Member Stasey seconded the motion. Council Member Causey asked if Dr. Harkins has reviewed the bid. Council Member Stasey read Dr. Harkins' letter in the council packet. Council Member Pinckard stated that the bid was received and read aloud. Mr. Pinckard stated that the bid was for \$124,000 with 4 additives. Dustin Schmitt pulled up the bid from Erwin Water Well Drilling for the audience and WebEx to view. Council Member Pinckard stated that the additives are \$5,000 to add plug to 6-inch diameter hole to base depth of 290 feet as specified in the technical specifications, \$375 to add or deduct per hour for well development more or less than the base 16-hour period, \$100 to add or deduct per hour for production testing more or less than the base 54-hours, and \$250 to add or deduct per hour for production testing more or less than the base 54 hours. Council Member Causey asked if this was not included in the \$124,000 bid. Mayor Roberts stated that the total amount should not exceed \$129,725. Council Member Causey asked if the additives were not added in the bid package. Council Member Pinckard stated that it was in the technical specifications but it was not in the bid. Council Member Causey moved to accept the bid as amended by the engineer's recommendations not to exceed \$129,725, and authorize the Mayor to negotiate and execute the final contract with Erwin Water Well Drilling, Council Member Stasey seconded the motion,

with all aye. Council Member Causey asked if there was any other interest related to the bids. Mayor Roberts stated that there was only one bid. Council Member Causey asked if there was any reason why only one bid was received. Council Member Pinckard stated that the bid package was published but only one bid was received. Motion passed unanimously.

- b. **Discussion and Action:** Consider authorizing the Mayor to execute a letter of engagement to George, Morgan & Sneed CPA for the Town's financial audit year ending September 30, 2021. Council Member Causey moved to authorize the Mayor to execute a letter of engagement to George, Morgan & Sneed CPA for the Town's financial audit year ending September 30, 2021, Council Member Stasey seconded the motion, with all aye. Council Member Pinckard stated that the price will increase a small amount but the Town's audits continue to be good. Mr. Pinckard stated that staff continues to have good organization for a smooth and thorough audit. Council Member Stasey also commended staff for the organization during the annual audit. Motion passed unanimously.

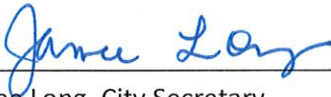
- c. **Discussion and Action:** Consider authorizing the Mayor to issue a proclamation for the Town of Annetta to raise awareness of Monarch Butterfly conservation efforts and habitat creation and preservation. Mayor Roberts read the proclamation. Council Member Pinckard moved to authorize the Mayor to issue a proclamation for the Town of Annetta to raise awareness of Monarch Butterfly conservation efforts and habitat creation and preservation, Council Member Mudge seconded the motion, with all aye. Council Member Stasey stated that he enjoys seeing the Monarchs when they come through Annetta. Motion passed unanimously.

- d. **Discussion and Action:** Presentation of the draft 2021-2022 Town of Annetta Budget for Council consideration and approval. Authorize publication of the 2021-2022 Town of Annetta Budget Hearing in the Community News. Council Member Stasey moved to open this item up for discussion, Council Member Pinckard seconded the motion. Council Member Stasey discussed the 2021-22 Enterprise Fund budget. Council Member Pinckard discussed SCADA expenses and the recent price increase in materials and supplies. Council Member Stasey discussed the amounts budgeted for emergency preparedness. He also discussed utilities and how well the water system performed during the freezing temps in February. Council Member Causey discussed the increased costs for testing and chemicals to run the system. Council Member Pinckard discussed the increases in administrative costs. He stated there will be a large increase in technology and legal fees due to the vexatious open records requestors. Council Member Stasey stated that these costs will not be recouped and have been reviewed by the Finance Committee. Council Member Pinckard stated that our society is "turning a page." He stated that every society seems to bear the costs of actions of a few and that it saddens him. Mr. Pinckard stated that there may be a need for additional staff to handle open records requests. He stated that citizens want clean reliable water and good roads. If we're spending money on open records requests, the money will come from other items. He stated that some open records requests are aimed at harming someone. Council Member Stasey stated that the Finance Committee is also saddened that additional funds will need to be budgeted for these matters. Council Member Causey stated that the reserves are for planned events. He stated that we do not have a property tax so funds must come from another item. Council Member Pinckard stated that revenues are strong and the city has been able to provide steady and continuous quality water. Mayor Roberts noted that Council Member Coffman joined the meeting via WebEx at 7:30 p.m. Council Member Causey stated that sales tax revenue continues to be "healthy" and franchise fees have also increased. He stated that permit fees are "flow through revenue." He continued that legal and technology expenses have increased due to open records requests. Council Member Mudge asked about the new emergency preparedness item in the budget. Council Member Pinckard stated that items will be needed to prepare for future emergencies. Council Members Stasey and Pinckard discussed additional road and drainage repairs needed in the future. Council Member Causey discussed the CCPD budget. He stated that money has been budgeted for speed control devices, crosswalk lights and possible UTV for the school

district to use. Council Member Pinckard stated there would need to be legal review regarding a UTV for the school district's use. He discussed the importance of good relations with the school district and the school's police department. Mr. Pinckard discussed other uses for CCPD funds. Council Member Causey moved to publish the notice for the 2021-2022 budget hearing in The Community News on July 23, 2021, post the preliminary budget to the Town's website, and schedule the budget hearing on August 19, 2021, Council Member Pinckard seconded the motion, with all aye. Motion passed unanimously.

- IX. **Items of Community Interest.** Mayor Roberts reminded everyone about Bearcat Nation 101 on Saturday, August 7, from 9:00 a.m. until noon.
- X. **Adjournment:** With no further business before the council, the Mayor adjourned the meeting at 8:26 p.m.

These minutes were approved on the 19th day of August, 2021.



Jamee Long, City Secretary



Sandy Roberts, Mayor