MINUTES
ELGIN CITY COUNCIL SPECIAL MEETING
TUESDAY, NOVEMBER 27, 2018
ELGIN LIBRARY CIVIC CENTER, 404 N MAIN STREET

CALL TO ORDER

Mayor Pro Tem Jessica Bega called the meeting to order at 7:01 p.m.

ROLL CALL

Present: Jessica Bega, Mayor Pro Tem
Susie Arreaga, Council Member
Mary Penson, Council Member
Juan Gonzalez, Council Member
Daniel Lopez, Council Member
Phillip Thomas, Council Member
Sue Brashar, Council Member
Neil Beyer, Council Member

Staff: Thomas Mattis, City Manager
Charles Cunningham, Finance Director
Michael Gonzalez, Parks Director
Doug Prinz, Utilities Director
Charlie Crossfield, City Attorney

Mayor Pro Tem Bega stated that Mayor Cannon was ill and would not be in attendance.

INVOCATION

Council Member Penson gave the invocation.

PLEDGE OF ALLEGIANCE

Mayor Pro Tem Bega led the Pledge of Allegiance to the United States and Texas Flag.

GENERAL DISCUSSION

1. Review and Discussion of Staff Report regarding various issues associated with the extension of services to an area in the southeast quadrant of the city annexed in 2015 and related matters.

Mayor Pro Tem Bega stated that City Manager Thomas Mattis would speak and provide a presentation and afterwards everyone that was signed up to speak would have an opportunity to do so.

City Manager Thomas Mattis stated the presentation was the same one as the one at the last meeting and that he would go over it briefly. He stated everyone probably had a basic idea about the area being spoken about, the southeast quadrant of the city, and that the map was used before and reflected in the report. He stated it showed the existing city limits at the time of the annexation, and that there were actually two, to be discussed later, and completed in December of 2015 and included 131 acres with a variety of existing land uses. He stated that at the time of the annexation the primary objectives were in response to Bastrop expanding their jurisdiction and significant growth and development anticipated in that part of town. He stated the map is the City of Bastrop's ETJ map that was not available at the last presentation, showing Elgin and an area in the darker color representing Bastrop's legislative ETJ, and over time they had expanded their area. He stated that as required by state law the extension of all city services is required within a five-year period. He stated wastewater services had not yet been extended there and the only service that would require a significant capital investment on the city's part. He stated this was Aqua Water Supply's service area, so they were responsible for all water services out there and all other services were provided out there since the annexation. He stated that as it relates to the extension of wastewater services an analysis of the current situation was that it is approximately 47 tracts that would need service, and fewer than 50 single family homes. He stated that to serve the entire area would require about 15,000 linear feet of sewer main, with cost at this point based on a preliminary estimate is about 2.8 million. He stated that even at the maximum rate of residential development for that area it would calculate to be 667 single family lots meaning essentially if all that property out there developed into single family homes it could hold 667 but that was not anticipated. He stated that through impact fees only about a third of the cost would be recovered to extend the services out there. He stated that some of the other issues spoken about representing a bit of a challenge for the city is Code Enforcement and that this was an area that is still largely engaged in rural use and many of the properties are not in compliance with city code, although the city had not been aggressive in that area but that would need to be stepped up and would represent a change for the property owners out there. He stated that land development was another issue that is now coming to the forefront, with the requirements for land development such as platting, subdividing property, developing property, and building permits, are all more stringent in the city than the county. He stated that there were some development agreements that were executed at the time of the annexation with thirteen different owners of 300 acres of property. He stated those were not annexed because they have this development agreement and basically have voluntarily included themselves into the ETJ and are subject to annexation if they ever change from their current single-family use and ag exempt. He stated the financing related to the wastewater for improvements had no existing funding currently available, and a financing plan was not put together at the time the annexation was done.

He stated there will be a partial offset in the cost from impact fees and as the wastewater is extended and the existing owners tie into the system they will be required to pay the $1600 impact fee, and if everyone of the fifty properties out there tied in, it would generate $8000 but that would not be a significate amount as it relates to the investment. Mr. Mattis stated no grant funds were anticipated to be available for this project so the only real financing option available is the issuance of new and additional debt. He stated that in conclusion from this analysis the current situation we are in was not unusual for cities for support of an annexation over time and in our particular case the city has a new Mayor, new Council Members and new City Manager and staff on board now and even though it has only been three years there have been a lot of changes which is why this conversation is going on now, to make sure we are still committed to this project. He stated many of the details included in the report made available now were not available at the time of the annexation, in particular the cost or plan for extending wastewater service. He stated that in order to comply with the law, the wastewater services would need to be extended by the end of 2020 and there was still time to do that with the project anticipated taking the better part of a year to design and construct. He stated that as with any project staff felt compelled to identify any possible alternatives and that the only real alternative that was apparent was to consider de-annexing the area, and while that was an unusual step it would avoid the city making this investment in both capital costs and operational impacts. He stated that de-annexation was a unique situation and not typical to cities, and that if was the option the city was going to consider it would take a very deliberate approach.

Mr. Mattis stated that a few things had come up since the last meeting and information had come to him through Council Members and citizens, and he wanted to clarify that the report was on the city website and could provide copies if needed. He stated one comment that was received was that not all the information was included in the report. Mr. Mattis stated that all of the pertinent information was included and that as Council is aware things that the city is not going to do does not need to be identified and that if some of the information people were seeking was not in the report does not mean the report is not complete. He stated another comment received which created some confusion was that when the annexation was done there was actually two different annexations that combined, that made these two properties immediately adjacent to each other so there had been an assumption made that there is two different projects to talk about and the information included in the report, in particular the almost three million dollars that needs to be spent on extending the wastewater system needs to be doubled because there are two different annexations, and that this was not the case. There were two annexations strictly for legislative, legal purposes to get those done, and once they were done considered to be one area in the city limits, so the analysis done in the report extending wastewater services out there is for the entire annexed area, both areas, and that there were not two different annexations. He mentioned other comments made at the last meeting that were about the flood plain and flood maps that may be changing in the future, which was probably correct, and with all we had experienced in this part of the country in the last couple of years a lot of flood plain maps would be changing.

He stated as that related to the city's responsibility in this area that it has no relevance to the city as the city does not do anything in the way of flood plain management that is totally a FEMA controlled issue that we have to comply with. He stated that the information we provide helps those flood plain maps get updated but it would not have any impact on services the city provides or doesn't provide. He stated that changing of the flood plain and flood plain maps may have an impact on individual property owners and what they can do with their property moving forward but that issue would not have any impact on city services at all. He stated all city services were already being provided out there with the exception of wastewater and was another issue that there may be confusion about. He stated that when property is annexed into the city the basic concept is that you join the city and receive the same level of services as everyone in the city does. He stated there was not a direct correlation between the taxes paid and services provided, and that all the services had been provided and the taxes properly assessed in receipt of those services moving forward. He stated that on January 1st is the date of taxation in Texas and whatever property is owned on January 1st is what someone is liable for in taxes. He stated that maybe some thought if the de-annexation happened before January 1st, they would not be liable for the taxes, but that he did not see that as a possibility as de-annexation is a very involved process. He stated trash and recycling services had been brought to his attention and was something that would be changing and that since the area had been annexed curbside collection of trash and recycling has been available and provided to all of the residents in that area or should have been. He stated the way services are paid as it relates to trash and recycling collection, is that the city contracts for the services and charge for those services based on providing the services to everyone who lives in the city, regardless if they use the service or not, pays for trash and recycling collection. He stated that he was told that when the annexation occurred people were told they needed to come in and sign up for trash and did not know why it was done that way and should not have been and will not be handled that way moving forward. Mr. Mattis stated that when this process goes forward then everyone will receive carts and everyone will be billed for the trash collection and recycling. Mr. Mattis stated that another item that came up in the feedback that was received it was suggested that there were other required upgrades to infrastructure out there that the city is supposed to do as far as this annexation. He stated that this is not correct and he believed someone looked at the city code and ascertained what is required for new development, such as if the use of the property is changed, if you are a new developer and bring in a new project and build new homes, then it is required to upgrade water and sewer system, fire hydrants, street lights and in some cases curb and gutter in the street, drainage and all of those things, but again only for new development. He stated that this annexation does not trigger a requirement on the city's part to do any of those things, and that the fire hydrants are not the responsibility of the city. He stated that Aqua water supply was solely responsible for the water services out there and any upgrades to the water system including any installation of fire hydrants and Aqua would make the decision on whether they would do it or not. He stated that the street lights would be the same way and not required simply because the property was annexed.

He stated that the city does on a periodic basis throughout the town make decisions during the budget process where certain improvements may want to be made and this area would be open for some conversation, but that it was important to understand that the city was not required to make any of these upgrades in this area. He stated it was mentioned that these items were not mentioned in his report and that is why they were not included because they are not required and there are no plans to do so.

PUBLIC COMMENTS

Mayor Pro Tem Bega opened the Public Comments.

Ronnie Hardi spoke and stated he would like to be de-annexed and that his dad lives inside the city limits and was afraid that if the city went ahead with this project his dad's taxes would go up, and that his father was retired and on a fixed income, and that the city would not get any of the money back that they were talking about.

Gail Ernes was called but opted not to speak.

Margaret Alexander spoke and asked that the city not de-annex this property and when it was done the owners did not have a choice, and after it was done, they were excited and now they were being told it was being taken away from them. She stated she was also retired but that it would be nice to have the city services and asked they please consider not de-annexing them.

Robert Wenske spoke and stated he had a presentation and would try to summarize it and wanted to go back to the initial annexation process and that he realized this Council was not involved in the discussions when they were first talking about annexation. He stated that when the annexation was introduced to them, they were told that if they did not annex the City of Bastrop was going to move in and take them over which he did not see that happening, and that they would be receiving all these city services. He stated that they already had these services, that they had septic and water and most had contracts with garbage collectors and had to wait until that contract expired before he could sign up for the city service. He stated that the trash service was not particularly efficient in that area, but that it was getting better. He stated the only benefit he could see with the annexation would be the fire hydrants, but as the City Manager said that was not part of the service provided. He stated that none of the city services were services they would benefit from and that the city would not get 100% signup on sewage and would not recover all of the money. He stated that he understood that services once annexed were to be provided within 4 1/2 years which was quickly approaching and the city was going to have to hurry up and get this done or one of the stipulations granted says that if it is not completed in that time then those in that area can petition to be de-annexed and the city has to give all of the taxes back for the last 4 ½ years.

He stated he was not interested in getting his taxes back but would be happy being de-annexed.

Chris Cielencki spoke and stated he was against the annexation and he knew they would not get their money back from taxes and that was fine. He stated when they got annexed, they thought some of the services would be good like trash, even though they had no problem with the trash service they had before, but now they were constantly having to call for trash pickup or trash is half full and that it was terrible trash service. He stated that on the road the grass grows high and that the city mows most of the time but not all the way down 1704 and that sometimes you cannot see pulling out of the driveway and that needed to be looked at. He stated security was another issue and that they have an alarm system and have arrived from Austin before the Elgin Police Department did, and these were the reasons against annexation.

Bill Carlson spoke and stated he wanted to be de-annexed and that was why he was in attendance. He stated he had a solution everyone could live with and the solution was that the City of Elgin maintain their contiguous property, maintain their ETJ, give them everything they want and still get everything the city annexed the property for. He stated the city annexed the property to say the city did not want Bastrop to come up the road. He stated he had a solution to address all of their concerns and give the city what they wanted all at the same time. He stated he had done the research and had an example with him. He stated that in 2015 they were annexed, and Mr. Crossfield stood up prior to the annexation vote and told everybody they had 4 ½ years to provide the services and was very clear that the sewer line had to be in front of that house in 4 ½ years and whether they connect up to it or not they had to have it there. He stated he lived in area 2 which has about 25 residents and are in the fully annexed area. He stated he did some quick calculations and that area 2 by itself is going to have 10,000 linear feet of sewer and he was not sure how all of that could be done with 15,000 linear feet. He stated that when all of this started, they asked for the same development agreement people who were annexed had, the city would get their contiguous property, expand the ETJ and that they did not want to be in the city. He stated that they asked to be left alone to live in their houses but if they developed it then it would come in the city. He stated this development agreement would allow the city to meet the property owner's needs and meet the city's needs, with then getting the benefits of being de-annexed and quit paying taxes and that the city would not have to provide any services to them. He stated he would work to vote down any bond the city would try to get.

Mayor Pro Tem Bega reminded Mr. Carlson that if he wanted to discuss this further, he could contact the City Manager and set up a meeting.

David Townsend spoke and stated he had the same sentiments as Mr. Carlson and did not ask to be annexed. He stated that if they were going to be annexed, he did not understand why they were not afforded all of the privileges of the city.

He stated the roads were horrible and if the city was saying they were not obligated to do anything for the roads, the city was forcing them to do something they never asked for, could not recuperate any money they put into this, and the city just had the right to kick them out. He said unlike some of the others he wanted his money if that is how they would be treated.

Mayor Pro Tem asked if any Council Members had any comments.

Council Member Gonzalez spoke and stated that he understood how these people feet, paying taxes and expecting services. He stated that he was one of the ones watching Manor and Bastrop and that some may not know the ETJ is 1 1/2 miles from our city limits and Manor has 5 1/2 miles, with Pflugerville north of us. He stated all of these cites were encroaching and coming close and that he was not advocating for keeping them in, but that Bastrop and Manor had a lot more money than Elgin does and city taxes for Bastrop would be a lot higher than Elgin taxes.

Mayor Pro Tem Bega spoke stating what was disturbing to her was the level of inconsistency in services and that the city worked hard to have that consistency of service. She stated that for that area it does need a lot of work and what happens from time to time it has just come into play with all of the other priorities of the city. She stated that area is growing but growth was going on in other places so unfortunately what happens is just a matter of level of priorities. She stated it was important to give attention to those level of services and if that meant going out there and assessing what needs to be mowed, having Code Enforcement go out there to ensure that the basics are covered at the very least it was what need to be done and would begin today.
City Manager Thomas Mattis stated that it was important to understand our commitment our requirement is to provide, as he stated earlier, that when a property is annexed the property and people that live there come and join the city, the city as it exists and the level of services the city is committed to providing is the same level of service the city provides everyone and that to his knowledge the city had done that. He stated just last week he had become aware of this inconsistency with trash collection and just because of annexation does not mean brand new streets, new sewer lines or new water lines. He stated the level of Police protection provided out there was the same that was provided to everyone else. Mr. Mattis stated that in response to a gentleman that spoke about mowing, that was something that was done consistently, and that 1704 was maintained by the county as it was their roadway.

Mayor Pro Tem Bega asked for clarification, that for the people that choose to stay annexed were there any options in regard to whatever decision was made, did they have an option to stay in the city limits regardless of the Council's decision.

City Manager Tom Mattis stated that yes, and important to understand that the property is annexed, and all the property is in the city now.

He stated that he was not here when that decision was made, it was in the city now, and that his sole objective here was to comply with the law and fulfill the commitment the city made when the city annexed the property, so de-annexation is the only alternative to proceeding with the installation of the sewer as it was designed that will serve the entire area. He stated an option for Council to consider is whether to proceed with that investment and then talk about de-annexation. He stated there were many possibilities such as can part of it be de-annexed, de-annex some, different types of agreements with property owners in exchange for de-annexation. He stated it would take analysis on the staff's part to understand all the different unintended consequences of considering the de-annexation at this time. He stated all property that is annexed into the city has to be contiguous with the existing city limits. He stated another comment he wanted to respond to, was that to proceed with this the 3 million dollars needed for this project it would most likely require a debt issuance on the city's part, but that it would not be a debt issuance that would go to the voters, it would be a decision the Council would make.

Mayor Pro Tem Bega stated that she had another question and stated she knew there several people here who requested wastewater services when they were first brought into the city and that she wanted to understand what that process was like and the expectation back then as far as if they requested wastewater services what then, what happened after that? Was the city obligated to not necessarily provide the services because we had a level of time to do that and that what she didn't understand was what were they told and what can they expect now. She asked if the request is still valid and assumes that it is, and if the city is required to provide those wastewater services why take in additional requests if eventually that area is going to be serviced with wastewater.

City Manager Tom Mattis replied he was not here at the time and did not know if there were a legal element to formally making that request but that he had not received any since he had been here, but that did not mean just because they did not put in the request, they would not get the service.

City Attorney Charlie Crossfield spoke and stated that since the city annexed the law has changed where it is virtually impossible for cities now to involuntarily annex anybody, and had the city known that at the time the city probably would not have bothered to annex these properties if the sole reason was to thwart Bastrop from coming up there. He stated if the worry was if the city de-annexed this property it would give Bastrop a chance to come in there and annex it that is not going to happen. He stated the laws have changed and he legislature is making sure changes aren't made like they were in the past.

Mayor Pro Tem Bega asked what was next and how would the city go about finding out who would not like to stay within the city limits if it would be by mail or how to get the people in the area to get additional input.

City Manager Tom Mattis stated that would be hard because there was a number of property owners that would be affected and there has been conflicting views so it would be difficult for an assessment at this point how every property owner feels. He suggested if Council is interested in giving further consideration into the possibility of de-annexing some or a few the first step would be a briefing from the City Attorney and do it in Executive Session.

Council Member Thomas stated that there was obviously enough support for de-annexation, and they needed to take that seriously and look at the different options to legitimately weigh and make sure the people in that area are taken care of and doing our part by getting all of the details.

Mayor Pro Tem Bega stated she wanted to clarify when she mentioned the level of basic services, she was speaking specifically to trash collection.

Mayor Pro Tem Bega stated Council would be going into Executive Session and everyone was free to stay but would have to wait outside. She stated they would continue the discussion in Executive Session but that no action would be taken.

City Manager Tom Mattis stated he did not anticipate having this on next week's Council meeting and they would still be gathering information and would probably be in the January meeting.

Mayor Pro Tem Bega closed the regular meeting at 8:14 p.m. and moved into Executive Session pursuant to Chapter 551 of the Texas Government Code.

Mayor Pro Tem Bega reconvened into the regular meeting from Executive Session at 9:17 p.m. and stated that Council had given direction to the City Attorney and the City Engineer to continue to explore options and bring back to Council some of those options early next year and that going into the month of January at the regular Council meetings updates would be provided as part of the City Manager's report.

City Manage Thomas Mattis reminded everyone about the Christmas party next week.

Mayor Pro Tem Bega adjourned the meeting at 9:18 p.m.

Jessica A Bega

Mayor Pro Tem Jessica Bega

ATTEST:

Amelia Sanchez

Amelia Sanchez, City Secretary