Village of Salado, TX
Regularly Scheduled Board of Aldermen
Meeting Minutes
Municipal Building, 301 N. Stagecoach Rd.
Thursday, May 21, 2015 6:30 p.m.

Members present: Mayor Skip Blancett, Mayor Pro Tem Fred Brown, Alderman Frank Coachman, Alderman Michael McDougal, Alderman Amber Preston Dankert, Outgoing Alderman Hans Fields, Incoming Alderman David Williams

Members Absent: None

Others Present: Christina Lee– Acting Village Secretary, Jack Hensley - Chief of Police, Debbie Charbonneau – Executive Director, Kim Foutz – Village Administrator

I. **Call To Order** : Mayor Blancett called the meeting to order at 6:40 p.m., quorum present.

1. Austin, Music Director from First Baptist Church, led the invocation.

2. Pledge of Allegiance and Texas Pledge were recited.

II. **Reports:**

Mayor's Report: The Mayor expressed that this is a new year. This is a new time for thinking and working. He reminded the citizens that we are heavily involved with Sanctuary, road construction, sewer, downtown, main street, the chamber partnership, the stagecoach, and much more. We are in a time in Salado's history that will shape our future. He reminded the everyone that the members of the BOA care about Salado and its residents.

Environmental Report: No report

ETJ / Annexation Report: Alderman McDougal noted that the Annexation Committee would be meeting next week during which they will discuss municipal service plans, plat variances, marketing agreements, annexation ordinances and agreements, and tax abatement policies. He stated they would be seeking legal opinions on each area of discussion concerning annexation. He reminded that the goal is to bring in more citizens and increase the overall tax base of Salado. Alderman McDougal anticipates an extensive report during the first BOA meeting in June.

Ordinance Committee Report: No report. Alderman Coachman went on the record to publically thank Alderman Hans Fields for his time and service to this committee. His insights were considerable and very on-task and Alderman Coachman looks forward to working with him on other projects.

Main Street Report: Mayor Pro Tem Brown reminded that A&M students had presented several different options for Salado. He stated there would be a town hall meeting, but we were waiting on school to let out.

Street Improvement Committee: Alderman McDougal reported that repairs had been started on Salado Plaza and Mill Creek and they were very welcome. He reminded that they were on schedule and actually anticipated the project being completed ahead of the projected timeline.

Stagecoach / Wastewater Report: – Administrator Foutz reported there was an item on the Agenda later this evening that will address most of the work in this area, which is contracting with an operator for the treatment plant. There are also ongoing discussions regarding wastewater rates. She noted that Alderman Fields had done much of the background work gathering information. Additionally, staff was researching market rates statewide for wastewater in order to set rates for Salado.

Village Administrator Operational Report: no report

Monthly Reports (given at the first meeting each month): No reports

Financial Report: Handout only.

III. Election Items:

3. Administer the Oath of Office to newly elected Aldermen.

Judge Don Engleking administered the Oath of Office to re-elected Alderman Fred Brown, re-elected Alderman Michael McDougal, and newly elected Alderman David Williams.

4. Elect an Alderman to serve as Mayor Pro Tem for a term of one year.

Alderman McDougal nominated Alderman Brown to serve as the Mayor Pro Tem. Nomination was seconded by Alderman Dankert. There being no other nominations, Mayor Blancett asked if there was a motion that Alderman Brown be elected Mayor Pro Tem by acclimation. Alderman Coachman made the motion and it was seconded by Alderman Dankert the motion passed unanimously (5,0).

IV. Public Comments:

5. None

V. Consent Agenda

6. Consider approving the Consent Agenda items:

   a. Minutes, Special Called Meeting, March 26, 2015
   b. Minutes, Regular Meeting, May 7, 2015
   c. Consider ratifying an amendment to Resolution R-2015-115 related to project cost and matching funds for the Texas Department of Transportation, Transportation Alternatives Program (TAP)
   d. Consider a letter to elected official regarding the I-35 Reconstruction project

Motion was made by Alderman McDougal to approve the Consent Agenda as presented, Mayor Pro Tem Brown seconded, Alderman Williams requested item "d" be removed from the consent agenda. The motion to approve consent agenda items "a", "b", and "c" passed unanimously.

Alderman Coachman asked if Mayor Blancett would read the letter to elected officials, agenda item "d", out loud so that the public would be more aware of what that letter entailed. Mayor Blancett read the letter aloud. (see attached)

Motion was made by Alderman Coachman to submit the letter read into the record regarding the I-35 construction project to our elected State and Federal Legislators with copies sent to TxDot officials. The letter should be made available to for citizen signatures at the Village Visitor's Center from May 22-26, 2015. Mayor Pro Tem Brown seconded.

Alderman Williams wanted clarification of what the letter was intended for, who it was intended to, and who it was from.

Administrator Foutz clarified that the letter would be deemed formal correspondence from the Village of Salado. It was the request of the Chamber of Commerce that all of the Alderman sign the document, which is why it has to be on the Agenda.

Alderman Williams stated that he can agree with the intent of the letter, our frustration with the lack of progress on I-35, he was concerned with some of the verbiage in terms of the way some of the things were said. He pointed out examples such as; 'TxDot personnel not being given the latitude, authority, or tools'. He stated he had not, and did not know if the board had seen any factual information to support that statement. He pointed out that if there were statements in here that were going to be official and go forward, we certainly as a board be reviewing any factual information to support those statements. He also

questioned whether or not this would need to have a legal review to insure we were not saying anything that would hold us liable as a city for making accusations that potentially may not be true.

Alderman Dankert confirmed that in the last couple of public forums, those words came out of TxDot's mouth about not having the ability to control the contractors, that is what is being referred to in the letter and it was actually publically announced by TxDot.

Mayor Pro Tem Brown assured that everything in the letter was factual and that the letter was being sent out not only as the BOA, but also as a community. He believes everyone is tired of the way they have been treated by TxDot and James construction. He said it was time to get help from State and Federal Legislators and it was time that this project was completed and we get back to the job of taking care of Salado, Texas.

Motion was re-read by Alderman Coachman to submit the letter read into the record regarding the I-35 construction project to our elected State and Federal Legislators with copies sent to TxDot officials. The letter should be made available for citizen signatures at the Village Visitor's Center from May 22-26, 2015. The item passed (4,1) with Alderman Williams voting nay.

VI. <u>Regular Agenda:</u>

PUBLIC HEARINGS/ORDINANCES:

7. Public Hearing – Hold a public hearing and consider a variance from Sections 3.4G1(a) and 3.4G2(a), Area Regulations of the Zoning Ordinance, for a residential minimum lot requirement and a residential minimum rear yard setback at 500 Whispering Oaks.

Administrator Foutz – Gave background on the variance application submitted by Reuben and Deborah Schiller. Informed that the site is zoned SF-7, single family residential, and requires a 21,781 sq. ft. minimum lot size, as well as, a 25' minimum rear yard setback. The applicant is requesting to be able to build on a lot that is 18,200 sq. ft. with a minimum rear yard setback of 15ft. This lot was platted prior to annexation and these restrictions did not apply at that time. They have gone through the process of checking with the Bell County Health Department and have gotten approval for septic on this site. The applicants meet all of the requirements for approval of the variance. Notices were sent to ten (10) property owners within 200 feet. We received five (5) responses, all in favor. Special note, there are a number of cases like this, where lots were platted smaller than a half-acre prior to annexation. Generally these are considered non-conforming legal lots. We need to make changes to the ordinance so that property owners do not have to seek variances provided their lot was platted prior to annexation (or this ordinance) and provided their septic systems are approved by Bell County.

Alderman Williams asked Mrs. Foutz if she was saying no house could be built on the lot, or just not the house the applicant was purposing.

Mrs. Foutz advised that currently our regulations require a half-acre lot regardless of the size of the house and there is no way to remedy the fact that it is not a half-acre lot.

Alderman McDougal asked if there were other lots similar to this in the Village.

Kim Foutz – Confirmed that was correct, both lots with homes and without currently exist that are smaller than the minimum requirement. She stated she rode around with an area realtor who pointed out various lots to her that were non-conforming, some of the homes looked like they could have been built in the last few years.

Alderman Williams asked if any of the houses that are existing on smaller lots had been given variances, or if any of these homes looked like they encroached the 25ft setback.

Administrator Foutz answered that we did not come across any. If there were any properties that should have had one, staff cannot speak to that. She said that during the drive-by they were really looking at the minimum lot size, not setbacks.

Mr. and Mrs. Schiller approached the Board stating they were trying to build around some existing oak trees that were on the property and were trying to design a home that would fit the lot. She stated in regards to the rear setback, there would only be a portion, the length of a garage, that would be less than the 25' minimum and that the rest of the home would meet the setback requirement. She stated the third car garage in question would function as a storage building and workshop. She did not think the lot could bare a separate accessory building.

Alderman Coachman asked if the garage was detached from the main structure if there was a different setback requirement.

Chrissy Lee, Code Enforcement Clerk, clarified that there is an allowance for a five foot (5') setback on a detached building as long as that building is ten feet (10') or more from the main residence.

Public Comment, Hans Fields, 818 Blaylock Circle – He reminded the Board that there are several lots that are around town that do not meet this minimum lot requirement and that if the Board blocked this request they would have to turn down all others. He feels it would be beneficial to the Board and the Village to approve this request.

Motion was made by Mayor Pro Tem Brown to approve a Variance to Sections 3.4G1(a) and 3.4G2(a), Area Regulations of the Zoning Ordinance, reducing the residential minimum lot requirement from 21,781 sq. ft. to 18,200 sq. ft. and reducing a residential minimum rear yard setback from 25' to 15' at 500 Whispering Oaks. Alderman McDougal seconded.

Discussion:

Alderman Williams commented that he wanted to make sure that the perception is not that we determine our ordinances based on the side of the house that you want to build. That is not what the purpose of our ordinances are. They are to protect the community and protect right of ways, to add to the aesthetics of the city, to preserve setbacks from the road, keep the oak trees and green grass of Salado and if you just say we will move houses up or back, we have to be careful that it is not just because I want to build a big house on a small lot. He stated he was impressed that the applicants desired to preserve Salado.

Alderman Coachman noted that five (5) neighbors of this property responded in favor of this variance. He also noted the way the lot sits, this could also be considered a side yard.

Mayor Pro Tem Brown apologized for the disappointment this variance might have caused as the property owners were under the impression this was a buildable lot they had purchased. Expressed gladness for them being in the community and looked forward to them building their home here.

Question:

Mayor Blancett re-read the motion having been called by Mayor Pro Tem Brown and seconded by Alderman McDougal. The motion passed unanimously (5,0).

8. PUBLIC HEARING – Hold a public hearing and consider a variance from Section 3.4G2(a), Area Regulations of the Zoning Ordinance, for a residential minimum front yard setback at 1901 Kevlin Trail from 25' to 20'.

Administrator Foutz – Gave background on the variance application submitted by John Wilson. Informed that the site is zoned SF-7, single family residential, and requires a 25' setback in the front yard. The applicant is asking for a 20' setback and meets all of the requirements for approval. The main reason is topography. This particular property has retaining walls anywhere from 3-10 feet and they are having to work around those. It would be difficult to develop residentially without this variance. Fourteen notices were sent out to surrounding property owners. We received 7 responses, 4 in favor, 3 opposed.

Mayor Pro Tem Brown asked what the reasons were that 3 of the neighbors sited in opposition.

Administrator Foutz read the 3 opposing responses. (available upon request)

Curtis Cook, home designer, spoke on behalf of the applicants – This lot has a fall of 14 to 15 feet from the front to the back. The existing homes up the street probably had drainage that wasn't addressed properly and as a result flows onto this property. They are trying to adjust the house on the property so that the drainage can flow properly. Moving the house forward 5' is the only way to address the drainage and maintain the septic system where it is to be located.

Motion was made by Alderman Coachman to table this item till the end of the meeting for additional time for thought. Mayor Pro Tem Brown seconded and the motion passed unanimously (5,0)

MICSELLANEOUS:

9. Presentation, discussion, and possible action on Resolution R-2015-116 authorizing Salado Police Officers to provide traffic control services and utilize police vehicles for James Construction Group, LLC on the I-35 Reconstruction Project.

Kim Foutz – James Construction is the general contractor here in town for the I-35 construction project. They have requested assistance from various police departments in the area, specifically, to provide the traffic services that are required by their contract with TxDot. This would be on an independent contractor basis. James Construction would coordinate with the officer individually, compensate the officer individually, and compensate the Village $10 per hour for the use of police vehicles. We have two adopted documents in the city which allow for this type of contracted work, our employee handbook and the police department's general orders. The City of Temple is taking the lead on scheduling officers with all of the surrounding cities. The Village of Salado Police Department General Orders do allow for outside employment, not to exceed 14 hours per day. Outside employment must be requested in writing and submitted to the Chief for approval.

Alderman Dankert asked what the impact was to the officers and the Village in regards to the 14 hour limitation and if they were called in on an emergency here in Salado.

Chief Hensley explained that during emergency situations, the 14 hour time limit would be waived. The Village would always come first. He said he did not feel this would impact the officers safety or ability to perform their job.

Alderman Williams questioned the use of city vehicles by a contractor, specifically who would repair or replace equipment if it were damaged.

Chief Hensley stated that would be the Police Departments responsibility unless it was damaged by another party, where we would then file an insurance claim against that person. He reiterated that is why we would be getting $10 per hour for the use of the vehicle, in case of damage or mechanical failure.

Alderman Dankert asked if we had enough vehicles that if one went down, we could still continue our work here in the Village.

Chief Hensley responded that we have made it work in the past with vehicles that have needed repair.

Alderman Williams asked other than the car, what other equipment would we be loaning out.

Chief Hensley responded that the officers are responsible for their own weapons and additional equipment, they are not provided by the Village.

Alderman McDougal said he has seen other agencies on the highway for James Construction and asked if this was the same type of arrangement.

Chief Hensley clarified that each agency can be working under different arrangements. Some agencies contract directly with James Construction and pay their officers time and a half, while some contract with the individual officer. This contract would allow for Village officers to enter into contractor status with James Construction. The City of Temple is taking the lead and when they have openings, they would email the officer notifying of the vacancy.

Alderman Williams asked if the Village would have a contract with the contracted police officer for the loaning of the vehicle.

Chief Hensley stated they have not done that in the past and that per TxDot, the officer had to have a police vehicle to do the security work.
Administrator Foutz stated that the Village Attorney, Leah Hayes, wanted it to be known that the officers are still acting as peace officers and able to enforce all laws, they are in our city limits and don't leave their peace officer status when they are working as independent contractors.

Motion was made by Alderman Dankert not to approve Resolution R-2015-116 authorizing Salado Police Officers to provide traffic control services and utilize police vehicles for James Construction Group, LLC on the I-35 Reconstruction Project. Motion failed because of a lack of second.

Motion was made by Alderman Williams to move this item to a workshop as the schedule allows for further discussion. Alderman Dankert seconded. The motion was amended by Mayor Pro Tem Brown to suspend operations of the police department working for James Construction until the Board approved or disapproves the work at a future Alderman meeting. Alderman Dankert seconded.

Alderman Coachman asked Attorney Hayes if this would be a clearer situation if the contract was between the Village and James Construction instead of the police officers being independent contractors.

Mrs. Hays stated she had seen it done both ways, but that you could do an Interlocal and answer some of the jurisdictional issues. She said she was unable to answer questions about liability because she had not reviewed our insurance coverage. She said there were different options determined by how the agreement was framed.

Administrator Foutz requested that specific questions be forwarded to her office for research before the workshop.

Alderman Coachman stated he wanted to explore the Village being the contractor and the police officer being hired by the Village to completed the contracted work.

Motion was re-read by Alderman Williams, amendment was re-read by Mayor Pro Tem Brown and the motion passed unanimously (5,0).

10. Presentation, discussion, and possible action on an agreement for wastewater treatment plant operations and services with Lawson Water & Wastewater Solutions in the amount of $15,000 per year for a term of two years.

Kim Foutz – In July 2014, the BOA signed an economic development agreement with Salado South Wastewater operated by Terry Potts for the operation of the Stagecoach Treatment Plant. Mr. Potts has since elected to terminate that agreement effective June 6, 2015. Staff researched and located a new operator meeting all the requirements needed. His name is Bill Lawson and he owns and operates Lawson Water & Wastewater Solutions. His contract proposes operation of the plant for $1250 per month. This is strictly for service and does not include other operational and maintenance cost. He will be an independent contractor providing operational services. The contract in the Alderman packets had some changes made to it after being reviewed by the city attorney. The contract requires the operator to maintain his Class B license with TCEQ and requires the Village to maintain all permits, licenses, and insurance.

Alderman Williams asked where the money was coming from to pay for this contract.

Mrs. Foutz stated we would be bringing forward a budget amendment. We will be creating an ordinance that sets wastewater fees, however this will not break even and will draw down our reserves for two years. The market will not bare what it cost to operate the plant. The sixteen users will be billed monthly, however the difference will be made up out of the general fund.

Alderman Coachman asked when the annual 5% increase noted in the contract began.

Mrs. Foutz clarified it begins October 1st.

Motion was made by Alderman McDougal to Motion to approve an Agreement for wastewater treatment plant operations and services with Lawson Water & Wastewater Solutions in the amount of $15,000.00 per year, for a term of two years. Alderman Dankert seconded and the motion passed unanimously (5,0).

11. Presentation, discussion, and possible action Change Order #2 to the street improvement contract with APAC-Texas, Inc. DBA Wheeler from Belton, Texas for the 2015 Street Rehabilitation Program adjusting the scope and contract amount due to additional pavement deterioration.

    Administrator Foutz stated we are no longer asking for action on this item tonight. On April 23rd we did Change Order #1 which was positive. Our engineer went out to do their second markings and found significant deterioration due to the rain. Previously noted cracks have expanded considerably. We need an amendment to ad point repairs. We are not asking for the change order tonight because we have contacted TxDot to see if there may be some additional savings on Thomas Arnold Rd which would offset the cost of these repairs. We are waiting on their response. We are purposing the other point repairs take place while we wait on TxDot response to execute Change Order #2.

    Alderman McDougal reminded that TxDot has agreed to do Thomas Arnold from the bank down to Church Street. In his opinion, the more we negotiate, the more TxDot will do. He stated John Simcik, our engineer, is very much on top of this project.

Motion was made by Alderman Coachman to postpone Agenda Item # 11. Mayor Pro Tem Brown seconded and the motion passed unanimously (5,0).

8. PUBLIC HEARING – Hold a public hearing and consider a variance from Section 3.4G2(a), Area Regulations of the Zoning Ordinance, for a residential minimum front yard setback at 1901 Kevlin Trail from 25' to 20'.

Motion was made by Alderman Coachman to approve a Variance to Section 3.4G2(a), Area Regulations of the Zoning Ordinance, reducing the residential minimum front yard setback from 25' to 20' at 1901 Kevlin Trail. Alderman Dankert seconded.

Alderman Williams stated he understood where the retaining wall is on the plan and sees an additional 50' and questions why the house can't be moved five feet in that direction with minimal impact.

Curtis Cook answered that if they moved it back five feet they would have to move it to the left as well to adjust for drainage and then they lose the room they have designated for septic. The further the home is pushed back, the more issues there are in the front of the home with drainage. Even with the five foot variance, the home is still 30 feet from the street.

Alderman Williams stated his concern was if the applicant was building a bigger house then what the property would allow for and still meet the zoning codes.

Curtis Cook replied not really, even if the house was smaller it would work best on this property where they have it laid out.

Alderman Dankert reminded that the BOA had just minutes ago approved a 10 foot variance to preserve trees and this applicant is asking for 5 feet due to topography, regardless of the size of the house.

Mayor Blancett re-read the motion and it passed (4,1) with Alderman Williams voting nay.

Mayor Blancett closed the Regular Session at 8:28 p.m.

VII. Workshop Session:

Mayor opened the Workshop Session at 8:38 p.m.

12. Receive report from KPA Engineers regarding wastewater regionalization.

    Rick Kasberg, with KPA presented their findings in regards to wastewater regionalization versus construction of a new plant in Salado.

13. Discuss Committee appointments.

Administrator Foutz informed the BOA that there were several committee seats open at this time. She explained the different committees and what they entailed. For clarification the Wastewater, Stagecoach and Sewer Committee were combined with Mayor Pro Tem Brown as chair and Alderman McDougal as a member. The Police Assessment Committee was created with Alderman Williams as chair and Alderman Dankert as a member. Aldermen Coachman and Williams are members of the Ordinance Committee. Aldermen Dankert and McDougal are members of the Environmental Committee. Aldermen Dankert and McDougal are members of the ETJ/Annexation Committee. Mayor Pro Tem Brown and Alderman Dankert are on the Main Street Committee. Alderman McDougal is on the Street Improvement Committee. Aldermen Dankert and McDougal are on the Trail Committee. Mayor Pro Tem Brown and Alderman Coachman are on the Economic Development Committee.

Mayor closed the Workshop Session at 9:33 p.m.

Mayor opened the Executive Session at 9:38 p.m.

Mayor closed the Executive Session at 10:30 p.m.

There being no further business, the meeting was adjourned at 10:30 p.m.

APPROVED: _____
SKIP BLANCHETT, Mayor of the Village of Salado, Texas

ATTEST: _____
Kim Foutz, Village Administrator