

City of Springdale Council

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Mr. Glenski: Thank you Mayor Webster. Thank you very much. Thank you Mayor Webster, Council and appropriate administrators and associated positions within the City of Springdale. I only have a few notes and following up on what Mayor Webster said. We are a high tech professional consulting firm. We focus on utilizing our talents within the engineering, automation, and IT specialist fields to transform our existing factories into smart factories of the future. We do that from right here in Springdale. I can't say how happy we are to be part of the Springdale community. I want to thank everyone here tonight. All that came out to the celebration back in December. As the Mayor mentioned, unfortunately, I was in Japan at the time on business and so we continue to expand outside the boundaries of Springdale, from within Springdale to continue pursuing our business and really focusing on that need. So I wanted to say thank you to everyone. Thank you for all that you do for small business in Springdale and our small business in particular. If you ever get a chance to come over, I'd appreciate if you did. We'd be happy to show you what we have and as we continue our growth. Lastly, as a token of appreciation to Mayor Webster and everyone here, we have a small item, well, two small items but one really small item. Just a mug that I'd like to present to the Mayor on behalf of all of us.

To the residents of Springdale and everyone within the administration, thank you very much.

Mayor Webster: Thank you very much.

President Vanover: Thank you. I just want to say it was an enjoyment hearing those young voices reciting the Pledge. Thank you young ladies.

Communications from the Audience - None

Ordinance and Resolutions

Ordinance No. 2-2018

AMENDING THE ZONING MAP FOR THE PROPERTY AT 11905 KENN ROAD CHANGING THE ZONING DISTRICT FROM RESIDENTIAL SINGLE HOUSEHOLD-LOW DENSITY (RSH-L) TO PUBLIC FACILITIES (PF) (CALVARY PENTECOSTAL CHURCH)

Mr. Sizemore: Good Evening. Thank you for having us up here. My name is Anthony Sizemore I'm the Youth Pastor over at the church, representing the church tonight. Just wanted to say that we appreciate you guys approving us back in December. As far as moving forward, we have applied for the conditional use permit and we're just waiting until next week on the 13th to get that approval. That's all we have. Thank you.

President Vanover: Okay Council, you have heard the reading of Ordinance No. 2-2018. This is a second reading.

Mr. Shroyer: Some thoughts as we go along here. The conditional use permit that he spoke of. That's different than what we're doing here? They have applied for a conditional use permit under the current zoning I assume?

Ms. (Elizabeth) Fields: Greetings everyone. They have applied for the conditional use. If it is rezoned Public Facilities, daycare is a conditional use under that zoning district. If the rezoning is not approved tonight to Public Facilities, then that conditional use would not go through. Daycare is not a conditional use in the current residential zoning district. So that conditional use is contingent on tonight's approval.

Mr. Shroyer: Okay. I guess my question would be for the applicant is as a beginning of a discussion, were you aware or was the church aware when they bought the property that a daycare would not be permitted? Was it the intent of the church to operate a daycare at the time that they made the decision to buy the property?

Mr. Sizemore: It was the intent of the church to operate the daycare, yes; but, that facility did not have a daycare when we purchased it. That's why we're trying to get it to be a public use.

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Mr. Shroyer: Were they aware at the time that you purchased it that it would require a zoning change before you could. . .

Mr. Sizemore: Yes, and that's why we're trying to accomplish that.

Mr. Shroyer: My understanding was that your thought was to operate an educational facility and a daycare?

Mr. Sizemore: Yes.

Mr. Shroyer: The educational facility could be operated under conditional use in the current zoning?

Mr. Sizemore: Yes, we run a school out of our current location at 11970 Kenn Road and we're going to be transferring the school across the street to the new facility. We also, with the new facility, want to open up a daycare there as well.

Mr. Shroyer: So you don't currently run a daycare in the current facility?

Mr. Sizemore: No sir.

Mr. Shroyer: Without the zoning change, would the daycare, I assume, could be run in the existing facility under its existing zoning. Would there be any thought for doing that?

Mr. Sizemore: I'm not sure about that. Sorry.

Mr. Shroyer: Well, where I'm going is I have some concern about just changing the zoning of the property in order to facilitate a daycare. We've had some other instances where this same type of evolution has occurred where a church was established in a residential zoning. The church then wasn't a church, the property was sold. Because there happened to be a building there, the use then was looked at for a different use and just I think, I don't want to use the term "assumed", but, just the natural progression that the zoning was then changed to accommodate what was there. I have some personal concerns with moving forward in that direction if there's some other option for the church as far as the daycare.

Mr. Sizemore: I'm not aware there is another option. That was the plans when we did buy the facility is to open up a daycare there and use it as a public place for the public of Springdale and other members of the church to come and have a place for their children to stay.

Mr. Shroyer: Was that an assumption or a given that the zoning would just be changed or did the church have any conversation with anybody along those lines before they bought the property?

Mr. Sizemore: I believe so, but I'm personally not aware of those conversations, but I would assume that they did make sure that they did their due diligence in checking on that. But, in order to move forward, I believe we have to have this rezoned in order to open up a daycare in that facility.

Mr. Shroyer: Okay. To be honest with you, I have some reservations about supporting a change in the zoning to operate a daycare in what was a church and I guess my concern is from the standpoint of not only what I outlined, but a change to public facilities opens up a large piece of property for other avenues as well. If the church no longer uses the building, the church decides to resell the building, there's a number of occupancies that could go in there. In addition, there's a large area of that property that, if the church chose to, could sublet, and other types of facilities go in there, and I don't have a crystal ball to look back to the original zoning, but that property was included as residential zoning as part of a residential district at some point in time. Obviously, when the church went in the church can go anywhere they want to go, but now we're moving in another direction.

Mr. Sizemore: Our church has been in Springdale for the last 40 years. We continue to stay in Springdale. There's no intent of possibly selling the new facility. You don't have a crystal ball and neither do I. I know things happen, but, it's our intention to keep that facility and

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Mr. Sizemore (continued): to expand our ministry. Expand our church and our school and hopefully, have a daycare that can benefit Springdale and benefit our church community as well.

Mr. Shroyer: My further concern I guess would be a question for the City's zoning advice. Is it directly to the north of that property and directly to the north of the church's existing property on the east side of Kenn Road is a large piece of, What I understand to be single family residential zoned property as well that has one residence on it?

Ms. Fields: Is that this area of the City? (Points to a drawing)

Mr. Shroyer: Yes.

Ms. Fields: That is currently zoned residential single family estate, which is the lowest density residential zone that you currently have.

Mr. Shroyer: But we have now public facility on the east side of Kenn Road and now we move across Kenn Road to the west side and change that to public facility because there happens to be a building there that would fit the use that they want to use. Then if the owner of that next piece of property chooses to approach us about rezoning that property to public facilities so that they can sell to who? What could go in there under Public Facilities?

Ms. Fields: Public Facilities only allows, on a permitted use basis, schools, churches, government buildings, libraries, museums, cemeteries, community social service facilities. It's really your public and institutional uses are what is allowed in the Public Facilities districts. That's the intent of the district is that it is the district that is for your schools and your government facilities, your fire stations and the municipal center and your schools. There are a couple of conditional uses like a commercial swimming pool and a health and fitness club is a conditional use. Daycare is a conditional use, a golf driving range is a conditional use. It's a very limited list of permitted uses. It would not allow for any commercial uses. It would not allow for a grocery store or a restaurant or even an office building. It's not intended for anything other than the public and institutional uses in your city. The subject property was identified in the comprehensive plan as public and institutional and it was intended in that vision that this could serve as a nice buffer between the existing residential to the north of it and 275 since it's the property that abuts 275. So, the rezoning request is in line with the comprehensive plan. If you have any other questions, I'd be happy to address those.

Mr. Shroyer: If the property owner on the next piece of property opts to arrange with a developer for a conditional use or permitted use, golf driving range and approaches us to rezone that property to public facilities as we did with all of the adjacent properties, would we have an issue at that point as to consistency and what we have done with the surrounding properties?

Ms. Fields: I'd have to confirm with the comprehensive plan and what that property was called out for in the comprehensive plan. My assumption is that that those properties were not identified as public uses as this subject property is. Every application is a fresh application. You're reviewing this one on this application's merits. This would not set you up for any precedent things that I would be concerned about if additional residential property wanted to rezone to Public Facilities. It's a big difference between an existing church, which is a permitted use in the Public Facilities district, asking to be rezoned to Public Facilities than existing single family residential asking to be rezoned to Public Facilities. That would be something you would take a lot more looking into if that's an appropriate change in use. This is an existing permitted use in this district. Their existing church, on the other side of Kenn Road is zoned Public Facilities. That is consistent with what they currently have and with the vision and the comprehensive plan. There's a lot of things that are supporting this request that may not support a request in the future for additional property that may want to go to Public Facilities.

Mr. Shroyer: Alright. Thank you.

Mr. Parham: In case there's some concern with the fact that they have an application that is scheduled to go before Planning Commission for a conditional use, if they had not filed that application and they had waited for us to take an affirmative on this legislation tonight,

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Mr. Parham (continued): they would not have been able to get on the agenda for this month. They would have had to wait until the month of March. I hope that no one thinks that they were perhaps taking us for granted by the fact that they did file the application. They're simply trying to keep in a time step in order to move their process along if we're in agreement.

I guess the other comment that I would have is that with any of these projects, we're often faced with someone who comes to us and wants to rezone a piece of property. We have the ability, you as the legislative body, has the ability to examine that on a case-by-case basis and decide that you're not in favor of it and then simply present the arguments for why it doesn't fit. I don't think there is anything that's simply automatic because someone comes in and presents an application to us. So, you do have the ability, as we have before, to reject applications if we think they do not fit in the surrounding areas and they have a negative impact on that surrounding neighborhood or that surrounding facility.

Mr. Anderson: I have one comment and then one question. I did want to say I live in the neighborhood behind the church and both myself and the neighbors I have talked to have considered the church to be good neighbors for a long period of time. I didn't hear any concerns, at least from the people I talked to about the change across the street. I did ask some questions about if it changes hands, but, like I said, we don't have a crystal ball. The facilities type uses, at least for the neighbors that I have spoken with were consistent and not a concern. That doesn't mean that it can't be a concern for other people. The question I do have is though is I understand a part of this change would be moving the school over to the new side and child care. My question is probably more for the administration. Kenn Road, there is a history in that area of having traffic that sometimes struggles with maintaining the speed limit. Sometimes those drivers, I've observed, have been distracted. I know I've had conversations with the police department before about that and we've gone through issues and cycles of following up on that. I guess my question is if this use changes, do we have a responsibility or need to do any kind of signage changes in that area to alert the people who pass through there from Fairfield that there's more children or school area that would be brought in. Where before it had been vacant for some time.

Mr. Parham: Mr. Anderson, I guess our experiences typically are that we try to put less signage up. What we find is that signs really are ineffective. They do not do a good job of notifying individuals. Well, they do a good job of notifying, but it doesn't mean the behavior changes to adapt to what the sign is trying to get you to do. If we have concerns, I think the best option is to notify us. We will then, if necessary, place an officer out to run speed, to run radar. We'll put the radar sign that we place up in various parts of the community to gather information when we have residents who indicate that drivers are speeding. I guess the thing that I always say is that often times those that are speeding are usually the ones who live in the neighborhood and those are the ones that we end up citing. If you're speeding and you know what the speed limit is and a problem has been brought to our attention, we're going to cite you. Relative to additional signage, we can always examine the area and see if we think by adding something would be necessary and would help the problem, but for the most part, we're usually opposed to simply putting more signs up. We've had requests for "children at play", we've had requests for "blind person living in the area", "deaf person living in the area". People are still driving as they drive.

Mr. Anderson: I can appreciate that. I appreciate the feedback on the signs. There's not a requirement, being a school, that we have to do something or would it be as needed? I know that with public schools it is. I didn't know if this case is one of those requirements.

Mr. Parham: I would probably say apparently not because there was a school there previously. I know it was a college that was at Temple Baptist College that was there previously.

Mr. Anderson: Well, there is still a school across the way, but it's set back further? It's a question, I don't know.

Mr. Parham: I don't know for certain, but I'm making an assumption here, but we'll always ask the question. I don't believe that there is a requirement for that mere fact.

Mr. Anderson: Thank you.

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Mayor Webster: I had a question or just a couple of comments for the reverend. Do you have a daycare center now at Calvary?

Mr. Sizemore: No sir.

Mayor Webster: There's no daycare, just an elementary school?

Mr. Sizemore: Elementary and high school.

Mayor Webster: So both of those schools would move across the street.

Mr. Sizemore: Yes sir.

Mayor Webster: So what would take the place of those?

Mr. Sizemore: Different offices. Things for the ministry. For the church. It's not a very large school. We run probably around 100 to 115.

Mayor Webster: Well, I hope you understand that we look upon Calvary as very important part of this community. Part of the fabric of this community. Great citizens. They've done a lot for the community and I think I can speak for this group that we want to do everything we can to try to facilitate your request here. But, having said that, I think there is some concern as Mr. Shroyer has relayed. We have a situation existing right now where we went down that path of the church, it got changed to an autistic center and the autistic center wants to build on and now we've got a very unsightly site there and I don't know what the heck's going to happen to it long term wise, but the center has already told us that within ten years they're going to be vacating it, so we know we're going to have a very unsightly situation there on Cameron and Naylor Courts. That's why the concern was voiced and I share that. I really do. As much as I want to see you guys be successful and we're so glad to see that you've acquired that property, and anything we can do to help you, we'll do that within reason. We do have some long term concerns about the property.

Mr. Sizemore: That's understandable. I get that. I just want to say that on behalf of Calvary, we're so thankful for being in Springdale and having the support of you guys and the police and everybody else who have helped us and if it does not work out, we will manage and we'll make it okay, but we really hope to expand to have this daycare for the church's needs for the school's needs and to facilitate to make a larger school and growth in Springdale.

Mayor Webster: What did we do for the Higher Ground Ministries? Now that was a residential area was it not?

Mr. Parham: Yes

President Vanover: Yes

Mayor Webster: What did we approve? Did we rezone that property?

Mr. Parham: It was changed to a PUD.

Mayor Webster: Changed to a PUD?

Mr. Parham: Yes.

Mayor Webster: So would that be viable here?

Ms. Fields: PUD is always an option, but since the Public Facilities request is consistent with the comprehensive plan, it's in line with what they want to do. The uses that they are looking at doing are allowed within the Public Facilities zone. It's always a preferred option to rezone it to one of our existing zoning districts than rezone it to PUD. PUD should be reserved for very special unique circumstances that don't quite fit in one of our zoning districts. This request fits within the Public Facilities district so that would be staff's recommendation to continue with that Public Facilities so that really the PUD is really reserved for unique and special circumstances.

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Mayor Webster: But would we have more long-term control of what goes in there if it was a PUD instead of rezoning it to a Public Facilities?

Ms. Fields: Potentially, it would depend on how that PUD was negotiated. I don't think you really would gain much because the Public Facilities district is so strict on its permitted uses and really anything that's not a government facility or a school or a church it would either need a conditional use or to rezone to a different zone. You would have a lot of opportunities. If someone wanted to do something like a grocery store, they would have to come and ask for a rezoning and go through a whole process to do that so you would have that opportunity to say no. I would think that if you drafted a PUD for this area, it would be very similar to your existing PF regulations which then kind of defeats the purpose of a PUD.

Mayor Webster: Okay. Thank you.

Mr. Anderson made motion to adopt; Mrs. Ghantous seconded. Ordinance passes with five affirmative votes.

ORDINANCE NO. 4-2018

AMENDING SECTION 30.01 OF THE CODIFIED ORDINANCES OF THE CITY OF SPRINGDALE REGARDING COUNCIL OFFICERS AND DECLARING AN EMERGENCY

Mr. Hawkins made a motion to adopt; Mrs. Emerson seconded. Ordinance passes with seven affirmative votes.

ORDINANCE NO. 5-2018

AUTHORIZING THE MAYOR AND CLERK OF COUNCIL/FINANCE DIRECTOR TO EXECUTE AN AGREEMENT WITH THE CITY OF MONTGOMERY TO PROVIDE PRISONER CONFINEMENT AND DECLARING AN EMERGENCY

Mrs. Emerson made a motion to adopt; Mrs. Sullivan-Wisecup seconded.

Mr. Anderson: I was hoping the author of the administration could give a little bit of commentary for why the emergency clause needed to be attached to a jailing agreement where there might be public interest in being available for a hearing. Bringing in outside prisoners into our facilities.

Mr. Parham: There is no urgency. If you want to not have an emergency reading tonight and have it go into effect after a second reading. If you want to have it go in to effect 30 days after. There is none, outside of the City of Montgomery, may have a client they would like to bring over to our facility. Outside of that, there is no urgency.

Mr. Anderson: Thank you. I guess my concern is that, notwithstanding the client that might be interested in housing with us, if that's the only reason, I'm not sure I'm comfortable having an emergency clause attached to it if there's not something specific for Springdale's public well-being that would dictate that need. Is that something where, in order to make the change, I know we're inside of a motion, do we need to, if there's others, how do we change that? Or am I the only one that has the concern?

President Vanover: That question, everybody else would have to answer. Procedurally, we can treat this as a first reading, second reading, and then we have two options at that point. The emergency clause can stay and, if it's passed at the second reading, then it goes into effect then, or we can treat it as regular legislation and then it would go into effect within 30 days. The Mayor would have to sign and 30 days after. So, it's Council wishes as to where to go from there.

Mrs. Emerson: What's the benefit in delaying this because we can have prisoners now whether they come from Montgomery, they come from Springdale. What difference is it?

Mr. Anderson: For me, the question is just a procedural one. That just following the Charter Emergency Ordinances take away certain rights from the public to speak on it every hearing and should be used sparingly and when necessary. I'm just trying to understand if this meets that threshold that our standard is that it needs to be emergency to have the emergency

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Mr. Anderson (continued): clause. I know that's something that we decide if it's an emergency based on those cases. That's why my first question is, "Is there something that would give us an opportunity to make that determination as opposed to its convenience".

President Vanover: Mr. Parham do you have more to add?

Mr. Parham: I just had other comments, but I can wait.

President Vanover: Okay. Go ahead. Well, make the comments and Council can . . .

Mr. Parham: I'm sorry, not on that particular subject.

President Vanover: Okay, alright. Well, Council? Your direction.

Mr. Shroyer: I guess I understand Mr. Anderson's concerns and probably would share those if there we're not under a contract deadline or trying to meet a specific calendar date to get to this point. I wouldn't see a reason to not be effective after the second reading and passage if we wanted to leave the emergency clause in for that purpose, but I would also support a feeling of a second reading and pass it at that point. Thank you.

President Vanover: Well Council, are you in concurrence? Do two readings?

Mrs. Emerson: Can we ask Mr. Forbes opinion on all this?

Mr. Forbes: Sure, you can ask.

Mrs. Emerson: You want to give it to me?

Mr. Forbes: Sure. Well, I think as Mr. Parham stated, this is a situation where there is no contractual requirement. There is no state of a specific emergency that this would need to go into effect immediately. If that's the case, it was drafted this way and that's how it was presented to you. There is no requirement that Council act on it that way. You can treat it as a first reading tonight. I think the other thing to keep in mind is there are really two issues at play here. One is how many times you read it. Do you read it tonight and then have a second reading. The other is the effective date. That emergency clause that's here, the way your charter works, actually addresses both of those because when something is presented as an emergency, it allows you to adopt it after one reading and it goes into effect immediately. At this point it's a Council decision if you want to treat it that way or if you'd like to treat it as a first reading tonight. If you treat it as a first reading, it will come back at the next meeting, just like this as it's been presented, with an emergency clause and at that meeting you can decide, when you adopt it, if you want to adopt it as it's presented with the emergency clause then or if you want to make an amendment to strike the emergency clause.

Mr. Anderson: Just a follow up question to that. Is there any concern that if we did pass it with an emergency clause and that client were to come to later find out that the reason he was able to be housed here was under this ordinance that enabled the contract. We have the opportunity to challenge the validity of him being held here if the ordinance itself was passed without the emergency clause requirements being satisfied?

Mr. Forbes: If this Council adopts this as an ordinance, then you've made a legislative finding that it is an emergency and it would be signed immediately, it would go into effect immediately and if we housed somebody pursuant to that agreement, it would be completely valid.

Mr. Anderson: Thank you.

Mr. Forbes: I wouldn't let that issue sway how you want to move forward with this.

Mr. Hawkins: I think it makes sense to make this a first reading. I'm okay if we took the emergency clause off altogether, but I think it's sort of "splitting the baby" as Mr. Shroyer had said in terms of making this a first reading and on the 21st maintain the emergency clause so that it does take effect at that time if it is supported and voted for. I understand Mr. Anderson's concerns and everything that goes with it if there's an emergency clause in terms

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Mr. Hawkins (continued): of when it takes effect and people being able to contest it even after the vote necessarily, what have you. I'm okay with that process for this ordinance at this time.

Mayor Webster: Just a matter of general information here. What is your concern about the emergency clause? Are you concerned about somebody wanting to challenge the ordinance? Is that it?

Mr. Anderson: My concern is two parts. One, that the standard that we have on the charter is that emergency clauses should only be done when we deem them to be emergencies under certain cases. I think the reason for that is to give the public an opportunity to hear a reading of it and find out through the minutes or following the broadcast to be able to have an opportunity to come in and then discuss that with us. When we do a reading and an emergency clause, it takes away their right to have an opportunity to speak, but also because it goes into effect right away, it removes some of their options to challenge the legislation, which is something that I think is contrary to what the intent of the charter was. There's two parts. One is just an openness and a process standpoint. The second is just making sure that we're holding true to what the charter says that we should do as a legislative body.

Mayor Webster: I'm trying to think, I've been here for forty eight years plus. I've never recalled one person coming up after the fact saying, "I wanted to talk about that, but you took my right away from me". In half a century, that hasn't happened. That doesn't say that the next century or half century that it won't happen, but it hasn't happened in the last 48 years. Second point, I would just like to ask Council to give us some guidance. If this is going to be the way we're going to do things going forward, that we don't use the emergency clause unless it's absolutely an emergency, that's fine and dandy. We need to know that before we make commitments and so forth and so on that that's the way Council wants to operate. I think at the same time, let's not even talk about a summer recess because we will have no summer recess if we do away with the emergency clause, there will be no summer recess. I'm not saying that's a bad thing, because it caused us a lot of grief this past year, so we may very well have recommend it to Council that they don't do that going forward. We had a hell of a time with it this past year.

Mr. Hawkins: I think, Mayor Webster, that Mr. Anderson is bringing up is he wants to make sure that we are being consistent with regard to whatever the charter says. Despite maybe what has happened in the past, if the charter in terms of the explanation of when we are supposed to use an emergency clause indicates unless there is some kind of urgent circumstances to use and we're doing it when that's not the case, then we have to have either one or two things to happen. Either we have to put something on the ballot for the charter to be looked at with regard to that issue or we need to be consistent as a legislative body in terms of what we're doing. My thing is I want to make sure that we're doing what we're supposed to be doing in terms of what the law says and what our guidelines say in terms of the charter. That's my concern. The charter says we need to have some kind of "extra circumstance or emergency to have an emergency clause", then that's what we should do. Now the flip side of that is if the administration has a contract with someone or something like that and time is of the essence, put in an emergency clause. That's the definition of there being some kind of exigent circumstances in need for the emergency.

Mayor Webster: I think in some of those cases it's not what the administration wants, I think that's by law and we've got to act within so many days or the bid amount goes away.

Mr. Hawkins: Sure. I think that's a legitimate thing. I think what Mr. Anderson is talking about is there may be a circumstance where there is nothing that is time pressing or time sensitive. I think what he's referring to is if there's not something that's time sensitive, then the question becomes why wouldn't we have a second reading. Why would we need the emergency clause. I for one am not saying administration should do something different if we have something where it's a time sensitive situation like a bid or we have a contract that's sitting there waiting. I think we should have an emergency clause, but I think we should also be in a position where we need to be able to defend that if we have it. So, I'm not saying that has to change with what the administration is doing in terms of that. I'm just saying if we have an emergency clause, we should probably have some rationale as to why we have it there.

Mayor Webster: All we're looking for is some direction.

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Mr. Shroyer: I think I would agree with Mr. Anderson and Mr. Hawkins thought process is that as far as direction, I think the question in my mind is whether the emergency clause is there to meet a specific need as in contract obligation, execute a contract within a time frame, or whether it's there just as a matter of expediency or convenience. I would agree that we probably shouldn't use the emergency clause as a matter of where we make the statement in this particular ordinance "the reason for said declaration of emergency is need to execute the document at the earliest possible date". There's really no, as Mr. Parham indicated, there is no concern for us as far as an earliest possible date. There may be some concern for Montgomery or the other agencies, but, if we're not pointing to a reason that we're trying to meet some type of constraint that we would otherwise suffer some type of an issue with, then I would be fine with that as a determining factor. Is it a matter of expediency or convenience to avoid a second reading and just go ahead and get it done? Or is there something specific that we can point to that requires that we pass it in that manner? Thank you.

President Vanover: Okay. Well, we've got two things. Right now we have an ordinance in front of us that has been read. Let's do this. Let's deal with this. Are we going to treat this as a first reading and then come back? We have a motion and a second.

Mr. Anderson: We also have the opportunity, I believe to waive a second reading if it's a question of time without using the emergency clause. I'll just make sure we understand that's an option too. There's the readings. We can waive the second reading in cases where it's not an emergency, but it is time sensitive. Or, we can do an emergency clause. I think those are three different options we have as a legislative body. For this one in specific, I mean there's a motion obviously we have to deal with first. I agree.

President Vanover: So, and we'll come back to the use of the emergency clause and discussion and will provide the administration, well, we'll do it under the New Business section. We'll come back to it. So, we have an item ahead of us right now.

Mrs. Sullivan-Wisecup: I just had one really quick question on this one in general. If we don't pass it as an emergency, are we going to lose some sort of; are they going to go someplace and not go with us? I mean, I just wanted to make sure that that wasn't on the table.

Mr. Parham: I think we're one of the only players in town so they don't have many options. I guess the only comment I was going to make earlier is that you do have an executed document, so Montgomery is ready to go. I can't tell you whether they have a client or not. The other thing I was going to point out to you is you do not have an agreement with the City of Forest Park because the City of Forest Park is going through a process that they deemed that they have to go through in order to present a document to us.

President Vanover: Alright. So, Council what direction are we going with Ordinance 5-2018?

Mr. Anderson: Can I, inside of this motion, move to strike the emergency clause language from it or do we need to come out of the motion first?

President Vanover: Well, it's been read with the emergency clause. If we're going to change the title, then we're going to have to completely . . .

Mr. Forbes: At this point, there was a motion and a second to adopt. If what you're talking about is a motion to amend, actually a motion to amend can be done at any time. Even after a motion to adopt has been made and seconded. If someone wanted to make a motion to amend this ordinance right now, they could. Then, depending on what happens with that motion, that motion to adopt that's already out there would be then to adopt it as amended. If that amendment passes.

Mr. Anderson: I'd like to make a motion to amend the ordinance to remove the "and declaring an emergency clause" from the title and the body.

President Vanover: We have a motion. Do we have a second?

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Mrs. McNear: I'm sorry, I missed that one. Who seconded?

President Vanover: Mr. Shroyer was the second. Is there any discussion on a motion to amend?

Mr. Anderson: I'm sorry. Just as a procedural question. Are we able to adopt it with an emergency clause without waiving the second reading first since it no longer has the emergency clause, do we need to waive the second reading in order to pass the ordinance today or is that not required?

Mr. Forbes: I think first you should, you don't even, right now it has an emergency clause. You should deal with the motion to amend first to see if the emergency clause stays or goes and then you can decide what to do next.

President Vanover: Okay, so we've got the motion to amend. Is there any discussion on that?

Motion to amend Ordinance No. 5-2018 is in the affirmative 6-1.

President Vanover: So we are amending Ordinance No. 5-2018.

Mr. Forbes: Okay, so at this point you have another decision to make. At this point it's been read once, so you're first reading is done. If you do nothing else, it will come back at the next meeting for a second reading without an emergency clause. Although, as Mr. Anderson pointed out, you do, by charter, have an option to waive the two reading requirement and you could do that by motion. If that motion were to pass, then you could move on to a motion to adopt it tonight. It just would go into effect 30 days after.

Mrs. Sullivan-Wisecup: What's the point in doing that? I don't understand if we had an emergency clause and we voted yes, it would go through. If we amend it not to have the emergency clause what would be the benefit of passing it tonight if it's not going to a second reading, wouldn't that defeat the whole purpose?

Mr. Forbes: Two weeks. Is the difference. Right now it does not have an emergency clause. If you adopt it tonight, it goes in to effect in 30 days. If you only treat this as a first reading, and then you come back in two weeks and then adopt it, it goes into effect 30 days after that date. The difference is two weeks.

President Vanover: Well, don't we have to deal with our, just procedurally then, the motion to adopt? Do we need that retracted?

Mr. Forbes: Yes.

President Vanover: So, with that, then we need a retraction of the motion, the first and the second, to endorse the legislation and the motion was made by Mrs. Emerson and the second by Mrs. Sullivan-Wisecup.

Mrs. Emerson: I make a motion to retract Ordinance No. 5-2018.

Mr. Forbes: You don't have to make a motion to that effect. You just need to say, "I retract my motion".

Mrs. Emerson: I retract my first.

Mrs. Sullivan-Wisecup: Since there was no first, I guess I retract my second.

President Vanover: Alright. So this is the first reading. It will be back before us minus the emergency clause in two weeks, our next meeting.

ORDINANCE NO. 6-2018

AMENDING THE ZONING MAP FOR THE PROPERTY AT 11345 CENTURY CIRCLE WEST CHANGING THE ZONING DISTRICT FROM GENERAL INDUSTRIAL (GI) TO PLANNED UNIT DEVELOPMENT (PUD) (VINEYARD MINISTRIES)

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President Vanover: Okay Council, you have heard the reading of Ordinance No. 6-2018. This is a first reading. Is there any discussion this evening? Seeing none. It will be back.

ORDINANCE NO. 7-2018

APPROVING THE PRELIMINARY DEVELOPMENT PLAN OF THE PROPERTY LOCATED AT 11345 CENTURY CIRCLE WEST (VINEYARD MINISTRIES)

President Vanover: Okay, this is the first reading of Ordinance No. 7-2018. Is there any discussion this evening? Seeing none. It will be back in the next meeting.

ORDINANCE NO. 8-2018

APPROVING A MAJOR MODIFICATION TO THE PRELIMINARY TRANSITION DISTRICT DEVELOPMENT PLAN FOR 242 W. SHARON ROAD (THE HOUSING NETWORK OF HAMILTON COUNTY)

President Vanover: Okay Council. This is the first reading. Any discussion this evening? (No discussion).

ORDINANCE NO. 9-2018

APPROVING A MAJOR MODIFICATION TO THE PLANNED UNIT DEVELOPMENT AND PRELIMINARY DEVELOPMENT TO THE CASSINELLI SQUARE PUD FOR THE CONSTRUCTION OF A SMALL HOSPITAL

President Vanover: Okay Council. This is a first reading. Is there any discussion this evening? (No discussion).

ORDINANCE NO. 10-2018

APPROVING A MAJOR MODIFICATION TO THE PLANNED UNIT DEVELOPMENT AND PRELIMINARY DEVELOPMENT TO THE NORTHWEST BUSINESS CENTER PLANNED UNIT DEVELOPMENT (PUD) AT 325 PICTORIA DRIVE (FORMER BAHAMA BREEZE)

President Vanover: Again Council, this is a first reading. Is there any discussion?

Mrs. McNear: For the legal team, can we have a new ordinance for the next meeting because there was a typo in the third line, the last word development is spelled incorrectly.

President Vanover: Well now, mine is spelled right.

Mrs. McNear: Well, the official copy is spelled incorrectly. The third line last word "development" is spelled incorrectly on the official copy.

President Vanover: On the official copy. It's got a "K" instead of an "L". Any other discussion on this? (No discussion)

Old Business - None

New Business

Mrs. McNear: Council, you have two liquor license requests in your packet. One is from Jai Arman LLC dba Jai India Restaurant at 11482 Springfield Pike. This is a D1 and we also have a BSS Enterprise Inc. dba Ray's Foodmart at 11444 Springfield Pike and that is a C1 C2. Are there any concerns on either of these items?

Mr. Anderson: Were there any concerns raised by the Police Department? Have they had any complaints?

Mrs. McNear: No. As a matter of fact, I can't recall a time where we've had any issue in my tenure.

Mr. Anderson: Okay.

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Mr. Parham: There are none relative to these two. We did recently have one in which we were notified that I think the liquor license was denied of the applicant. We've not had one that we've had problems with that I can recall in a while.

Mr. Anderson: Prior to coming here you mean. The one that was denied; was denied by the State?

Mr. Parham: Yes.

Mr. Anderson: Thank you.

Mrs. McNear: Thank you.

Mr. Shroyer: Council, Public Welfare Safety and Education Committee met yesterday, February 6th. Primary purpose of our meeting and our discussion was to look at two ordinances. Ordinance 17-2007; it regards the compliment of the Police Department and Ordinance No. 8-1996 regarding the organization of the Fire Department. As you can see in both cases, one ordinance was last visited ten years ago and the other was 21 years ago. As we're all aware, when the financial issues of 2007 arose, we were forced to or Administration was forced to look in three particular areas as far as cost savings. Those being infrastructure Capital Equipment Purchases and staffing. Fortunately, we have revisited and I think addressed the infrastructure and are well on their way to addressing the capital equipment. Administration has indicated in the last two budgets that it's time now to look at staffing and we're already moving in that direction. The thought of the committee and looking at these ordinances at this particular time as we move that direction is whether Council, or we as a Council should be at least reviewing or looking at those ordinances whether it's the viewpoint of whether they need changed, amended or simply just an indication that they've been revisited in the last 21 years. What we would like to do is talk to Council or look at the possibility, or direction of some collaboration with the Administration through whether it be meetings, work sessions, discussions, but the end result being what we think those two departments should look like. Not necessarily now, or necessarily now or four or five or some number of years from now. The thought being to try to avoid rebuilding or expanding what we think we had in 2007 or as far back as 1996. Just continue in the flow until we reach some point to say that well we have evolved to where we think we're going to be now. We need to retrofit the ordinances to fit what we have evolved to. We would prefer to take a more proactive approach and at least have some view of where we think we're going; not wait until we end up there and then make the structure fit. We would be interested if Council has any thoughts or comments along those lines or whether we prefer to just evolve and then make the ordinance fit.

Mr. Anderson: I was at that meeting and just wanted to comment. I do agree that I think that it's time at least to look at the ordinances and work with Administration to make sure that those departments have the support they need from the Council ordinances for the structure. Just as we go forward. I agree with Mr. Shroyer that it's time to at least look at those. Over ten 20 years sometimes the mission of the departments has changed and it changes over time as we react to economic but also societal changes. So we just wanted to make Council aware or to make Council and Administration aware that we are looking to take a look at those ordinances and see if there's things that we can collaborate on to make sure that we're providing the best public service; especially in terms of public safety which is what the subcommittee that Mr. Shroyer was talking about is tasked to do. If I'm not mistaken, I believe we're planning to set up some of those work sessions in the future with an eye towards providing recommendations or ordinances for the rest of Council to consider. I don't believe that we're asking for any specific things tonight other than to make you and the public aware that we're looking at that and they'll be opportunities for feedback over that time.

President Vanover: You'll advise us going forward?

Mr. Shroyer: Okay. Thank you.

Mr. Parham: Council I have two items for you. On January 30th, we opened bids for the Glensprings Drive Rehabilitation Project. We received five bids. The low bidder was R B Jergens at \$859,696.39. The second low bidder was Adleta Inc. at \$880,980.04. The reason I mention the second lowest bidder is because the lowest bidder, which sometimes isn't always the best bidder for us. The lowest bidder, Jergens, requested, I believe earlier today or this

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Mr. Parham (continued): week that their bid be withdrawn. There were some items that they miscalculated in their bid that would have increased the cost of the bid to an additional \$100,000 which would have not made them the lowest bid. We have had this organization work before in the community. At that time, it was under an ODOT contract. With that project, there were some concerns that we had, but we had to work those through ODOT. In this instance, our recommendation would be to award the contract to Adleta in the amount of \$880,980.04. The budget for this particular project is \$976,364. Even with this, there's a savings of about \$95,384. If Council is in concurrence, we'd like to bring forth an ordinance at the next meeting with an emergency clause because it does need to go into effect within 30 days.

President Vanover: Does Council concur? (Members of Council nodded in agreement) You got your "thumbs up".

Mr. Parham: The second item is more of information, but we do, in the very near future, we do need some feedback from you as to your willingness to participate. For those of you who may recall, many, many years ago, there was discussion relative to creating a third traffic lane on Crescentville Road. There were drawings prepared and the project sort of went away. As Mr. Vanover and I were talking a little earlier today, he seems to recall that perhaps Springdale received funding, Sharonville received funding, but Butler County did not. In any event, those two jurisdictions met with representatives of Springdale last week to talk about a project that Butler County is proposing again to add a third lane on Crescentville Road. The third lane would really consist of adding to the northern part of the road. It would all take place in Butler County. As you are probably aware, the middle of the road on Crescentville Road is the divider with the southern part being in Springdale and the northern part in Butler County. When you cross over Chesterdale then, for a period of time you have the same with Sharonville to the south and Butler County to the north. Then it enters into Sharonville, I think, on both sides of the road. In any event, there are a number of challenges that have been identified which explains the reasons why they would like to proceed with this project. One is there are some drainage issues that currently exist on Crescentville Road near the intersection of Chesterdale that has been a problem for some time. If some of you may recall, I think maybe about four years ago, there was a project that we had discussions with both communities about implementing. In fact, if you check the Five Year Budget, you would see about \$400,000 budgeted out a number of years. The three jurisdictions had contemplated a project that would have not necessarily addressed the drainage issues, but it would've addressed the rutting and a number of other issues in the area. About two to three years ago, there was a water main break in the general vicinity. It occurred in Sharonville. Water Works had to come out and make some improvements or repair the main. This repair was able to address some of the rutting around the intersection, but there is still a lot of rutting that has taken place on Crescentville Road in Springdale, Sharonville, as well as in Butler County. The proposed project would address the drainage issue, address the rutting, and the other bumps that we have along the roadway. The project would address an issue for Sharonville and Butler County, because prior to crossing over Chesterdale into Springdale, there is a two lane road in Butler County on the Sharonville side and then it narrows down to one lane and it stays at one lane once you come into Springdale. It doesn't open up into two lanes until you're approximately about the location of GEEAA Park. That is the third issue. The other is simply an opportunity that they have or that the group would have for applying for Surface Transportation Program funds or STP funds. If you recall, the project here in Springdale for the Southbound Lane Addition, we were able to secure the same funds. The funding covered 80% of the construction cost as well as I think a portion of the construction engineering costs. In this instance, there would be a number of improvements that would have to take place. This would involve resurfacing the road, addressing the drainage issues, and adding curb in a number of locations both in Springdale as well as in Butler County and in Sharonville. It would essentially take the existing westbound lane, and that would become a turn lane for both directions, and they would add a new westbound lane to the north. There is a small stretch where they believe they would need to acquire right of way. There is no right of way that needs to be acquired in Springdale and I do not believe there's any in Sharonville that's needed either. There is a small stretch in Butler County to the north that would have to be acquired. Currently, I do not have an estimate for the overall project, but the estimate of Springdale's share that our team has identified if we were to perform the work would be \$1.4 million dollars. If we were to collaborate with these two organizations, our share would be roughly about \$500,000. About half of that would go towards our portion of the construction, the other would go towards paying the construction engineer for such a big project. Fifty

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Mr. Parham (continued): percent of the overall cost would be borne by Butler County; 33% by Springdale and the remaining 17% by Sharonville and it is based upon the frontage of the roadway and the limits of the project. The application process is due for the STP funds in early June. They really need to have some sense of whether or not we have an interest of participating. Because the application will need to be completed and a RFQ or "Request for Qualifications" for identifying the potential engineering group that would perform the design work would need to take place and so time is of the essence. They would like us to make some decision as to whether we would participate. The other part of this, if Springdale does participate, they're asking that we serve as the lead in the application process. The reason they want Springdale to serve as the lead is Butler County already has a list of priority projects. For them, if they were the lead, this project does not reach high enough on their list, and so we probably would not be successful in securing the funds. If Springdale serves as the applicant, they then would be able to provide their share of that 50% and it would not be a lesser project as it's compared to their other projects. With that, I am open for any questions or comments. . After that, hopefully you can begin to give it some thought and maybe we can have some discussions concerning the project at the next meeting or so. Then we can get back to them pretty quickly. If we don't have a desire to do it, then we probably need to let them know that as well so that they can move forward. However, if we do, then we need to begin to ratchet things up to get this application process taken care of.

Mr. Hawkins: Would all of the cost be borne in 2018 or would some of that trickle over into 2019?

Mr. Parham: No, we are putting forth the application now. The construction would not take place until about 2022. It is still some time off before the work. To apply for the funding, you just have to complete the application at this time.

Mr. Hawkins: The engineering cost though; would we end up paying for that in 2018? Would that still be off too?

Mr. Parham: You're going to start paying for the engineering because you need to start having them put the plans together and finalize those plans.

Mr. Hawkins: Thank you.

Mr. Shroyer: Are those dollar amounts assuming the grant funds?

Mr. Parham: The \$500,000? Yes. That assumes if we were successful with the grant.

Mr. Shroyer: If we're not successful with the grant, does the program project die?

Mr. Parham: I think the project is going to die.

Mr. Shroyer: Okay. Thank you.

Mr. Parham: Ours would be that \$1.4 million dollars to do our portion and I'm not sure what their numbers are.

Mayor Webster: I know we've gotten complaints over the years from some of the residents there on Crescentville; the noise from the trucks and so forth and so on. I suspect that some of those folks are going to look upon this project as just creating a thoroughfare through there and but I think I understand where they're coming from, but at the same time I think that some of the things we're going to eliminate there as far as a new surface is going to be a much smoother ride for the trucks, gonna cause a lot less noise. If we don't want to participate and Butler County goes in and does it anyway, they're going to have a three lane road. We're just not going to have our road fixed. We're not going to have our curbs and our drainage problems fixed and so on and so forth. Even though people are going to complain and have concerns about it, and we need to hear those out, I think at the end of the day we need to do this project. We really do and I think the last time we were trying to recall yesterday. I think it was 1999 when there was plans to do that and Butler County couldn't come up with their share of it and we had to back away. Now that one was a little different since there was going to be a boulevard with a service road for those residents along Crescentville which was probably nicer than this. Unfortunately, Butler County couldn't come up with their money.

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President Vanover: Council, do you have the ambition to continue?

Mayor Webster: We don't need an answer tonight. Like Derrick says, we wanted to give you a "heads up"; think about it and maybe if we could make a decision maybe at the next Council meeting that would be great I think.

President Vanover: That's fine. I for one am solidly on board for it. Ideally, the 1999 project would have gone through because that would've addressed a lot, but Butler County can do it with or without us. We still have issues that we need to address on Crescentville Road. Specifically, there at Chesterdale. That intersection. I refer to them as the wagon ruts. It seems like we fix it and in a matter of a short time, it's back again, so think about it and we'll look forward on our next session.

Mr. Parham: Just as a "things to come" and since we're in that general area, staff has informed me that the Greater Cincinnati Water Works is scheduled to begin a water main upgrade on Chesterdale, in the general vicinity of Chesterdale and Crescentville and primarily on Chesterdale. For the most part, the project is in Sharonville, but it will impact Springdale as well. Sharonville apparently approached us earlier last year about participating in a paving project, but staff shared with him that we had already outlined our projects for 2018. As you all probably recall, we've had a number of water main breaks over on Chesterdale in the last 12 months. So, I think that is what has gotten Sharonville and Water Works to move the Water Works project up sooner into 2018. The paving project may be performed sometime in 2019. We have to be prepared that Sharonville is going to approach us about paving that road, which we really should partner with them and take advantage of that opportunity just as we did on Kemper Road with Forest Park. Just for your information. Thank you.

President Vanover: As promised, we'll go back to the discussion on the emergency clause so we can provide the Administration with some direction. What are your feelings?

Mr. Anderson: Since I opened that can of worms, I should probably start with some of it. I think what I've talked about earlier is what I'm looking for. What I've heard feedback on is in the cases where emergency clauses are necessary, I think we follow through on that. Things like bids and dates where there are things that are sensitive. What I look for when I read those is the same thing the charter tells me too. When it's for preservation of public peace, health or safety of the municipality. So even in cases like we talked about earlier, if there was some contractual need or some pressing issue, I'm just looking for that information along with the ordinance when it comes. I'm just asking for that. So if that means we need to adjust some lead times for ordinary business, I think we should plan on doing that whenever possible. I believe the rule, the standard operating procedure should be to avoid emergency clauses except when it's needed, but that's my view. I'm not sure where other people are at with that. The alternative would be to adjust the charter and we certainly have the opportunity to do that if it makes it easier for us to conduct business, I'm open to that discussion. I just want to make sure that we're following and doing what the charter says.

President Vanover: Council?

Mr. Hawkins: I've already spoken on it. We just need to be consistent with whatever the charter says and if we have, I don't know if it takes all that much if someone says, "Hey, this is an exigent circumstance, this is a reason we need to get this done this time"; it's got to be defensible. Whatever it is and we've got to be able; we can't just have an emergency clause and not be able to justify it. I think if the Administration or somebody on Council can sit there and say, "Yes, this is a reason why we need to do this and it needs to take effect now", there you go. There's your explanation. I think it's defensible and I think we're in a good position to do it, but we need to make sure we're consistent with what the law says.

Mrs. Emerson: I just want to make sure I understand this correctly. The way Mr. Anderson had spoken, I guess, Mr. Forbes also, was that we had that third option of waiving the second reading. That the ordinance go into effect within 30 days after the first reading. Is that correct? So do we make that our standard? When do you decide that you have a second reading or you waive the second reading and have it go into effect right then; thirty days from that first reading. So where is our grounds on that?

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Mayor Webster: What I understand is we're going to do two readings without an emergency unless there is an emergency. Then it will go into effect 30 days after that last reading. So, in effect, we read it, it would be 60 days before a piece of legislation will actually take effect from the first time it's introduced to Council. Because you have two Council meetings, and then thirty days after the second Council meeting that it will go into effect.

Mrs. Emerson: My opinion is that I think we're holding up a lot of legislation. I think if we give them the thirty days. So, we read it without the emergency clause, and then we pass it without a second reading, that still gives the public and the other people, the residents 30 days to come back and decide that they want to speak on it or whatever. So after that first reading, without the emergency clause, the piece of legislation passes. Opinions?

Mr. Anderson: I think they're two different things, frankly. So the emergency clause, I believe is intended to be used, at least from what I've seen and read, in the cases where there is those situations that warrant it. Those three areas. As Council, we have the opportunity to waive a second reading, but again I think that's waiving something that is intended to be there except when it can't be there. At the point that you're waiving a second reading, you're taking away an opportunity for somebody. Look at the calendar dates, right, the way that we publish minutes, approve minutes, and when the public has an opportunity to review what we've done. The way it is today, we don't publish our minutes until after they've been approved at the following meeting. So, if you're in a situation where you're doing a reading, waiving the second reading, pass it within 30 days. It's possible that they won't have 30 days to review what's acted on and be enacted because the minutes where we describe and discuss it won't be published until after the next meeting. Which could be outside of that date. So, I believe that that situation where you waive the second reading should only be used when there's time sensitivity, but not an emergency. I think that's what that opportunity is there for us to use.

Mrs. Emerson: So when does the video go out to the public? What's your time restraints on that? So we have this meeting. When will it be reachable to the public on ICRC?

Mr. Parham: I think that happens about six times between meetings. If there are two weeks between our meetings, I think video is published six times between those two meetings.

Mrs. Emerson: So that does give them the opportunity to see what goes on at the meetings and what's passed and not passed.

Mr. Parham: They get a chance to see it then, they have a copy of the Pending Legislation Report that is put on the website. So there is a lot of information they have available if they have questions to raise.

Mrs. Sullivan-Wisecup: I also know that it goes online pretty much on Friday, correct? Like with the ICRC? Because I know that in the past if I was out there and I missed a meeting or something, I was able usually to watch it by the Friday after the meeting. Is that correct in general?

Mr. Parham: I'm not sure; that could be. I know it's about six times between those two.

Mrs. Sullivan-Wisecup: Okay.

Mr. Shroyer: I think that the difference is that by the time, if we have a first reading and pass the ordinance and it's effective 30 days later, what we effectively are telling the public when they get a chance to see the video or read the minutes is, "Here's what we did." Not, "Here's what we're considering doing." I would prefer to say, "Here's what we're considering doing." That allows it a two week time frame or some time frame to the next Council meeting for anybody who has a concern or opinion to come voice that opinion and allow for us to include that opinion in the vote before we make a decision as to how we vote. If we've already voted, all we're telling them is, "This is what we did". I would prefer to give them an opportunity to have a say or have a conversation prior to making a decision. Thank you. As far as the second reading with the emergency clause, I would prefer that rather than pass an ordinance on the first reading. If the second reading has the emergency clause, we have provided that time frame for people to see what we intend to do, to have that opinion and then we make a decision and

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Mr. Shroyer (continued): whether it's effective the next day or whether it's effective 30 days later, I don't think is as significant as the opportunity for people to know what we intend to do and have an opportunity to voice an opinion. Thank you.

Mrs. Emerson: Why do we have it in the charter then to waive the second reading? What is the benefit of that if none of us are going to act on that? Let's get that out of the charter then. What you're saying is if we're not going to pass it on the first reading, you're not going to waive the second one ever, or what would be the reason we would pass it on the second reading; on the first reading and pass the second reading. That's in our charter as an option. What's the benefits of that if we're not going to use it? It's two weeks.

Mr. Anderson: In terms of that option being available, I think there are situations where we might decide, as a legislative body, that we've fulfilled our duty to allow the public feedback without it being an emergency, but it's still urgent enough to not have that second reading. There are cases where we might have multiple iterations or changes in an ordinance that's been well discussed and well covered and an additional reading is simply not necessary. I can foresee those situations happening. I don't think it should be normal course. I think the charter gives us the normal course that we should use at least today, which is two readings and it goes into effect 30 days after and there's cases where you can avoid that when necessary. When necessary is up for us to decide and I think we have a lot of flexibility entrusted us to decide when that is. I don't know that we need to change that. I'm just asking us to use it when it's appropriate, not as a standard practice. Especially around emergency clauses. I can say that I know that there's other legislative bodies in the area that are being challenged on this right now and I want to make sure that we stay ahead of that situation as well. This becoming a more visible area in a lot of municipalities. Maybe not a lot. I know more than one. I just want to make sure that we are following the rules as written. That's what prompted me to bring it up again today. Thank you.

Mr. Parham: Just as a reminder, my rule with you is that I very rarely bring any legislation to you the night of and ask you to act on it. I bring the subject matter to you the meeting before, so there is plenty of time for you to ask questions that day and in preparation for when I ask you to take action at the next meeting. So there is a two-week period that you, as well as the general public have the opportunity to raise questions with us relative to the legislation that we present to you.

President Vanover: Okay. Well, Council, I think we owe it to the Administration to give them direction on how to proceed. If we want to pull back or judicious application of the emergency clause, we run with two readings in 30 days. That's possible. I mean, there is nothing that we do up here that can't be undone. There's only been one time that it was ever written in stone and they broke it and had to redo that. If that's the case, that's the way we want to go, we want to proceed, then we owe it to the Administration to know that that's what our wishes and our direction are. I guess, speak up.

Mayor Webster: I think to sum up what I'm hearing you say is you want us to have strict adherence to the charter of the City of Springdale. If that's what you want, then that's what we'll do.

Mr. Hawkins: That's all I've said. Again, it's not that we can't have emergency clauses. Eighty percent of the ordinances that come through may still have an emergency clause, we just have to be able to justify it. I think that becomes a thing. So, if there's a justification for it, either given by the Administration or given by somebody on Council saying, "We need to do this and it needs to be an emergency clause because we need to make this effective right now"; no problem. Somebody on the dais has to be able to sit here and say why this needs to take effect right now. If we sit here on the dais and nobody can say, "we need to have this done right now", then we can't defend that. That's a problem, but if it comes from the Administration or it comes from somebody on Council saying, "yeah, I think we need to", whether it's having a prisoner in from Montgomery, we need to do this right now because of "x", then we're good. I think otherwise we have to go with what the charter has. I think here's the reality of it. If there's not a justifiable reason to have the emergency clause, and put it on there, it's there for a first reading. If somebody sits here and makes a motion as to doing some variation thereof saying, "Hey, look instead of having the first reading, let's vote on this without the emergency clause", then you still have 30 days before it takes effect. Somebody

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Mr. Hawkins (continued): could make that motion as well at that point. Based on some unique circumstance as for why they want to go down that path. I think the main thing is if we have an emergency clause, we need to be able to give the rationale for why we're doing it. Either from the Administration or from Council. Someone needs to be able to speak up and say, "yes, this is why we should do that". You may still have somebody, we may sit here and say, Administration and you may have four people on Council sit here and say, "yeah I think this is an emergency". You may have three other people say, "I don't think it is an emergency". Well, then legislation will vote on whether or not that should be or not or if someone wants to vote against it, they can. We've got to have somebody sit there and say, "this is an exigent circumstance, we need to do this now". That's it.

President Vanover: Council, you're in concurrence then that normal procedure, two readings and the judicious application of an emergency clause. Am I seeing heads nod? Okay. Administration, you have the direction. Any other new business? While we're here, on current topics, I've been made aware of a situation where Council members have been texting during meetings and commission meetings. If you're just doing that, "How's the weather" or "that's annoying" or "that perturbs me", but if you're discussing Council business, whether it's here or any of our commissions, that truly is a public record. I've asked Mr. Forbes to line that out for us.

Mr. Forbes: As you pointed out, what I would remind you all is that, generally speaking, any kind of communication among Council members related to the business of the Council or the Board or Commission or whatever it is, in any form; whether it's email, text messages, letters, like people still mail letters. Regardless of the form, if it is discussing the City business and it has to do with the policies, procedures, happenings of the City; that would likely qualify as a public record. My caution is, "be aware of that" because in the event that there is a public record request, we have to be able to comply with that. The only other point I would make is there is at least an argument to be made that Council members communicating about the business of council during a Council meeting could be seen as potentially what would be called the "constructive closing" of a meeting. Your votes and your deliberations are supposed to be done publically unless they qualify for an Executive Session and I can see a situation where someone may make or raise the argument that a conversation of that type that's out of the public could be at least, arguably, a violation of the Open Meetings Act. Public Record issue, I'm much more confident that I would say that those are public records and we would need to be able to deal with that.

President Vanover: Thank you. Just let everybody be cognizant of that fact.

Mr. Parham: Just for instance, for example, question for Mr. Forbes. So if at say a Planning Commission meeting there are two residents who are communicating to one another via a text message or email, that does not constitute a public record. Just two regular non-elected officials.

Mr. Forbes: Correct.

Mr. Parham: If there is an elected official discussing the operations of the organization and communicating back and forth with a resident, would that be a public record?

Mr. Forbes: That could be considered a public record, yes.

Mr. Parham: Okay and so clearly, if there is communication between two elected officials, whether they are sitting on the dais, whether they are sitting in the audience, whether one is in the audience and one is on the dais, that too would be considered as a public record?

Mr. Forbes: Correct. As long as, if the subject matter of that is about the policies, procedures, the definition of a record under the Public Record Act, then yes, it would likely be a public record.

Mr. Parham: I guess the request that I would have of us all is that if we're going to communicate using those methods, is that somehow you find a way of retaining those records because if someone makes, as Mr. Forbes says, if someone makes a public record request of us, we have to be able to produce those records and if we can't produce those records, then we

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Mr. Parham (continued): suffer the penalty. If you can, if you're going to communicate in that manner, at least find a way of preserving those records so that we can meet our obligation.

President Vanover: Well, while we're at this point in the road, and I throw this at Administration and Mr. Forbes, probably weighted more heavily, would it behoove us to set up a, for lack of a better term, a drop box, email box that stuff gets deposited in?

Mayor Webster: Why don't we just outlaw it? Why don't we just stop doing it? Instead of wrestling with how we're going to salvage these text messages that maybe you two are sending to one another, why don't we just I mean, the agenda says right at the top "Turn Off Your Cellphones". That doesn't say silence them. It says, "turn them off". So if we just follow the rules, strict adherence to the rules, then we wouldn't have a problem.

President Vanover: Well, the only caveat of that, and it's becoming more prevalent, would be not only the cell phones, but any electronic (device), well iPad, laptop, any of that electronic data transmission or however you want to describe it; well, I've chided Mr. Forbes, I used to get bristled when he's down there and I'm thinking, "What's he playing? Kong or something down there?" He has access to their legal library that would be beneficial to us. So, I have no problem setting them aside. That doesn't bother me in the least. By that same token, I don't want to handicap our advisers of that. Again, I'm going to lean on the legal advice on that.

Mayor Webster: Well, I mean just because we have a procedure that elected officials and I think we can exclude the law directors since that does add some benefit to all of us for him to have the law library at his fingertips. There's no reason why the rest of us couldn't follow the rules. We have no electronic devices turned on during the Council meeting. What's so hard to follow about that?

Mrs. Emerson: Just a clarification. If we're not in a meeting and let's say this meeting adjourns and I get home and I'm thinking about something and I text Lawrence or Mr. Shroyer about something, about a question specific to something. So I can't even ask a question, or how about directing a question to Mr. Parham?

Mr. Forbes: You can direct questions to Mr. Parham any time you want. I'm sure he would . . .

Mrs. Emerson: He loves them.

Mr. Forbes: Maybe we're coming at this the wrong way. You need to be able to communicate however you deem you need to be able to communicate. All I'm telling you is, keep in mind that the records that you create when you do that, are public records and they need to be retained in a way that we can meet our responsibilities and obligations. So, if you need to communicate with Mr. Parham, I would never tell you not to do that. You do that to whatever extent you need to. I'm sure he would tell you the same thing. You just have to understand . . .

Mrs. Emerson: But who is keeping that record? Mr. Parham are you keeping that record?

Mr. Parham: I think we both are required to keep that record. If we, as Mr. Vanover suggested, if you were to deposit them somewhere, then they would be available at that point in time, but I think to try to have redundancy, if you will, it would be best if we both retained the record in that example.

Mrs. Emerson: So every time I ask a question.

Mr. Parham: It is a public record.

Mrs. Emerson: Every time I ask a question. I've got to keep a copy of all of that?

Mr. Parham: If you are sending a written communication, if we're talking on the phone, that's not a public record. We're talking. But if you are sending an email, if you send a text

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Mr. Parham (continued): message, if you send any sort of communication that is discussing City business, we have then created a public record.

Mrs. Emerson: That includes me speaking to residents?

Mr. Parham: Yes. If it's about City business? Yes. We're different. That's the reason I tried to give those examples of two residents that are just sitting out in the audience or they are somewhere out there and they're talking about City business, they're not City officials. We are City officials and so any time that we begin to talk about the City operations or City business, and it's in a form of a record, then it becomes a public record. And is therefore then subject to the viewing by the public or even having a copy of that record by the public.

Mrs. Emerson: Okay, but a phone conversation with a resident. Is that public record?

Mr. Forbes: No, because there is no record of it unless somebody records it and then regardless of the media, you can create a public record. A conversation, a telephone conversation doesn't create any lasting record.

Mrs. Emerson: Okay. Thank you.

Mr. Anderson: I would have a concern I'd want to share about just a blanket ban on electronic devices during the meetings. The concern about public records is understood. Anything that is created there obviously is a public record and needs to be stored and searchable just like anything else. I know we mentioned Mr. Forbes access to the law library. I have the same type of access when I'm working on the Board of Zoning Appeals and am assigned to where I'm able to search for ordinances and conversations about past actions that were made for whatever action that be in front of us. For example, if there was an issue with a certain zoning code or a certain ordinance, if I'm listening to the appeal, I have the ability to go back and search all of the minutes for the past 20 years and find out every case that that's come up on. The questions that were brought up during that conversation and how we voted on it as in terms of the ability to be consistent both in questioning and results. Something that several people tonight have talked about when we're reviewing PUD's and zoning changes. That's not something that's possible with reams of paper. I would caution us to not react too quickly to do a blanket ban or just do a single "carve out" for the Law Director. We certainly can have agreements and ordinances about appropriate use. I have no concern about that. I agree; that I think it's even covered, if I'm not mistaken in the Sunshine Laws in the open meetings laws it talks about asides during open meetings that, if you have an aside, unless I'm mistaken, that is a violation. If you're talking about business and have a side question, each of those instances is an issue. So, I don't see it as being any different than making sure that we're avoiding side conversations during open meetings. If we're going to be consistent, I think that's appropriate, but I would be concerned about a blanket ban on electronic devices just because we might have been following best practices until this was brought up. Thank you.

President Vanover: Okay. At this point, we'll trust that we've all been "schooled" and we won't have to take anybody behind the woodshed at this point. Let's face it, we have an ongoing example in front of us that we are all aware of. Just, "mind your p's and q's" and keep the storage availability and then again if requests come in, we have to be able to provide that. Be forewarned.

Meetings and Announcements

Mrs. Sullivan-Wisecup: On February 13th, in these chambers at 7:00 p.m., we have Planning Commission and also I have a reminder that the Springdale Youth Boosters Cinema Night, Cinema Horse Races Night is February 24th. It's the last Saturday of this month. The doors open at 7:00 p.m. The first race starts at 8:00. You must have your i.d. with you to enter in. You must be over 21. It is \$8.00 at the door, or you can do \$8.00 at the Community Center beforehand. If you know you're going to have a large group, please let them know and they'll reserve a table.

Mrs. Emerson: The Board of Health meets tomorrow night at 7:00 p.m. in the room adjacent to these chambers.

Mrs. Zimmerlin: I know I have mentioned this several times before, but AARP is still offering free tax help on Friday mornings through April 6th at the Community Center and you do

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Mrs. Zimmerlin (continued): need to make an appointment for that. We are holding youth spring sports registration right now for baseball, t-ball, girls softball and spring soccer. You can contact the Community Center for that. Just as a reminder, City offices will be closed on February 19th, President's Day and the Community Center will be open; limited hours from 1:00 p.m. to 9:00 p.m. on President's Day. Thank you.

President Vanover: Just a question. I had somebody ask me. The tax; that is Springdale residents only; correct?

Mrs. Zimmerlin: Yes.

President Vanover: That's what I told them, but I could be wrong.

Communications from the Audience - None

Executive Session – Discussing pending court action

Mrs. Emerson made a motion to go into Executive Session as a Committee of the Whole to Discuss Pending Court Action and Considering the Sale of Property. Mrs. Sullivan-Wisecup seconded the motion. The motion passed with a 7-0 vote to go into Executive Session. Council departed chambers at 8:59 p.m. Council returned to chambers at 9:42 p.m.

Mrs. Sullivan-Wisecup made a motion to add Ordinance No. 11-2018 to the February 7, 2018 agenda; Mr. Anderson seconded. The motion passes with seven affirmative votes.

ORDINANCE NO. 11-2018

AUTHORIZING THE LAW DIRECTOR TO EXECUTE AND SUBMIT AN AGREED ENTRY IN ORDER TO TERMINATE CERTAIN LITIGATION AND DECLARING AN EMERGENCY

Mr. Anderson made a motion to adopt; Mrs. Sullivan-Wisecup seconded.

Ordinance 11-2018 passes with seven affirmative votes.

Update on legislation still in development

Mr. Hawkins: As you review your Internal Memorandum, we had Item Number One was addressed with Ordinance No. 2-2018; an Ordinance Amending the Zoning Map for the Property at 11905 Kenn Road changing the Zoning District from Residential Single Household-Low Density (RSH-L) to Public Facilities (PF) at the Calvary Pentecostal Church which passed with a 5-2 vote. Item Number Two was addressed with Ordinance No. 4-2018; an Ordinance Amending Chapter 30 of the Springdale Codified Ordinances Regarding Council's Rules of Procedure which passed with a 7-0 vote. Item Number Three was addressed with Ordinance No. 5-2018; an Ordinance Authorizing the Mayor and Clerk of Council/Finance Director to Execute an Agreement with the City of Montgomery to Provide Prisoner Confinement and Declaring an Emergency. That was a first reading. We also had Item Number Four that was addressed with Ordinance No. 9-2018; an Ordinance Approving a Major Modification to the Planned Unit Development and Preliminary Development Plan to the Cassinelli Square PUD at 11530 Princeton Pike for the Construction of a Small Hospital. That was a first reading. Item Number Five was addressed with Ordinance No. 8-2018; an Ordinance Approving a Major Modification to the Transition District Preliminary Development Plan at 242 West Sharon Road (The Housing Network of Hamilton County). That was a first reading. Item Number Six was addressed with Ordinance No. 6-2018; an Ordinance Amending the Zoning Map for the Property at 11345 Century Circle West Changing the Zoning District from General Industrial (GI) to a Planned Unit Development (PUD) (Vineyard Ministries). That was a first reading. Item Number Seven was addressed with Ordinance No. 7-2018; an Ordinance Approving the Preliminary Development Plan (PUD) for the Property Located at 11345 Century Circle West to Permit a Variety of Uses (Vineyard Ministries). That was a first reading. Item Number Eight was addressed with Ordinance No. 10-2018; an Ordinance Approving a Major Modification to the Planned Unit Development and Preliminary Development Plan to the Northwest Business Center PUD at 325 Pictoria Drive for the

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Mr. Hawkins (continued): Construction of a Hotel at the Former Bahama Breeze Restaurant. That was a first reading. All other matters were forthcoming. We also addressed Ordinance No. 11-2018; Authorizing the Law Director to Execute and Submit an Agreed Entry in order to Terminate Certain Litigation and Declaring an Emergency which passed with a 7-0 vote.

Update on legislation still in development

Mr. Hawkins: We will have a second reading for an Ordinance authorizing the Mayor and Clerk of Council/Finance Director to execute an agreement with the City of Montgomery to provide prisoner confinement without the emergency clause. We will have a second reading on an ordinance approving a Major Modification to a Planned Unit Development and Preliminary Development Plan to the Cassinelli Square PUD at 11530 Princeton Pike. We will have a second reading for an ordinance approving a Major Modification to the Transition District Preliminary Development Plan at 242 West Sharon Road. Second reading on an ordinance Amending the Zoning Map for the Property at 11345 Century Circle West Changing the Zoning District from General Industrial (GI) to a Planned Unit Development (PUD). A second reading for an ordinance Approving the Preliminary Development Plan (PUD) for the property located at 11345 Century Circle West to Permit a Variety of Uses. A second reading for an ordinance approving a Major Modification to the Planned Unit Development and Preliminary Development Plan to the Northwest Business Center PUD at 325 Pictoria Drive for the Construction of a Hotel. An Ordinance Authorizing an Agreement with the Contractor with Adleta for the Glensprings Drive Rehabilitation Project and Declaring an Emergency.

Adjournment

Mr. Hawkins moved to adjourn. Mrs. Emerson seconded the motion and Council adjourned at 9:50 p.m.

Respectfully submitted,

Kathy McNear
Clerk of Council/Finance Director

Minutes Approved:
Tom Vanover, President of Council

_____, 2018