



City of Rowlett

Special Meeting Agenda

City Council

4000 Main Street
Rowlett, TX 75088
www.rowlett.com

City of Rowlett City Council meetings are available to all persons regardless of disability. If you require special assistance, please contact the City Secretary at 972-412-6115 or write 4000 Main Street, Rowlett, Texas, 75088, at least 48 hours in advance of the meeting.

Thursday, June 22, 2017

5:30 P.M.

Municipal Building – 4000 Main Street

As authorized by Section 551.071 of the Texas Government Code, this meeting may be convened into closed Executive Session for the purpose of seeking confidential legal advice from the City Attorney on any agenda item herein.

The City of Rowlett reserves the right to reconvene, recess or realign the Regular Session or called Executive Session or order of business at any time prior to adjournment.

CALL TO ORDER

2. EXECUTIVE SESSION (5:30 P.M.) *Times listed are approximate.

- 2A.** The City Council shall convene into Executive Session pursuant to the Texas Government Code, §551.087 (Economic Development) to discuss commercial or financial information and the offer of incentives with Life Message, Inc. for property located at 3300 Chiesa Road that the City may seek to have locate, stay or expand in Rowlett and with which the City is conducting economic development negotiations. (45 minutes)

3. WORK SESSION

- 3A.** Consider a final report regarding the construction of the public safety radio tower at 8491 Schrade Road. (45 minutes)

TAKE ANY NECESSARY OR APPROPRIATE ACTION ON CLOSED/EXECUTIVE SESSION MATTERS

4. ADJOURNMENT

Laura Hallmark

Laura Hallmark, City Secretary

I certify that the above notice of meeting was posted on the bulletin boards located inside and outside the doors of the Municipal Center, 4000 Main Street, Rowlett, Texas, as well as on the City's website (www.rowlett.com) on the 19th day of June 2017, by 5:00 p.m.



City of Rowlett
Staff Report

4000 Main Street
P.O. Box 99
Rowlett, TX 75080-0099
www.rowlett.com

AGENDA DATE: 06/22/17

AGENDA ITEM: 2A

TITLE

The City Council shall convene into Executive Session pursuant to the Texas Government Code, §551.087 (Economic Development) to discuss commercial or financial information and the offer of incentives with Life Message, Inc. for property located at 3300 Chiesa Road that the City may seek to have locate, stay or expand in Rowlett and with which the City is conducting economic development negotiations. (45 minutes)



City of Rowlett
Staff Report

4000 Main Street
P.O. Box 99
Rowlett, TX 75080-0099
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AGENDA DATE: 06/22/17

AGENDA ITEM: 3A

TITLE

Consider a final report regarding the construction of the public safety radio tower at 8491 Schrade Road. (45 minutes)

STAFF REPRESENTATIVE

David Berman, City Attorney

SUMMARY

The cities of Rowlett, Garland, and Mesquite have entered into interlocal agreements to implement a state-of-the-art multi-jurisdictional public safety radio system that will serve a number of surrounding cities. The system is founded on the use of nine radio communication towers placed at specific locations in Rowlett, Garland, Mesquite and Sachse. The system requires only one tower in Rowlett, located at 8491 Schrade Road.

Construction of the tower began on February 7, 2017. A month later, after being contacted by the property owner, City staff discovered that the construction was being done on the wrong lot. The City owned Lot 2 of the relevant subdivision; however, the tower was built on Lot 1.

Construction was immediately halted until a solution could be worked out. Rather than recommencing construction of the tower on the City's adjacent lot, staff negotiated a purchase of Lot 1 so that the City would own both adjacent lots, giving the City about 8.5 acres, which can be used for public safety facilities and other municipal purposes.

The cause of the error has been under review since the issue was first made known. The review was conducted by Tom Wendorf of Wendorf, Beward and Partners, LLC., under the auspices of the City Attorney's office. The review focused on the specific factors that caused the error, and explored whether the error was attributable to an outside source or whether it was attributable to internal factors.

It is fairly evident that the error was not caused by any one single factor, but was instead the result of a set of unique and unusual factors, described as cascading errors, that not only induced the error but discouraged its discovery. It does not appear that any of the City's outside professionals bear sufficient responsibility to attribute liability.

At the meeting tonight, the consultant will provide his final report regarding the construction of the public safety radio tower.

BACKGROUND INFORMATION

On October 17, 2006, the City of Rowlett purchased 4.24 acres of property described as Lot 2 of Block 1 of the Joy Lutheran Church subdivision, located at 8491 Schrade Road (RES 168-06). However, the Legal Description in the form of a “metes and bounds description” (the field notes) attached to the deed embraced both Lot 1 and Lot 2, for a total of approximately 8.5 acres.

In 2012, the City was contacted by the title company that had prepared the title commitment and had issued the title policy for the original purchase. The error in the legal description had been discovered by the title company, and a request was made for a correction. In 2012, the City approved a correction deed that resolved the incorrect legal description and re-affirmed that the City had acquired Lot 2. However, ever since 2006, due to the erroneous legal description in the 2006 deed, the Dallas County Appraisal District’s (DCAD) website had shown that both Lot 1 and Lot 2 were owned by the City.

Responsibility of project coordination and oversight for the tower construction was assumed by the City’s Fire Rescue Department (the property was intended to be used for a fire station and/or a fire training facility). In February of 2015, at the direction of the then-Assistant Fire Chief, the City commissioned a survey of Lot 1 by Rhodes Surveying for the purposes of constructing the radio tower. The reason why the Assistant Fire Chief directed the work to Lot 1 is unknown; however, the mistake was an easy one to make. The Joy Lutheran Church subdivision consists of only two lots, Lot 1 and Lot 2. Both lots are in the rough center of a larger tract of, at that time, primarily vacant land, and there are no geographical or topographical features that would make it easy to distinguish between the two. They are virtually identical in size and shape and, as noted, have the identical street address.

The Rhodes survey of Lot 1 was then relied on as the central document on which the engineering scope of work was developed, plans were built and on which the construction contract was based, and the City’s ownership of Lot 1 was presumed thereafter.

There were several opportunities to discover and correct the error prior to March 7 of 2017. However, given the survey of Lot 1 and the wrong ownership information on DCAD’s website, there was no apparent need to re-examine title to the property.

On March 2, 2017, the City was contacted by the property owner who advised that the City was building the radio tower on his property. It was then that the Fire Chief re-examined the background documentation and confirmed with the City Attorney that the City did not in fact own Lot 1. On March 8, 2017, the City immediately ceased work on the project to determine the best course of action.

On April 4, 2017, staff presented options to City Council and it was determined that the best option was to purchase Lot 1, which was finalized on April 7, 2017.

DISCUSSION

The error in starting construction of the tower on Lot 1 was not caused by any one single factor, but was instead the result of a set of unique and unusual factors that can be described as cascading errors, which not only induced the error but discouraged its discovery.

Were it not for the fact that the 2006 deed by which the land was acquired by the City contained a legal description that included both Lots 1 and 2, DCAD's website would not have shown that both lots were owned by the City. The remarkable similarity of the two lots made it easy to confuse them.

Nevertheless, there is a bright side: The City now owns both lots, comprising roughly 8.5 acres, and can use this land to complete the construction of the public safety training facility; to add an emergency operations center; add a police substation; or repurpose or sell the extra lot. The purchase price for Lot 1 (approx. \$478,000.00) was less than the 2006 purchase price of Lot 2 (approx. \$519,000.00). A number of recommendations have been made by Tom Wendorf that, when implemented, will prevent similar mistakes in the future.

FINANCIAL/BUDGET IMPLICATIONS

N/A

RECOMMENDED ACTION

There are no recommendations from staff and no recommended actions; this is informational only.

ATTACHMENTS

Attachment A – Final Report