

OFFICIAL MINUTES OF THE REGULAR MEETING OF THE MANASSAS PARK GOVERNING BODY HELD ON TUESDAY, MAY 30, 2017 AT 7:00PM AT MANASSAS PARK CITY HALL, ONE PARK CENTER COURT, MANASSAS PARK, VIRGINIA

Roll Call: Jeanette Rishell, Mayor  
Suhas Naddoni, Vice Mayor  
Preston Banks  
Michael Carrera  
Donald Shuemaker  
Hector Cendejas  
Miriam Machado

Absent: None

Staff: Lana A Conner, City Clerk  
Dean Crowhurst, City Attorney  
John Evans, Acting City Manager  
Calvin O'Dell, Director of  
Community Development/ Public  
Works

Also Present: Laslo Palko, New City Manager

**1. Special Meeting: Issues with Dominion Crossing:**

This special meeting has been called to address the progress made by Terra Developer at the Dominion Crossing residential development. Citizens were present tonight to see what could be done with the many ongoing issues with Dominion Crossing. The Governing Body must decide if they wish to extend Performance Bond for this project, which expires May 31, 2017.

Mayor Rishell gave a brief background review of why we are here. First, a town hall style meeting was held at the Manassas Park Fire station on December 14, 2016. This was to discuss the fact that Terra Developers had many items of work not completed on the punch list for Dominion Crossing. Terra was not present for that December 14 meeting. In order to give the developer every opportunity to make progress and to complete unfinished items on the list, no action against Terra was taken by the City at that time. Contacts were made with Terra informing them what was expected, so they could fulfill their responsibility. Another town hall was held on January 19 at the Manassas Park Police Department community room. Mr. Runnels, representative from Terra, was present at that meeting, and Terra made assurances to residents and to the City, that progress would happen. After that town hall, an extension of the performance agreement was made extending the work completion deadline until the 19th of April.

After the January meeting, weeks went by with little or no progress. This was despite the 45 days of good weather between January 19, and April 19, 2017. Only after the City expressed its intention to declare a contractor default did Terra Developers begin to show some progress. In addition, the City also learned that Terra ordered 12 street lights when the site plan called for 32 street lights. Terra made the decision to order the 12 lights prior to any lighting determination by City staff. At the April 19 regular meeting of the Governing Body, the issue of work progress at Dominion Crossing was again discussed. At that meeting, Terra requested an extension of the performance agreement until June 30th but that was not granted. An extension of the work deadline was approved until May 31<sup>st</sup> which is tomorrow. We are here this evening to again discuss any progress made by Terra Developers.

Mr. O'Dell stated they have people on site. They did a test to make all of the sanitary repairs. There is a large excavation in the middle of Belo Gate that was a sag. There were many comments regarding the amount of water which explains why there is bellying in pipe at that location. They excavated the pipe and attempted to pull the belly out of the pipe. When they shot grade on the pipe the wall was excavated it was at grade. When city tv'd it last week it had sagged again. On June 1, 2017, they will attempt another repair on it. There was a minor issue with the sanitary sewer that has been repaired. There is another sag in that general area that same wet spot there is another sag bellying in the pipe. They will probably wind up enlarging that trench and fixing both at the same time. The actual sanitary cleanout issue has been corrected in the private driveways which was completed by KHovnanian subcontractor. They have stabilized almost every remaining area of the site. The sod took very well. The area that received seed and straw is coming up nicely. They poured the concrete base for the entry sign but they have not installed the sign. There are fire hydrant issues basically a break away line issue. Fire hydrant has a break away flange so if it is impacted by a vehicle we do not get water shooting up in the air it actually shuts the fire hydrant off when it is impacted by a vehicle. In order to achieve that in accordance with the manufacturers installation instructions we bury it to a break away line, city has issues with the burial depth of some of the hydrants so they will be correcting those.

Street lights: the street light is the major issue that is still remaining to be addressed on city punch list of item in the site work. The 32 lights have not been ordered although the request for revision of the site plan was rejected by city staff. They need to install the 32 lights street lights in accordance with the approved site plan. Staff does not have a time frame on that since the lights have yet to be ordered. There will be required a directional bore across Digital Drive and the conduit installed on the opposing side of the project. Dominion Crossing side already has the conduit in place but not the base. Hopefully they will not need to excavate the entire grass utility strip to install street lights on the Dominion Crossing side.

Sign Entrance: The sign on the corner has been a source of contention. There was an e-mail chain going around. The site plan says entry feature and it shows a two dimensional sort of thing but the plan details do not contain any entry feature that match that. It is the engineers and the developer's contention that the entry feature was never supposed to remain on the plan that was in error. The entry feature was part of the original design but was removed from the design. Staff has very little to hold them to except for the overhead view shows some sort of feature there and the remaining note of entry feature. However the entry feature detailed as provided in the plan is clearly the sign at the entrance to Belo Gate. It is a single feature. There is no curved structure like you see at Park Station. No one has any history on how that became removed from the original design and why it was put in there specifically. It was a lingering note that said entry feature. It did not change from approved first submission to approved second submission. It was already gone by the first submission. In the history of the review, there does not appear to ever be an entry feature spelled out in detail on the plan. There is a page of the plan that has an overhead view of some sort of similar feature but there is no detail of what that is supposed to look like. Staff does not know what they told the people but staff cannot find any history of this entrance feature on the city review side. There is no documentation of what it was supposed to look like. A citizen stated it was on the building plan and the first page shows Dominion Crossing with a curved feature on the corner. There is overhead and side view, which shows a feature on the corner of Digital Drive and Belo Gate. In the history, review there does not seem to be a feature spelled out in the plan. Councilmember Banks stated it was his understanding that they were supposed to put something nice there.

Councilmember Carrera stated there should be some type of feature but there is none there now.

Mr. O'Dell tried to contact Mr. Runnels from Terra Development earlier but he is not answering his messages.

Trees between every light: Mr. O'Dell stated because they still have base work and conduit work to do they will not plant those trees until they finish out the street scape. The conduit work has been done but they will have to come back and once they center the lights and put the pedestals bases in they will come back and center the trees.

The May 31, 2017 deadline was to see if they were willing to get everything done. Staff new the streets lights were not going to be completed by this date.

The utility ticket was called in on May 26, 2107. There is marking on the new top coat, placed there by Miss Utility that has to be called in because it is under a hardscape. They do not want to accidentally strike any utility lines.

The City Attorney stated we have a performance agreement that says everything must be done as shown on the site plan by that date which has been extended a couple of times. If the Governing Body does not extend performance agreement again then tomorrow (May 31<sup>st</sup>) the city will declare them in default and call in the bonds. City would meet with surety company, The surety company who has pledged to make sure this project is completed will then have to go out and get a contractor to complete the project. This is the tool the city has to make sure they get it done. There is no time frame built into the security bond. City would have to work with the surety company. There can be delays associated with that. The City will not be doing the work. There are two performance bonds about \$800,000 (which includes the lights) for Phase A and B. Surety company would then contract with a contractor and pay them with that money. Staff believes this work can be done for this amount. If they have a contractor they can use right away it should be relatively quick but if they have to go out and ask for bidders, that could take up to a month or more. They would have a scope of work, advertise RFP, bids come in and then contract awarded. The lights still need to be ordered. The twelve lights ordered are not the correct lights because they have a different design. The city will be required to maintain these lights so they want them to be the same. They submitted a revision to site plan, which was not approved. The lights are not in conformance with the proffers so they have to put in the 32 lights.

Mr. O'Dell stated how fast it would be completed is based on the availability of contractors. You are getting into their busy season so it may be more difficult.

Mayor Rishell stated the city has no control over the contractor chosen by the surety company to complete the work. She stated lighting is a pivotal issue because they fooled around for so long and they knew from the site plan that they needed 32 lights. They did not order those lights when they should have. It is her understanding that the conduit and the bases are done ahead of time. Since conduit and bases can be done in advance, Terra could have done this for all 32 lights as a show of good faith, and Terra did not.

The City Attorney stated the city could always issue a zoning violation for work not completed and would eventually take the developers to court. The developer is still on the hook. The courts could order them complete the work.

Vice Mayor Naddoni stated if the city chooses not to extend the agreement, the city would not have to do anything right now. The extension will end May 31, 2017 and they will automatically be in default.

By consensus the citizens ask the Governing Body not to extend this agreement.

**2. Closed Meeting State Code of Virginia Freedom of Information Act Section 2.2-3711 of the Code of Virginia: Paragraph 29: 8:16pm:**

MOTION: Councilmember Shuemaker moved that the Governing Body go into closed meeting to discuss the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the City, and (ii) to discuss the award of a public contract, and the terms of such contract, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the City, pursuant to Paragraph 3 and 29 of Subsection 2.2-3711A of the Code of Virginia.

SECOND: Councilmember Cendejas

VOTE ROLL CALL: Unanimously passed

11. Return to Open Session: 9:05 pm:

MOTION: Councilmember Shuemaker

SECOND: Councilmember Naddoni

VOTE: Unanimously passed

12. Certification & Action out of Closed Meeting if Necessary

MOTION: Councilmember Shuemaker moved the following Resolution:

WHEREAS, the Governing Body of the City of Manassas Park has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712(d) of the Code of Virginia requires a certification by this public body that such closed meeting was conducted in conformity with Virginia law.

NOW THEREFORE BE IT RESOLVED that the Governing Body of the City of Manassas Park hereby certify that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements under this chapter and (ii) only such public business matters as were identified in the motion by which the closed session as convened were heard, discussed or considered in the meeting by the public body.

SECOND: Councilmember Cendejas

VOTE ROLL CALL: Yes: Shuemaker, Carrera, Cendejas, Banks, Machado, Naddoni, Rishell

13. Adjournment: 9:07pm:

MOTION: Councilmember Shuemaker

SECOND: Councilmember Carrera

VOTE: Unanimously passed

Approved June 20, 2017

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Jeanette Rishell, Mayor

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Lana A Conner, City Clerk