



CITY OF ROLLINGWOOD 403 NIXON DRIVE, ROLLINGWOOD, TEXAS

SPECIAL CALLED CITY COUNCIL MEETING  
Tuesday, September 27, 2016

MINUTES

The City Council of the City of Rollingwood, Texas met in a Special Called Meeting on Tuesday, September 27, 2016 in the City Council Chambers of the Rollingwood Municipal Building located at 403 Nixon Drive, Rollingwood, Texas. Mayor Thom Farrell called the meeting to order at 5:38 pm. Present were:

Mayor Thom Farrell, Mayor Pro Tem Sara Hutson, Alderman Joe Basham, Alderwoman Roxanne McKee, Alderman Michael Dyson, Alderman Bobby Dillard, City Administrator Charles Winfield, City Secretary Robyn Ryan, and City Attorney Doug Young.

Also, present in the audience was resident and Planning and Zoning Commission member Jordan Scott and Gabriel Bruehl a local Austin area engineer.

**3. GENERAL BUSINESS**

**DISCUSSION AND POSSIBLE ACTION TO REVIEW AND ADOPT THE ROLLINGWOOD DRAINAGE CRITERIA MANUAL AND THE SITE IMPROVEMENT / DRAINAGE PLAN FORM**

Marcus Naiser of LNV, Inc. presented a power point slide presentation with exhibits on the drainage history and why the drainage criteria manual and ordinance was needed and requested. He stated LNV, Inc. had worked on the project for approximately 12 months and they had attended the drainage subcommittee meetings and the joint meetings with the Utility Commission and Planning and Zoning Commissions to review the documents.

Included in the power point presentation was an overview which are included in these minutes.

There was an extensive discussion among the council members, mayor, city engineer and city attorney and Gabriel Bruhel, a local area engineer, on the manual and ordinance.

Mr. Naiser made comments after each slide presentation, and comments from council members and mayor. Mayor Farrell moved on to the posted agenda items:

**3.02 DISCUSSION AND POSSIBLE ACTION TO DIRECT THE CITY ATTORNEY TO PREPARE THE DRAINAGE CRITERIA ORDINANCE AND PLACE IT ON THE OCTOBER 19TH AGENDA FOR REVIEW AND CONSIDERATION.**

Mayor Farrell asked City Attorney Young to prepare an ordinance and bring it to the October council meeting. It was asked for him to circulate the ordinance early for council review; adding in the maintenance section “shall maintain” according to the design and standards of the building code. Other than this request there was no other action taken.

DISCUSSION AND POSSIBLE ACTION TO APPROVE THE DISTRIBUTION OF FUNDS BUDGETED FOR YEARLY STAFF INCREASES AND TO DETERMINE AN EFFECTIVE DATE FOR SAME.

This item was **tabled**.

DISCUSSION AND POSSIBLE ACTION TO APPROVE A FIRST AMENDMENT TO THE TOWNE CENTRE PUD AGREEMENT PROVIDING FOR AMENDMENTS PREVIOUSLY APPROVED BY THE COUNCIL TO CONDITIONALLY ALLOW INCREASED HEIGHTS OF STRUCTURES, A FLAT ROOF WITH SCREENING OF ROOFTOP EQUIPMENT, ADDITIONAL VISUAL AND LIGHT SCREENING OF PARKING STRUCTURE, ACCESS TO A PUBLIC GREEN SPACE, AND IMPROVEMENTS TO THE PUBLIC GREEN SPACE.

Mayor Farrell made a brief comment and asked Alderwoman McKee to plan on getting with Jason Thumlert and himself to discuss this in preparation for review and discussion in October.

The item was **tabled**.

DISCUSSION AND POSSIBLE ACTION TO ADOPT AN ORDINANCE ENACTING THE CHANGES IN ZONING REGULATIONS PROVIDED IN THE FIRST AMENDMENT TO THE TOWNE CENTRE PUD AGREEMENT AND CODIFYING THE ORIGINAL TOWNE CENTRE PUD REGULATIONS.

The item was **tabled**.

**4. EXECUTIVE SESSION** - Discussion of Personnel Matters Pursuant to Chapter 551.074 of the Texas Government Code for Distribution of funds for yearly staff increases.

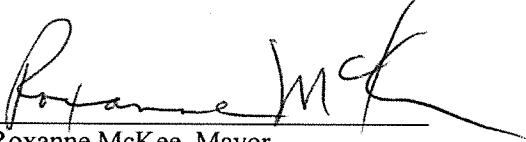
No **Executive Session** was called during the meeting.

ADJOURNMENT

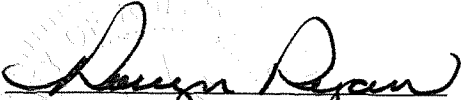
Mayor Farrell called for and received a motion and second to adjourn the meeting. The meeting ended at 8:15 p.m.

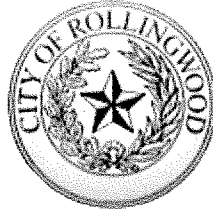
**The Unofficial Transcript is appended but not adopted.**

Minutes adopted on the 15<sup>th</sup> day of February 2017.

  
Roxanne McKee, Mayor

ATTEST:

  
Robyn Ryan, City Secretary



**CITY OF ROLLINGWOOD  
403 NIXON DRIVE, ROLLINGWOOD, TEXAS**

**SPECIAL CALLED CITY COUNCIL MEETING  
Tuesday, September 27, 2016**

**UNOFFICIAL MEETING TRANSCRIPT AND  
PRESENTATION TO THE CITY COUNCIL**

The attached is an Appendix to the September 27, 2016 minutes. This Appendix is to be considered an **Unofficial Transcript** of the meeting and is not intended or implied to be exactly what was said at the meeting.

**3. GENERAL BUSINESS**

**DISCUSSION AND POSSIBLE ACTION TO REVIEW AND ADOPT THE ROLLINGWOOD  
DRAINAGE CRITERIA MANUAL AND THE SITE IMPROVEMENT / DRAINAGE PLAN FORM**

City Engineer Marcus Engineer Naiser - of LNV, Inc. presented a power point slide presentation with exhibits on the history and why the drainage criteria manual and ordinance was needed, and said they had been working on the project for approximately 12 months. He added that he had received comments from Aldermen Dyson and Dillard on the manual.

Included in in this transcript: the power point slide presentation in order.

<b><u>I. Scope and Purpose of the Task</u></b>
Task Order No. 11 – Drainage Criteria Review and Recommendation: Develop and implement a drainage criteria ordinance and checklist by collaborating with City committees, commissions, and the public to incorporate their input. A copy of the Task Order was presented.
<ul style="list-style-type: none"><li>• Policy for drainage improvements on new development.</li><li>• Provide criteria for estimation and management of runoff to eliminate adverse impact to adjacent property owners.</li><li>• Provide guidance and criteria to expedite permit approval.</li><li>• A copy of the current ordinance was presented.</li></ul>

<b><u>II. Site Development vs. City Drainage System Upgrades</u></b>
Site Development - Permit is required.
Ordinance would be utilized to properly estimate and manage runoff flows to prevent adverse impact on a lot-by-lot basis.
<ul style="list-style-type: none"><li>• Promotes responsible development</li><li>• Prevents additional flooding issues.</li><li>• There were several drawings related to drainage; grading, wall and detention pond outlets on a property.</li></ul>

<b>III. Drainage Ordinance and Why It Was Needed</b>
Problems associated with limited drainage ordinance current:
<ul style="list-style-type: none"> <li>• Limited ability to enforced drainage police.</li> <li>• Lack of direction on drainage requirements.</li> <li>• Lack of direction on site plan improvement submittal.</li> </ul>
What the proposed drainage ordinance provides:
<ul style="list-style-type: none"> <li>• Drainage policy</li> <li>• Drainage design technical requirements</li> <li>• Other requirements (setbacks, grading, aesthetics), site plant submittal requirements and guidance, and operations and maintenance requirements.</li> </ul>

<b>IV. Drainage Ordinance and Criteria Development Process</b>
Drainage subcommittee:
<ul style="list-style-type: none"> <li>• Created by the city council to facilitate drainage initiatives</li> <li>• Collaborated to decide on content of drainage ordinance</li> <li>• Reviewed draft drainage ordinance and provided input and feedback.</li> </ul>
The joint meetings of Utility and Planning and Zoning Commission:
<ul style="list-style-type: none"> <li>• Iterative review and edits of the draft ordinance</li> <li>• Help public meetings to collect input on a draft ordinance</li> <li>• Recommended to city council for adoption after iterative review and edit process.</li> </ul>

<b>V. Drainage Requirements for Site Development</b>
<b>Complete site improvement form.</b>
Permittee completes form to identify improvements, increase in impervious cover, construction period, drainage improvements, and soil erosion control methods.
<b>Site Plan</b>
Permittee provides a drainage improvement plan that identifies the following:
<ul style="list-style-type: none"> <li>• Drainage map of existing and proposed conditions</li> <li>• Drainage improvement facilities</li> <li>• Drainage calculations</li> <li>• Comparison of peak discharge for pre vs. post development conditions</li> <li>• Soil erosion control plan</li> <li>• Construction sequence</li> <li>• Rainwater harvest system.</li> </ul>
<b>Operation and Maintenance schedule – City Provided.</b>

<b>VI. Drainage Ordinance Engineering Content vs. Policy Content</b>
<b>Engineering Content:</b>
City of Austin Drainage Criteria Manual (Suppl. 9-2014, Sec. 2-8)
<ul style="list-style-type: none"> <li>• Hydrologic analyses, computations, and design</li> <li>• Drainage Channel and detention design</li> <li>• Erosion control</li> </ul>
<b>Policy Content:</b>
<ul style="list-style-type: none"> <li>• Aesthetic requirements for facilities</li> <li>• *Setback requirements for facilities</li> <li>• *Grading requirements at property line and within setback</li> <li>• *Chapter 213, Edwards Aquifer Rules (Water Quality)</li> <li>• *Operation and Maintenance</li> </ul>

- \*Permit requirements / enforcement (special permit) these requirements and affect drainage but are not engineering driven.

<b>VII. Overview of Drainage Ordinance</b>
<b>Drainage policy:</b>
1-1 general explanation and purpose of ordinance
1-2 drainage policy
<ul style="list-style-type: none"> <li>• Stormwater runoff control for development</li> <li>• Reference to TCEQ requirements</li> </ul>
1.2.2 General:
<ul style="list-style-type: none"> <li>• Drainage analysis and design requirements</li> <li>• Operation and maintenance of drainage facilities</li> <li>• Special drainage permit</li> </ul>
1.2.3 Easements establish requirements for:
<ul style="list-style-type: none"> <li>• New easements</li> <li>• Identify easements on site plans</li> </ul>
1.2.4 Stormwater drainage channels
<ul style="list-style-type: none"> <li>• Criteria for sizing, shaping, and construction of channels</li> </ul>
1.2.5 Stormwater drainage detention
<ul style="list-style-type: none"> <li>• Criterial for sizing, shaping, and construction for detention</li> </ul>
<b>2. Sediment and Soil Erosion</b>
2-1 General
<ul style="list-style-type: none"> <li>• Policy for temporary and permanent bmp's</li> </ul>
2-2 Plan Requirements
<ul style="list-style-type: none"> <li>• sequence of construction, section controls, details, and construction notes</li> </ul>
<b>3. Water Quality BMP Plan</b>
3-1 Genera
<ul style="list-style-type: none"> <li>• TCEQ – 30 TAC Chapter 213 Edwards Aquifer rules.</li> </ul>
A. Water quality facilities to be shown on plans
B. Aesthetic enhancement and setback requirements
<b>4. O&amp;M &amp; Permit Requirements</b>
A. Operations and maintenance requirements of drainage facilities
B. Special permit for site improvements that have drainage impacts
<b>5. Site Disturbance</b>
A. cut fill, grading, and setback requirements.

<b>VIII. Conclusion of Presentation</b>
The current Rollingwood ordinance is a very brief and not well defined and does not provide criteria for design principles and practices to prevent adverse impact to adjacent property owners.
The new ordinance will establish policy with criteria for drainage design and practices for controlling post-development runoff and will guide permittees through the permit process identifying design and submittal requirements.

<b>DISCUSSION ITEMS LISTED IN THE PRESENTATION:</b>
<b>1. OPERATION AND MAINTENANCE (O &amp; M); (SEE EXAMPLE OF O &amp; M)</b>

<ul style="list-style-type: none"> <li>• OWNER TO PERFORM INSPECTIONS OF DRAINAGE FACILITIES</li> <li>• OWNER TO MAINTAIN DRAINAGE FACILITY FOR PROPER FUNCTIONALITY</li> </ul>
2. TYPES OF DRAINAGE FACILITIES ALLOWED:
<ul style="list-style-type: none"> <li>• ORDINANCE SPECIFIES SIZING, GRADING, SETBAK, AND AESTHETICS</li> </ul>
3. RECORD KEEPING OF HOMES WITH DRAINAGE PLANS
4. BUDGET FOR MAINTENANCE OF DRAINAGE PERMIT MANAGEMENT
5. WILL DRAINAGE ORDINANCE SOLVE CURRENT DRAINAGE ISSUES AND HOW WILL IT PREVENT FLOODING?
6. IS THE CITY CURRENTLY ANALYZING IMPACTS OF DEVELOPMENT ON CITY DRAINAGE FEATURES?
7. IS REFERENCE TO COA DCM FULLY VETTED? IS THE 2014 EASILY ACCESSIBLE AFTER FUTURE VERSIONS REPLACE IT?
8. SPECIFIC DESIGN CRITERIA – SHOULD WE KEEP LANGUAGE ON RW vs. COA AND REQUIRING MORE STRINGENT TO APPLY?
9. DO 1.2.2. GENERAL – IS THIS SECTION CLEAR OR DO WE NEED CHANGES TO REDUCE RISK OF MISINTERPREATION.
10. HOW WAS THE 250 SF LIMIT DECIDED ON FOR NEED OF DRAINAGE ANALYSIS.
11. WHAT IS STANDARD STORM DESIGN FOR PEAK FLOW ANALYSIS? 100 YR? WHY NOT OTHER?
12. SPECIAL PERMITS – WHAT PURPOSE? HOW TO PROCESS IN TERMS OF FEES, SCOPE, LANGUAGE, ETC.

**-Engineer Naiser - began the slide presentation.**

*Engineer Naiser - the drainage control criteria, does not exist at this point, as there is nothing adopted. Dillard confirmed.*

*Engineer Naiser - a little more detailed 2, 10, 25 and 100-year storm analysis.*

*Mayor Farrell said this was adopted in 1987.*

*Attorney Young and McKee confirmed at the same time - this was Code.*

*Engineer Naiser - the ordinance was to be used for people who were developing a new lot and are trying to protect the neighbors downstream from additional flows. Site development is what they would use this ordinance for to pull a permit under the building permit process. The ordinance would be used to estimate and manage run off flows to prevent adverse impact; the goal currently as the ordinance reads is – **Post development flows must be equal to or less than pre development flows**, and they try to get their engineer to calculate both of those various storm events and show to us they use the best engineering practices to come up with that information and they have mitigated, when it does increase as it typically does because of building bigger house with patios; that they mitigate so we do not put extra water downstream that exacerbates an already overwhelmed structure possibly downstream or a neighbor.*

*Engineer Naiser - which promotes responsible development and any flooding issues. A diagram of a recent site development plan; which showed all calculations, changes to impervious cover, details of the detention ponds, elevations of potential storms based on hydrologic results.*

*Engineer Campbell - and calculations, and it basically shows everything that needs to be addressed.*

*Mayor Farrell - what about peak flows?*

**Engineer Naiser** - flow rate for the property basically showing contribution of flow rate from a property runoff and pre - post development. He said the difference was what they wanted to eliminate, we would like them to put in some type of detention or structure that basically brings it back to pre-development flow.

**Dillard** – pre - new development flow?

**Engineer Naiser** - said the impervious cover creates the peak sooner, and it is also a higher peak, it is an additional peak. Pre-existing peak run off and post development peak run off we want that to be back before they approve the site improvement plan.

**Dyson** - when LNV was putting this together – what you are doing is considering the new impervious cover and how that impacts the new drainage? Or are you considering existing development in adjoining lots – which may not be... (stopped speaking).

**Engineer Naiser** - what he was asking was taking into account the upstream runoff coming into the property, but they are contributing due to the impervious cover on their property and that combined flow they are sending to that property from the upstream neighbor to the downstream neighbor. That needs to be addressed so you are not sending additional water on your downstream neighbor.

**Dyson** – you have done the calculations multiple parcels upstream? Then?

**Engineer Naiser** - the developers' engineers will delineate the drainage area, and will give us the analysis for that drainage area that is contributing on to his property. The flow that was added because of the impervious cover is new development and whatever is leading is his flow rate, and we will want to see that the flow rate is not exceeded.

**Mayor Farrell** - a legal question for the city attorney: is that complying with the existing ordinance?

**Attorney Young** – yes, assuming that is an accepted engineering practice, which is standard in the ordinance.

**Engineer Naiser** - that is why we talk about regional detention, and if you did you would have to buy some property; and did not think it would be effective because of the drainage pattern upstream, before the water gets to that, the water goes through multiple properties. So, if you have one person with run-off from his property then the person downstream will want to sue him, and so on and so on. Most communities have a master plan for the subdivision, and have it in the front yard and all the water goes to a drainage plan set up for that community.

**Mayor Farrell** - if we put in a master detention system that may take care of some of the issues, but not on all the drainage.

**Engineer Naiser** – it would be almost impossible to divert all the water from all the properties.

**Dillard** – this is what you are doing right now. Right?

**Engineer Naiser** – yes, we are only the reviewers. Yes, the developer submits the building permit to build and he knows he must get a professional engineer to develop the site development plan, which is what LNV gets to review the plan and make sure they are not going to adversely affect their neighbor.

**Dillard** – what would be different about this? About your plans? We don't want to coach them a lot.

**Engineer Naiser** - – nothing would be different, other than we picked a good one. And the city does not want to be information to tell them what they need to do. That is why criteria should be in place to give them all the engineering and requirements they will need. All the methodology they would need.

**Mayor Farrell asked Engineer Naiser** – Of the ones reviewed lately, how many have tanks and how many have berms?

**Engineer Campbell answered** – 9 out of 10 use some type of berms or landscape wall or structure for detention. You don't see tanks very often. Tanks are for rain water harvesting, these are two different things.

**Dillard and Mayor Farrell** - are mainly for TCEQ?

**Engineer Naiser** - that is for a different part of the hydrograph. Rainwater collection, TCEQ if they follow TCEQ rules they want them to catch the first flush and for the purpose of detention really needs to be later in the hydrograph time concentration. We need to know where that tank is going to discharge because they build it for an inch and a half, and during a large rainfall event you would exceed that and it would start overflowing, so a drainage plan is accounted for.

**Mayor Farrell** – cost most people have today is TCEQ rules, not City of Rollingwood rules.

**Engineer Naiser** - typically the TCEQ rules, which we have tried to address in the ordinance, and realize that TCEQ has a rule and they don't want to enforce it, people send them things and they don't send anything back that says it approved then basically we changed the language to say they need to reach out to TCEQ. They need to show up an approved plan.

**Mayor Farrell** - are we exempt from TCEQ rules? How would that impact this drainage ordinance on your end.

**Engineer Naiser** – we could just exclude Chapter 213.

*Mayor Farrell* – drainage issues, because that tank is taking on some water.

*Engineer Naiser* – if they wanted to collect rainwater on their own then we address that in the drainage plan, then if it wasn't required to avoid the WPAP then it would happen less frequently.

*Mayor Farrell* – does that tank help with the drainage and detention?

*Engineer Campbell* – not really, because they fill up, and when that happens you need to hold the water for 12 hours before discharging.

*Mayor Farrell* – then if this is not in place, do we give it credit for any drainage issue to that tank?

*Engineer Campbell* – there have been cases when we do, but not typical that we do.

*Engineer Naiser* – we cannot depend on it because it is full.

*Hutson* – it is only 1 and ½ inches that portion of the impervious cover, not the whole thing.

*Dillard* – why is water quality in the drainage ordinance, why would TCEQ want that to be in there?

*Engineer Naiser* – we need to know where the outlet of that is, to account for the water that goes through that system and where it outfalls into the drainage system.

*Dillard* – that makes sense. It is not about enforcement, it is about accountability of the water.

*Mayor Farrell* – Are we getting anything out of the TCEQ rules? In your opinion? From a drainage standpoint?

*Engineer Campbell* – minimal.

*Mayor Farrell* – that is why most people's expense are doing these plans, right?

*Marcus* – I can't say that either.

*Mayor Farrell* – it's a lot cheaper to build a berm than dig a hole in rock and put a tank in.

*Dillard* – someone is still building underground storage tanks, right?

*Engineer Campbell* – maxing their impervious cover.

*McKee* – so, that is the 10% rule? Essentially 1 out of 10 is doing that? Earlier you said 9 out of 10 are doing that – berms or walls

*Dillard* – So, 10% of applicants have drainage features or ponds.

*Engineer Campbell* -10% of or less have cisterns or tanks for detention. In a big 100-year storm 10.2 inches versus 1.5 usually (stopped speaking).

*Engineer Naiser* - they run out of land and then they want to put them underground.

#### Naiser Continued

*Engineer Naiser* - this area was for items that a permit was not required, and are current issues and we are trying to narrow the focus for site development. If we adopt the 2-8 City of Austin manual, then the city system can use the criteria because it is best engineering practices, but a permit is not needed. Existing issues in the city must be determined to be a problem by the city paid by the city and fixed by the city. What we are trying to do is put an ordinance in place that prevents development of an already developed lot from contributing more flow that is going to exacerbate a problem that already exists downstream.

*Dillard* – you are just trying to make sure they are doing the plans that they are already doing.

*Engineer Naiser* – **Site Development Plans** - the ordinance will be in place for guidance of what they need. They just need to read the ordinance, where our plans study the culvert. Over here is a different ball game.

**Engineer Naiser showed a system map** – image of 7 or 8 drainage areas on the map presented what should be addressed. The ordinance was written to get someone to submit the right thing for site development not for fixing a situation. There was a 100-year flood plain in blue, and drainage areas in red. There were 9 different areas in the City of Rollingwood. An ordinance is needed to be in place to address this.

*Mayor Farrell* – if there was a complaint, then we would track it down and fix it, there was a risk obviously, and if there was water on their neighbors' property, then, how much risk am I looking at doing? As opposed to doing a site inspection @ 488 houses.

*Engineer Naiser* – that is a good question.

*Dillard* – how many do we have coming up? 70 or something?

*Mayor Farrell* – yes, 70.

*Engineer Campbell* - I am working on 14 or 15.

*Dillard* – would that change with the new permit? Or maybe 20% of the houses would need to have drainage features at all and only 10% might have underground storage?



**Mayor Farrell** – only a few would have underground storage for detention, maybe only a handful that would have underground storage for detention.

**Dillard** – 10% and then others would have to be inspected every year.

**Engineer Campbell** – I do not know what these other permits are, possibly doing external work, or remodels.

**Cross Talk – Not able to understand.**

**Engineer Campbell** – they are increasing the impervious cover by doing exterior work, I do not know what the other permits are.

**Engineer Naiser** – so the ones Jay ... he said each month there were about 10. You see those numbers every month on #2 of the Engineering Monthly Report. 10 at any one time, that require a review and a site improvement plan.

**Dillard** – what is the percentage of that 10 that need to be looked at every year?

**Engineer Campbell** – depends on the city and how often they want to inspect, all would need inspection at some point, annually.

**Mayor Farrell** – we don't inspect now, unless we get a complaint and they need a berm. That is not covered under the ordinance.

**Engineer Naiser** – it is covered under the special permit. The special permit is introduced to address changes of just the site improvement plan that did not trigger the building permit, so that is our way of... (interrupted).

**Mayor Farrell** – today, is there no oversight on that currently? The city is not involved in that complaint situation

**Engineer Naiser** – only pulling a building permit.

**Dyson** – Doug, isn't that where state law comes in?

**Mayor Farrell** – state law, but not suing your neighbor.

**Dyson** – it is typical for a city to want to interject itself in that kind of situation, to get between two neighbors. Is it typical to tell the neighbors they are doing harm to your property?

**Attorney Young** – if the berm was a product of a building permit, yes.

**Dyson** – there berm wasn't necessarily part of the building permit; just some additional, landscaping, and what we are talking about is some special permit would come into play for a change of topography which this ordinance has, which would cover landscaping, berms, and that kind of thing. So, in a situation like that, we are introducing a new permit that would have an impact on a change of topography aside from construction, aside from impervious cover, something that would change the flow, is, that, right?

**Hutson** – this does not address anything that is not related to an initial building permit.

**Dillard** – there is no special permits anymore?

**Engineer Naiser** – there is a special permit; a section for special permits, added because we used to track the site improvement plans, or any type of drainage features with a restrictive covenant. There is input from the joint Utility and Planning and Zoning meeting was Private Property Rights 101 and tie that to our... (interrupted).

**Cross Talk - Not able to understand**

**Engineer Naiser** – and take care of that in-house. So, we created the Special Permit, to take care of it.

**Hutson** – If you need to get a building permit out of a review of the drainage before that Special Permit comes into effect.

**Engineer Naiser** – yes

**Mayor Farrell** – yes, that is what my point is.

**Hutson** – you can't decide, just to do some landscaping; you'll never get a Special Permit

**Engineer Campbell** – drainage features because they need to be permanent.

**Mayor Farrell** – if we pass this today, I decide that I'm not going to file for a building permit, and take a fence down, and water goes to my neighbor, then the city is not involved in that.

**Dyson** – even under this new ordinance as proposed, section 1.22.1 (g), special permit for construction activity. First thing... (interrupted).

**Mayor Farrell** – if I take a berm down, then is that going to be permitted.

**Dyson** – I see the proposal - we do not define developer or development in the ordinance. I presume it is not noted in our current ordinances. Or this could be narrowly construed to say this is just your 3<sup>rd</sup> party developer coming in to get a site development plan.

**Engineer Naiser** – here it is from the ordinance:

Any activity with a drainage feature or facility to perform to the failure or requirement of the feature or facility in a permit for improvement of the effected property shall obtain a special permit.

**Mayor Farrell** – I know that is there – if I change something at my house this will have no impact on me.

**Engineer Naiser** – first you would have had a building permit to establish a site improvement plan. Once that site improvement plan is on record; then if someone complains then they go back and can say this is not in accordance with the site improvement plan.

**Basham** – your point is - since you did not go through that process today, you can change your landscaping. But if your house got built with this ordinance then you need to come back and get a special permit to change the landscaping.

**Hutson** – only if it is changing the drainage.

**Mayor Farrell** – only if it changes the drainage.

**Basham** – if I took out 100 square feet of grass on my front yard.

**Dillard** – that would affect how water leaves your property, wouldn't it?

**Cross Talk - Not able to understand.**

**Engineer Campbell** – It wouldn't be measurable. An engineer would have to set down how fast, that it doesn't (trailed off).

**Dillard** – check that out.

**Mayor Farrell** – I think the difference is we are trying to make the drainage no worse than it is today, that is where we are. And I am not arguing that this is needed, if I agree to put up a berm as my drainage feature – then I take it down, then it applies. But it doesn't apply if I want to put another plant in my yard or remove a plant, and it is not part of the drainage plan, then it does not trigger. Right?

**Engineer Campbell** – right.

**Dyson** – none the less it changes flows which would impact, potentially impact somebody else plan, or no?

**Engineer Campbell** – what we talked about before – someone putting in a garden, that is not what this is designed for.

**Mayor Farrell** – the spirit of this is it has an adverse effect on that. If I do a minor “thing” then...it not going to affect anything.

**Engineer Campbell** – it is not going to have an adverse effect.

**Dillard** – you can't do this without hiring an engineer, telling you need to do this. If you are changing, then you are breaking the law.

**Engineer Campbell** - this is for site improvements, not someone putting in a garden.

**Dillard** - I am trying to understand this, and want to know what happens when someone else is doing the interpretation, which may not be you the engineer. You decide to take 100 square feet out, then that person is in violation and may get fined \$1,000 per day.

**Mayor Farrell** – It could be up to \$2,000 per day, but the trigger on this in my mind is how this would work, then if I do this and you are next door and all of sudden you get new water and then you call the City and say “I'm getting new water on my lot, this was your plan and you removed this berm, then you need to put it back, then you have an option. This is the plan you agreed to do on this house.

**Engineer Naiser** – If there is no plan then what are you going to do.

**Dillard** – but it only gets triggered when there is a problem, not a yearly inspection. Then you go chasing the problem. There are people that do that, and it is nobody's fault.

**Mayor Farrell** – is landscaping; grass and planting a feature that you look at on detention?

**Engineer Campbell** - it is looked at for drainage purposes because it determines your run off populations.

**Mayor Farrell** – what if I put a restriction on watering and your grass dies, and your plants die, then they come back and say – they can say there was a restriction. We need to do this on a basis of, “I understand the intent of this”, but it needs to say that it is material to the drainage on this. The vegetation can die because they cannot water. We did not come to that lately, we need to add some language on vegetative cover, and possibly add language for erosion control.

**Dillard** – we want to protect the people, but not... (stopped speaking).

**Cross Talk - Not able to understand.**

**Basham** – (started to speak and was interrupted).

**Mayor Farrell** – could you live with the material aspect of this? Negatively?

**Engineer Naiser** – there may be language in there stating vegetative cover in the channel or detention to be suggested to be grass and/or grass or rip rack as long as it controls erosion. Those items can be adjusted.

**Mayor Farrell** - we do not want to be in a position to micromanage people's yards, because we could not do it. Regardless of that, if it is not material, it doesn't matter.

**Dillard** – I deal with engineers, and generally it is the attorneys that are determining this. Whatever we put in the document, the more you put in then the more we can hit our fellow neighbors over the head with it. So, I think you have done a great job help keep neighbors regarding un intended consequences. Gardens and other stuff, how do we keep from an attorney from

**Mayor Farrell** – what I am dealing with now, people plant vegetation on corner, and we must have a site line on these corners. And, we go all over the city with this, and ask the neighbors to take care of this and when they don't then the City must get involved in this. That is how enforcement would work, using different type of plant on this, or if there is a problem downstream, then we go look at the plan then we say we have a problem, because you have made adjustments on this.

**Dillard** – what you are saying is, you must make sure you are following your plan, and if you are not following your plan then there is problems downstream from you, and it is not the meter people flagging people down, go house by house.

**Basham** – when one home is causing drainage problems effecting another; Doug I am looking at you - where is the City's role to come in to arbitrate that dispute between two private property owners?

**Attorney Young** – Well, it probably doesn't want to arbitrate between property owners. But it can enforce the requirement of a building permit to maintain a drainage feature or whatever it is, between that it would be a prosecution in the Municipal Court in terms of a building permit, and how it is written now the judgement call is by the property owners, and you don't have to get a building permit unless you are going to cause an existing drainage facility to fail to perform on the standard. If you have a garden or whatever you ae doing, then you say no effect, you don't get a permit, and no one knows what you are doing, then if you make a wrong judgement call and it does cause problems, now the City now does have some ability to enforce. In a typical case a problem is caused to a guy downstream, it is probably not worth the money to file a lawsuit, but there is some harm. If the City would have the ability to say "you should put that end of the berm up that you took down or we will take you to court" and then they restore the berm and no one had to spend any money, but if the city has no way to regulate then you are making that downstream neighbor file a law suit.

**Basham** – what about enforcement? So, when the City says you are in violation of the building permit, then what does the City do then?

**Dillard** – that guy right there, he violates that, what do we do then?

**Attorney Young** – cite them in violation of code and terms of the building permit, and you prosecute whatever the fine is so much, and each day is a separate violation. That is what the City can do.

**Mayor Farrell** – Joe, I think the overall deal... (interrupted).

**Basham** - Hold on, hold on. If the City doesn't prosecute, then is the City liable to the affected property owner?

**Attorney Young** – No.

**Basham** – because it is clearly a prosecutorial act on a non-enforced ordinance?

**Attorney Young** – This is a prosecutorial discretion.

**Mayor Farrell** – I understand your point on that, the difference is, the City issue is we are changing from a 2500 - 3000 sq. ft. house to a 6 – 7 or 8000 sq. ft. house that has much greater drainage issues that we have to deal with. I do not want to get in this; I want to resolve the issues before. I don't want neighbors suing each other, if we can help resolve an issue.

**Hutson** – I also don't think we want to be in a position where the City has issued building permits to people to build something that will cause problems to their neighbors, and people that are adversely impacted, and it is causing problems, they say "the City told me I could".

**Basham** - I think Doug misinterpreted my questions about causing problems on other people's property.

**Mayor Farrell** – we know that. The other way to do this is to add impervious cover on the lots and then you don't have that issue. I am not in favor of that, but it is one way we can do that. Because, the people who already have houses would go.

**Basham** – I am trying to draw a distinction between if someone has a requirement to build a home, let say there is a requirement that they have sprinklers in the house, and then after the fact someone comes in and removes the sprinkler system, which is a violation of the ordinance and then the City could action on that if the City wanted to do that. But, removing that sprinkler does not affect someone else's property. If someone comes in, and if the City requires certain drainage to be in place, and someone removes it and it causes problems downstream, there is a remedy available. I am not suggesting that we ought to have a hands-off approach and let neighbors sue neighbors. But, I think the City ought to be involved in trying to sort out drainage problems. There is a difference here, and

people do have a remedy, and people do make changes that cause damage to other peoples' property. There is a remedy. I am struggling to figure out what you said, and I don't disagree, I am trying to make sure what the role of the City is going to be in enforcing and mediating drainage disputes within the City and enforcing TCEQ and Edwards Aquifer rules and telling people what they can and cannot do. I think we ought to know what those burdens are going to be before we put them on the City.

**Mayor Farrell** - that is fair, I agree with you. We are talking about the maintenance and changes from the maintenance standpoint, I am going to have a very difficult time from an administrative standpoint in how the City is going once a year look at all of the locations and not assume that after I leave, the next morning you go out and change it and then someone won't know about it for another year that means that we have someone looking at the plans and knows that changes had been made, and check for being out of compliance.

**Dillard** - if it's not a berm, it may be a hill

**Mayor Farrell** - ok if we leave it to the personal responsibility of the permittee to make sure that this doesn't cause problems, and if it does then we have a strict ordinance to do, do that. I think I can get \$2,000 per day for someone out of compliance. That is what I am trying to get out of you all,

**Dillard** - I just want to be clear here. Right now, the plan we just saw we are implementing what you would want, and if there is a problem downstream we have a plan to go find these people and 14:15 we have a plan in place for someone to check after a complaint was made.

**Engineer Campbell** - sure - we can go back to that slide. I see more of these than berms. (talking about the slide).

**Mayor Farrell** - you would not measure unless you had a complaint.

**Campbell** - right

**Dillard** - Now you are saying, you wouldn't have them go measure right now

**Engineer Naiser** - you would measure after the C & O, after that then they are given the maintenance and operation, but do not know if we would hold them to that.

**Dillard** - They are maintaining with the developer on the plan, and if they don't, it is a \$2,000 per day fine.

**Engineer Naiser** - If that little gap clogs up then it is another \$2,000 per day in fines. And, if it goes to the next-door neighbor then... (interrupted).

**Dillard** - Jackie Bob has sewer issues right now, and water, and he is out there chasing a problem. I think the same way, if we saw the thing, then that is where the fines would start at \$2,00 per day if they were complete offenders.

**Mayor Farrell** - that is how I see this thing working.

**McKee** - otherwise you have this lengthy, potentially lengthy law suit filed against a neighbor and you know how long and drawn out, and in the interim, you have damage happening to one of the neighbors. So, it's a "stick" the City would have to make them maintain what they said they were going to begin with.

**Dillard** - just so I understand where this is really going to help you guys is to get on the same page to start with so that is your original intent with the whole thing, I don't think there is anyone here that agrees that that is a good thing. I think that the only thing that may or may not, speaking for myself, the unintended consequence is to put a lot of language to basically solve this in a packet. Tell people it's all in a packet, that would be your goal, to have them know it is in the packet. Residents were complaining and then residents did not know what they were supposed to do.

**Engineer Naiser** - the goal of the City when they charged us to do this, was residents were complaining, because it was taking a long time, they did not know what was coming; they would pull a building permit and that was before we had any kind of letter or checklist to tell them what was going on. Then they would ask if they had to do a drainage plan too. Then, they asked if they would have to hire a Professional Engineer? We had to work really hard to give them what they wanted to see.

**Dyson** - Could that be cured just by providing a manual rather than an ordinance. A broad ordinance regarding how we are going to do things.

**Mayor Farrell** - the City needs administrative ability to jump in and fix if it is not followed.

**Dyson** - this does a lot more than give us the "stick". Is my point.

**Dillard** - we have a "stick" right now.? Do we not? Cannot we fine them \$2,000 per day?

**Attorney Young** - depending on what the building permit says, whether it is a continuing obligation and there is also ambiguity because it says generally accepted engineering practices which is hard to enforce because lawyers say what is generally accepted engineering practices? But if you have a criteria manual... (stopped speaking).

**Dillard** - We accepted their practices or we would not have a building permit. Right? So, after someone builds a house that shows the plan, and down the road, we notice that your wall is not holding and we don't know why, but

*the water is coming out and flooding your neighbor you need to fix that, and they say we don't have to, then we say we gave you with permit; "you have to". Can't we flag them for that?*

**Attorney Young** – *if your ordinance says that a condition of a permit, whether it is a drainage issue is that you must maintain the facility then there have been cases where restrictive covenants have been done with maintenance obligation and not arguing for (laugh) but, I don't know what the practice is. If the building permit says you have to maintain it, and if it doesn't, and the ordinance doesn't say it, then...(stopped speaking)*

**Campbell** – *we require an O & M*

**Engineer Naiser** – *the practice I have seen in the past two years is I have seen some restrictive covenants based on that special permit, and why it was written the feedback we got from the Drainage Committee was "we don't want restrictive covenants" we want to take care of it in-house, that is in there, and it some of the newer language in this ordinance that has happened in the past couple of months.*

**Dillard** – *what do we have to do to give the City the right to flag if someone if they are not following the building permit?*

**Attorney Young** – *it is clear in the ordinance that a condition of a building permit is to maintain, whether it is to ....(stopped speaking).*

**Dillard** - *if you file a building permit, and don't follow it then we have a right to fine them.*

**Attorney Young** – *no.*

**Dillard** – *then we would be set up with the hammer we would need.*

**Attorney Young** – *typically in a building permit, if you don't require the choice to meet the building code, then there is continuing maintenance, which would be different from the drainage facilities, where we can't let something deteriorate, where you have a required standard. That is why it is a little bit different condition. Most city's the drainage regulations are not part of the building permit and there has been talk of segregation from the building permit. That is why I kind of hesitate if it is a different kind of regime to include in the building permit. You should have it in the ordinance, you could make a building permit conditional on continuing maintenance. Yes, you could.*

**Dillard** – *people need a package that tells them exactly what to do. Sounds like, we need suggested methods; because people are confused.*

**Engineer Naiser** – *I put a slide in for this; engineering content is in here which is adopting the City of Austin drainage criteria manual, which is everything and anything we need to do for any drainage structure. You will find a section in there for designing or estimating.*

**Mayor Farrell** – *this is all technical information.*

**Engineer Naiser** – *yes, that is all technical information.*

**Dillard** - *is there anything that is not relevant to what you are doing?*

**Engineer Naiser** - *Section 2-8. Some structures you may not see in a residential area, like designing. City of Austin has everything. I guarantee you will see everything on site development if you need to go find it. And then there is drainage channel and detention design in the ordinance – there is actual language in there. There is erosion control, which is engineering content. And, we (LNV Inc.) were asked to draft an ordinance with feedback with two commissions and a committee and to process policy also was filled in, because it is tied to some of those drainage issues and aesthetic requirements. If you build a concrete wall, there was an issue where a concrete detention wall was built right on a property line, so now there is a set-back issue – can't build anything within the 10-foot setback, and if you do build a wall you need to have some architectural finish so the neighbors are not looking at a concrete wall. Set back requirements, I just talked about and the other requirement is 12- feet back from other people and no elevation changes at the property line and a 10- foot setback before you can build any structure and a maximum of 4 to 1 in that 10 feet, and then you can go up 8 feet or down 8 feet within that 10 feet setback. As an Engineer, something could be designed in that property line that works but, policy is coming from the City where it says we don't want to see some vertical change in topography in the landscape in the first 10 feet. That is why that is in there. Chapter 213, we could scrap that, but the comments from that felt like it needed to be in there. Not looking for approval, but saying are you aware of this, and if so, show us the over flow with your rain harvest system.*

*Then operation and maintenance came in because of the restrictive covenant, special permit, and special permit requirement. As an engineer – I would hang my hat on the City of Austin drainage criteria manual. We could put in anything the City wanted to put in with recommendation of Utility Commission and Council.*

**Hutson** – *and Planning and Zoning Commission, also.*

**Mayor Farrell** – *setback requirement on property lines, I see that. I prefer to take out Chapter 213 and can notify them on that and they can figure it out. And I am hoping to get out of the Barton Creek Conservation District*

*Hutson – that does not make a difference on 213, Thom.*

*Mayor Farrell – ok*

*Engineer Naiser – if that is between the owner and TCEQ and the aquifer; then they take care of that if I see...*

**Cross Talk - Not able to understand.**

*Mayor Farrell – seeming that 213 is going to be the responsibility of the City of Rollingwood.*

*Dillard – Really?*

*Mayor Farrell – They have nobody to do it and is going to come to us. If you submit a permit to them they cannot give you an answer. If they are serious – “let Mikey do it”. Let the City enforce it, it is going to come back to the City. Just like life is as many of the other things out there.*

*Dyson – the set-back requirements for facilities, I understand the gray wall issue that you mentioned, what about a French drain or channeling that ran on a property line, wouldn't that make sense to put it on a property line?*

*Engineer Naiser - yes it could, if the two owners agreed, we have done it in the past, documenting it with a restrictive covenant from both parties.*

*Dyson – even if it appeared on one persons' property, because it in the setback on one guy's property.*

*Engineer Naiser – no, I misunderstood what you were saying.*

*Dyson – I'm not talking about splitting property lines, just 10 feet back. So no, it is 10-foot square around my place, now I can start my drainage facilities there, so maybe I need a drainage channel, so now I've lost 15 or 20 feet.*

*Engineer Naiser – you could design something that works on the boundary line. That would have to be approved by the City Engineer.*

*Dillard – Engineering ultimate discretion.*

*Dyson – Now that is an engineering policy content, rather than straight engineering*

*Engineer Naiser - when talking about not adversely affecting your neighbor when you are running off to your neighbor, like on one of the draws then we make you put a detention which would drain into the water main. We do have that discretion and that would be favorable for overall on run -off.*

*Dillard - I think that there are a lot of concepts in this document. And that the City Engineer would be able to control and inspect once a year, all 480 houses, but being realistic we are not set up for that, and how Mayor Farrell set this is neighborly. We need an ongoing maintenance program that says it has to be inspected so many times per year.*

*Engineer Naiser -- I don't know the legality of this, but could you say the operation and maintenance on the owners' property, but do you have to inspect it?*

*Dillard – Yes.*

*Engineer Naiser – Why would you have to inspect it? Just say you need to keep that conveyance clear, and free of debris and it has to function, and then we will rely on a complaint, which is what the city is doing now, wait until someone complains but, in this case, we have a hammer of enforcement before it turns into a law suit.*

*Dillard – I'm thinking about cities, and most of those I have dealt with, they do grow that person that inspects things, but we are not enforcing it. There are code enforcement people that we are taking about right now regarding construction and fences, and those may or may not be a problem. I am saying that one iteration from that, we don't want to put a bunch of rules in that so it becomes a huge problem; when they are not doing anything wrong.*

*Mayor Farrell – lets go through these lists and see where... let me ask first, on the engineering content, are we in agreement that should be involved in this?*

*Dillard –you mean the City of Austin?*

*Mayor Farrell – just the engineering content.*

*Dillard - yes, some king of engineering content should be in there. You should also have guidelines that say; here are the things you should do, here is an engineering package. Yes, you need to have that.*

*Mayor Farrell – so as a city council are we in agreement that the engineering content should be included in this (deal)?*

**Council was in verbal agreement on including engineering content.**

*Dillard – please explain soil erosion as part of this?*

*Engineer Campbell – we do have a section on soil erosion control. Whichever improvements you are making would provide for stabilization for whatever you have associated with the improvements. We would like to see a sequence of the construction, soil control then you break down then improvements and then vegetate and then tear down again in the end.*

**Dillard** – Right.

**Cross Talk - Not able to understand.**

**Engineer Naiser** – this is kind of tied to the city's MS4 storm water quality plan. Most of these sites under 1 acre of disturbance and they don't have to have a formal plan as a site disturbance so this is always a battle. We are not big enough to have a formal plan so you have to make sure that they have a silt fence.

**Dillard** - drainage only during the time of construction, and does not adversely affect the drainage? Is that what we are already talking about. If we have dirt on the run, we already have a hammer for that right?

**Engineer Campbell** - that is an illicit discharge ordinance.

**Dillard** – is that the same thing over again?

**Engineer Campbell** – No. – street tracking.

**Engineer Naiser** – it could be mud in the street. And, it could be tie back. I think that is where the enforcement law is in that ordinance in a separate location and was adopted in the MS4. This is a pretty short section that does not have any strong language in there, but it is sending out the expectation that if you are under construction you cannot let sediment leak beside it or down the street. That is just common sense but are they trying to capture that?

**Dillard** - and in our building permit right now, there is nothing in our code that says you cannot do that? Can people do that right now? It's not against the code?

**Mayor Farrell** – yes, it is. It is in the WPAP, - not that... it's in the MS4.

**Dillard** – assuming everything that you put in here is not... that's like, could be used against all the people who live here later. Right? I know that sounds a little bit like... but, in a non-good faith way. Right? What do you have in here to make sure you have a proper packet, I know you are getting it right now, but what do you need so you can insure you can evaluate the packet only faster.

**Engineer Campbell** - I think you need to soil erosion control, if you take that out you are at more risk to get in trouble; I think you need that entire section and start with that one.

**Engineer Naiser** – I think you need a general policy, defining that development won't result in additional impacts to the neighbor. Water quality, that can come out if you want, that is the Edwards Aquifer which is a regulatory thing, that can come out and all this application information is all engineering related and there are references back to City of Austin Drainage Criteria, it is good to have a Drainage easement, need to show it on the site improvement plan, this tell you what you want to see and what rain frequency events used in the design of drainage channels and storm detention used by the City of Austin. A short section talking about erosion control if you want to strictly rely on the tracking and the illicit discharge ordinance, we could do that. The MS4 is really the city's permit if it is in the street. But each site those guys really need to take responsibility for themselves with a WPAP. We could build upon that, and theoretically if you want to move that we can remove that.

**Mayor Farrell** – is there anything negative about having that in there? Right now, we do not enforce that. I think we are going to be asked to enforce it in the future.

**Engineer Naiser** – this is really construction related.

**Dillard** – I hear you,

**Engineer Naiser** - so anyone who is constructing...

**Dyson** – there is a handful of places in what we are talking about here, where construction overlaps.

**Engineer Naiser** – that is because we call on all-of-these drainage features in a permanent development, but what about during construction when they are putting in all this impervious cover – they have roofed it and it is running off onto bare soil and it is just taking off. We are saying, you need to have some temporary control measures in place....

**Dyson** – but we already say that – you cannot allow that to go into the street or elsewhere, you have to maintain it on the property, right, during construction. With a silt fence and soil, which obviously will catch a lot of it during the construction phase.

**Engineer Naiser** – not all of it, but we want to institute the same improvements that are call for on the permanent basis. These sites can be under construction for 6 months or even a year.

**Cross Talk – Not able to understand.**

**Engineer Naiser** – a temporary retention on site so they are not going to flood the neighbor during construction or they could have rain water harvesting and they are going to capture an entire roof, but if that does not get connected until the end of the project then they have downspouts running off straight to the neighbors. Those are the kinds of measures we want done during construction; temporary stop gap measures that prevent flooding your neighbors or even silt leaving the site.

**Mayor Farrell** – let me just tell you this is an ongoing problem we have had during construction. That is a big problem, and we get a lot of complaints during neighboring properties during construction.

**Dyson** – I am having a problem understanding how it is practical to put in all the facilities needed to compensate for this under final construction.

**Engineer Campbell** - I don't think that is typical, this is what we usually see, a final detention pond or a landscape wall or whatever it is going to be.

**Dyson** - engineers have figured this out already.

**Engineer Campbell** – you can stack up filter sod or whatever to control.

**Engineer Naiser** – do you look for construction, retention measures that are in the construction phase in the plans.

**Mayor Farrell** – not right now.

**Dillard** – why are we looking at this right now? To explain to someone or what?

**Engineer Naiser** – because it is not in the ordinance.

**Dillard** - it says you can't discharge water that negatively impacts your neighbor. Why is that not being....?

**Mayor Farrell** - that is how we enforce it now, we usually go and tell people, we get a complaint and we tell them they need to do something with this while it is under construction, and most of the time we will comply.

**Cross Talk – Not able to Understand.**

**Engineer Naiser** – ok. We need to somehow address construction; “the contractor shall retain water or reduce water by whatever measures during construction”. We may have difficulty getting that to happen because another engineer would have to sign those drawings. And, adding something to a set of drawings, that is not specifically called out on this, other than you asking for it. So, just trying to make this known in advance.

**Mayor Farrell** – that is a problem. And, we have had a lot of calls on this.

**Engineer Campbell** – the DCM, increase inflows, a note that is on every set of plans. #4.

**Engineer Naiser** - reads #4. That could be modified if we need that.

**Dyson** - is that our best management practices, do we know what that is and is particularly used.

**Engineer Naiser** - that is one of those engineering things. Not all engineers will come across with the same practice.

**Attorney Young** – that is typical.

**Engineer Naiser** – you need for them to acknowledge that and be able to go to the ordinance and confirm what it says.

**Dyson** – do you have plans right now that are not necessarily “best engineering practices”?

**Engineers Campbell and Naiser** – we have some that a lot of work needs to be done to make them acceptable.

**Mayor Farrell** - lets go through these – the aesthetics thought processes on that.

**Engineer Naiser** - the specific case on Hubbard Circle – where the detention structure was constructed right on the property line; it does its' job, it is engineered properly and it is slowing down the peak flow spreading it out so the guy downstream does not see anything different. The complaint was the commercial detention wall was on the property line and it was the aesthetics since it was made of concrete. Comments on the property line and the 10 foot in - according to the ordinance.

**Mayor Farrell** – let me ask you. I understand the aesthesis deal and it can be subjective. I understand the setback, and the set- back rule where it is above grade then a setback would be needed.

**Dillard** – is this a force of law?

**Engineer Campbell** – for guidance to get approval.

**Dillard** – for guidance, here is the Criteria Manual, and how to specifically do something.

**Engineer Naiser** – I don't know the legality of that, I am an engineer, but, if the DCM is referenced in the ordinance then is it in the ordinance?

**Attorney Young** - it has the force of law. But, it has a lot of language in it now that talks about policy, guidance and how this is currently written it may not be enforceable, at all.

**Engineer Naiser** – well, we have the ordinance and the ordinance refers to the Drainage Criteria Manual (DCM), that we prepared, is only 4 pages, and the language that we came up with that is not the City of Austin's, because our drainage criteria manual is going to reference the City of Austin's Drainage Criteria Manual so, it is an inch. But we have 4 pages that basically tells them how to submit the site plan, and the site plan form and all the application type submittal requirements. But all the actual principals and academic engineering principals and technology are in the City of Austin's DCM.

**Mayor Farrell** – is anything in that City of Austin document that is policy that is not straight engineering?



**Engineer Naiser** - Section 2-8 which we are referencing is the methodology behind estimating run off and the methodology used for design principles.

**Mayor Farrell** – there is no policy issues in this, it is straight engineering?

**Engineer Naiser** – as far as I have seen in it almost like textbook. Find what you want to do and it is going to tell you what to do; like best engineering practices and we are OK with that procedure.

**Dillard** - we need to talk about structure here, and I may be way off base, but my gut says the only way we are going to get something done here is suggested things to do on lots and then figuring out to come up with a way where if people have a drainage plan then that is the test and if they don't comply then they can be fined. There is so many concepts here. I know you guys understand this perfectly and we trust you and we know that but when it comes down to two different places, what does it really mean? and then it becomes too much, and you have the ultimate stamp anyway, which is what you are saying. So, if it floods someone's yard then you are not going to approve it, right? You are already doing a good job for us.

**Engineer Naiser** – please, state the requirements and criteria for getting the permit approved for site development.

**Dillard** – site development, right? the requirements must be flexible enough.

**Engineer Naiser** – there is not much innovation on these site development plans. It's all straight forward. The whole thing for us is if they show they know what they are doing and they estimated the run-off, pre-and post-development, all the different storm frequencies, and that they mitigated it properly. So, if they show that they used proper design principals, methodology for estimating that run-off that is great and that is in the criteria manual. I guess there is some innovative approach for something they are designing.

**Dillard** –the point is if this is still their land and as long as they figure out how to not bother the neighbor with run-off then... we are not going to get in there and say, the difference between the “have” to do it this way versus “hey this is a suggested way” to do this as criteria.

**Mayor Farrell** – in this draft ordinance, is there anything that says “I can do something different with the drainage as long as the engineer approves it”?

**Attorney** – No. There is so much language in the first pages of our policy. I would have to look at this more closely which I have not done because I did not know what my assignment would be. But, I think probably that nothing is enforceable now, as it is currently written.

**Mayor Farrell** – in the Criteria Manual?

**Attorney Young** - in the ordinance, and the Criteria Manual is only referred to in the ordinance. It has a severed weight of law to the extent it is given weight in the ordinance but, I think the language is very brief.

**McKee** – there is no “stick”.

**Dillard** – it is loose, but if we get a “stick” 11:21 and if you change it... it is loose, but if we get a “stick” in the ordinance, if they change and it affects their neighbor then it can be dealt with a promise of a \$2,000 a day fine.

**Attorney Young** – that is clear, but a lot of the looseness is in how do you achieve that “don't hurt your neighbor” standard?

**Dillard** – so, there is a “stick” IF you hurt your neighbor?

**Attorney Young** – Yes.

**Dillard** – so, we have a “stick”.

**McKee** – no, not in the manual.

#### **Cross Talk - Not able to understand.**

**Dyson** – are you talking about the existing ordinance?

**Dillard** – I am saying in the existing ordinance... how could you give a “stick” to the existing ordinance so people would have to live with their permit that they submitted with their drainage stuff and not incorporate all this other stuff that could happen and the consequences? We could give them the book and then they are educated.

**McKee** – I have a quick question. Marcus, where is it in the Criteria Manual that the City of Austin requirements are specified? I am not seeing that in the manual. It is in the ordinance and earlier you said it was in the manual, am I missing it?

**Attorney Young** – it does not have to be in the manual, if it is in the ordinance.

**McKee** – he is talking about that there may be a suggestion to attempt to go for just a manual as opposed to an ordinance, and I am not seeing the incorporation of it.

**Hutson** - it is not written right now, so, the manual would be adequate to cover everything in light of the ordinance.

**Engineer Campbell** – the manual is geared for submittals, streamlining the submittal.

**Mayor Farrell** – Bobby, let me ask you, the issues you have regarding the ordinance; 1) consequences when we are not looking, and 2) who is going to interpret those ordinances in the future.

**Dillard** – yes sir,

**Mayor Farrell** – is that the issues we are dealing with?

**Dillard** – yes, especially if they have discretion anyway. Why do we need to lump a ton of things into the ordinance when we have suggestions...the way I understand is, they are going to show the plans the way they need them done, because they are already enforcing the way they would enforce it anyway?

**McKee** – Bobby, what's specific in this ordinance, the overreach in this ordinance, that is concerning you and we just look at that?

**Mayor Farrell** - ok, do you want Gabe to... speak?

**Dillard** – that is a good idea. Gabe has a perspective on this.

**Mayor Farrell** – Ok, Gabe would you step up.

**Gabriel Bruehl a partner in a local engineering firm was asked to speak to the council.**

**Bruehl** – Bobby brought me in to take a look at what you were doing. The one piece of color I would add to that and you were going back and forth a bit on how you would enforce things, and where items should be in a codified ordinance versus in a criteria manual. There is a strict line you should take a look; anything in an ordinance that the rules were broken, it would need to come to the City Council members. Any one of those line items any particular site... (interrupted).

**McKee** - I am curious, if you have an ordinance violation, we have a police officer who issues the violations. Then it goes to court, and that doesn't necessarily come before council. So, I am not sure... (trailed off).

**Bruehl** – I'm talking about on the design side, let's start on the design side. So, if you look through your ordinance there are going to be specific requirements that will be required for every plan. So, if someone doesn't want to put a plan down on an 11 x 17 piece of paper, that would have to come to you all to get that approved. We are talking about basic variances.

**McKee** – you are talking about variances.

**Bruehl** - in the code, you want a line item saying the rules that you would have to come to council to break. It sounds like to me, and I am glad I got to come in and listen for a bit, I appreciate Bobby inviting me. The things you are struggling with, in my opinion are, 1) a subdivision that was platted back in who know when, and no drainage facilities were ever envisioned with the plat or the subdivision improvements and, 2) you don't have an impervious cover requirement. So, there are a lot of things that can happen between here and there. There is a code provision that says "best Practices", and I think if I were on the engineering side of this trying to enforce it, what I would say, your engineers are making all of your decisions for you – and they probably should not be, because of the general vagueness of it. Coming back, it also puts a lot of liability on them (your engineers) because they are the ones approving specific plans without specific direction from council. The direction from council would be the ordinance. So, your drainage criteria could be, or your drainage ordinance could be, there should be no impact to your downstream neighbor for the 2-10-25-100-year floods. Right? That is the #1 rule you are really focusing on is your "no adverse impact". The remainder would be in your simplified... (trailed off).

**McKee** – criteria manual.

**Bruehl** – yes, criteria manual. And, that is a very simplified view of what is going on. You mentioned earlier, certain properties that would be exempt from detention that are backing to some drainage ditches. I think you need to clarify those. I think that is what you need to focus on. There are two things that are happening: 1) people in the low-lying areas are getting flooded. If you look at your map with the flooding issues, right? And, 2) are certain folks that are getting impacted by homes that are being built, then drainage patterns change, and those guys are on the upstream side. On the upstream side where you definitely want to detain. On the downstream side, that is my personal opinion, you do not want to detain, it is my engineering opinion, you want to flush the water out as soon as possible. There is nothing worse than directing a whole bunch of water down to a downstream property into their detention pond that over-runs at some point in time and then goes side-ways into a neighbors' yard. I think those are the two main points that you are dealing with here. I could be completely wrong, but I think that is my opinion on those.

**Dillard** – if we codify all of this stuff, then in theory it is a variance for everything that is different than the current ordinance?

**Bruehl** – yes. Which is what you would want to do is do a drainage criteria manual, that lays out how you should design something. And, then have certain ordinances in place that those rules you would prefer never be broken.

And, in special circumstances whether a property owner does have special circumstances, then they would have to come to you' all to justify it and be approved for them to implement that.

**McKee** – so, is it fair on really simplifying it on some of the specifics, submitting it on a 11 x 17 form, take some of these specifics and put those into a criteria manual and make it, flip it, right now we have a 4-page criteria manual and make a much longer ordinance but let's make the criteria manual longer for less important items that shouldn't be, or would be subject to a violation, or would necessitate a variance such as a 11 x 17 form and then stream line the ordinance part of it which would include the "stick" that we are after, incorporate the criteria in it.

**Bruehl** – especially add things like aesthetics; and things like that, then every plan would come to you' all to get approved.

**McKee** – ok.

**Mayor Farrell** – good point. Have you read the criteria manual?

**Cross Talk and Laughter - Not able to understand.**

**Bruehl** – well, I would say there are a couple of things that you do not want to bite off more than you can chew. And, the way I would look at it is, I think that regulating detention of backyards is a difficult task. But, you are already there, right? What you are finding out is that you have a system that is already there and you are having a hard time Number 1) enforcing, and Number 2) explaining to the public what they need to do. That is where they are helping the most is explaining what you want out of the engineers that come and build a bigger home for the City of Rollingwood. I don't think it ever eliminates any of the problems that you are going to have from here on out. You are still going to see drainage issues come before you. You are still going to have property owners battling it out, because in general I think what I have seen in other places as well within the City of Austin is no matter how much you regulate it, there are unintended consequences to what you do. I would suggest putting a detention pond in a backyard of a single-family home is - there are a lot of things that could go wrong there. The pipes can clog, Number 1) and Number 2) – if that pipe does clog, then at that time it will go a different way than it should have, and Number 3) – people don't maintain them.

**Hutson** – where would you have this put in a city that is already built up?

**Bruehl** – actually, that is a perfect question. What do you do to negate that type of thing? There are only two things that you can do. Regional – that is already mentioned is out, and you want your drainage going to your lot lines, period. Whenever you lay out a master plan in a subdivision, the first rule is you want your drainage going toward the road or to the lot line. And, that is for every home. If it is going to the lot line, then it is going away from the house.

**Hutson** – well, it is going away from 'your' house.

**Bruehl** – yes.

**Hutson** – maybe then, it is going towards your neighbors' house.

**Bruehl** – if it is on a lot line, it always goes down a lot line.

**Mayor Farrell** – you are saying the lot line to the street?

**Bruehl** – the lot line to the street, you may be going thru four different lots to get to a street, it should be following the lot line.

**Dyson** – so your drainage facilities should follow your lot line?

**Bruehl** – yes. Your drainage facilities should be following your lot line. Because what will happen... who knows what the consequences, you will focus on a detention pond that goes through a pipe that used to be spread out, and one could be in the middle of somebody's lot and pointing at somebody's back door.

**Dillard** – or like a downspout that would shoot right at their... (trailed off)

**Bruehl** – yes, could shoot at someone's side door, back door. And, then I don't know how you would fix what is built in a ditch or in a dry creek.

**Hutson** – that assumes that the lot lines have the capacity to handle the run-off. And, we don't have that either.

**Dyson** – well, we don't have that existing – but what we are talking about is new development should be geared.

**Hutson** – but, new development is going to be diverting water through lot lines that are not changing, and that is not there on the lot lines that are going past.

**Dyson** – I am making the assumption you are not suggesting, you put it down the lot line which may impact negatively.

**Bruehl** – what I am suggesting is in general, you should be pushing water towards your lot lines regardless of where they are.

**Naiser** – in other word, the 10-foot setback is not conducive to that. Potentially.

**Bruehl** – potentially it could be. It just depends on how you implement it. Right?

**Dillard** – if the wall did not fit in... (stopped speaking).

**Bruehl** – I am not saying you don't roll back to having a detention pond, but you should carefully consider that because you may want to put a detention pond on one of those lot lines.

**Mayor Farrell** – rather than a lot line, you would say the 10-foot setback. That is what most people would be having to do anyway in some way or another. On the berms that they put up there.

**Dyson** – if you put a 10-foot setback in and then you put your drainage facility in, you are talking reducing a third acre lot.

**Mayor Farrell** – I think that needs to be tweaked in my opinion, if that is to be a landscaping feature there is not a set-back for that. If it is a permanent wall or a concrete system... (trailed off).

**Dyson** – then we are talking about variations again, rather than a hard and fast rule. So, maybe the better place for that type of thing would be in an ordinance rather than a criteria.

**Mayor Farrell** – yes.

**Dillard** – I seem like, kind of like over reacting about having things in ordinances here, but this particular thing, I have been in cities where they are like being hung up on technicalities that are not even real, because of all this stuff and it is tons of headache and people get very disenchanting with the city and whatever. The thing that is amazing is like, people know us, and they know Thom and Roxanne and they are happy about it and there is reasonability behind the stuff that we do and my biggest concern is if we throw too much into this ordinance and it becomes codified we will end up with down run consequences of people standing over you on things that and they may not be accurate... (interrupted)

**Mayor Farrell** – Sara, let me ask you, Gabriel's suggestion was that some of these things go out of the ordinance and go into the criteria manual.

**Hutson** – that has made more sense to me all along. So, I don't have any problem with that. The thing that concerns me with all this discussion is that we are focusing on people that are building something new and we are ignoring the people that are having the adverse impacts. And, every single meeting that we have had on this ordinance, criteria manual whatever, this whole process, every time we have had somebody show up that was not on the committee or on one of the commissions, we have had nobody here that was in the process of building a home, but we have had dozens of people here who wanting to know what we are going to do so they don't get more water coming onto their property because they are having flooding problem at their homes, on their lots right now.

**Dyson** – that is a very valid concern, and it has been brought up a number of times. The ordinance as I understand it does not address any of those things. Right? Existing problems that we have to mitigate, future problems.

**Hutson** – we are trying to stop the problem, trying to stop it from getting worse and we are making no progress. More houses are getting built and it is just.... (stopped speaking).

**Dillard** – yes, and I think we all agree with you Sara. We have to do something for these people with drainage problems. I don't think anyone on council does not agree with that. Every time someone talks about it, I say we are doing something. I think the ordinance is a good idea. They are doing what we are asking them to do. The only difference is we are going to make it more efficient for them (applicant) to have a packet of information to tell them how this is going to get done. The goal is really for the "new" home people to help them, so they don't have to go through all the questions about what the City really wants; a suggestion list. And this is not going to help with drainage issues anyway.

**Hutson** – it is going to help it from getting worse. We are trying to put some guidance in place so the people know what they are supposed to do.

**Dillard** – it may not help it from getting worse. The new houses may not even be correlated with these problems.

**Engineer Campbell** – I think it is pretty safe to say the home that are going from 2 to 6, or 8,000 square feet they don't do any kind of detention at all.

**Dillard** – you are making them do detention anyway, right?

**Engineer Naiser** – like she was saying, the people who are complaining are... (cross talk)

**Mayor Farrell** – this is a specific issue. The detention facilities were never installed.

**Dillard** – this is why this is not getting anywhere though, it is the emotional attachment to the people who have drainage problems, derails this conversation every time. Like the 400 people who do not have drainage problems we are going to write a law that is going to have an effect and they are going to have to come in and have to get a variance every time. Sara, I think everyone wants to help the drainage problems and make sure that people don't

cause more drainage problems. The question is: "yes you are doing that, and can we get you a packet so people can show up with the right materials so they have the right materials and can get it approved faster".

**Dyson** – and then to put something in place for the City to take-action when someone does not follow the plan.

**Dillard** – permit, violation.

**Cross Talk**

**Mayor Farrell** - what we are talking about now is, an ordinance tweaked like it is right now, it puts teeth in it. And, the drainage criterial manual with most of these requirements in it. Sara, does this work for you? To do it that way? That gets us there. Gabriel, thank you for your comments. But, am I going to stop the bleeding?

**Cross talk – Not able to understand.**

**Mayor Farrell** - This will give you more ability to guide people to come in and give us teeth in the ordinance that says, if there is a problem I will track it down to a person, and I come over and say to them "tomorrow I am going to start charging you \$2,000 a day until you fix this problem".

**Engineer Naiser** – we understand the marching orders. The discretion is really on council approving any variance on which really "sticks" in the ordinance which is really going to be paired down to code. Most of these requirements are going to be in the drainage criteria manual. I think in a lot of places where it says at the "engineers' discretion" is going to be "councils' approval".

**Mayor Farrell** – I am not opposed to that, frankly.

**Dillard** –in my thought process, I think the thing you codify is something that says the thing you are trying to accomplish is the overall rule, and if someone is hard to deal with, then you bring them before the City, but then you do what they need to do.

**Engineer Naiser** – for the most part.

**Mayor Farrell** – is everyone comfortable with what we are doing? Sara? Roxanne? Mike?

**Dyson** – we are talking about codifying the best management practices. That goes into the drainage manual?

**Attorney Young** – the process should go into the ordinance. It defines when you have to do an engineering study that is total discretionary. But on the issue of council discretion, currently council has no say. That is part of the building permit and Mike Alexander and LNV do all of that, and this does not propose any change. There is still no room for council involvement in any drainage issues and you would be changing your scheme if you want the council to give a variance, they have nothing to do with it at all.

**Hutson** - I argue that council does not have the expertise to evaluate drainage and that needs to be a review of the city engineer and not the council.

**Attorney Young** – agreed.

**Dyson** – how do we set this up in such a way that we have the process that is codified, best management practices that falls to the engineer; you guys are essentially doing the math behind all of this and city council, I think Sara is spot-on... we don't have the expertise to do that. But, with regards to the actual policy, the aesthetics, the setbacks, etc., the stuff you identify as "policy", is that something that should fall to the City rather to the engineers?

**Attorney Young** - yes.

**Hutson** - that is when we are trying to put in the documents we are preparing, so it doesn't have to be... (stopped speaking).

**Dyson** – that shouldn't necessarily fall into the ordinance though.

**Hutson** – no, but in the manual.

**Attorney Young** – if you want to regulate that. Aesthetics for instance, are kind of a zoning thing really, but it could go in here because it is equally unusual to regulate aesthetics and to get a building permit. It all could be done that way, but we don't want Jay and Marcus to say one way or the other.

**Cross Talk and Laughter - Not able to understand**

**Dillard** – so, let me make sure I understand. You are talking about having less codified in the ordinance and more in the drainage criteria manual. Are you worried about risk of interpreting things a certain way that are not typically engineering and then you have liability? Is that what you are concerned about?

**Engineer Naiser** – the more involved we get with another engineer to try to pull the proper information of them, the more chance they are going to say "the city engineer told us to put that in there" and therefore are taking on more liability there. So, if something is established in the drainage criteria manual then you just to there and use it, or we can provide it and say "go look at sections XXX, and it will give you suggestions on how to do this" it will protect us from liability.

**Dillard** – does it say "your" liability is what I am wondering.

**Engineer Naiser** – we are “the City” in this position.

**Dillard** – what I am asking is LNV taking the risk on itself as an entity, the city is taking the risk still either way.

**Hutson** – sure it is. It is there professional liability that gets... that gets, (interrupted).

**Dillard** – if you work for the City as a professional engineer, you take on that liability instead of the City? Does the City of Austin's engineers have liability? I am just asking.

**Cross Talk - Not able to understand**

**Attorney Young** – there is usually an immunity from liability except in certain kinds of negligence as a separate professional negligence that LNV had that the City does not have. But, generally agents of the City in as itself. In general, there may be additional ways to get to LNV because they are a professional liability, but, I don't think there is very much.

**Dillard** – ok. Surely there is a risk shift, and I am not blaming you, I just want to make sure about the risk shifting up.

**Mayor Farrell** – let me ask you, from the standpoint of... I agree. The calculations I envision they would bring to us, calculations and we would say “ok, right or wrong”. I would not do the calculations. On the policy issues that are involved in this, those are issues that probably should come to the council a... (stopped speaking).

**Hutson** – that is why we are trying to put in the criterial manual so they are established up front and we don't have to establish them every single time when something comes up.

**Mayor Farrell** – ok. That is what we are talking about doing in the criteria manual, but I think the question is if someone wants a variance to that – aesthetics, who is going to pick whether something is aesthetically ok or not?

**Comments and laughter.**

**Hutson** – that was part of the discussion held by the drainage sub-committee. We have building specifications now regarding percentage of masonry you have to have on the homes and what kind of roofs, we have if you want to call them, aesthetic things. We have those already, this is not a new thing. It was a matter of coming up as a community of what we thing is acceptable and putting that in the criteria manual.

**Mayor Farrell** – no, these are big drains off Hubbard Circle type of things that got into a lot of trouble. I think... well, how do we approach this? I understand what you are saying. If there is some reasonable criteria, I don't want people to come in here ten times to go to the engineer and go “what color is this going to be”? I have an artist for a wife and I don't know colors she is talking about when she tells me.

**Campbell** – we can probably say what is NOT allowed. Not a bare concrete wall that is not over so high, or it has to be tile, but say what you don't want.

**McKee** – that would be hard to do.

**Dillard** – can you put in the criteria manual that there is a sub-committee that will talk about this every week? PZ or Parks, there is going to be 400 of them or whatever.

**Mayor Farrell** – how did you discuss on the aesthetic part of this, how we would approach it and I don't know where that is in this... (stopped speaking).

**Hutson** – you know, we have gotten so far into the weeds on all of this, I don't even remember where it is. We were talking about what kind of cover you would have to have; veneer or something so that it is not, unappealing.

**Engineer Naiser** – quoting from the criteria manual:

Aesthetic enhancement is not for exposed concrete and drainage facilities that are visible to adjacent roadways and neighboring properties. All concrete shall be stayed or stamped concrete, or veneer, with rock brick or steel tile or other material or method as approved by the city engineer. If indisputable evidence is provided, that demonstrates that the drainage facilities will not be visible from adjacent properties or roadways make significant differences in elevation, screening may not be required. Topography is claimed and screened and shall provide to scale sections of the appropriate rules that illustrates the topographic differences.

**McKee** – and you point is...

**Laughter.**

**Gabriel** – just make it consistent with the architecture of the house.

**Dillard** – there you go.

**McKee** – would you say that again.

**Gabriel** – make it consistent with the architecture of the house, right?

**Dillard** – why do houses have concrete right now? Everyone seems to want concrete houses right now.

**Hutson** – but, they are not plain, unstained concrete.

**Dillard** – but, they are unstained concrete. It is the same concrete with it looks very different.

*Mayor Farrell – on Hatley they are unstained. Sealed, but they are not stained.*

*Dillard – stained makes it very shiny. You would want that, here I am getting into decorating. You would not want unstained concrete outside, that would look kind of weird, I thought.*

**Laughter.**

*Dillard – that is my point.*

*Mayor Farrell – lets figure out where we are going to go with this.*

*McKee – let's take a whack at this, let's take a whack at moving some of these things over to the criteria manual and streamline the ordinance.*

*Mayor Farrell – you willing to do that Sara?*

*Hutson – I am not going through that again.*

**Cross Talk - Not able to understand.**

*McKee – you guys take a crack at it?*

*Mayor Farrell – Sara, let me ask you, since you put so much time into this, if we need this in the criteria manual, does that warrant for what we are ... (stopped speaking).*

*Hutson - the whole point of this was to have guidance. And to me, we don't have an ordinance in the first place, because it is not a formatted ordinance. it is always going to have to be changed before we can adopt anything, and, when we split this, because we originally had a document that was not in ordinance form so, when we split it to an ordinance and a manual, I always thought there was too much in the ordinance and not enough in the manual. It made more sense to me to be the other way around in the first place. That part of it is not an issue. What is an issue is what goes into the manual and all of these things that went into the ordinance now, is all things that have been put into the manual over the course of a more than a year?*

*Mayor Farrell – Bobby, is there anything?*

*Dillard – the manual is or is not LAW?*

*Attorney Young – it can be either way.*

*Dillard – you will or will not have the ability to go out without any problem and start writing... go out and mess with people about their grade being off on their berms in front of their houses. We will or won't?*

*Attorney Young – whatever you want to do.*

**Cross Talk - Not able to understand.**

*Dyson – the question you are asking is if our manual is going to be guidelines or rule of law.*

*Dillard – yes. Guidelines than I am ok as long as we don't have a law that has the ability to measure peoples' berms when there is no problem, then I'm... (stopped speaking).*

*Hutson – so you want to wait until someone's house gets flooded, before someone checks to make sure they have committed to putting in place in order to get a building permit?*

*Dillard – say that one more time.*

*Hutson – you want to wait until somebody's house gets flooded before the city goes out to make sure people have installed what they are supposed to have... (interrupted).*

*Dillard - I would say that another way. I would say – I want to give the citizens and the property owners in Rollingwood the right to have actually have done something wrong before we start policing them.*

*Mayor Farrell – this is two separate things here. 1) we want to make sure that the plan that is approved is built, and, 2) then is there an annual inspection or whether we wait until there is a problem and then we address it.*

*Campbell – (cannot understand).*

*Hutson – there is nothing in here that talks about an annual inspection.*

*McKee – we should keep the special permit part of it. The O & M, we need that.*

*Dillard – why, why do we need that?*

*Mayor Farrell – Bobby, it says you are required to maintain these features, and that is all it does.*

*Hutson – because this is the same issue we have right now with the swimming pool fences.*

*Dillard – yes.*

*Hutson – right now our ordinance requires that there be a fence around the swimming pool before you get your CO. the way it is being enforced right now is that you can take it down after you have the CO and there is no requirement to have the fence in place. So, what is the point of having a requirement to put a fence in, if you don't have to actually have to keep it there to protect people after the fact.*

*Dillard – to keep them from falling in the water.*

**Hutson** – so, if you have a requirement to put these things in place in order to protect the neighbors and to get a building permit, and then there is no requirement that they actually keep them after the fact? Then that protection is totally gone.

**Dillard** – I think the protection is still there. If there is a \$2,000 per day fine, they are going to get if they do something.

**Engineer Campbell** – that is the special permit.

**McKee** – that is the special permit, and that needs to be part of the ordinance.

**Dillard** – hold on, all I am saying is I think very few people that live here are going to be offenders of this, regardless of how it is written. So, I am not about punishing the masses because of a small population.

**Hutson** – how are we punishing them?

**McKee** – yes, it is not a punishment, if they are not violating it. There is no consequence.

**Dillard** – the City could end up being out there policing the landscaping every day.

**McKee** – yes, but there is nothing in here that anticipates that... (interrupted).

**Dillard** – that is what City of Austin does.

**Mayor Farrell** – I think it is discounted... (interrupted).

**Dillard** – I think we should put it in the ordinance, that is how we should do it.

**McKee** – I don't think that it is contemplated in here.

**Hutson** – right.

**Dillard** – if there is a hammer and there is a problem, then you go to them and charge \$2,000 per day, then they are going to solve the problem, or if they are really bad folks, then they would not do it anyways.

**Dyson** – the way the ordinance is written right now, 4-2 Permit Requirements; what we are saying is that IS the special permit. That special permit only comes into play when there is a new building permit, otherwise there is no special permit that could ever come into play on a property.

**Engineer Naiser** – a plan has to be in place for you to change the special permit.

**Mayor Farrell** – it comes into effect when they add more than 250 square feet of impervious cover, then it does come into play.

**Dyson** – this is just a building permit?

**Attorney Young and Mayor Farrell** – yes, a building permit.

**Dyson** – so a special permit comes into play if I ever want to change that 250, if it is a berm that was approved, and I want to move that berm, now I would need a special permit.

**Attorney Young** – right.

**Dyson** – what is the special permitting process? This is not spelled out at all.

**Attorney Young** – yes, it needs a little more in that, I suggest that ordinance be set out the basic standard and the process and rules for when you have to do a drainage plan. Very basic stuff and then anything else be in the drainage criteria manual. There would not be an inspection provision in there but there would be maintenance.

**McKee** – the O & M would be where?

**Attorney Young** – it would be in the permit.

**Mayor Farrell** – it only goes into effect if there is a problem.

**Dillard** – the maintenance thing happens only if there is a problem.

**Mayor Farrell** – yes, track if there is a bump, only if we are not doing an inspection.

**Dillard** – so, there is a maintenance thing only if there is a problem. Is that what I am understanding?

**Mayor Farrell** – yes, if we are not doing an inspection... (stopped speaking).

**Dillard** – you 'all are super reasonable, and I am so happy I live in a city where you are the mayor. It is not always that way. You know Donald Trump could come into our City offices someday when you' all are the Mayors, it is not always that way.

#### **Cross Talk and Laughter.**

**Basham** – look back Roxanne on the first time you were on council and the DCM.

**Dyson** – is the DCM enforceable? Or is it strongly encouraged?

**Attorney Young** – Austin's for instance, they have actions in there that you must do it, and there is no way out of it. Austin has conferred on the engineers more discretion that you have on your city engineers; administrative variances and a few more things of the DCM that you cannot vary from, you have to go to city council if you want to. You are suggesting a DCM purely as a suggestion.

**Dyson** – you could have a DCM that states "may" and "shall" throughout? Or would that be confusing?



**Attorney Young** – something you “have” to do and somethings you “may” do, or somethings are in a way you “could” do.

**Dyson** – if we are dumping a bunch of “shalls” in the ordinance rather than in the manual? It is the same thing.

**Attorney Young** – that is not uncommon at all. It doesn’t have to all be the ten commandments, you can have a mix.

**Dillard** – if you have the “mays and shalls” and then someone causes wrong, you get your building permit, and are then charged \$2,000 per day, that is pretty good teeth. I don’t know how many problems we have had that people are fighting back and saying they are not going to do anything about it. I don’t know how common that is, but it is not that common. I don’t think bigger teeth for these people are going to solve our problem, drainage problems. People can follow them and understand, feels reasonable, gets these guys what they want. That is what we need, right?

**Attorney Young** – clarity is the thing, and “shall” is generally more clear than “may”. It doesn’t mean it is a bad thing, it means – okay, this how I have to do it, and I am going to do it.

**Dillard** – yes.

**Dyson** – this is a process that we have also talked about, I think each one of these lots come with their own special variations, right? I mean, the same type of drainage plan doesn’t necessarily work for adjoining lots, is that fair to say?

**Engineer Naiser** – I don’t think very many variations will be requested. There are many ways to skin a cat on a drainage plan that we came up with.

**Dyson** – so, if we start limiting things, if we build this out on best management practices, that is broad enough but narrowly tailored enough to achieve our ends. Broad enough to allow the limited variation under it.

**Engineer Naiser** – I think we still want the drainage criteria manual and the reference to the City of Austin and storm water run-off and design and EMP’s are usually applying to erosion control and water quality. Chance discretion; if we want to keep in the erosion control and the water quality, when it comes to estimating run-off in a detention pond or conveyance is needed to follow the principals of the criteria manual, so it is tighter.

**Mayor Farrell** – so, Doug do you want to try to take a stab at that (ordinance) and bring it back in October so we can look at it at the next city council meeting.

**Dillard** – maybe we can circulate the ordinance early.

**Attorney Young** – so, am I being given direction? Should I say anything about maintenance at All?

**Mayor Farrell** – I believe maintenance should be “shall maintain”, but we don’t do the inspection and that will give me the teeth to go back if we have to if we have a problem.

**Dillard** – “shall maintain” are like all these standards that are in there. If the thing is not broken the it is not broken, right?

**Attorney Young** – “shall maintain according to the design and standards of the building code”, something like that?

**Dillard** – there are a lot of specifics, and I appreciate all of your specifics, and there are a lot of specifics in here and any one little change ... (interrupted).

**Mayor Farrell** – I can get but up all the time on this, I understand the “shall”.

**Dillard** – so, you say “so what, you still can’t do it”, if it says it that way. That is the day in and day out of how cities end up becoming, if they are not careful.

**Mayor Farrell** – let’s take a stab at it that way and we will pick that up.

Mayor Farrell moved to the posted agenda items. End of Meeting.