

MINUTES OF REGULAR
CITY COUNCIL MEETING HELD
OCTOBER 19, 2017

The City Council of Olmos Park, Texas held a regular meeting on October 19, 2017 commencing at 6:00 p.m. in the Council Chambers at City Hall. Mayor Ronald Hornberger presided and Council members present were Kenyon McDonald, Casey Fry, Sharon Plant and Enzo Pellegrino. Council members not present and excused from attending was Juliana Dusek. Staff present was City Manager, Celia DeLeon; City Secretary, Diane Gonzales; Fire Chief, John Surber; Police Chief Rene Valenciano and Public Works Director, Gilbert DeLeon. Also present were City Attorney, Frank Garza; Tom Turk, 6335 Circle Oak; Fedra Chapa, 103 E. Hermosa and James Griffin, 606 E. Mandalay.

Mayor Ronald Hornberger called the meeting to order at 6:00 p.m. and determined a quorum was present.

Citizens to be heard: This time is provided for citizens to address the Council on issues and concerns. No action can or will be taken on issues raised under this portion of the meeting. Please state your name and address for the record and limit your remarks to a period not to exceed three minutes.

No citizens to be heard.

Discuss and take possible action to amend Ordinance 2016-03, Tree ordinance to comply with new provisions adopted by the Texas Legislature regarding planting of trees in lieu of mitigation fee.

City Manager DeLeon stated this item is on the agenda because there were some changes in the past legislative session that Frank Garza has included in this revised ordinance.

Councilman Pellegrino stated he is not in favor of this ordinance in its entirety and asked if the changes don't get made what happens to the ordinance?

Frank Garza stated that state law now requires that the City has a permitting requirement for tree removals and have to allow for credits so the homeowner does not have to pay fees and they can plant trees in lieu of paying the fees so if Council does not approve this language we would have to follow the state provisions which is similar to what is in our ordinance and a citizen would have to see this ordinance and not know they can do for credit unless they are aware of the state law. This is beneficial to the resident because they can look at the City's ordinance and the state language is already in there. The original Tree Ordinance that was at the legislative would have null and voided our ordinance and would have prevented Cities from being able to regulate trees and the legislative did not pass. What passed was allowing for Cities to regulate trees but allowing a property owner not to have to pay fees but in lieu of those fees to plant trees whether on their property or on other properties on the City.

Councilman Pellegrino stated he wants the property rights of the owner to be respected.

Councilman Fry stated which is exactly what our ordinance already stated this is just crafting the language and this ensures that there is a licensed professional that is tackling that heavy tree pruning and allows the homeowner to do it themselves.

Councilwoman Plant asked if you obtained a permit and want to do an addition on your home and you don't have any more room in your backyard to put another tree, what happens?

Frank Garza said you can plant somewhere else in the City.

Councilman Fry stated one of the aspects of Olmos Park that we like are the trees and we are at a point where the trees are aging and we are seeing a lot of tear downs so we are not saying you can't remove your tree. What we are saying is acknowledge that we as a City have some respect for these trees but if you are going to remove at least consider replacing somewhere within the City or on their property that they removed from or pay a fee in lieu of removal. The City at some point can do some beautification along McCullough with the funds and can also be used if Oak Wilt were to come to Olmos Park.

Fire Chief Surber stated the title on this ordinance reads 2016-03 but we also amended the ordinance on 2017-03 which dropped the mitigation fee from \$2,000.00 to \$200.00. He asked are looking at amending the latest amended version or is it amending the original version?

Frank Garza stated it is amending the latest amended ordinance.

Councilman Fry moved to accept Ordinance 2016-03 Tree ordinance to comply with new provisions adopted by the Texas Legislature regarding planting of trees in lieu of mitigation fee which is now Ordinance 2017-13 as amended.

Councilman McDonald seconded the motion.

The vote in favor of the motion was unanimous.

Public Hearing to receive public comment regarding Ordinance 2017-12 adding Article X Landscape Regulations to the Code of Ordinances City of Olmos Park, Texas Chapter 40 Zoning; declaring a public purpose; incorporating recitals; providing a repealer and savings clause; providing for a penalty; providing for severability and setting an effective date.

Mayor Hornberger opened the public hearing at 6:17 p.m.

James Griffin stated the Planning & Zoning Board was trying to keep it simple and used the Bender Wells design that was prepared for McCullough for landscaping to be required when there is new construction or a major remodel. The Board struggled with what the trigger would be if it is more than 50% remodel or just new construction and the commercial lots are so small so we talked about dollar amounts of \$75,000.00 and don't want that to apply to someone who is adding 50 square feet addition or minor alternations. He stated they used the plants that were suggested by the Bender Wells Design and had them come out to our Planning & Zoning meeting and provide input. He also stated in this ordinance there is a requirement for parking spaces.

Mayor Hornberger closed the public hearing at 6:21 p.m.

Discuss and take possible action on Ordinance 2017-12 adding Article X Landscape Regulations to the Code of Ordinances City of Olmos Park, Texas Chapter 40 Zoning; declaring a public purpose; incorporating recitals; providing a repealer and savings clause; providing for a penalty; providing for severability and setting an effective date.

Councilman Fry suggested changing the triggering to a percentage of the real property value.

Frank Garza stated in his review of the ordinance and speaking with Richard Lindner the lawyer from his firm who assisted P&Z discussed that one of the areas that the recent Sidewalk Ordinance has triggering language that require new sidewalks if construction or expansion of

the building exceeds 50%. This ordinance states \$75,000.00 and he has concerns about different triggering languages and thinks the City needs to be consistent. And at next P&Z meeting they are going to look at the triggering language for all the ordinances they currently have. He stated his recommendation is for this item to be tabled until P&Z gets back to Council after they have looked at all the triggering language.

Mayor Hornberger suggested to substitute and take out the \$75,000.00 and add exceeds 50% of the then current appraised value. He stated we may have people who are fixing to construct on McCullough and we would like them to be able to make beautification improvements while they are constructing.

Councilwoman Plant stated we have language in the Sidewalk Ordinance regards to storm drains and what they may be planting can't interfere with the storm drains.

Frank Garza stated if this ordinance kicks in because the property owners are doing the repairs then they have to provide a landscaping plan which has to be approved by the Building Official so the Building Official will not allow for landscaping in the storm drain areas.

Councilwoman Plant asked in section 40-261 (2) where is states "lay turf" is that artificial turf?

James Griffin stated our intent was to allow artificial turf and there are provisions in the ordinance for a variance where if somebody wanted to lay turf.

Frank Garza stated you can amend and remove the word "lay turf".

Councilman Pellegrino moved to approve the Ordinance with the amendment changing the triggering language to reflect the triggering language in the Sidewalk Ordinance and to delete any references to lay turf.

Councilman Fry seconded the motion.

The vote in favor of the motion was unanimous.

Discussion and take possible action on a Public Right-of-Way Management Ordinance by the City of Olmos Park, Texas; regulating the physical use, occupancy and maintenance of the City rights-of-way by wireless network providers.

City Manager DeLeon stated this item is from last month's agenda where Council agreed to join the lawsuit.

Frank Garza stated you will pay \$335.55 for the legal fees to join the lawsuit.

Councilwoman Plant stated she is opposed to the aesthetic appeal and the various types of network nodes that they are able to put up and go into the backyards of residents.

Frank Garza stated the senate bill limits the Cities greatly on how much they are to charge for the use of their public right-of-way.

Councilwoman Plant moved for the City Council to participate with other Cities in a challenge of SB 1004 which relates to network nodes placed on the City's right-of-way and adopting resolution 2017-02 a resolution authorizing the city of Olmos Park in participating in the lawsuit in Travis County against the state of Texas, challenging the constitutionality of SB 1004 which significantly restricts the city of Olmos Park from regulating the construction, development and maintenance of network structures and wireless facilities in the public right-of-way and joining

the city of McAllen and twenty-one other Texas Cities who have initiated the lawsuit against SB 1004.

Councilman McDonald seconded the motion.

The vote in favor of the motion was unanimous.

Consent Items:

- a. Approve Cash Disbursements for September 2017;
- b. Approve City Council minutes for regular meeting for September 21, 2017

Councilwoman Plant moved to accept consent items A and B.

Councilman McDonald seconded the motion.

The vote in favor of the motion was unanimous.

Departmental Reports: (Written reports submitted to City Council, no further discussion required, unless requested by City Council.)

- a) Police:
 - (1.) Incidents, arrests and activity during the prior and current months.

- b) Fire:
 - (1.) Fire and other service calls, activity and training activities during the prior and current months.
- c) Streets and Sanitation:
 - (1.) Monthly Report
- d) Administration:
 - (1.) Financial reports for September 2017;
 - (2.) Monthly overtime, CT, vacation, sick leave report;
 - (3.) Building Department Report;
 - (4.) Municipal Court Report

Councilwoman Plant stated the EDC bought the City traffic counters and we have been studying the various streets and asked what is the likelihood of getting McCullough designated as a secondary thoroughfare?

Frank Garza stated because the City of Olmos Park only has a short aspect of McCullough in order to get deemed a thoroughfare you would have to see if the City of San Antonio is willing to apply for that as well.

Mayor Hornberger stated the proper thing to do would be to approach the City of San Antonio and see if they would join us and come back to Council with the information.

Councilwoman Plant stated to have the Police Chief provide all the traffic data to our City Attorney and see what the criteria is to be considered a secondary thoroughfare.

The City Council gave Frank Garza the direction to approach the City of San Antonio and see if they would join us in applying for a secondary thoroughfare and come back to Council with information.

Councilman McDonald moved to accept departmental reports as submitted.

Councilman Fry seconded the motion.

The vote in favor of the motion was unanimous.

There was no further business and the meeting was adjourned at 6:42 p.m.

Ronald Hornberger
Mayor

ATTEST:

Diane Gonzales
City Secretary