

MINUTES OF REGULAR
CITY COUNCIL MEETING HELD
APRIL 18, 2019

The City Council of Olmos Park, Texas held a regular meeting on April 18, 2019 commencing at 6:00 p.m. in the Council Chambers at City Hall. Mayor Pro Tem Kenyon McDonald presided and Council members present were Juliana Dusek, Enzo Pellegrino and Deanna Rickabaugh. Council members not present and excused from attending were Mayor Hornberger and Sharon Plant. Staff present was City Manager, Celia DeLeon; City Secretary, Diane Gonzales; Fire Chief, Michael Goodreau; Police Chief, Rene Valenciano, Public Works Director, Gilbert DeLeon and Building Official, Ricardo Cavazos. Also present was City Attorney, Richard Lindner; David Givler and Chris Martinez with Givler Engineering; Former Mayor Gerald Dubinski, 608 W. El Prado; Herbert Herion & Christopher Ball, 219 Luther and Sara Dysart, 206 Primera.

Mayor Pro tem Kenyon McDonald called the meeting to order at 6:03 p.m. and determined a quorum was present.

Mayor Pro Tem McDonald stated this will be Councilman Pellegrino's last City Council meeting and presented him with a Certificate of Appreciation for his service to the City.

Mayor Pro Tem announced that Council will move up agenda item number nine to first.

Announce upcoming vacancies in Board of Adjustment members beginning May 2019

City Secretary Gonzales announced that there will be four vacancies on the Board of Adjustment and we have received to date four applications. She sated one of the applicants Sara Dysart is here and would like to introduce herself to Council.

Sara Dysart stated she is a resident and has lived in Olmos Park since 2012 and would like to participate with the Board of Adjustment.

City Manager DeLeon stated the appointments will take place at the May City Council meeting.

Discussion and take possible action on Joint Cities Landfill Agreement

City Manager DeLeon stated Mayor Gerald Dubinski was involved in the Joint Cities Landfill Committee when he was the Mayor and is going to give Council some background on the subject.

Gerald Dubinski stated he became Mayor in 1986 and the City got together with four other Cities, Alamo Heights, Terrell Hills, Hollywood Park and Castle Hills and bought a landfill which had been a City dump just north of town near Wetmore road near Capital Cement and was ideally situated on the Salado Creek. It was sold and the person was going to build a baseball park and soccer fields. He took the land and never paid anything for it and he was told to clean it up in 1987 so now this falls back on the previous owner. Mayor Dubinski became Chairman of a Committee of Mayors and they hired an Engineer who wrote a plan to clean up the site and the approval from Austin who is now called the Department of Water Resources and they approved the plan then we proceeded which involved getting the land higher so it would not go over into the creek and covering the land which was household waste. We received a clearance from the State and it cost over a million dollars to clean it up and all the Cities decided to share a portion based on population and Olmos Park was at about 9%. All the bills were paid through this Committee and we got it cleaned up and had a forgiveness statement but if and when anything does happen you have to come back and do more to the land. We had a fund of

about \$92,000.00 left so the Committee decided to leave the fund intact in case the State did come back and ask for more money. One of the Cities decided it would be timely to break up the fund and Olmos Park's share is about \$9,000.00. He stated he spoke with Mike Brenham the City Attorney for Alamo Heights who handled this and he is also an Environmental Attorney. The City of Alamo Heights is going to vote to disburse the funds.

City Manager DeLeon stated the City Attorney, Mike Brenham for the City of Alamo Heights wants to work on an agreement for all the five Cities to agree on to disburse the money with the percentages listed on the agreement for the May City Council meeting.

City Attorney Lindner stated as far as the Federal Government is concerned, they don't care who owns the land now, they just look for who owned it that still actually has money and the liability goes on forever.

Councilman Pellegrino asked are we disbursing the money in the account?

City Attorney Lindner stated it depends on what the agreement says and how the liability is shifted between the parties being discussed and that agreement has not been drafted yet.

Councilman Pellegrino stated he would think it is in Olmos Park's favor to make sure our liability is capped out at 10%.

Gerald Dubinski stated we were using these funds for greenery to keep the earth from shifting but the ownership he believes is still in this persons hands that would not pay anything.

City Manager DeLeon stated we will have more information at the May meeting.

Receive and discuss the City Engineer's 2019 Street and Drainage Maintenance low bid verification and contractor recommendation for project; take possible action

David Givler stated he brought Chris Martinez with him since they have been working on the project together.

Chris Martinez provided a map that shows the areas that are going to be repaired such as asphalt pavement patching and routing and crack sealing. There will be a French Drain installed on Paseo Encinal. The total amount of patching is roughly going to be twelve hundred square yards and the amount of crack sealing is seven thousand linear feet. This project was put out to bid in early March and mid-March we had the bid opening and we received three bids: one from Texas Materials, one from Four B Paving and one from Pronto Sand Blasting & Coating. In review of the bids Four B Paving was the lowest bid and was about 11% lower than the other two so we recommend that Four B Paving be awarded the project and if they are awarded they will complete the project by the middle of July.

City Manager DeLeon stated Four B Paving has done work for the City before.

Councilman Pellegrino asked how much money do we have set aside for this project?

City Manager DeLeon stated for \$230,000.00 for construction cost.

Councilman Pellegrino asked as far as ranks does this project rank at the top of the list for priority.

Chris Martinez stated yes.

David Givler stated the total construction amount of \$187,529.59 includes the 15% for contingencies.

Councilwoman Rickabaugh moved to accept the recommendation to award Four B Paving the contract for the work recommended by the City's Engineer for \$187,529.59.

Councilman Pellegrino seconded the motion.

The vote in favor of the motion was unanimous.

Discuss and take possible action on Ordinance 2019-03 Adopting the International Building Code as adopted under state statute, the International Residential Code as adopted under state statute, the International Energy Conservation Code as adopted under state statute, the International Property Maintenance Code, as adopted under state statute, the International Existing Building Code, as adopted under state statute, and the International Swimming Pool and Spa Code, as adopted under state statute, 2018 editions, all published by the International Code Council.

City Manager DeLeon stated we are currently using the 2012 Building Code and moving into the 2018 Building Code assures the City is up to date with the latest requirements and codes and this only applies to the building codes. The Fire Department is working on the fire codes which will be coming in the next several months.

Councilwoman Rickabaugh asked how often are the building codes updated?

Building Official Cavazos stated every three years.

Councilwoman Rickabaugh asked so we skipped an update?

Building Official Cavazos stated we skipped 2015.

City Attorney Lindner stated it is not unusual for Cities to skip editions.

Councilman Pellegrino moved to adopt Ordinance 2019-03 an Ordinance amending the Code of Ordinances Chapter 8 Buildings and Building Code to adopt updated 2018 editions of certain Building Codes and certain amendments to same.

Councilwoman Rickabaugh seconded the motion.

The vote in favor of the motion was unanimous.

Discuss and take possible action on Ordinance 2019-02 amending Article II to the Code of Ordinances City of Olmos Park, Texas Chapter 40 Zoning; single-family residence districts, section 40-40 Building and Land Use restrictions; for the purpose of regulating windows on accessory buildings; declaring a public purpose; incorporating recitals; providing a repealer and savings clause; providing for a penalty; providing for severability and setting an effective date.

City Manager DeLeon stated this ordinance has been on the agenda several times and was initially requested by the Building Official to ask City Council to task P&Z to look at revising the current ordinance to add in-operable windows that face to the back of an accessory building in the rear. Currently they must be opaque but the Building Official has had a lot of questions from contractors about opening the windows. Planning & Zoning has reviewed the ordinance and they think we should move forward and make the change with the rear windows on the accessory building facing the rear of the property to be in-operable.

Building Official Cavazos stated currently the windows are allowed to open and the intent of City Council not to allow the windows to be clear due to the privacy of the resident behind the property line. We have had a few accessory structures in the last few years and the contractors always ask can the windows open, and Ric Cavazos answer is no but we need to get the language into the ordinance is to amend the current code to say will not open.

Councilwoman Dusek asked how many houses look into someone else's back, what is the purpose of being this strict?

Building Official Cavazos stated there are quite a few and with the current zoning codes the single family does stipulate if you are facing McCullough or an off street corner that it does not apply to them.

Councilwoman Rickabaugh asked have we had issues?

Building Official Cavazos stated yes we have had two property owners that contacted us when accessory structures were being built and they were very concerned because it looked down to their bedrooms.

Councilwoman Dusek stated people come in with plans and spend a lot of money and she does not want to be too strict but she wants to protect privacy.

Building Official Cavazos stated this only applies to the accessory structure which is a garage, guest house or two story structures.

Councilwoman Rickabaugh asked do the fire codes apply to the guest houses?

Building Official Cavazos stated yes, the side windows which have to be operable for emergencies. This amendment is only on the back windows

Councilwoman Dusek stated the Board of Adjustment says there is no real intent from the things that have been done from past Councils so we want to be fair.

City Attorney Lindner stated we can add a section to the ordinance adding a paragraph of what the purpose or intent is and the Board of Adjustment is supposed to make sure that they are furthering the intent of the ordinance.

Councilwoman Dusek move to revise Ordinance 2019-02 to include a purpose and direct the City Attorney to bring back a revised Ordinance next month.

Councilwoman Rickabaugh seconded the motion.

The vote in favor of the motion was unanimous.

Discussion and take possible action on regulating and permitting structure demolitions, resulting vacant lots and re-construction building material standards.

City Attorney Lindner stated at the last City Council meeting it was decided that he come back with what you can and can't do with regards to demolition structures, vacant lots and what authority do you have to regulate building materials in the residential district. He stated for demolition you have authority to regulate it and you have options on what you want to regulate.

Councilman Pellegrino asked what would be the purpose and the intent?

City Attorney Lindner stated the issue would be you want to make sure that the demolition is done and that a contractor does not start a demolition then run out of money then walk away. We need an ordinance to protect against this but they are more reactive ordinances and this ordinance gives us some assurances that the contractor gets the work done. This also makes sure that the contractor knows to shut off the utilities which are a last stop before someone goes to demolition a building and to make sure that they did not miss anything.

Councilwoman Rickabaugh stated we need to have a sufficient bonding amount that would protect the City's infrastructure. She stated there is a lot near her home where the building materials are still left on the lot which is unsightly.

Mayor Pro Tem asked what about vacant lots and building materials?

City Attorney Lindner stated he was asked to look into the limits of the City's ability on vacant lots to control what comes next and he has provided a memo. Regarding building standards you have the ability to regulate aesthetics for the purpose of protecting the nearby property values and to have a cohesive code and he recommends this being in the Zoning Code where it is most enforceable. He stated the problem is the Board of Adjustments is the Board that will make decisions about whether or not things comply or not and it is hard for the Board because sometimes aesthetic regulations could be subjective.

City Manager DeLeon stated at the last meeting there was a recommendation by another Councilperson that mentioned doing something similar to the PSW Special Use Permit.

City Attorney Lindner stated that will have to go through the Planning & Zoning Commission then come back to City Council.

Councilwoman Rickabaugh stated she is for individual property rights but if you have a house that goes down and then a new house goes up and the building materials are not as the same quality as what was there before then you may lose the essence of the City by not having some minimum standards.

Councilman Pellegrino stated economics will control that from happening in the City and we have had this discussion on Council before and the tendency has stayed away from the residential area because the economics don't make sense for that type of a scenario and the land is very expensive.

Councilwoman Rickabaugh stated she thinks you should replace the house like you found it.

Councilman Pellegrino stated with these types of regulations we are getting very strong into a regulatory environment. He would personally allow the residents to build how they want and we have stringent setbacks and height requirements and let them do what they want.

City Attorney Lindner stated if you want to have a further discussion about what to do with vacant lots then he recommends to go into executive Session §551.071.

Mayor Pro Tem McDonald stated he will move this item when they have their Executive Session.

Discussion of Tree Ordinance.

City Manager DeLeon stated this is on the agenda as per request of Councilwoman Rickabaugh as she wanted to discuss this in conjunction with agenda item 6, regulating and permitting structure demolitions, resulting vacant lots and re-construction building material standards.

Councilwoman Rickabaugh stated she has some questions about trees that are being taking down and we have a minimal fee of \$200.00 dollars so our tree ordinance does not have a lot of teeth to it. She spoke with Councilman Fry and he said he never intended to leave the fee at \$200.00 dollars.

Councilman Pellegrino stated his opinion is this ordinance needs to be removed and he is not in favor of moving up the fee.

Building Official Cavazos stated the ordinance used to be \$2,000 for a heritage tree to be removed and it was amended to \$200.00 per heritage tree. The ordinance says they will hire an arborist to obtain a site plan where the tree is located and what species and what diameter. He does encourage homeowners to reconsider planting other trees and usually it is a one to one match however if you get a 20 or 36 inch heritage tree there is no way of getting a 36 inch heritage tree anywhere and survive the transplant. He stated the ordinance does stipulate that you can have four inch diameter to make up the circumference.

Councilwoman Rickabaugh stated if she took down her house and put in another house and there was a tree that is designated as a heritage tree her options would be, she can re-do her plans and be thoughtful on how to put a house on the lot to respect the tree, she can obtain an arborist or replace the tree with another tree. She stated if she takes that tree down then she would give the \$200 to the City and it goes in a fund.

Building Official Cavazos stated the requirement is that they have to replace with another tree on the heritage tree list and as long as you can match the diameter that was removed and then replant then the homeowner notifies him and he goes out and visits the property and makes sure the tree/trees are there. He stated if you remove the trees after he does the inspection then a certified letter can be sent to the property owners saying that you removed the trees and you need to replant or pay the fine.

Receive update on City and Fire Station repairs

City Attorney Lindner stated he has submitted his proposed contract and the architect is putting it together.

Approve a budget amendment for the purchase of fire department bunker gear from the FD bunker gear reserve fund.

City Manager DeLeon stated the Fire Chief is not purchasing all the bunker gear together because they have expiration dates so he is buying 3 to 4 per year for a couple of years. We have \$52,802.00 in our reserve fund specifically for bunker gear and the cost for this set is \$11,995.00.

Councilman Pellegrino moved to approve a budget amendment for the purchase of Fire Department bunker gear from the FD bunker gear reserve fund.

Councilwoman Dusek seconded the motion.

The vote in favor of the motion was unanimous

Consent Items:

- a. Approve Cash Disbursements March 2019;
- b. Approve City Council minutes of March 21, 2019;

- c. Excuse Councilwoman Plant from attending the May 16, 2019 regular City Council meeting

Councilman Pellegrino moved to accept consent items A through C.
Councilwoman Rickabaugh 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 March 2019;
 - (2.) Monthly overtime, CT, vacation, sick leave report
 - (3.) Building Department Report
 - (4.) Municipal Court Report
- e) Manager's report:
 - (1.) Discussion of written reports (if needed).

Councilman Pellegrino moved to accept the Departmental Reports.
Councilwoman Dusek seconded the motion.
The vote in favor of the motion was unanimous.

Executive Session pursuant to TEXAS GOVERNMENT CODE Attorney/Client Consultation, §551.071 to discuss PSW real estate issues on East Olmos.

Mayor Pro Tem McDonald stated included in the discussion will also be agenda item number six, Discussion and take possible action on regulating and permitting structure demolitions, resulting vacant lots and re-construction building material standards. Mayor Pro Tem opened Executive Session at 7:00 p.m.

Mayor Pro Tem McDonald closed the Executive Session at 8:00 p.m.

Open Session Reconvene into Regular Session and take/or give direction or action, if necessary, on items discussed in Executive Session.

Mayor Pro Tem McDonald stated regarding agenda Item number six, regulating and permitting structure demolitions, resulting vacant lots and re-construction building material standards.

Councilwoman Rickabaugh move to task the City Staff and City Attorney to draft an ordinance concerning the demolition process procedures.
Councilwoman Dusek seconded the motion.
The vote in favor of the motion was unanimous.

Mayor Pro Tem McDonald stated regarding agenda Item number thirteen, PSW real estate issues on East Olmos.

Councilman Pellegrino moved to accept the resolution presented by PSW.
Councilwoman Rickabaugh seconded the motion.
The vote in favor of the motion was unanimous.

Councilwoman Dusek abstained.

There was no further business and the meeting was adjourned at 8:02 p.m.

Kenyon McDonald
Mayor Pro Tem

ATTEST:

Diane Gonzales
City Secretary