

MINUTES OF REGULAR
CITY COUNCIL MEETING HELD
MAY 16, 2019

The City Council of Olmos Park, Texas held a regular meeting on May 16, 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, Erin Harrison 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 and Public Works Director, Gilbert DeLeon. Also present was City Attorney, Richard Lindner; Brandi Baker, 500 E. Olmos; Jackson Uhr, 500 E. Olmos; Robert Adelman, 120 E. Wildwood; RoseMary Slagle, Plains Capital Bank; Ted Bowen, 205 E. Wildwood; William Brooks, 439 Paseo Encinal; Alejandra Mendez, 244 Stanford.

Mayor Pro Tem Kenyon McDonald 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.

Administer Oath of Office to Councilwoman Dusek, Councilwoman Plant and Councilwoman Harrison

City Secretary Gonzales administered Oath of Offices to re-appointed Councilwoman Juliana Dusek and newly appointed Councilwoman Erin Harrison.

Issue Certificate of Election and Statement of Elected Officer to newly elected officials

City Secretary Gonzales issued the Certificates of Election and the Statement of Elected Officers to the elected officials.

Appoint Mayor Pro Tem to serve through May 2020

Councilwoman Dusek moved to nominate Kenyon McDonald as Mayor Pro Tem to serve a term through May 2020.

Councilwoman Harrison seconded the motion.

The vote in favor of the motion was unanimous.

Recognize Ted Bowen and family for tree planting at triangle on Wildwood and Hillside

City Secretary Gonzales recognized Ted Bowen and his family with a certificate of appreciation for the tree planting at triangle on Wildwood and Hillside.

Set time and date for regular City Council meetings per City Code Section 2.1(a)

Councilwoman Dusek moved to continue to keep the City Council meetings on the third Thursday of every month at 6:00 p.m.

Councilwoman Harrison seconded the motion.

The vote in favor of the motion was unanimous.

Discuss and take possible action on Planning and Zoning's review of impervious cover restrictions, Chapter 40 of the City Code as instructed by the City Council

William Brooks who is the Chair of the Planning & Zoning stated after considering the City Council's request for the impervious cover and after discussing the pros and cons the P&Z board came to the conclusion that it seems the private residents have a remedy outside the ordinance to seek relief for this particular issue and they chose to recommend to Council not to adopt revisions to the impervious cover ordinance.

Richard Lindner stated Council can either accept that recommendation or Council can decide to go on with a different ordinance.

Councilwoman Rickabaugh asked what are the remedies?

William Brooks stated if a landowner would adjust or change the elevation of their property and change the nature of the run off from one property to another then they can litigate against their neighbor to try to seek recovery. He stated for the board it was almost too implicit in their minds to adopt an ordinance to legislate something that a private citizen can effectively do on their own.

Councilwoman Rickabaugh asked what the City's remedy if the City's is injuring someone?

William Brooks stated the board did not discuss that, their discussions were limited to residential aspects of the background. The concern going forward was if someone was to change the nature of the elevation of their property, or the impervious cover either the front of the back.

Councilwoman Rickabaugh asked if a neighbor is injured in some way after the fact, their only remedy is to seek some damages from the neighbor? Is there a way to compel the neighbor to remedy it, or is it just monetary remedies?

Richard Lindner stated if they saw the project going on and they were concerned about run off they could ask the court for an injunction to stop while they figure out if that is going to hurt them. If they found it after the fact then they could seek judgement. He stated the water code provides to privately sue one landowner/neighbor as well for nuisance or general damage to the property.

Councilwoman Rickabaugh stated a neighbor will not be notified and they will have to notice over the fence and hope that it does not injure them rather than one of the options in the ordinance that was considered was to put the City on notice and make sure that the neighbors are aware.

William Brooks stated after a certain point and the change in elevation. Some of the things that discouraged the board were the high cost to a homeowner of getting a Topography Study done as to how the change in elevation would affect the neighbor.

Councilwoman Rickabaugh asked what is the cost to the homeowner?

William Brooks stated he did not know the exact amount but it was discussed as being very expensive and it seems arbitrary as we would be charging the City Inspector with reviewing the Topography Studies and increases the burden on his position.

Councilwoman Rickabaugh asked what about the neighbor who now has been injured, what is the cost to them to bring an injunction?

William Brooks stated the neighbor can include costs of litigation against their neighbor.

Councilwoman Rickabaugh asked why are we putting the monetary burden on the neighbor?

William Brooks stated your neighbor is going to be able to recoup their cost of ligation against the offender. If they sue because you are directing water onto their property then they can add their costs of litigating against them into their recovery.

Mayor Pro Tem McDonald recommended tabling this item until the next meeting.

Councilwoman Rickabaugh stated she would like to know the cost of the Topography Study and bring back to the next meeting.

Richard Lindner stated the City Engineer came to one of the Planning & Zoning meetings and discussed this topic and was asked that question so it may be in the minutes of one of those meetings.

Councilwoman Harrison asked she would like to know what constitutes a significant change in elevation?

William Brooks stated the board struggled with that because it is almost putting an arbitrary number out there and there is no guidance for us on what the appropriate number to trigger is so the board decided not to adopt the ordinance.

City Manager DeLeon stated this will be on the July agenda which is when we have a full Council again.

Councilwoman Rickabaugh moved to table this until the July City Council meeting.

Councilwoman Dusek seconded the motion.

The vote in favor of the motion was unanimous.

Appoint four members to the Board of Adjustment to serve terms through May 2021; take possible action

City Secretary stated there are four members that terms are expiring and we have received four applications from Ted Bowen, Sarah Dysart, Eugene Garcia and Mark Woods.

Councilwoman Harrison moved to appoint Ted Bowen, Sarah Dysart, Eugene Garcia and Mark Woods to serve a term through May 2021.

Councilwoman Rickabaugh seconded the motion.

The vote in favor of the motion was unanimous.

Selection of depository to provide bank depository services; take possible action

City Manager DeLeon stated she would like for City Council to select Broadway Bank as the depository bank and allow her to negotiate and execute a contract and if the negotiations fail to select Plains Capital Bank as a secondary bank.

Mayor Pro Tem McDonald asked for an explanation on the negotiating?

Richard Lindner stated on the procurement process, Council is tasked with selecting a bank that will provide the best value and because Council chose a complete sealed proposal and as part of that you go with the one that Council decides that provides the best value to the City and then try to enter into a contract. If you can't enter into a contract then you give them notice that you

are ceasing negotiations and then you go with the next bank to complete the negotiations until you can enter into a contract.

Mayor Pro Tem McDonald asked the City Manager if she was going to negotiate with Broadway Bank to meet the terms?

City Manager DeLeon stated yes.

Councilwoman Rickabaugh asked the City Manager what is her criteria?

City Manager DeLeon stated she would give her a copy of the RFP criteria.

Councilwoman Rickabaugh moved to select Broadway Bank as the depository providing the best value to the City, and authorize City Manager to negotiate and execute depository services with Broadway Bank first, and then with Plains Capital if negotiations fail.

Councilwoman Dusek seconded the motion.

The vote in favor of the motion was unanimous.

Discussion on Joint Cities Landfill Agreement; take possible action

City Manager DeLeon stated the agreement has been reviewed by the City Attorney and he has approved it and informed City Council that this agreement does not remove our liability.

Richard Lindner stated at last month's meeting the City's ex-Mayor Gerald Dubinski statements were correct about this agreement and it does not remove the liability.

City Manager DeLeon stated the City Council for Alamo Heights had this item on their agenda and they have approved the agreement. Castle Hills, Hollywood Park and Terrell Hills still need to approve their portion.

Councilwoman Harrison asked is the City's liability limited to ten percent even though we only contributed ten percent?

Richard Lindner stated between your parties the document you are entering into today does nothing to effect the agreement that had all the percentages of what the Cities would be capped at so this document has no effect on the liability and the liability remains the same.

Councilwoman Rickabaugh moved to approve the agreement to disburse the funds in accordance with Joint Cities Landfill Reclamation and Beautification Board.

Councilwoman Harrison seconded the motion.

The vote in favor of the motion was unanimous.

Discussion on recycling

Mayor Pro Tem McDonald stated we are now paying for recycling more than it is worth. It would be less expensive to take it to the landfill and recommends to table this item until we have a full Council in July and to have the Public Works Director have a presentation on the cost of what it is costing us to take it to the landfill and what it costs us to recycle.

City Manager DeLeon stated we have sent out several email blasts with updated recycle information.

Councilwoman Rickabaugh asked have we been clear with the citizens, is it a matter of educating the citizens about what they need to put in the recycling.

Mayor Pro Tem McDonald stated it is getting more limited on what is accepted on what can be recycled.

Public Works Director DeLeon stated what is accepted now is only paper, cardboard and plastic bottles. The residents are bagging their recycling and there is no time to sort through the bag to see what is recyclable.

Councilwoman Dusek recommended sending out a postcard flyer?

City Manager DeLeon stated she will send out a flyer between now and July.

Public Works Director DeLeon stated every City is paying right now for recycling except for Del Rio. His guys try to take out what does not belong in the recycling but there is so much stuff to go through and if it is contaminated it has to be thrown out as trash.

Discussion and take possible action on an Ordinance 2019-05 amending Chapter Eight (8) of the City's Code Of Ordinances, entitled Building And Building Codes to add Article IX Demolition, to create regulations for demolition of structures; providing for penalties; repealing all ordinances or parts of ordinances in conflict herewith; providing a savings clause; providing for the inclusion in the code of ordinances; providing for an effective date.

Mayor Pro Tem McDonald recommended tabling this item until July when there is a full Council.

Councilwoman Harrison moved to table this item until July meeting.

Mayor Pro Tem seconded the motion.

Councilwoman Rickabaugh stated she did not understand why we needed to table this item.

The vote in favor to table was.

Councilwoman Harrison	AYE
Councilwoman Dusek	AYE
Mayor Pro Tem McDonald	AYE
Councilwoman Rickabaugh	NAY

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

Richard Lindner stated at the last Council meeting Council had requested to add a purpose phrase in the ordinance and to start doing that for all the Planning & Zoning type ordinances so that the Board of Adjustment understands what the intent is so they can make a more reasonable decision.

Councilwoman Rickabaugh moved to accept the additions to ordinance 2019-02 amending Article II as presented.

Councilwoman Dusek seconded the motion.

The vote in favor of the motion was unanimous.

Consent Items:

- a. Approve Cash Disbursements April 2019;
- b. Approve City Council minutes of April 18, 2019;
- c. Approve San Antonio Bar Foundation to hold their Annual Fun Run through Olmos Park on October 26, 2019

Councilwoman Rickabaugh moved to accept consent items A through C.

Councilwoman Dusek 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 February 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).

Councilwoman Rickabaugh asked what is the status of the repair to a damaged sewer line at Panchitos?

City Manager DeLeon stated we are working trying to obtain a second bid which is \$3,000 cheaper and now we are going out for a third bid.

Councilwoman Rickabaugh asked is the repair cost still around \$30,000.00 to repair?

City Manager DeLeon stated yes.

Councilwoman Rickabaugh 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.

Richard Lindner stated the parties are formulating the agreement that was reached and if there are questions he recommends going into executive session.

Councilwoman Harrison stated she has questions.

Mayor Pro Tem McDonald opened the Executive Session at 6:35 p.m.

Mayor Pro Tem McDonald closed the Executive Session at 6:44 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 there is no action to be taken.

There was no further business and the meeting was adjourned at 6:45 p.m.

Ronald Hornberger

Mayor

ATTEST:

Diane Gonzales
City Secretary