

MINUTES OF REGULAR
CITY COUNCIL MEETING HELD
SEPTEMBER 21, 2017

The City Council of Olmos Park, Texas held a regular meeting on September 21, 2017 commencing at 6:00 p.m. in the Council Chambers at City Hall. Mayor Pro Tem Kenyon McDonald presided and Council members present were Casey Fry, Juliana Dusek, Sharon Plant and Enzo Pellegrino. Council members not present and excused from attending was Mayor Ronald Hornberger. 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; David Givler, Givler Engineering; Roland Hinojosa, CPS Energy; Paul Allen, 217 Burr Road; Alberto Miranda, Foresters Financial; Suzanne Simpson, 520 E. Olmos Drive and D. Cavaness, 211 Parklane.

Mayor Pro Tem 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.

Discussion of Givler Engineering reports:

- Ongoing Project update; take possible action

David Givler presented the project update report and stated there are 19 projects open and eight of those are storm water related projects. There are three sanitary sewer projects and two projects are completed and one street and drainage project which is coming up for the new fiscal year and one miscellaneous project in utility review. He stated last spring he presented to Council with an evaluation of condition of the streets report and made some recommendations on work to be done in the next fiscal year so hopefully next month he can get some guidance from Council on how to proceed.

- 2017 Sanitary Sewer Cleaning, Inspection & Mapping Evaluation Report; take possible action

David Givler asked Council if they needed more time to review the documents or give him direction on how large of a package Council wants prepared for repairs on the system.

City Manager DeLeon stated we budgeted \$125,000 for the Sewer Point Repairs and needs to include engineering fees, contingency fees and mobilization.

David Givler stated as a result of the Cleaning & Inspection that was just performed and identified five or six major point repairs and those are considered to be higher priority items. He presented the Major Point Repairs Report and has identified \$216,000 to \$252,000 worth of work. The Minor Point Repairs Report and have identified repairs in the range of \$165,000 to \$193,000 which most of those could be deferred and may not develop to anything that needs to be done in the near future.

Councilwoman Plant suggested handling the repairs as they come in and in the next five or so years we will need a complete sewer re-do which would be a bond issue.

Councilman Fry asked it is realist to re-do the entire system?

David Givler stated no, he does not think the entire system needs to be replaced yet, this is a 50 year system and the City is about 40% into that.

Councilman Pellegrino stated when the bond is paid off which is year 2022 and when we go to re-do it the system our tax rate will remain similar today and the strategy historically is what has been done.

Councilwoman Plant stated to fix the repairs as they come up and keep building the fund so there is money in the fund.

Mayor Pro Tem McDonald asked is there anything that is an emergency in the next few weeks?

David Givler stated not in the next few weeks, there are deformations in the pipe that can hang up debris and cause blockage and it doesn't make sense to study more than you can address and just study what we think we are going to be able to handle, we have only been doing this for two years now and it is better and cheaper to fix these now when they are not emergencies and cut back some of the televising next year. His recommendation is that we change the proportion and take some of the study money and put it into the construction and keep some of the studying going.

Councilman Pellegrino stated between the \$125,000 that was budgeted and the \$30,000 scoping it makes sense to give Mr. Givler the initiative to fix our priority items and leave some money towards the end of the year and see if there has been any major emergencies and if not to move forward with a few more repairs.

Councilwoman Dusek asked if Council could get a breakdown of what each cost covers?

Councilwoman Plant stated to note on the breakdown if any of the repairs are in the street and show which repairs are involved of tearing up the street so we can incorporate that back into our street maintenance portion.

David Givler stated when Council gives him authorization they will put a package together and come back to Council for approval which will show all the detail and breakdown that Council is asking for and Council will have another opportunity to revise it before it goes out for bids.

Mayor Pro Tem McDonald told David Givler that he has Council's direction to come back to the October meeting with a breakdown of costs.

Public Hearing on FY2018 proposed budget

Mayor Pro Tem McDonald opened the public hearing at 7:17 p.m.

No one was heard.

Mayor Pro Tem McDonald closed the public hearing at 7:18 p.m.

Public Hearing on 2017 tax rate to fund FY2018 budget

Mayor Pro Tem McDonald opened the public hearing at 7:18 p.m.

No one was heard.

Mayor Pro Tem McDonald closed the public hearing at 7:19 p.m.

Review, discuss and consider Ordinance 2017-09 adopting the FY2018 budget; take possible action by record vote

Councilwoman Plant moved to accept Ordinance 2017-09 adopting the FY2018 budget.

Councilman Fry seconded the motion.

Councilwoman Dusek	Aye
Councilman Fry	Aye
Councilman McDonald	Aye
Councilman Pellegrino	Aye
Councilwoman Plant	Aye

Motion passes.

Ratify the property tax increase reflected in the FY2018 budget, per Texas Local Government Code Section 102.007(c); take possible action by record vote

Councilman Fry moved to approve the property tax increase reflected in the FY2018 budget.

Councilwoman Plant seconded the motion.

Councilwoman Dusek	Aye
Councilman Fry	Aye
Councilman McDonald	Aye
Councilman Pellegrino	Aye
Councilwoman Plant	Aye

Motion passes.

Consider Ordinance 2017-10 setting the 2017 Tax Rate to fund the Fiscal Year 2018 Budget; take possible action by record vote

Councilman Fry moved that the property tax rate be increased by the adoption of a tax rate of 0.432785, which is the M&O Rate being \$0.369274 and the I&S Rate being \$0.063511 which is effectively a 1.99% increase in the tax rate.

Councilwoman Plant seconded the motion.

Councilwoman Dusek	Aye
Councilman Fry	Aye
Councilman McDonald	Aye
Councilman Pellegrino	Aye
Councilwoman Plant	Aye

Motion passes.

Receive and discuss request from resident to close the 500 block of East Olmos Drive from Contour to Shook on October 31, 2017 for a Halloween Party; take possible action

Suzanne Simpson of 520 East Olmos Drive stated each year she has a Halloween party and for the past two years the City closes down the street from the 500 block of Contour to Shook.

Councilman Fry moved to allow Ms. Simpson to close the 500 block of East Olmos Drive from Contour to Shook on October 31, 2017 for a Halloween Party.

Councilwoman Dusek 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; describing the purpose; providing definitions; requiring compliance with the City design manual and applicable codes for the installation of network nodes and node support poles pursuant to Chapter 284 of the Texas Local Government Code; providing city procedures for applications for permits; establishing time periods for approval of permit applications; providing application fees and annual public right-of-way rental

rates; providing restrictions on placement of network nodes and node support poles in Municipal Parks, residential areas, historic districts and design districts; providing indemnity for the City; providing repealing and savings clause; proving a Texas Open Meetings Act clause; and providing an effective date of September 1, 2017.

Frank Garza stated the Texas Legislature adopted amendments to Chapter 284 of the Local Government Code which basically restricts cities from being able to prohibit certain communication devices being placed on the City's right-of-way, it also limits the amount of revenue that the City could charge for these companies such as AT&T, Sprint, T-Mobile, etc. use of right-of-way for what they install, it states if the City owns poles that they will have to have access to those poles and other fixtures that are on the City's right-of-way. A lot of the poles in Olmos Park belong to CPS Energy and a lawsuit has been filed by some cities against the State of Texas for the adoption of this legislation and they are claiming that the laws allow the cities to maintain and control their right-of-ways and the State has taken that right away. The lead City is McAllen and about 15 other cities have joined in on the lawsuit. This ordinance does require that certain conditions must be met and the State did allow for a City to be able to develop design standards and it allowed some restrictions and regulations with regards to these items to be placed in the right-of-way. One thing that is not included in this ordinance is that the City of McAllen have raised their permit fees but are only charging what the State is allowing but want to have it on record and basically protest to show that this is what their ordinance calls for. Frank Garza's recommendation is to approve this ordinance and the design standards which can be amended in the future as needed. The legislature went into effect September 1, 2017 so if there are any applications that went in before September 1, 2017 we won't be able to utilize these design standards but by adopting them now any application that comes in this ordinance will be enforced.

Councilman Pellegrino moved to approve Ordinance 2017-11 as written.

Councilman Fry seconded the motion.

The vote in favor of the motion was unanimous.

Roland Hinojosa stated these are wireless network nodes within wireless and communication systems an evolving industry and the wireless industry is now having to keep up with all the information that is being processed from point A to point B so we have gone from large wireless antennas in and around suburban areas, urban areas and now the technology is to bring it local within the communities. Compliance and allowance of municipalities and utilities to allow for these network node providers to place their facilities on the utility poles and or install their own poles within certain guidelines. CPS Energy has been working with several providers talking about installing 150 facilities within the right-of-ways of the San Antonio area. The utility pole will also have a disconnect service for the electrical service as needed and will also have a CPS meter box to help meter the electrical consumption and have electrical conduits running up to their facilities and back down to their disconnect box for safety and precaution. He stated one of the provisions of Senate Bill 1004 allows for these facilities to be placed in the public right-of-way so in Olmos Park a lot of these poles are in private easements which would not apply.

Frank Garza stated it has to be in the public right-of-way.

Roland Hinojosa stated the bill is being challenged and there are 22 cities that are filing lawsuits. There is a TML conference scheduled for the first week in November to learn more on wireless activities and there is a conference called Texas Association of Telecommunication Officers Association in downtown San Antonio and there will be representatives from the telecom industry, municipalities, TML and attorneys to discuss the challenges and opportunity with Senate Bill 1004. These pole providers will have attachment agreements that coincide with CPS standards. They are still working with the telecommunication providers to see what they can do to enhance

the esthetics of these boxes that are above ground and trying to keep them at a lower level that are not visually seen which may be part of CPS standards.

Frank Garza stated if the City of Olmos Park is interested in joining suit it cost \$600.00 to join based on population so it may be less which is a one-time fee and part of the requirement is the City will need a resolution.

Mayor Pro Tem McDonald stated we will need a resolution and this item put back on the October agenda.

Receive and discuss request from resident to conduct a fireworks display on his property on the 900 block of Olmos Drive on November 3, 2017; take possible action

Paul Allen stated Mr. Steve's is out of town and is an independent contractor for both Arial Architecture and Magic in the Sky the two entities that are going to be responsible for the show. Both entities are vetted and licensed at the City and the Federal level and hold ATF licenses to conduct this type of event. They are going to use what is described as close proximity effects as the scale goes up the effect goes down and these effects are very common at sporting events with about 20,000 to 25,000 people. The map shows a 25 foot diameter setback and that is the federally mandated setback for safety.

Councilwoman Plant stated our ordinances do not allow fireworks in the City.

Chief Surber asked what size are the aerial mortars?

Paul Allen stated nothing will be a two inch mortar.

Chief Surber presented a power point presentation and stated we have higher value of homes in Olmos Park and the contents value is higher than most communities and typically a fireworks display requires a million dollar insurance bond but could be adjusted. A fireworks display could be perfect but accidents do occur and even with no accidents you would have fall out that come down from the exploded firework and fall on homes, streets and wooded areas. An accident could start multiple fires beyond capability of the Olmos Park Fire Department and a malfunctioning firework could endanger a residence structure or motorist. They are going to use a two inch mortar and would need a 280 foot diameter. The legislative regulations are covered under the Texas Occupations Code and the Texas Administrative Code both of which require 1123 a code for fireworks display and chapter five covers the minimum site size requirement which shows on the chart how much space you will need. A site visit shows at the rear of the property a combustible green house is erected right up against the back fence and behind the green house are piles of wood debris that could easily catch on fire with fireworks and spread to the San Antonio area. The Fire Department is to protect lives and property and the best way to accomplish that is to adhere to the current Olmos Park City Ordinances and not allow the use of any fireworks in Olmos Park.

Paul Allen stated both entities file for a minimum amount of five million dollar policy and anything that is being discussed is federally handled and to have a permit to be able to handle. There is an event that is going to be at 900 Olmos on November 3rd for a party and these are more stage effects than fireworks but are defined as fireworks. A portion of that 900 Olmos is in San Antonio which they have the permitting for that and Olmos Park does not have the permitting. Both Arial Architecture and Magic in the Sky operate and shoot fireworks for Fiesta and are responsible for the fireworks that are shot off San Antonio Museum of Art and are scripted and turned into the regulatory agency that has to be in accordance with the permit they are filing for and the day of

the show the City of San Antonio will send out the Fire Marshall to sign off on the show and the permit is not issued until the day of the show.

Councilman Fry asked how long is a typically show?

Paul Allen stated about 15 minutes and is choreographed with music.

Councilman Fry asked have you talked with any of the neighbors?

Paul Allen stated yes we have spoken to a few of the neighbors and they are ok with it.

Councilwoman Dusek asked how high will the fireworks be?

Paul Allen stated the show has not been fully scripted but could go maybe 150 feet.

Councilman Fry stated they have to adhere to the Federal and State regulations. When Trace Steve's first mentioned this to him he mentioned there is a highway close by with motorist going down 281 and he stated they have shot off fireworks downtown much closer to over passes and it all adheres to the regulations and Councilman Fry stated he does not have an issue with the fireworks show as long as they are adhering to those guidelines and there isn't another property in Olmos Park where this would make sense. A portion of Mr. Steve's property is in San Antonio and he could move it in the corner that is in San Antonio.

Frank Garza stated the City of San Antonio would have to approve the permit. Olmos Park does have sovereign immunity from certain acts if it showed the City took every precaution as possible. Most of his smaller Cities have an ordinance prohibiting firework shows because of the density of the homes.

Councilman Fry moved to permit either Arial Architecture or Magic in the Sky to bring forward an application for a firework show to be conducted on November 3, 2017 at the residence of Mr. Sam Steves on the 900 block of Olmos Drive and that we grant them the permit so long as their design of the fireworks show meets the existing federal and state regulations for pyrotechnics displays and so long as Fire Chief Surber confirms on the day of the permit issued that no environmental changes have taken place.

Councilwoman Dusek seconded the motion.

Councilwoman Dusek Aye

Councilman Fry Aye

Mayor Pro Tem McDonald Nay

Councilman Pellegrino Nay

Councilwoman Plant Nay

Motion did not pass.

Discuss executing Request for Qualifications for City Engineer for 2018: take possible action

City Manager DeLeon stated her recommendation is to execute request for qualifications for City Engineer.

Councilman Fry moved to execute the request for qualifications for City Engineer for 2018

Councilman McDonald seconded the motion.

The vote in favor of the motion was unanimous.

Fire Chief Surber stated if we do not change Engineers it is very important that we make sure we collect all data, all maps and this has been missed in the past and puts us so far behind on our street and sewer maps.

Discuss revisions to the parking fines for 2-5 violations as listed in Section 36-57 of the City Code; take possible action

Agenda item was withdrawn.

Discussion and take possible action on the following FY2017 budget amendments:

Increase expense RESERVE-PD Vehicles #10-700-556 from \$0 to \$49,000

Increase revenue Transfer In - Police #20-300-520 from \$0 to \$49,000

Increase expense RESERVE- Streets #10-500-585 from \$320,223 to \$420,223

Increase revenue Transfer In - Streets #20-300-505 from \$320,223 to \$420,223

Increase expense RESERVE- McCullough #10-500-586 from \$0 to \$50,000

Increase revenue Transfer In - Streets #20-300-430 from \$0 to \$50,000

Increase expense RESERVE-FD Vehicles #10-800-556 from \$0 to \$50,000

Increase expense RESERVE-FD Mandates #10-800-570 from \$0 to \$5,000

Increase revenue Transfer In - Fire #20-300-530 from \$0 to \$55,000

Increase expense RESERVE-Other/Sewer #10-400-563 from \$0 to \$370,000

Increase revenue Transfer In - GF #50-300-419 from \$0 to \$370,000

Councilwoman Plant moved to approve all budget amendments noted.

Councilman Pellegrino seconded the motion.

The vote in favor of the motion was unanimous.

Consent Items:

- a. Approve Cash Disbursements for August 2017;
- b. Approve City Council minutes for regular meeting for August 17, 2017, special meeting for August 30, 2017 and special meeting for September 7, 2017;
- c. Excuse Councilwoman Dusek from attending the October 19, 2017 regular meeting.

Councilwoman Plant moved to accept consent items A, B and C.

Councilman Fry 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 August 2017;
 - (2.) Monthly overtime, CT, vacation, sick leave report
 - (3.) Building Department Report
 - (4.) Municipal Court Report

Councilwoman Plant asked do we have a catastrophe plan in place in case something happens like what happened in Rock Port. A lot of cities contract out for rubbish pickup for disposal in a catastrophe event?

City Manager DeLeon will follow up and obtain information.

Councilwoman Plant moved to accept departmental reports as submitted.
Councilman Pellegrino seconded the motion.
The vote in favor of the motion was unanimous.

There was no further business and the meeting was adjourned at 7:35 p.m.

Ronald Hornberger
Mayor

ATTEST:

Diane Gonzales
City Secretary