

MINUTES OF REGULAR
CITY COUNCIL MEETING HELD
JANUARY 19, 2017

The City Council of Olmos Park, Texas held a regular meeting on January 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, Sharon Plant, Juliana Dusek and Casey Fry. Council member not present and excused from attending was Deb Prost. Staff present was City Manager, Celia M DeLeon; City Secretary, Diane Gonzales; Fire Chief, John Surber; Police Chief, Rene Valenciano. Also present were City Attorney, Frank Garza; Gerald Dubinski, 608 El Prado; David Givler, Givler Engineering; A.T, Brainerd, 201 E. Mandalay; Dr. Kenneth Kirlin, 414 Thelma; Dorothy Jo Weiss, 701 E. El Prado; Alan Chesler, 727 Contour; William Moser, 842 Estes Ave.; Ed Mosser, 842 Estes Ave. and Frank Zoch, 115 W. El Prado.

Mayor 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.

Dorothy Jo Weiss stated she wanted Council to become aware of a situation on Hillside, that when she backs out of her driveway onto Hillside it is pitch black out and she can't see anybody or anything. She stated years ago we used to have a lamp post and for the last several years we cannot see anything and is asking Council to re-evaluate this before something happens and there is a tremendous amount of speeding on Hillside, El Prado and Brittany and they come from Olmos Drive and cut across and suggested maybe making it a no entrance area.

Honor Mr. Gerald Z. Dubinski Sr. with an Emeritus Mayor award.

Mayor Hornberger awarded Gerald Z. Dubinski Sr. with a Mayor Emeritus award and thanked Mr. Dubinski for serving on Council from 1961 through 1969 and serving as Mayor from 1986 to 2008 and was also Project Manager for the new City Hall and has a total of 35 years of dedicated service to the City.

Discussion of Givler Engineering reports:

- Ongoing Project update; take possible action

David Givler updated Council on the ongoing project report and stated there are 16 projects that are open and some of them involve construction site reviews and 2 of them are currently out of compliance. On the 2017 Street and Drainage Project, in the past we have identified \$4.9 million dollars of street repairs that we are aware of at this time so how do we start attacking this to get it under control. At the December City Council meeting he recommended a package to Council of about \$140,000 to \$170,000 worth of street repairs and Council responded by asking for a larger package with different priorities to allow flexibility of making the project bigger so the map that he provided Council represents 4 different levels of priority and the priorities are based on what makes sense to do and how will the City get the most from its investment. He stated his goal is to obtain from Council a budget approval so he can put his package together and go out for bid.

City Manager DeLeon stated during the budget session we agreed to \$150,000 for street repairs and we have \$189,535.00 in the reserves account.

Mayor Hornberger asked if the City had to replace everything all at once what would your guess of where we are with funding to replace all of our streets?

David Givler stated about \$15 million to \$20 million and right now to do all the repairs about \$4 to \$5 million.

Councilman Fry stated we need to have Mr. Givler go out for bids for priority one and if it's over what we have budgeted of 150,000 then we can take from the reserves.

David Givler stated he would bring back to Council some contractor bids and have some flexibility built in the contract so we can reduce it if we want to and are also allowing yourself to increase it.

- Receive and discuss and possible action on directing the city engineer to obtain bids for repairing the sewer system. The budget would include \$112,000 for construction with contingencies, \$18,000 for engineering, and \$130,000 for the total project.

David Givler stated regarding the 2017 Sewer Cleaning Inspection and the 2017 Sewer Repairs, there is a graph that shows you where the repairs are which is a reminder from the December meeting of the scope of work that we discussed. There are 3 repairs on the northwest part of the City and 2 of them on the eastside of the City and about 2 years ago we developed a plan to clean and inspect about a mile of sanitary sewer per year and in December he brought the latest recommendation of which mile to clean and to inspect and Council responded by requesting a larger bid packet which would more attractive to prospector bidders which could provide flexibility to Council to decide how large to make the project. We adjusted the packet and there is a drawing in your packet that is colored coded by phases which were incorporated into the bid package. The package is currently out for bid which involves cleaning 1 mile and 8 alternates which may or not be approved at the time the bid is approved and the bids are due by the end of February.

Discuss and take possible action on Budget Amendment for the following: Increase Sewer Maintenance 50-400-579 by \$130,000 from \$25,000 to \$155,000. With the \$130,000 to be taken from Sewer Reserve 50-200-300 leaving Sewer Reserve balance at \$194,754.

Councilwoman Plant moved to increase Sewer Maintenance Fund 50-400-579 by \$130,000 from \$25,000 to \$155,000 and with the \$130,000 to be taken from Sewer Reserve 50-200-300 leaving Sewer Reserve balance at \$194,754.

Councilman McDonald seconded the motion.

The vote in favor of the motion was unanimous.

Discussion regarding a citizen proposed walking path along a portion of the 700 and 800 block of Contour Drive; take possible action

Mayor Hornberger stated there are potential liabilities to the City for funding a path and continued maintenance. If the City were to authorize the construction of the path and the ordinance requires that if you are walking or running that you do that against traffic which means if you are going north you'd be on the west side of Contour and if you are coming from the south you would be on the east side of Contour facing the traffic and if you are facing traffic as a pedestrian to have the ability to see the traffic coming around a blind curve and the speed limit is 20 mph in that area. Bicycles have the same problems that other vehicles have, a blind curve and the only use of the path is pedestrians. Right now it is natural ground and is owned by the City and as far as the land goes but it is in its natural state so if a pathway is constructed it is no

longer in its natural state, is there additional liability to the City even if it is constructed by a volunteer group?

Frank Garza stated the municipality has governmental immunity and is protected under the law with regards to streets, sidewalks, pathways and etc., if in its current state it's on City property would this pathway make it safer than in its current state, if there is evidence that it makes it safer and provides greater assistance to the City and the City is making that area safer by now having this pathway and if by creating this pathway it raises the danger level then he stated he would not recommend against the pathway because it would be safer in its current state. Whether the pathway is built by the City or built by volunteers and it does not increase the danger level then there would be no change to the liability to the City.

Mayor Hornberger asked what about the maintenance of the pathway?

Frank Garza stated that would be up to the Council to whether the City will maintain it or whether the volunteer group will maintain it. In its current state it is not ADA standard and if it is being done by a volunteer group then it does not have to be ADA standard. If it is being done by the City it would have to be done by ADA standard.

Alan Chesler stated if there are standards that the City requires to make sure they are met and once I know what those are then he stated he can refine the cost estimates which were preliminary and is certain how much he can raise privately. It sounds like it would be better for all parties concerned if the money was raised privately and the work was done privately to meet the standards that the City requires so as to avoid any ADA compliance issues.

Councilman Fry asked the Police Chief and the Fire Chief if they see the addition of a walking path as an increase or decrease to safety on a blind curve?

Police Chief Valenciano stated if you provide the walking path and you have an increase in pedestrians using it then yes it would be a safety hazard versus now you have a very limited amount of pedestrians using it.

Fire Chief Surber stated if you provide an alternate walking path as posed to walking in the street the aspect of it is safer, the service construction is important whether they use a stabilized base or material that won't run out with the first rain or a construction vehicle that pulls over it.

Frank Garza stated we don't have pathways standards so the focal point that you would look at would be what the design is and it will not cause a safety concern as compared to what is there now. Once Mr. Chesler comes back with the final design then it would be an approval of the City's right-of-way.

Councilman Fry stated this walking path would be more of an improvement than what is there now.

Mayor Hornberger stated the volunteers would have to maintain the walking path, what if the path falls into disrepair or someone trips and falls, who is liable?

Frank Garza stated the City would be immune under the governmental immunity.

Councilman Fry moved to allow Mr. Chesler the authority to use the City's right-of-way for this walking pathway along the 700 and 800 block of Contour Drive.

Councilman McDonald seconded the motion.
The vote in favor of the motion was unanimous.

Mr. Chesler stated he would keep Council posted and if there are any material changes from what is proposed he would let Council know.

Receive and discuss Ordinance 2017-02 regulating truck traffic and adopting truck routes through the city; take possible action

Councilwoman Plant stated when a property owner comes in getting their building permit then the Building Official will be handing them the truck route map and it is the contractors responsibility that his workers know the route and who is going to monitor this?

Frank Garza stated the Police Department will monitor.

City Manager DeLeon stated the intention was they not be zig zagging across the City, the map shows their truck routes.

Councilman Fry moved to approve Ordinance 2017-02 regulating truck traffic and adopting truck routes through the City with the minor corrections.

Councilman McDonald seconded the motion.

The vote in favor of the motion was unanimous.

Discuss citizen's request for placement of a stop sign on the corner of Belvidere and East El Prado; take possible action

Police Chief Valenciano stated his recommendation was not to put a stop sign at Belvidere and East El Prado, however putting up a similar sign saying "warning vehicles passing through."

Mayor Hornberger asked would one of these signs be placed going east on Belvidere approaching that intersection and another sign be placed on east El Prado going north?

Police Chief Valenciano stated yes that is correct and the signs will be less than \$50 and Public Works will install the signs.

Councilman Fry moved to have the City purchase 2 blind intersection cross traffic ahead signs and have public works place them heading eastbound on Belvidere and heading northbound on East El Prado Drive towards the intersection of Belvidere and East El Prado.

Councilman McDonald seconded the motion.

The vote in favor of the motion was unanimous.

Receive and discuss agreement with Eagle Veterinary Hospital regarding transporting of unclaimed dogs and cats for adoption and the possibility of requesting donations from the citizens to fund this effort; take possible action

Dr. Kirlin stated when we had our meeting we discussed some of the expenses that would be covered through the donations and one of the items is heart worm treatment, I did not include it because we don't have to do it on many of the dogs because these places won't accept them until they are treated or an animal may come in that needs some sort of medical attention so he would like to have those treatments that are necessary in order to get that animal adopted and would need to be considered as the donation process.

Councilwoman Plant asked by law is the "Stray Hold" a 72 hour hold period?

Police Chief Valenciano stated we recently amended the ordinance and based on a decision once we intake the animal that the City becomes the owner of the animal and after the third day then the City has discretion on what to do with the animal.

Councilwoman Plant stated maybe a suggestion would be to change it to 3 days to narrow this down to get dogs in and out of your facility and get them placed with a home at a cost that is a per dog instead of 2 weeks.

Dr. Kirlin stated the reasons why I have always had the limit at two weeks is because the owner may be out of town and it often takes 2 weeks for people to find their pets.

Mayor Hornberger stated the problem comes when trying to develop a standard and your system is going to say we are going to keep the dog for 14 days then money has to be available for every single dog that is brought into you for 14 days and we don't have to do that under our current ordinance because it states 72 hours and then the dogs belongs to the City and the City can make the determination.

Dr. Kirlin stated the \$20.00 dollar a day does not cover everything we do for those dogs and that is a fee that we set so that it is off setting some of my expenses on these dogs. He stated we are hoping from the donations that all of the expenses other than the time we are holding the animals are taken care of because he can't afford it and will have to stop the relationship completely.

Councilwoman Plant stated you are transporting these animals and giving them their shots then you are paying the \$160 to transport them to Seattle and then the City would use our donations to reimburse you.

Mayor Hornberger stated the City can take donations that are tax deductible because it is a governmental entity.

Councilwoman Plant stated she needs to have some time to meet with Mr. Kirlin to discuss this agreement.

Councilman Fry moved to table this item
Councilwoman Dusek seconded the motion.
The vote in favor of the motion was unanimous.

Discuss and take possible action on Ordinance 2017-01 amending the Code of Ordinances City of Olmos Park, Texas, Chapter 8 Buildings and Building Code, Article I, establishing rules and regulations governing the point of sale inspection requirements within the City of Olmos Park; providing a penalty provision; providing a severability clause; providing an effective date.

City Manager Deleon stated Mr. Givler provided a City map but it needed legal interpretation so she handed it over to Mr. Garza for his interpretation.

Frank Garza stated the map that was provided to me is old and showed a lot of utility easements in the middle of the road and did not include some of the utility easements in the alleyways as we know there are utilities in some of the alley's so based on what we have received, it would be on a case by case review to see whether or not any structure encroaches on an easement and you will not be able to have a hard fast rule City wide as it would be impossible to make a determination.

Mayor Hornberger stated it would seem that the CPS legal department would have status and ownership of easements and some kind of legal interpretation.

Frank Garza stated CPS has records of easements for the last 25 years and anything beyond that was put away in files as there were no computers back then and there are a lot of blank areas that neither SAWS or CPS know of and that is why they have to do a review every time to make a determination.

Fire Chief Surber presented a map that is dated 2012 with CPS utility locations.

Mayor Hornberger stated we needed to know if there was some sort of conclusive evidence of whether or not the 10' foot alleyway is either owned by the City or owned by the City with an easement having been granted to any of these utilities because if it is City owned property then the City can do that and if it is not City owned property even though it is a reserved easement then the City can't do a lot about it because whomever owns the easement owns it as an easement on that land owners property.

City Manager DeLeon stated she believes the only true easements that we have in Olmos Park are the 3 alleys located south of the City.

Frank Garza stated if the City of Olmos Park were the first to adopt a point of sale inspection ordinance, it would be the first of my Cities to have one and is not a very common regulation.

Mayor Hornberger stated this proposed ordinance was designed to do through attrition from transfer of property from one owner to another and to clear up those alleyways. Given what we now know or don't know it would be a problem trying to enforce this, there is no action to be taken.

Discuss Olmos Park and SAWS sewer ordinance; take possible action

Mayor Hornberger asked is SAWS dumping anything into Olmos Park sewer line?

City Manager DeLeon stated yes, Mr. Givler informed us last month and it is where we connect over by Annie Street.

Mayor Hornberger stated that eventually goes into the sewer line that goes down into McCullough

Frank Garza stated while SAWS is utilizing our sewer line we are also utilizing SAWS to transfer our sewage to their facilities, in the agreement it speaks about cooperative efforts and states both sides can utilize.

Mayor Hornberger stated there is no action to be taken.

Discuss revisions to tree ordinance; take possible action

After a lengthy discussion, Councilman Fry suggested a few changes to the ordinance.

Councilman Fry moved to remove the moratorium for the tree ordinance and make the changes to the tree ordinance in sections 32-274, section 32-275 and section 32-277.

Councilman McDonald seconded the motion.

The vote in favor of the motion was unanimous.

Consent Items:

- a. Approve Cash Disbursements for December 2016;
- b. Approve City Council minutes for regular meeting for December 15, 2016;
- c. Excuse Councilman Fry from attending the regular meeting on February 16, 2017;
- d. Adopt Order of Election for the May General Election to be held on May 6, 2017;
- e. Approve joint election agreement with Bexar County Elections Administration to conduct the May 6, 2017 General Election.

City Manager Deleon stated she wanted to add to 13.c, Councilwoman Dusek is asking to be excused from the February 16, 2017 meeting.

Councilwoman Plant moved to approve items 13 a, pull item 13 b for minor corrections, amend item 13 c to include Juliana Dusek for an excused absence for the February 16, 2017 meeting and to accept item d and e.

Councilman Fry seconded the motion.

The vote in favor of the motion was unanimous.

Councilwoman Plant moved to accept item 13 b with minor corrections to the December 15, 2016 minutes.

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 December 2016;
 - (2.) Monthly overtime, CT, vacation, sick leave report
 - (3.) Building Department Report
 - (4.) Municipal Court Report

Councilwoman Plant moved to approve item 14 a, b, c and d.

Councilman McDonald Seconded the motion.

The vote in favor of the motion was unanimous.

Mayor Hornberger announced at 8:38 p.m. that City Council will adjourn into Executive Session as authorized by Texas Government Code Sec. 551.076 Personnel Matters, §551.076 and Executive Session as authorized by Texas Government Code §551.071 (Consultation with Attorney) to discuss the update on litigation regarding Cause No. 2015-CI-08568, Theodore Bailey vs. City of Olmos Park.

Discuss performance review of City Manager; take possible action. Possible Executive Session pursuant to Texas Government Code, Sec. 551.076 Personnel Matters, §551.076

Mayor Hornberger closed the Executive Session at 9:02 p.m., and stated that the City Manager's performance reviews are excellent.

Councilwoman Plant moved to increase the City Manager's base pay to \$90,000 and \$8,000 to come from the contingencies or medical insurance lines as proposed by Susan Wootton, the City's CPA.

Councilman McDonald seconded the motion.

The vote in favor of the motion was unanimous.

EXECUTIVE SESSION City Council shall convene in Executive Session pursuant to Texas Government Code, Sec.551.071 for discussion/update on litigation regarding Cause No. 2015-CI-08568: Theodore Bailey vs. City of Olmos Park et. al (Attorney client consultation)

Mayor Hornberger announced there was no action taken in executive session.

There was no further business and the meeting was adjourned at 9:03 p.m.

Ronald Hornberger
Mayor

ATTEST:

Diane Gonzales
City Secretary