

MINUTES OF REGULAR  
CITY COUNCIL MEETING HELD  
MARCH 16, 2017

The City Council of Olmos Park, Texas held a regular meeting on March 16, 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, Juliana Dusek, Casey Fry and Deb Prost. Council members not present were Sharon Plant. Staff present was City Manager, Celia M DeLeon; City Secretary, Diane Gonzales; Fire Chief, John Surber; Police Sergeant Reed and Public Works Director, Gilbert DeLeon. Also present were City Attorney, Frank Garza; David Givler, Givler Engineering; Albert Perez, Waste Management; Lea Ream and Zach Smith, 2630 Inwood Briar; Gloria Arriaga, 126 E. Hermosa; Deanna Rickabaugh, 302 Luther; Pat Meier, 140 Stanford; and Barry Sturrock, 210 Stanford.

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.

Pat Meier of 140 Stanford stated the City has talked about sidewalks on McCullough for over 6 years. There are now tools to get it done. Each of the Council members has been given a plan by Pat Meier which are the first steps for the development of sidewalks on McCullough and is based on the application of the City's current ordinances. To implement this plan an informed group made up of members from P&Z, EDC, the City Manager, City Engineer, the Building Inspector and the Fire Chief need to come together to work on the details, the timelines and the financing to make sidewalks a reality. She stated she respectfully requests the Council's consideration and approval of this plan.

Discussion of Givler Engineering reports:

- Ongoing Project update; take possible action
- Receive and discuss bids for 2017 Sanitary Sewer Cleaning and Televising Project; take possible action

David Givler updated Council on the ongoing project report that shows status of projects. He stated there are two packages out now for street repairs that are in the bid process and being advertised and will be reviewed and hopefully take action on at next month's meeting.

David Givler presented to Council the bid packages that he received from the contractors who are proposing to do work on inspection and televising the sanitary sewer. In the packet there is a letter from Givler Engineering dated March 9, 2017 which gives a summary of the bids that were received and the lower bidder is National Works. This is a bid more complicated than our original bid package because our original target was just one mile of system to televise and inspect then later Council decided they wanted to know what it would cost to do the entire sewer system and if the contractors would give them better unit prices if the package was larger. We did not see a lot of benefit in their unit prices for a larger package but the unit prices may have been lower overall.

Mayor Hornberger asked City Manager DeLeon how much money does the City have budgeted for this?

City Manager Deleon stated for the sewer televising we have budgeted \$60,000 minus several thousand that we have already been charged for Engineering fees on this project, so we have approximately \$55,000 and in the reserves account for sewer maintenance we have \$152,954.00.

Councilwoman Prost asked is there 8 miles?

David Givler stated there are a total of 9 miles and the base bid covers 1 mile and each add alternate would cover another mile.

Councilwoman Prost stated for the first mile we spend about \$45,000 so if multiply \$45,000 by 8 or 9 miles that would be closer to \$400,000 and if these bids are coming in at \$163,000 to \$250,000 she thinks it was a good idea to get a package price.

Mayor Hornberger stated the total for the low bid is \$163,083.20.

Frank Garza stated the Engineer is also recommending a 15% contingency and his proposal is for \$187,545.68 which is for anything unknown.

David Givler stated the bigger the project goes the lower the percentage becomes on the engineering and at the beginning it starts at about 21.5% which was budgeted in for base bid but for all 8 miles the last mile of engineering is down to 17.9%.

Mayor Hornberger asked David Givler what are his engineering fees on the 9 miles so Council can make a decision?

David Givler stated approximately \$140,000 for engineering cost.

Councilwoman Prost asked how do we have \$140,000 in engineering fees on an \$187,000 project?

David Givler stated part of what we do is reference a geo map of the system and administer the project so every month we review the vendor's bill. If you do the entire project it will be about 5 months of work. The more we study the more problems we are going to find and the more repairs we are going to have to recommend for next year.

Mayor Hornberger asked David Givler for advice as to where do we start off with base bid plus add alternate 1 and add alternate 2 or add 3 or add 4, how far out do we go?

David Givler stated to go as far as you can. He stated if he knew what that budget amount is then he could come in with a total package and there are 9 different possibilities with one contractor.

Councilwoman Prost stated this illustrates that we need to do some planning as to what it is we are dealing with.

Mayor Hornberger stated we are budgeting in the dark until we received this spreadsheet and we had no idea how much the rest of this project will cost and how much to budget.

David Givler stated when it comes time for putting in packages to come to Council with numbers then it is helpful for him to understand what the budget is. The reason we are doing this project

is because you have an aging infrastructure that has 3 to 5 breaks a year so there is an increase of frequency of problems and now we are trying to find those problems proactively before they become emergencies.

Mayor Hornberger stated this spreadsheet gives Council a feel for the size of the total project now and it is a lot easier for Council to go into budget sessions.

Councilwoman Prost stated this is what she has been trying to say for the last couple of years is that if we don't have a full perspective of what we think we are going to be dealing with at least on the sewer and street repair and if we don't know what it is we are dealing with some parameters on them then we will never be able to plan appropriately.

Mayor Hornberger stated this information from the spreadsheet is very helpful to us and recommended Mr. Givler add his projected fees plus the 15% contingency plus a projection based on experience of what it may cost to do repairs that Council is not expecting to find. And if Mr. Givler would put all those numbers together on a piece by piece basis then Council will have the whole project going forward.

Councilwoman Prost moved to go with base bid plus 1, 2 and 3 alternatives, a total of 4 miles. The motion fails for lack of second.

Councilman McDonald moved to accept base bid plus alternates 1 and 2, a total of 3 miles. Councilman Fry seconded the motion. The vote in favor of the motion was unanimous.

Councilwoman Prost moved to use National Works to perform the 2017 Sanitary Sewer Cleaning and Televising Project. Councilman Fry seconded the motion. The vote in favor of the motion was unanimous.

Receive and consider new Waste Management Recycling Service Agreement; take possible action

City Manager Deleon stated Frank Garza has reviewed the contract and does not have any issues with it. We have not paid any recycling fees to Waste Management in over 5 years nor have we received any revenue because of the industry.

Mayor Hornberger asked is this raising fees to Waste Management and lowering recoupment to us because right now we are breaking even?

Albert Perez stated we are going to be charging a processing fee of \$85.00 per ton, and are looking at the blended value of the recycling that you are bringing to us comes out to \$99.46 a ton based on the last audit that we did and we plan on doing several audits a year so we have an idea of what the City is bringing in. He stated that would bring the City a total of a rebate of \$10.46 a ton that we would rebate to the City based on last month and the City would be receiving \$197.90 and that is with the markets where they are. So you should be receiving around \$200.00 monthly.

Councilwoman Prost stated at the same time we are also saving fees at the landfill as well as getting money back plus we are being good citizens by recycling. Would these prices change because of the amount of tons over the course of this contract?

Albert Perez stated it is a possibility it could go up depending on the tonnage and the commodity.

Councilwoman Prost moved to execute the contract with Waste Management for the next two year period.

Councilman McDonald seconded the motion.

The vote in favor of the motion was unanimous.

Receive and discuss the Planning and Zoning Commission 2016 Annual Report; take possible action.

Mayor Hornberger stated the annual report shows upcoming items as well as potential items shall be discussed by P&Z at the direction of City Council and P&Z does not do anything without direction of Council.

Councilman Fry moved to accept the Planning and Zoning Commission 2016 Annual Report as submitted.

Councilman McDonald seconded the motion.

The vote in favor of the motion was unanimous

Discussion and give direction to the EDC Board and PZ Commission regarding request for permission from City Council to hold a joint work session and possibly include a Codametrics representative; take possible action

Mayor Hornberger stated P&Z and the EDC go along similar paths when it comes to anything that is going to happen on McCullough and each one of them has considered asking the Council for permission to meet together and discuss and come back to Council with some recommendation on potential ordinances that Council might want to consider for the McCullough Corridor from the circle up to the railroad tracks and possibly from the circle all the way down to the south.

Gloria Arriaga stated the EDC had contracted last year with Codametrics to do a study. In November of last year the EDC was presented the report and EDC looked at the report and knew they needed to get P&Z involved and have a work session and look at some other recommendations that Codametrics has indicated and have them involved in the process and come back to Council with any recommendations. The study cost \$9,855.00.

Councilman Fry asked will there be a cost in having a Codametrics Representative attend this joint session?

Gloria Arriaga stated we would probably have the representative by phone which would be the most cost effective.

Gloria Arriaga introduced Barry Sturrock as the new President of EDC effective April 1, 2017.

Barry Sturrock stated Codametrics gave the EDC the draft and EDC reviewed it and sent it to P&Z so Codametrics is expecting comments back of the draft, which would be part of the joint work session.

Deanna Rickabaugh stated P&Z needs to be able to discuss openly and plan.

Mayor Hornberger stated this would be a non action item session.

Councilwoman Prost stated when we approved the expenditure of what she understood what was going to be received is that the Codametrics was going to review our ordinances that we already have existing on McCullough and tell us which ones apply that they thought were applicable and ordinances that were not applicable and how the ordinances should be changed and ones that were missing that needed to be added but she stated she did not see that in the draft report. The citizens significantly voted the Master Plan down back from 2010. Everybody on the EDC and P&Z should read the Master Plan because this draft report is very similar and if this is what we are receiving. She stated when she voted to approve this which she thought we were going to review the ordinances and this is wasting money.

Barry Sturrock stated the draft that you have is merely an exercise and the Codametrics planner came down and met with some representative from P&Z and the EDC so this is their attempt on getting back on saying here is what we think the City is and here is what we think the City wants to do.

Mayor Hornberger stated the input from Codametrics from this point forward would be to join this joint session, listen to input and give feedback during that time so they don't run off and do something that people are not envisioning and hopefully the result of all of this would be for P&Z and the EDC to come back to Council with recommendations for changes in existing ordinances, refinements to existing ordinances or any other ordinances that might be suggested for the McCullough Corridor and not use the Codametrics report.

Councilwoman Prost stated she suggested having a work session on the codes related to the McCullough Project and existing plans.

Mayor Hornberger stated Codametrics will be on call as an expert on codes and how to write them and this meeting will be driven by suggestions between the EDC and P&Z utilizing the expertise of the Codametrics in helping them to design suggestions to come back to Council for any kind of changes that they might recommend.

Councilman Fry moved that Council give direction for P&Z members and the EDC members regarding a request for permission from City Council to hold a joint work session and include a Codametrics Representative with the understanding that the work that has been done this far is not in line with our expectation.

Councilman McDonald seconded the motion.

The vote in favor of the motion was unanimous.

Public Hearing to receive public comment regarding Ordinance 2017-04 adding sections to the Code of Ordinances City of Olmos Park, Texas Chapter 40 Zoning, Article II, single family residence district sec. 40-49 outdoor lighting; declaring a public purpose; incorporating recitals; providing a repealer and savings clause; providing for severability and setting an effective date.  
Mayor Hornberger opened the public hearing at 7:17 p.m.

Mayor Hornberger closed the public hearing at 7:18 p.m.

Discuss and take possible action on Ordinance 2017-04 adding sections to the Code of Ordinances City of Olmos Park, Texas Chapter 40 Zoning, Article II, single family residence district sec. 40-49 outdoor lighting; declaring a public purpose; incorporating recitals; providing a repealer and savings clause; providing for severability and setting an effective date.

City Manager DeLeon stated Deanna Rickabaugh is here on behalf of James Griffin who could not attend to answer any questions.

Deanna Rickabaugh stated the general idea was to cut down on intrusive lighting that was not shielded in a way where it shined into a neighbor's window. She stated she abstained from the vote because it may be hard to police, the other members were pleased with the outcome.

Mayor Hornberger stated the P&Z used a lighting consultant which resulted in a better ordinance. Was consideration given the way the lighting is to be measured to what normally is seen around the neighborhood now? and would the vast majority pass?

Deanna Rickabaugh stated yes and there will be a fair number that will be out of compliance.

Councilwoman Prost asked would we be grandfathered with the lights we have now?

Frank Garza stated there are some that would be grandfathered and some that would not be. If it was a business that had their lights through a permit process at the time the ordinance was adopted you would not be able to add them under a different regulation and with regards to residential lighting if it's a health safety issues that you are able to argue that this was the reason it was adopted and you are able to make them comply and it's clear any new lights will have to follow this ordinance but there may be a case by case basis where a current light would have to come into compliance.

Mayor Hornberger stated the existence of LED lighting and the ability to direct that lighting, the ability to control the brightness, appearance of that lighting as opposed to the wattage is taking us into a whole new area of outdoor lighting and would be fairly easy to comply with any ordinance and still have adequate lighting.

Councilman McDonald asked is there a penalty phase in this ordinance?

Frank Garza stated there is no penalty phase in the ordinance which is rare. His associate who attends the P&Z meetings mentioned this was one of the discussions the board had and they went back and forth on whether not to add a penalty provision.

City Manager DeLeon stated she asked the lighting expert for a quote for a light meter and the City will probably send the fire department out to check with the light meters and policing will be based on complaints.

Frank Garza stated in most cases it is complaint oriented and this ordinance issues notices of violation but no penalty. We have a provision in our ordinance that any violation to our code has a general penalty provision and you could either refer this ordinance to that general penalty provision or create its own penalty for this violation of penalties up to \$200.00 and each day would be a separate violation.

Councilman Fry asked is 7 days long enough to come into compliance maybe change it to 14 days?

Councilman McDonald moved to approve this ordinance as written but to incorporate the general penalty provisions and change the 7 days of compliance to 14 days.

Councilman Fry seconded the motion.

The vote in favor of the motion was unanimous.

Discuss revisions to the City Code, Chapter 10, Solicitors, Peddlers and Distributors of the code of ordinances; take possible action

Frank Garza stated the City received a letter from a law firm that is sending letters across the state of threatening lawsuits of notice of potential lawsuit claiming that the current ordinance to the solicitors violated some current cases that had been ruled upon that our ordinance was seen as extra prohibitive for now allowing for solicitation of door to door sales persons or other individuals with regards to the times that we had prohibited in our ordinance. This amendment extends the time to 9:00 p.m. regardless of daylight savings. In order to communicate this to the residents they can put up a no trespassing or no solicitation signs on their property so that regardless of time they will not be able to answer on that person's property if the signs were clearly displayed. We are amending the ordinance and are going to communicate to residents that they have the freedom to put the no trespassing no solicitation signs on their property. The permitting process has not changed the solicitor will still have to come into the City and apply for a permit and the fees were amended by Council's direction.

Councilwoman Prost stated we need to emphasize more to the residents that if they do not care to have solicitors then to put up a sign and it is legal for the solicitors to solicit until 9:00 p.m.

Councilman Fry moved to accept the revisions to the City Code, Chapter 10, Solicitors, Peddlers and Distributors of the code of ordinances.

Councilman McDonald seconded the motion.

The vote in favor of the motion was unanimous.

Consent Items:

- a. Approve Cash Disbursements for February 2017;
- b. Approve City Council minutes for regular meeting for February 16, 2017;
- c. Approve Ordinance 2017-05 cancelling the May 7th 2016 general election;
- d. Approve budget amendment to increase budget line item Overtime GL #10-400-553 by \$10,000 and decrease police salaries GL#10-700-501 by \$10,000;
- e. Approve budget amendment to increase budget line item Admin Salaries GL#10-500-501 by \$5,400 and increase budget line item Miscellaneous Income GL #10-300-412 by \$5,400.

Councilman McDonald moved to accept consent items as submitted.

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

Councilwoman Prost moved to accept the departmental reports as submitted.  
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 regarding claim on emergency repairs made to the sewer line on City property and reimbursement to the City. (Attorney client consultation)

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 at 7:41 p.m. that City Council will adjourn into Executive Session as authorized by Texas Government Code, Sec.551.071 on both agenda items #12 and #13.

Mayor Hornberger closed the Executive Session at 8:01 p.m. and stated agenda item #12 was discussed and input from Council and a unanimous direction was given to Legal Counsel. Agenda item #13 was discussed and a recommendation from Council was received and a unanimous direction was given to Legal Counsel.

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

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Ronald Hornberger  
Mayor

ATTEST:

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Diane Gonzales  
City Secretary