

MINUTES OF REGULAR  
CITY COUNCIL MEETING HELD  
APRIL 16, 2015

The City Council of Olmos Park, Texas held a regular meeting on April 16, 2015 commencing at 6:00 p.m. in the Council Chambers at City Hall. Mayor Kenneth Farrimond presided and Council members present were Sharon Plant, Kenyon McDonald, Casey Fry, Ronald Hornberger and Enzo Pellegrino. Staff present was City Manager, Celia M DeLeon; City Secretary, Diane Gonzales; Fire Chief, John Surber; Police Chief, Rene Valenciano; and Public Works Director, Gilbert DeLeon. Also present were City Attorney, Steve Pena; Mark Kroeze, Texas A&M Forest Service; Henry Carr, Uber; Mary Jane Page, 212 Primera; Michael Caddell, 214 Primera; Merribell Parsons, 486 E. Olmos Drive; Nikki Kuhns, 331 Twisted Wood Drive.

Mayor Farrimond 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.

Mary Jane Page of 212 Primera Drive stated she wants to have the option to keep her traditional analog meter because once you accept a digital meter the transparency is gone and are no longer sure what your meter is doing. With the analog meters you can check to see how much you are being charged and they don't raise any health issues, they do not create radio transmissions and do not invade our privacy. In addition we should not be forced to pay opt-out fees if we want to stay with our analog meter. Opt-out fees are a form of extortion because you should not have to pay for your privacy and your health.

Michael Caddell of 214 Primera stated I want to make City Council aware of an article that came out on March 10, 2015 in the San Antonio Express News about making San Antonio a place for drones and we will be the first city in the United States to have drones check your smart readers and I was wondering how this affects us as far as the no fly zone and I also want to say the train horns have stopped so thank you.

Nikki Kuhns of 331 Twisted Wood Drive in San Antonio stated I have a website called collation for safe meters.org and there are some interesting videos, if someone wanted to sign up for their home manager system they must sign the contract and this contract dissolve's CPS of liability. We do have a video of retired lieutenant from the day that his home manager was installed his air conditioning in his rental home blew up and cost him \$9,000.00 dollars to replace the air conditioning system. In Stockton there was an accident and thousands of homes had their meters blow and their outlets were blackened out and their electrical systems were fried so why is it that they are not forcing people to sign some kind of a contract that would take the liability off the citizens of the city. The company StratCom is going to be coming here and flying over their drones, so this is what you will be introducing into your community. I hope you would ask CPS to remove any meters that were put on without a contract signed by the homeowner.

Merribell Parsons of 486 E. Olmos Drive stated I wanted to commend the City Council for all the work they have done with the contractors to make sure the designs of the homes are attractive and compatible with the City of Olmos Park. I was talking to Councilman Pellegrino before the meeting and I was confused about the number of homes so I wanted clarification on the PSW

project and noticed an article in the newspaper by San Antonio Express News and was wondering if they prematurely put this article out of the photograph of the homes which looked nothing like the ones illustrated in the plans and also read they are starting construction on 26 single family homes when I originally thought the plans were for 13 homes.

Discuss possible implementation of a tree ordinance for the City of Olmos Park; take possible action

City Manager DeLeon stated City Council requested at the February meeting that this item be tabled until we had a full Council and to have an arborist come speak to us. Mark Kroeze from Texas A&M Forest Service is here tonight to speak.

Mark Kroeze spoke about tree maintenance, ordinances, oak wilt ordinances and tree protection ordinances. He stated we are going to have an arbor observance day soon at the Alamo Forest Partnership where we have a couple of trees in the park and talk to residents about the value of trees. There have many cities that are part of the Tree City USA, we have the City of Hollywood Park, City of Leon Valley, Uvalde, Victoria, Boerne and San Antonio is really close to adopting its law. The biggest cities are Houston and Austin and the oldest city is Fort Worth with 34 years with Tree City USA. This ordinance really gives your city not necessary the responsibility but the authority to take care of the trees that are on city property. On April 30<sup>th</sup> from 10:00 a.m. until 3:30 p.m. we will be having a workshop in San Marcos and there will be many city leaders talking about some of the issues such as drought, insects, oak wilt, and applications for some new technology on how to manage trees in the city and do a case study on the San Marcos River. Anybody with the city that is making decisions of the city is welcome to come.

Councilman Fry stated where are you seeing a problem with the Oak Wilt?

Mark Kroeze stated there was an oak wilt problem in the Whispering Oaks subdivision. It's a major challenge for the fungus that travels underneath the ground through the root system. As far as it increasing in our area unfortunately Hollywood Park and Castle Hills have been dealing with it. What Shavano Park has done, is they have been requiring a permit fee every single time somebody wants to prune trees in the city which I think is \$5.00 for a permit and they have built up a fund that they are applying to their trenches and treatments.

Mayor Farrimond stated can oak wilt be transmitted by burning infected oak trees?

Mark Kroeze stated no, but there are only two factors of getting oak wilt which are, insects and underground contact and if somebody prunes a tree or had damage to a tree and has some sap that an oak tree releases that weeps out then a beetle smells the sap and feeds on the sap then the tree gets the fungus inside the tree. There are certain pruning measures to take, you can paint the tree within the first hour of trimming and by painting you are putting up a barrier between the sap an actual insect, secondly if you can recognize the red oaks and remove them before they produce the fungal maps which you only do in the spring.

Councilman Fry moved to table item until the June City Council meeting.

Councilwoman Plant seconded the motion.

The vote in favor of the motion was unanimous.

Discuss Operating Agreement between Raiser (UBER), LLC and the City of Olmos Park; take possible action Mayor Farrimond stated Henry Carr with UBER is here to talk to us and we have been asked to have an operating agreement with them. If we agree to the agreement you now you can be picked up in Olmos Park and dropped off at most suburban cities and can also be dropped off in City of San Antonio.

Henry Carr, General Manager of San Antonio stated he is excited to work with City of Olmos Park and to pass some more regulations here but unfortunately that did not go so well in San Antonio and we are working on a State Bill as we speak. Mayor Cooper of Alamo Heights was adamant about passing the agreement to show as a stand that Alamo Heights is for UBER, a safe, reliable, convenient transportation option for their citizens as well as the economic opportunity for students, stay at homes mom's, and retired citizens. We have seen cities and states across the nation that contend we have a very safe operation and we continue to try to make this safer and getting the screening process and feedback from the citizens to make sure the drivers are safe and reducing the DWI's across the nation. There were over 8,519 DWI cases in Bexar County last year so we feel this is a huge service to your area. The agreement that has been proposed is not necessary to sign it is just a show of faith that you believe in UBER and want to keep us here.

There is a lot of pressure from Taxi's and the San Antonio City Council and the Mayor for this new innovated transportation to existing regulations. The city was adamant about permitting, data and privacy and wanted access to our system. We are a private company and did not want to give them access to our system and our driver and rider lists. We don't own any of the vehicles, the drivers are our customers and we offer the platform and they can use it how they want and we make sure we have the safest drivers on the road. For our background and screening process we actually go to the courthouse and pull the records and can't let drivers with DWI's on our system.

Councilman McDonald stated do you have any information on how much the reduction is in DWI's with your service?

Henry Carr stated there was a reduction from 23% to 26% in Austin's DWI's and Seattle there was a reduction in 10% so our service can have a huge impact. We operate in over 300 cities around the world and 55 countries and a dozen cities in Texas. We do the same safety measures across the nation for our pier to pier service and San Antonio is trying to be significantly different than that.

Councilman Hornberger stated do our state laws require that if you provide drivers for hire services that you have to have a commercial license?

Henry Carr stated I believe that is done at the city level.

Councilman Hornberger stated you operate in Houston correct, have there been any problems there?

Henry Carr stated yes, Houston has the most stringent ordinance other than the one San Antonio passed last December. We saw what it did to the business and economic opportunity of the potential driver and the city which they are trying to fix the ordinance they put in place. There weren't enough facilities to do all the permitting and a driver had to go through ten different steps in order to get that permit and many of the drivers gave up half way through the process.

Councilman Hornberger stated does UBER provide insurance?

Henry Carr stated yes, there are two types of insurance – vehicle insurance and anytime you get into a vehicle there is a million dollars for bodily injury then there is also corporate insurance, so if we were to be sued we have liability insurance.

Henry Carr stated if you feel unsafe with a driver you immediately put in feedback within the app and we have hundreds of people reading these responses 24 hrs. a day and if there is ever an issue the safety team will remove the driver from the system

Councilman Fry stated so now I can be picked up in the City of Olmos Park and dropped off in City of San Antonio and can't be picked up in San Antonio and dropped off in Olmos Park?

Henry Carr stated yes, the City of San Antonio has stated that it is illegal to drop off in San Antonio and we have reviewed the language in their ordinance through many lawyers and they said it's a tortured interpretation of the law, we don't believe it but they still contend that they can enforce.

Mayor Farrimond stated our Police Chief received a letter from the Police Chief of San Antonio stating all Olmos Park has to do is let the City of San Antonio know that we would allow UBER to work within our city limits and they will honor that so we don't have to have a written agreement, we could just have a resolution.

Steve Pena stated I believe that the legislative that is being proposed in Austin mirrors a lot of the same language that is in the agreement so you may end up as of September 1<sup>st</sup> of this year with a new law that addresses transportation network companies. There is a requirement that their owners have a liability policy which has to meet minimum state law requirements.

Councilman Pellegrino stated what advantage does the city get for signing the operating agreement?

Henry Carr stated the advantage would be the public perception and being a leading edge city in this area and also the assurance that we will perform all the city measures and safety measures that we also perform in Austin.

Mayor Farrimond stated all we have to do is say we welcome transportation network companies in Olmos Park the same as we welcome Taxi Cabs.

Councilman Fry stated I am for adopting the operating agreement and not just saying you can operate here; I think it sends a symbolic message to the City of San Antonio.

Councilman Fry moved to pass Resolution 2015-02 approving an operating agreement with Rasier, LLC (UBER) for ridesharing services and authorizing the Mayor to execute all documents related thereto and setting an effective date.

Councilman McDonald seconded the motion.

The vote in favor of the motion was unanimous.

Discuss amending the City Code of Ordinance of the City of Olmos Park, Texas by adding Section 14-2 (b), 14-2 (c) and 14-2 (d) to Chapter 14, Elections to provide that the election of the City Council members shall be by a place system: take possible action

Councilman Fry stated I have to believe that if we had this place system that no one would run against Councilman Pellegrino because of the value that he brings to the city and his guidance with the budget and I am concerned going forward who will step in and take that lead.

Councilman Pellegrino stated I will be here to volunteer as needed. I heard that sitting on Council would create more animosity and I disagree, I think this would create a more informed voting process and I think when you understand who you are running against and why you are

running against them and what the differences are between the candidates. You are able to inform people against the differences and the things somebody stands for versus several people running for either 2 or 3 seats which is very challenging and if they are unopposed and doing a good job on Council. Lastly our elections are decided by 3 votes, 5 votes, 20 votes so when you have an at large system and you vote for one person and there are 3 seats and you only vote for 2 then it really skews the numbers at the end whereas the place system if you don't vote for a particular seat then that will not skew the numbers.

Councilman Pellegrino moved to amend the City Code of Ordinance of the City of Olmos Park Texas by adding Section 14-2 (b), 14-2 (c) and 14-2 (d) to Chapter 14, Elections to provide that the election of the City Council members shall be by a place system.

Councilman Fry seconded the motion.

The vote in favor of the motion was unanimous.

Mayor Farrimond stated this will take effect next year for the 2016 election.

Receive and discuss an Olmos Park Economic Development Corporation ("OPEDC) project, the OPEDC proposes to engage a professional engineering services to meet with each property owner to discuss improvements and document any feedback for an amount not to exceed \$10,000.00; take possible action (first reading)

Deb Prost stated unfortunately Carl from Bain Medina Bain could not make it to speak tonight to answer any questions.

Mayor Farrimond stated we need a motion to table this item.

Councilman McDonald moved to table the item for the May City Council meeting.

Councilman Hornberger seconded the motion.

The vote in favor of the motion was unanimous.

Discussion on dumpster near the Public Works Yard; take possible action

Public Works Director, DeLeon stated over the last two weeks we had to take out furniture and, more branches that were put in and around the dumpster. We lock the dumpster and they cut the locks off of it. We run the city route every day; we have a courtesy route where if it is not your trash day we will pick up trash that is at the curb.

Councilman McDonald stated I walk past that dumpster every day and there is something different there every day, some of the stuff is huge and can't even get it in the dumpster, couches, beds, mattresses and this has increased over the last couple of months. I think the dumpster needs to be gone.

Mayor Farrimond stated the dumpster is a convenience for the citizens except 90% of the time if a citizen wants to dump something the dumpster is full.

Councilwoman Plant moved that we remove the dumpster near the public works building.

Councilman Hornberger seconded the motion.

The vote in favor of the motion was unanimous.

Discussion regarding 100 El Prado Condominiums request regarding the public arcade near their loading dock; take possible action

City Manager DeLeon stated according to our engineer he did his investigating and he said it's city property.

Mayor Farrimond stated it's the condominiums loading dock and people park there all the time and it's not adequate for them. They have offered to buy that property from the city or to lease it or to sign an agreement to maintain it. They are willing to do anything to get better control of their loading dock. The biggest problem is the people from the restaurant across of the street park in front of their loading dock. Mrs. Nelson gave permission for the restaurant to park on her side. I think it would make sense to sell that piece of property to them.

Councilman Fry stated I think it would be a maintenance agreement instead of leasing it to them and the benefit is they can access it and would have to come to us with any improvements or any changes.

Steve Pena stated I have reviewed some documents that were provided to us by Attorney, Tom Newton. It looks like back on March 20, 1958 the City of Olmos Park has abandoned the public right-of-way in what is now described as the public arcade which is how they identify that area on the map. In the 1970's somebody filed a deed that had a plat attached to it that still refers to that as the public arcade on the map and survey. What it looks like happened is the city abandoned it and a man named J. Burleson Smith was apparently a resident of San Antonio and another man John M. Smith, M.D. who is involved in this as well. As far as I can tell the city abandoned it but it never conveyed it to the adjacent owners so if the city owned the property, it appears that it owned it as an public easement to use that property, if that was an easement because almost 60 years ago this Council abandoned it, so if I am correct then the land already belongs to them and you would need to quick claim it to them and be done.

Councilman Hornberger stated if this was an easement shared by two property owners with a dividing line right down the middle then Carolyn Nelson has part of it and 100 El Prado has the other side of it.

Steve Pena stated when your engineer went out there to look at it because the city never gave him a document saying it is yours or if they did give a document and it was never recorded, he can only look at the public record and see what is there. If the Council wants to convey to the adjacent land owners I would have a title company run a title opinion on it. The city has already taken the action almost 60 years ago and it is just a matter of conveying it.

Councilman Hornberger stated if the title company runs that search I want 100 El Prado to pay for the search and we can quick claim ours. Can you correspond with Mr. Newton and have him go get a title opinion.

Fire Chief Surber stated this location has always concerned me because of the loading dock is the only access to the stairwell and is a wood frame structure and probably the most dangerous in Olmos Park. What untimely should be there what I do not see is a stripped fire lane that says no parking and they could even share temporary loading and unloading. If we have anything to gain from this is we negotiate some type of shared arrangements to allow for very limited parking and allow them to load and unload temporary with a driver always present in case of a fire.

Councilwoman Plant stated isn't there regulations for fire code before a building is inspected?

Fire Chief Surber stated regulations are in place if they add on to it but once it is existing it's hard to go back and add those safety features.

Mayor Farrimond stated if we make that a fire lane does it have to be open on both ends?



Fire Chief Surber stated no it can be a straight drive in. I am just concerned that if we totally lose control and it's their property and then they decide to put up a chain link fence right down the middle then that may cut off access for a fire truck.

Mayor Farrimond stated can we need a motion to empower the City Manager to investigate and communicate with the 100 El Prado organization and let them know about our concerns on the fire lane and our concerns regarding the ownership.

Councilwoman Plant moved to instruct the City Manager to work with our Fire Chief and our City Attorney to inform the residence of 100 El Prado of our safety concerns of fire and of our concerns regarding ownership and instruct that any cost regarding the title policy be paid for by 100 El Prado.

Councilman McDonald seconded the motion.

The vote in favor of the motion was unanimous.

Consent Items:

- a. Approve Cash Disbursements for March 2015;
- b. Approve City Council minutes for March 19, 2015
- c. Excuse Councilman Casey Fry from attending the May 21, 2015 City Council meeting

Councilman Pellegrino moved to approve the consent items A, B & C as submitted.

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 March 2015;
  - (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 Plant stated I would like to pull the financial statement looking at the general fund and the maintenance section "street lights and signs", are we having a street light problem?

City Manager DeLeon stated this is the account we paid our angels from.

Councilman McDonald moved to accept all departmental reports.

Councilman Hornberger seconded the motion.

The vote in favor of the motion was unanimous.

Mayor Farrimond presented Councilman Pellegrino with certificate of appreciation for serving on City Council.

Councilman Pellegrino stated it has been a pleasure to work beside each and everyone one of you and thank you for a great city I and appreciate everything that you do and thank you to the entire department heads.

There was no further business the meeting was adjourned at 7:42 p.m.

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Kenneth Farrimond  
Mayor

ATTEST:

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Diane Gonzales  
City Secretary