

MINUTES OF REGULAR
CITY COUNCIL MEETING HELD
JANUARY 19, 2022

The City Council of Olmos Park, Texas held a regular meeting on January 19, 2022 commencing at 6:00 p.m. in the Council Chambers at City Hall. Mayor Ronald Hornberger presided and Council members present were Juliana Dusek, Kenyon McDonald, Sharon Plant and Deanna Rickabaugh. Council member not present was Erin Harrison. Staff present was City Secretary, Kyndra Munoz; Fire Chief, Michael Goodreau; Police Chief, Rene Valenciano; and Building Official; Ricardo Cavazos. Also present was City Attorney, Richard Lindner; City Engineer, David Givler; Frank Buttacavoli, 134 Park Drive; Paul Covey, 138 Wildwood; 143 Park Drive; Michael Goldstone, 146 Park Drive; Robert and Jeanne Latimer, 159 Park Hill Drive; and Ron Tefeller, 228 Luther Drive.

Mayor Ronald 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.

Michael Goldstone 146 Park Drive stated I have lived her for 11 years and I am concerned about the construction at 151 Park Hill Drive along with all of the other continuous property owners. We are very concerned with the prospect of significant and unprecedented damage to our homes, our content structures and our landscaping. The diminish in value of property in what appears to be process irregularities, conflicts and failures by builders and engineers in the City to follow City ordinances. We as well as our neighbors are alarmed at the drastic changes to the natural topography of this lot. A few weeks ago, there were hills that were 5 feet above the normal topography and has since increased by about 2-3 feet. It is well established law as I understand it, in Section 11.086 of the Texas Water Code which states you cannot revert or impound natural flow in the matter that damages property of another by water diverted. There is no question that such a diversion of the natural flow is happening. This may work out and we hope it does, but the visual logic indicates a serious problem. There should be plans, verifiable calculations and objective data in the end review and permits, which is according to the ordinances of this City as I understand it. We are not seeing this and the lack of response from the builders that the City provides us is only causing more concern. We have voiced concerns to members of the City Council and to the City Building Official Mr. Cavazos who initially noted a communication problem with the team. We wonder if an appropriate drainage plan was ever provided to the City. Was there a storm water drainage plan in connection with the construction which is also required? On December 14th, Mr. Cavazos asked for the plan which provides all of the required essential information. When the City put the brakes on for a few hours this day, a letter dated December 15th appears from Givler Engineering to say they have been retained by the owner of the property and the storm water flows are just fine. The way they see it, it will reduce runoff on a neighboring property and will reduce flow rates. The December 15th letter has a bunch of conclusions and appears to be an engineering drainage report, but it does not show calculations, locations, profiles, measurements, or any other basis for these conclusions. It did come from Givler, who also acts on behalf of the City and certainly seems as a potential conflict of interest and an impediment to an impartial review in permitting process. There are 3 legitimate and troubling questions: an apparent conflict of interest, conclusions that have appeared after a complaint was made and not a plan that is required by ordinance and third there is no reasonable explanation for the backup and conclusions. I would like to point out a few of the ordinances that are an issue. In Article 11, Chapter 8 Section 323 acknowledges the problem and discourages alterations that

adversely affect the value of the adjacent lots. Section 324 says you have to have a storm water drainage plan that has all necessary plans, sheets, profiles and calculations which is what Mr. Cavazos asked for and not the letter that appeared a few hours later. Section 325 says there shall be no increase in rate flow to the adjacent properties and again, you must have a storm water drainage plan that must be reviewed before permits are issued. Finally, Section 326 of the ordinance provides the City shall mail notice with the storm drainage plan to owners of the adjacent properties and this did not happen. My understanding is Chapter 40-41 there are height restrictions to minimize looming structures on an adjacent lot. My question is can you place a maximum 35-foot structure on a 10-foot hill that you have built? This is not just a potential problem for my home, but for builders, engineers and the City. The law provides adjacent property owners can take measures to prevent unnatural water flows onto the property. We want to avoid property damage, we want to avoid potential liability, we want full transparency and we want the City to provide the stormwater drainage plan if there is anything other than what has been provided which we think is inadequate. These things are required by ordinance or tell us why this is not necessary. We would like the City to objectively review the stormwater drainage plan. The ordinance contemplates retaining independent engineering firms and that is what homeowners pay taxes for. We would like the City to retain all communications and documents of all kinds of emails regarding the property at 151 Park Hill Drive.

Robert Latimer, 159 Park Hill Drive stated we have lived here for 30 years and in Olmos Park for 32 years and I would like to tell you I have never seen anything like this before. Mr. Goldstone has touched on everything that I have to say. One thing that happens in front of our house on Park Hill is the street floods and overflows into our yard during a large rain storm. With this new construction and the plan of dumping of more water into the street, we will now have more street flooding. I am not sure you have gotten the whole picture from the engineers and the landscape architects, but this is unsightly and uncalled for. The landscape architect stated he built this so high so he didn't have to put sump pumps in the yard. We also had an additional problem with the heavy equipment and vibration of that equipment that shook our house for a week. We were not aware this was coming, and all of a sudden, our house started shaking and pictures were moving on the wall. This has been a poorly run process and I think you need to look into this more.

Frank Buttacavoli, 134 Park Drive stated my wife and I purchased our home in September and I am relatively new to Olmos Park. We were thrilled to move into the neighborhood and some of our neighbors have been wonderful. I grew up in Miami Beach, Florida and do have a little bit of experience in this. My mother was the City Manager for Miami Beach for 17 years. I saw the issues when we were residents where structures were knocked down and built up by large boxes. The time is now to prevent a problem. If you want lawyers in this meeting 4 years from now like my mother witnessed in Miami Beach, the time is now to fix this.

Jeanne Latimer, 159 Park Hill Drive stated this is only the second time in 32 years I have come to address the Council. Mr. Goldstone has touched on this, but I would really like to know who would be liable if this plan does not work, if there is flood damage or if there is water damage to any of the adjacent properties? Would it be the City, the builder, the landscape architect or the engineer?

Ron Tefteller, 228 Luther Drive stated I want to thank Council and the City Manager for arranging the interactions with CPS Energy. I am not sure what the final analysis indicated, but from the presentations that appeared from an audience standpoint, the modus operandi is reactive and not proactive at least with regard to older infrastructure. Whether this is the result of capital allocations or lack of primitive planning, I do not know. We do know the top leadership is in transition and it will take time for a new CEO to lay out a vision. They are obviously responsive to

you with our ongoing drone surveillance. I watched CPS personnel including their contractors and my observation is they are capable and diligent in their work. Their staff that came to present in mass were certainly forthright to the extent they had the information. I do think your continued monitoring on behalf of the residents is important. From some of the other attendees from the first meeting, my understanding is there are individuals in our community who have medical equipment needs that require reliable power. I hope your communications reach the CPS Board and I want to thank you for all of the time you have spent

Discussion and possible action on a Resolution of the Olmos Park City Council supporting acceptance of grant funding from Office of the Governor Homeland Security Grant Program, The Fusus Project and authorizing the Police Chief to sign the award.

Police Chief Rene Valenciano stated there are two different grants we have applied for, one is the Fusus Project and the other is the Smart ALPR Project for automatic license plate readers. Both grants will help us tremendously on the tech side.

Councilwoman Rickabaugh stated will this project be able to integrate videos, for instance, from Valero in which you can access and view the videos? Will the public have any input into this as well?

Police Chief Rene Valenciano stated that is correct, this is a central hub for Police videos. There are some other capabilities such as sending out text messages in the immediate area if we need to. We are also able to solicit businesses and residents if they have home surveillance and are willing to submit videos. We will be able to pull these videos, quickly analyze and distribute information as needed.

Councilman McDonald moved to approve Resolution of the Olmos Park City Council supporting acceptance of grant funding from Office of the Governor Homeland Security Grant Program, The Fusus Project and authorizing the Police Chief to sign the award.

Councilwoman Rickabaugh seconded the motion.

The vote in favor of the motion was unanimous.

Discussion and possible action on a Resolution of the Olmos Park City Council supporting acceptance of grant funding from Office of the Governor Criminal Justice Grant Program (Edward Byrne Memorial Justice Assistance Grant Program), the Smart ALPR Project and authorizing the Police Chief to sign the award.

Police Chief Rene Valenciano stated this grant is for automatic licenses plate readers in which the cameras will be mounted on the police cars. They will work with our current system we have with Utilities. This is an investigative tool to assist officers with automatically getting information for instances such as home invasions, kidnappings or stolen vehicles.

Councilwoman Rickabaugh moved to approve a Resolution of the Olmos Park City Council supporting acceptance of grant funding from Office of the Governor Criminal Justice Grant Program (Edward Byrne Memorial Justice Assistance Grant Program), the Smart ALPR Project and authorizing the Police Chief to sign the award.

Councilman McDonald seconded the motion.

The vote in favor of the motion was unanimous.

Discuss and take possible action on Ordinance 2022-01 of the City Council of the City of Olmos Park, Texas ordering a general election to be held jointly with Bexar county on May 7, 2022 for the election of Mayor, city council place #4, and city council place #5 to serve a two year term; designating the main early voting place for such election; authorizing the mayor to enter into a

contract with Bexar county elections administrator providing for an order and notice of such general election; providing a severability clause; and providing an effective date.

Councilwoman Rickabaugh moved to approve Ordinance 2022-01 of the City Council of the City of Olmos Park, Texas ordering a general election to be held jointly with Bexar county on May 7, 2022 for the election of Mayor, city council place #4, and city council place #5 to serve a two year term; designating the main early voting place for such election; authorizing the mayor to enter into a contract with Bexar county elections administrator providing for an order and notice of such general election; providing a severability clause; and providing an effective date.

Councilman McDonald seconded the motion.

The vote in favor of the motion was unanimous.

Discuss and take possible action on Ordinance 2022-02 concerning ordering a Special Election to be held on Saturday, May 7, 2022, in the City of Olmos Park on the reauthorization of a one-fourth of one-percent local sales and use tax in the City of Olmos Park, Texas for continued maintenance and repair of municipal streets; making provision for the conduct of the election; resolving other matters incident and related to such election; and providing effective date

Councilwoman Rickabaugh asked if a Councilmember is questioned about this ordinance, are we allowed to advocate for it?

City Attorney Richard Lindner stated I will get you an answer to this question. I want to make sure I get you the correct answer and I will share this openly with Council.

Councilwoman Dusek moved to approve Ordinance 2022-02 concerning ordering a Special Election to be held on Saturday, May 7, 2022, in the City of Olmos Park on the reauthorization of a one-fourth of one-percent local sales and use tax in the City of Olmos Park, Texas for continued maintenance and repair of municipal streets; making provision for the conduct of the election; resolving other matters incident and related to such election; and providing effective date.

Councilman McDonald seconded the motion.

The vote in favor of the motion was unanimous.

Discuss and take possible action on Ordinance 2022-03 by the City Council of the City of Olmos Park, Texas amending Chapter 18 - Environment, Article V – Illicit Discharge, to revise certain definition and update discharge provisions; setting a penalty; declaring a public purpose; incorporating recitals; providing a repealer and savings clause; providing for severability; and setting an effective date.

City Engineer, David Givler stated every so often the State passes requirements for updating the stormwater management program. These recommended updates for the ordinance are to bring the language of the ordinance in conformance with the general permit the City is under. There is language in the general permit issued by TCEQ. We are recommending changing the language to match what is in the general permit.

Councilwoman Plant asked is the Stormwater maintenance program that we participate in State and Federal? This is for the cleaning and maintenance for the ongoing construction for the stormwater drains throughout our streets and City, correct?

David Givler stated it has to do with maintaining the quality of the water and limiting the amount of pollution that is discharged into the stormwater.

Councilwoman Plant asked Richard Lindner do you have any concerns with the language that is in this ordinance?

Richard Lindner stated we did not do an in-depth look, but it all seemed very reasonable and there was not anything out of the ordinary.

Councilwoman Rickabaugh moved to accept City Engineer David Givler's recommendation and approve Ordinance 2022-03 by the City Council of the City of Olmos Park, Texas amending Chapter 18 - Environment, Article V – Illicit Discharge, to revise certain definition and update discharge provisions; setting a penalty; declaring a public purpose; incorporating recitals; providing a repealer and savings clause; providing for severability; and setting an effective date. Councilman McDonald seconded the motion.

The vote in favor of the motion was unanimous.

Discuss and take possible action on Ordinance 2022-04 by the City Council of the City of Olmos Park, Texas, amending Chapter 8 - Buildings and Building Code, Article VII – Construction Site Stormwater Runoff Control, to clarify and update certain provisions; setting a penalty; declaring a public purpose; incorporating recitals; providing a repealer and savings clause; providing for severability; and setting an effective date.

Mayor Hornberger stated the proposed language in this ordinance contains a reference when it defines receiving water means and states "water of the United States" as defined in 40 CFR 122.2 into which the regulate stormwater discharges". Will this include the new definition that was just announced and is trying to be reinstated defining waters of the United States?

David Givler stated my understanding is this is in a fluid state right now in the Courts. If the change is made, this definition will incorporate the change.

Councilwoman Plant asked Richard Lindner do you have any concerns with the language that is in this ordinance?

Richard Lindner stated for this ordinance, again we did not do an in-depth look, but it all seemed very reasonable and there was not anything out of the ordinary.

Councilwoman Plant asked why was the section on larger common plan of development or sale to go on to read "means any contiguous area where multiple separate and distinct construction or land disturbing activities will occur under one plan. A plan is any announcement or piece of documentation (including but not limited to public notice or hearing, drawing, permit application, zoning request or site design) or physical demarcation (including but not limited to boundary signs, lot stakes or surveyor markings) indicating that construction activities may occur on a specific plot" removed from this ordinance?

David Givler stated the State has changed the definition. What they used to call a larger common plan of development is now called large construction activity. The notices still need to be sent out, but this actually does not apply to what is happening here in the City. The City is already developed and this is not an issue. What we addressed is construction sites of different sizes in which we have a large, small and minimal.

Councilwoman Plant moved to accept City Engineer David Givler's recommendation and approve Ordinance 2022-04 by the City Council of the City of Olmos Park, Texas, amending Chapter 8 - Buildings and Building Code, Article VII – Construction Site Stormwater Runoff Control, to clarify and update certain provisions; setting a penalty; declaring a public purpose; incorporating recitals; providing a repealer and savings clause; providing for severability; and setting an effective date. Councilman McDonald seconded the motion.

The vote in favor of the motion was unanimous.

Discussion on drainage and stormwater runoff control requirements during sitework and construction activities; take possible action

Councilwoman Plant stated we have run into issues with stormwater runoff during construction activities or when properties are being built. We have an ordinance that we have put in place for this and I am asking Council, with the help of our attorney and building official, to add some additional language to this ordinance. While we do have language that requires a study and a plan for the runoff, during construction placing a silt fence at the site is not enough. For this particular case being discussed tonight, we met with the contractor who informed us there would be other precautions such as sandbags put in place to protect some of these properties which did not occur. When we are at a point in construction, we need something better in our ordinance than silt fencing to prevent water from going onto these properties.

Councilwoman Rickabaugh stated the first sentence in the drainage requirements states it shall be unlawful and an offense for any person or entity to do work or cause work to be accomplished that diverts, impounds, or otherwise alters the natural flow of surface water drainage in such a manner that prevents natural drainage across an existing property, increases runoff to adjacent properties, causes damage to property and so on.

Mayor Hornberger stated we have been wrestling with the kind of problems we heard during citizens to be heard for a long time. It has been the intent of this Council to come up with an ordinance or set of ordinances that will protect surrounding land owners from being the recipient of any increased water runoff, sand, mud or anything else dealing with construction projects. We want to make this ordinance as strong as we can make it to prevent that kind of damage. As Councilwoman Rickabaugh pointed out, the way we intended this ordinance to be is if you touch the land, do not make it any worse for any neighbor than from the day you touched it.

Councilman McDonald asked what is the maximum height allowed inside the City?

Building Official, Ricardo Cavazos stated the maximum height for the main structure is 35 feet and an accessory structure is 25 feet. There is only a definition of building height in the code of ordinances where there are certain measurements for building height on different surfaces or elevations.

Mayor Hornberger stated we will add an agenda item to February's meeting to discuss the definition of building height in our ordinances. Is this measurement from the lowest point, the highest point or a calculation based on some sort of averaging? We can take a look at this again or have Planning and Zoning take a look at this.

Richard Lindner stated you are concerned about the sediment, soil and debris running off the property for a project during, before and after construction as well as the volume, quantity and flow of clear water, is this correct.

Mayor Hornberger stated that is correct.

Councilwoman Rickabaugh moved to direct staff and city attorney to evaluate and work on an ordinance or set of ordinances that will protect surrounding land owners from being the recipient of any increased water runoff, sand, mud or anything else dealing with construction projects.

Councilman McDonald seconded the motion.

The vote in favor of the motion was unanimous.

Discussion and reconsider Resolution 2015-04 of the City of Olmos Park by establishing procedures for appointing City Boards and Commissions and setting term limits for such Boards and Commissions; take possible action

Mayor Hornberger stated this is a result of some discussion that took place at the December meeting that has to do with a variety of things, one of those is sometimes it is a little difficult to find people to serve on these Boards and Commissions. My opinion is I like the idea of term limits for all of these Boards and Commissions but the question is for how long. For a City the size of Olmos Park, we might have undershot at 2 terms instead of 3 or 4 terms. I open this up for discussion.

Councilwoman Plant stated I agree with Mayor Hornberger with the idea of term limits, but for a City our size, it is very difficult to find volunteers for these Boards. The City Council or the Mayor has the power to appoint. If we have someone who is not doing their job, the Council in their duty, can choose not to re-appoint. I do not think we need a stifling ordinance when we have really good members that we would like to keep on these Boards or Commissions. In light of how small our City is, I do not think we should not have term limits.

Councilwoman Dusek stated I agree with Councilwoman Plant. I see individuals who have done a lot for our City and do not like when they drop off the Board or Commission. Again, if it starts to become a problem, it comes back to City Council where we can address it.

Councilwoman Rickabaugh stated having served on a Board, I can tell you from personal experience, when you have members of the Board who bring a confrontational spirit and not one of collaboration it can be very difficult. It does take conviction in your duty to not re-appoint and the question is do we have confidence in future Councils to exercise their responsibility to do this?

Councilwoman Plant stated it is very hard to not re-appoint or remove a member but you have to look at it for the sake of the Board. You cannot keep one person on the Board if you have 6 members who will quit because of that one person. This is not permanent; this could be something that future Councils change and reinstate term limits.

Councilwoman Rickabaugh stated personally, I would like to see an increase in term limits; as the Mayor mentioned, I might support 4 term limits which is 8 years of service. The other thing I would support is a minimum residency requirement.

Councilwoman Dusek stated I don't necessarily think this is a bad idea, but I do not think a resident who has lived here for 5 years will be a better applicant than a resident who hasn't lived here that long.

Mayor Hornberger asked the question is whether or not the local government code will prevent the City from having an applicant requirement of a minimum residency. I direct our City Attorney Richard Lindner to take resolution 2015-04 modify and bring back to Council in February with longer term limits and an added requirement that an applicant be a resident of the City of Olmos Park for a certain amount of time.

Discussion regarding appointment of members to the Planning and Zoning Commission to serve a two-year term through December 31, 2023; take possible action

Mayor Hornberger stated we have 2 letters of interest from Mr. Paul Covey and Ms. Lorin Runnels. I can't say that either one is well qualified to serve on the Planning and Zoning Commission. I will address a question to Mr. Covey. You have been involved with Planning and Zoning Commissions and Boards of Adjustment for a long time because you deal with developing real estate. How do you avoid any kind of potential of a conflict of interest?

Paul Covey, 138 Wildwood stated I have read through the minutes from the Planning and Zoning meetings from the last 3 years and I have also gone through your codes. Number one, if anything I had a direct personal interest in, I would recuse myself. Number two, the issues that are coming before this board are really dealing with fundamental problems such as drainage. For instance, for the problems discussed at 151, what I really think is happening on this property is the site has been changed so much that they are actually shifting the flow. It is now being shifted to drain towards the street and I believe the intent is to not put any water into neighboring properties. I am sure they are aware this is a violation of State law and will cause all kinds of problems. To address your question, at this present time, I find it hard to see that I would have a conflict of interest. I can't imagine myself doing anything that would be a conflict with what the Planning and Zoning Commission does. If in the future there is a conflict, and I would love to purchase and re-developed the Yard, then I would find it appropriate to resign. I do believe I would make a very reputable contribution and my experience would be useful.

Councilwoman Rickabaugh stated you mentioned your ordinances and codes. I am confused about how you are posturing yourself. We are neighbors and we all have disagreements but I see us as a team.

Paul Covey stated you are absolutely right. I misspoke and it will be our codes and ordinances. I am used to addressing Boards that I am usually not the resident of.

Councilwoman Rickabaugh stated if appointed, I would advise you to be aware that you will be serving with your neighbors and for people who depend on us volunteers to make these decisions. It is different sitting in the seat as opposed to standing behind the podium. If you are appointed I hope you find it enjoyable and valuable.

Paul Covey stated I do not have a tremendous amount of free time but I would really like to dedicate it here because we do live here. One of my sons lives here and, in the future, one or two others might move here. I really do want to see Olmos Park progress and I want to see improvements in this community and I am willing to do my part in that.

Councilwoman Dusek stated I have had discussions with Mr. Covey a while back regarding the City where I enjoyed talking through your ideas. You mentioned progressive, you seem very passionate, you have a background in this and I would be interested to see what you bring to the Board.

Councilman McDonald moved to appointment Paul Covey to the Planning and Zoning Commission to serve a two-year term through December 31, 2023.
Councilwoman Plant seconded the motion.

Councilwoman Dusek	Aye
Councilman McDonald	Aye
Councilwoman Plant	Aye
Councilwoman Rickabaugh	Abstained

The motion passes.

Mayor Hornberger stated we have received a letter of interest from Ms. Lorin Runnels who looks very qualified. Her letter states she is President of two limited partnerships that are actively involved in real estate development in South Texas, in addition she holds a Residential Mortgage

License. My question would be the same as directed to Mr. Covey and would expect to hear similar answers from her that we received from Mr. Covey.

Councilwoman Rickabaugh stated when Ms. Runnels mentioned South Texas, it is in the Valley and not in San Antonio.

Councilman McDonald moved to appointment Lorin Runnels to the Planning and Zoning Commission to serve a two-year term through December 31, 2023.

Councilwoman Dusek seconded the motion.

The vote in favor of the motion was unanimous.

Consent Items:

- a. Approve Cash Disbursements December 15, 2021;
- b. Approve City Council minutes of December 15, 2021;
- c. Approve the OPEDC proposal to undertake a project to reimburse commercial property owners for the purchase and installation costs of Knox Boxes with the projects costs not to exceed \$15,000 (second reading)

Councilwoman Rickabaugh moved to approve consent items A-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 December 2021;
 - (2.) Monthly overtime, CT, vacation, sick leave report;
 - (3.) Building Department Report;
 - (4.) Municipal Court Report
 - (5.) City Engineer Report
- e) Manager's report:
 - (1.) Discussion of written reports (if needed).

Councilwoman Rickabaugh stated I attended the Fire Department banquet and I would encourage everyone who hasn't been, to attend. The members of the Fire Department serve us so well and I really appreciate what they do.

Councilwoman Rickabaugh moved to approve the Departmental Reports as submitted.

Councilman McDonald seconded the motion.

The vote in favor of the motion was unanimous.

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

Councilwoman Plant moved to table discussion of performance review of City Manager to the February Council meeting when the City Manager and full Council is in attendance.

Councilwoman Dusek seconded the motion.

The vote in favor of the motion was unanimous.

There was no further business and the meeting was adjourned at 7:26 p.m.

Ronald Hornberger
Mayor

ATTEST:

Kyndra Munoz
City Secretary