

MINUTES OF REGULAR
CITY COUNCIL MEETING HELD
JULY 20, 2022

The City Council of Olmos Park, Texas held a regular meeting on July 20, 2022 commencing at 6:00 p.m. in the Council Chambers at City Hall. Mayor Deanna Rickabaugh presided and Council members present were Will Brooks, Juliana Dusek, Erin Harrison, Kenyon McDonald and Sharon Plant. Staff present were City Manager, Celia DeLeon, City Secretary, Kyndra Munoz; Building Official, Ricardo Cavazos; Police Chief, Rene Valenciano; Fire Chief, Michael Goodreau; and Director of Public Works, Gilbert DeLeon. Also present was City Attorney, Richard Lindner; Christopher Allison, M.E. Allison & Co.; Michael Catcott, Schnabel's Hardware; Paul Covey, 138 Wildwood; Ron Herrmann, 209 Stanford; Beth O'Brien, 103 E. Mandalay; and Megan Rodriguez, San Antonio Express News.

Mayor Rickabaugh called the meeting to order at 6:00 p.m. and determined a quorum was present.

Pledge of Allegiance

The Pledge of Allegiance was led by Mayor Rickabaugh

Proclamation in honor of Schnabel's Hardware 80 years in business

Mayor Rickabaugh stated we have the best hardware store right here in downtown Olmos Park. Not too long ago, they turned 80 and are under new management. Owner, Michael Catcott has made so many improvements; I am so proud and happy you are here. We wanted to honor your business and present you with this proclamation. Schnabel's Hardware was established in 1942 at 1802 North Main and moved to its current Olmos Park location. It is one of the oldest locally owned neighborhood hardware stores in the San Antonio area. Myself and City Council do proclaim and declare Schnabel's Hardware and honorary business and express our appreciation in choosing to do business in the City of Olmos Park.

Michael Catcott stated thank you very much. We are also recognized as a historical business in the State of Texas.

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.

Beth O'Brien, 103 E. Mandalay stated in appreciation from all of us citizens, we would like for you to enjoy a bouquet of flowers and chocolate.

Paul Covey, 138 Wildwood stated this is in regards to the aggravated robbery, intruder in my home who had a gun that stole cash and cars. Unfortunately, this has been happening in other parts of the area. I have been informed in the last month this has happened in Terrell Hills. There were three others where they were entering unoccupied homes. I admit, I did not lock my patio door. I will never again in my life go to bed without locking every door in the house. These were not teenagers, they were not illegal aliens but professional criminals. I believe there were at least 3 because they stole 2 cars and one on foot who was the one with the gun in my bedroom. First of all, I would like everyone to learn from that. There is an increase in crime everywhere and we are not exempt. Bexar County is experiencing a huge increase in crime and I have heard murders in San Antonio are up 50% from last year. Violent crime nationally is up 30 or 40%. I am hoping there are some things that can be done. Number 1 is complacency and I was guilty of this. We can help by being more forthright in the weekly newsletter that is sent out about what happened.

This week, I was mentioned in there and it said aggravated robbery. I did not know what an aggravated robbery was, I had an intruder with a gun in my house. I got an email the other day about a lost dog, and I hope it got back to their owner. Why in the world aren't we telling people there has been a serious crime, please insure they take precautions. I complained about a solicitor on Thursday, 2 days before the robbery, and I felt my house was being cased. I called 911 and I also went out and stopped 2 police officers. I was told this person had a vendor's permit. Vendor's permits have no place in today's world. I believe this ordinance is from the 80's in which we had Girl Scouts selling cookies and had legitimate reasons for it. There is a Supreme Court case and there is no right for people to go onto private property. You may have to give people the right to stand on the sidewalks holding a sign but you surely don't have to give them a license to go door to door to see who has a dog, who is home and who is not home. I actually thought they were trying to figure out who was gone for the 4th of July weekend. I was complacent because I thought these people were looking for vacant houses. Unfortunately, they are actually hitting occupied houses. The reason for that is, if I would have been out of town, my house would have been locked tight with all kinds of alarms set. We also have dark streets and maybe we can purchase more lights. With the resources we have for police, this may have been adequate 5 or 10 years ago.

Ron Herrmann, 209 Stanford stated I have been a happy resident of Olmos Park for many, many years. My concern today is reflective of the problem that Mr. Covey has presented. I think it is time we stop door to door solicitation in Olmos Park. In this advanced age, with the danger and crime going on in our nation, I think it is obvious the police are already occupied and cannot keep up with all of the people soliciting and ringing our doorbells. I would really appreciate the City Council addressing this problem formally. Thank you very much for serving.

Councilwoman Plant asked since we have 2 residents who have brought up solicitation, could we move and discuss item number 12 next?

Mayor Rickabaugh stated we will discuss item number 12 next.

Discussion on amending City Code Chapter 10, Article III regarding regulating Solicitors, Peddlers and Distributors; take possible action.

City Attorney Richard Lindner stated we have touched on this a couple of times since I have been involved with the City of Olmos Park. The first one we received was a warning from the Trade Organization and at the time there were some changes made. The reason I am mentioning this to you is, there are organizations out there that look at these ordinances and fire warning shots at cities they think are being overly aggressive. A couple of years later we looked into ways of regulating this more aggressively. The City Attorney's office recommended the most conservative approach for the City is to ask the residents to place no solicitation signs at their house. This is the cleanest way to prevent solicitation because it is the citizens choice and not the City's choice. At the time, there was an effort to create signs and provide them to the residents. One option that was lightly discussed at the time and you may want to consider is creating a centralized list. The City keeps a list of the citizens who elect not to allow one or multiple types people coming to their door. The reason I talk about different types is there are different reasons people come to your door. Some we can regulate heavily, some are very risky to regulate and the Supreme Court says you shouldn't regulate and the City shouldn't but up barriers to keep these people from the door. This is because of constitutional protection of their freedom of religion and first amendment rights.

Councilwoman Plant asked if you are gated community and solicitors can't get in, how are they adhering to the Supreme Court?

Richard Lindner stated an HOA will operate under different laws than the City. One way to get into this space is to carry a centralized list. Canvassers is the group of people the Supreme Court says you really shouldn't place a barrier on.

Councilwoman Harrison asked are they supposed to abide by the no solicitation signs?

Richard Lindner stated yes, and if they don't it can be treated as a trespass issue. With the centralized list, you pass an ordinance that says you shall abide by this list. They are not able to go to certain properties for certain reasons; you can push further and say canvassers can't go to these properties. When they obtain a license or a permit, that is where we regulate it; we create a fee and can create an administrative cost for keeping this list. We can enforce this in the City laws and not put the onus on the citizen to prosecute for trespassing. How we keep the list and how we update the list will be very important.

Councilwoman Plant stated I received an email from Paul Covey with Hill Country Villages' ordinance. Why can't we do this? It pretty much includes what you just mentioned and we can include the exceptions that include Boy Scouts, Girl Scouts, or someone who is running for office. What is an example of someone we would want to issue a permit to solicit in our neighborhood?

Richard Lindner stated there is an exception right after that ordinance. For example, it would be the citizen who would decide if they are okay with a roofer coming in after a hail storm.

Councilwoman Dusek asked could we handle it as initially everyone opts out and you would have to opt in for solicitors to come to your door? The solicitors could only go to the houses on the list and if no one has opted in, we would say all of our residents have opted out.

Richard Lindner stated the catch all opt out and you have to opt in will not work. We need input from the citizens stating they do not want canvassers here. We would get in between and make a default judgement about canvassers and opting out for the residents. If the canvasser receives a ticket for not being able to go to someone's house and asks whose decision it was to not allow them to go to that specific house. It would be safer for the City if we have a record saying the citizen opted out. This is a hurdle for these canvassers to express their freedom of religion or political views. It is the hurdle I am legally concerned about.

City Manger Celia DeLeon stated the majority of our solicitors are commercial, going door to door selling products. The latest one we had was a Pest Control company, prior to that we have had roofers. What if we work on these types of groups first. Can we keep commercial groups from going door to door?

Richard Lindner stated we can prohibit that limited structure.

Councilman Brooks stated I like the idea of a centralized list, but how does dissemination become effective? It seems like there would be a disconnect in getting this information to the citizens, having to participate and putting this into place.

Celia DeLeon stated we can send a post card out with the option to be placed on the list.

Councilwoman Plant stated you are saying legally we can prohibit anyone that is going door to door to sell a product or service. Using roofers as an example after hurricane Harvey, there were scammers involved who came in from out of state. With everything that is going on right now, I think we are going to have a lot more of this. We would include the exceptions and if the resident

wants those exceptions out as well, we could look into placing the no soliciting signs up for those who want them.

Richard Lindner stated yes.

Councilwoman Dusek stated at the bottom of our email blast we could include vendors that were denied solicitors permits but include their information, phone number or website so residents can reach out to them if they choose.

Richard Lindner stated if your goal is to regulate selling retail objects or services, we can limit it to this and maybe the opt in method would be more appropriate. We would focus on this first and not touch canvassers. The way we completely prohibit is to create a list to opt in or opt out.

Mayor Rickabaugh stated I think this bubbled up because of safety concerns. My question is when the crimes have been investigated, how many of them were solicitors that have permits? Can you tie these crimes to solicitors that have permits and would a criminal go through the trouble of obtaining a permit?

Police Chief Rene Valenciano stated you have to understand the mindset of the criminal element. You have some who apply for solicitors permits and a soft background will reveal you do not want some of them in your neighborhood. Like you mentioned, this all starts from a safety aspect. The background process for a solicitor permit is completely different. If an officer has a reasonable suspicion or probable cause to lawfully detain someone, there are certain things the officer can do to find out who the person is.

Councilwoman Harrison asked right now, when a solicitor's permit is being pulled, does the company have to list every person under that permit? There should not be anyone that is not on the preapproved list.

Celia DeLeon stated that is correct. They are required to present a copy of their identification card. Individuals who do not have a favorable background are not granted a solicitor permit. If they are approved, they are given a badge.

Police Chief Rene Valenciano stated when we issue a permit, there isn't anything stopping them from creating their own permits.

Mayor Rickabaugh stated if we were to have a centralized opt out list and provide signs, this would provide the Police Department the ability to make contact and penalize individuals who do not abide by this list.

Police Chief Rene Valenciano stated provided they are outside the exceptions to include political views or religion. We can detain them temporarily and arrest them on criminal trespass but booking them into the jail is a different story.

Richard Lindner stated what you currently have is the most conservative, I am hearing you are willing to accept some risk. We can take certain administrative steps to make sure this list is easy to obtain, simple to find and regularly updated. With very low risk, we could have canvassers on this list.

Councilwoman Harrison stated if I wished to keep canvassers out but did not want to exclude children trying to learn some life skills, is there a way to allow this?

Richard Lindner stated I would recommend cutting it into the 3 categories the Supreme Court does and have sections built into that for boy scouts, girl scouts, and school children. Officers would be aware of the centralized list and if an individual is going to a house that is on the list, the officer could make contact and issue the citation.

Councilwoman Plant stated the officers can't be looking at list of how many houses we have and who shouldn't be there. We have a small City staff to maintain this list and we constantly have people moving in and out of the neighborhood. If legally we can say no solicitation, we should have our ordinance read that other than the exceptions we have mentioned, and these exceptions should be issued a City permit.

Councilman Brooks asked do you feel you can craft an ordinance that avoids putting law enforcement in a situation where these trade associations will set up cities to show the ordinance is unconstitutional by having a demonstration?

Richard Lindner stated we have not seen that type of engagement because they are businesses. I can see that for canvassers of ideology because they do not have any monetary laws to sue us for. What you currently have is the most conservative and what I am hearing is you are willing to accept some risk within limits.

Councilwoman Plant moved to direct City Attorney Richard Lindner to draft an ordinance amending City Code Chapter 10, Article III regarding regulating Solicitors, Peddlers and Distributors that excludes merchants on private residents excluding those exemptions that are allowable by law and present this ordinance to the Planning and Zoning Commission.

Councilman McDonald seconded the motion.

The vote in favor of the motion was unanimous.

Receive Bond update by Christopher Allison

Christopher Allison stated this is a little hard for me to deliver. You have received your bond money, but the amount received by the City is less than what I represented at the June 22nd meeting. You adopted an ordinance to issue up to \$6 million and we issued \$5,635,000 worth of bonds. Some of those bonds are sold at premiums and premium bonds after the call date of February 15, 2031 were calculated incorrectly. Those bonds represent the bonds from 2032-2038. 2040 to 2042 term bonds were not affected, but it actually reduces the City proceeds by \$90,000. Instead of a \$6 million construction fund, it will be \$5,910,000. I reached out to the Mayor and City Manager since this was discovered. There was a potential ability that we could go up to the \$6 million in bonds by adjusting 6 bonds by \$15,000 each. The decision reached was the \$6 million number was an arbitrary number that got you most of David Givler's recommendation of funding the sewer project and not the exact amount of the cost of the sewer. One thing I can represent very accurately is coupon and interest rates the bonds were sold on match identically to the structure bond. It is not an issue on the rate of the bonds being wrong.

Discussion and possible action on authorizing Mayor to enter a Frost Bank Safe Keeping Agreement, Frost Bank Safe Keeping Resolution, a Governmental Entity Rider Agreement and a Frost Bank Trading Resolution.

Mayor Rickabaugh stated Frost Bank will take the money that we invest with them and broker it out to their affiliates. Broadway Bank offered this as well as Frost Bank, and Frost Bank had better pricing.

Christopher Allison stated the fees look very substantial but they will equate to less than \$40 a month.

Councilwoman Plant moved to authorize Mayor to enter a Frost Bank Safe Keeping Agreement, Frost Bank Safe Keeping Resolution, a Governmental Entity Rider Agreement and a Frost Bank Trading Resolution.

Councilman McDonald seconded the motion.

The vote in favor of the motion was unanimous.

Discussion and possible action approving the Olmos Park EDC 5005-5007 McCullough Lighting Project to engage professional services to include the installation and purchase of three lights not to exceed \$85,000.00.

Mayor Rickabaugh opened agenda item number 7 and agenda item number 8.

Discussion on creating McCullough corridor lighting standards and consider regulating directing P&Z to analyze and provide a report on requiring lighting standards; take possible action

Councilwoman Plant stated the \$85,000 is for the project going on across from Mandalay. When the EDC originally went through the vision and master plan around 2009, the City instructed the Planning and Zoning to start working on some of those ordinances regarding sidewalks, landscaping and others. Lighting was involved, but when taking into consideration the cost of sidewalks and landscaping, we felt the cost of the lights would be a burden on business owners. Therefore, Planning and Zoning was not instructed to consider a lighting ordinance. Right now, the EDC is a little low on funds after the demonstration project and we also issued \$75,000 to Lin Marche for landscaping. If the EDC approves this project we will issue \$85,000 to the Woods for installation of 2 lights and there will be one light located at Joyeux. We have received a little pushback on the installation of the lights and style of the lights. I did not expect to run into this issue, especially when the lights are being funded by the EDC. This has worked out so far; I do not want to get into a bad relationship with business owners but at the end of the day this is a City easement where the City can install these lights. I do not know that we need to take any action on this today but this might be something for future discussions if we continue to get pushback.

Councilwoman Harrison asked does the EDC have the funds for this project?

Councilwoman Plant stated yes, we do. The EDC always tries to keep the account over \$100,000. We are trying to save money for next project which will be Dr. Cross' Veterinarian Clinic.

Councilwoman Dusek stated the demonstration project shows what the view could be if we go all the way down McCullough. What we have seen in the EDC is businesses are shocked at the extra costs they weren't anticipating for the sidewalks, landscaping and lighting. We move forward faster as we aid in the remodels because we can help them achieve this.

Mayor Rickabaugh stated if we move forward and direct the Planning and Zoning to consider an ordinance, the EDC would no longer be paying for this. It will now be required when you apply for your building permits.

Councilwoman Plant stated, it would be just like the sidewalk and landscaping ordinance. The community placed beautification on the ballot and the EDC is here to help businesses with these items. This EDC functions on approximately \$100,000 a year so there is only so much we can do.

Mayor Rickabaugh stated we have helped one business with the lighting and now potentially two businesses. If we do not have this structured as part of our ordinance, how does a business owner know to request lighting from the EDC?

Celia DeLeon stated Building Official Ricardo Cavazos helps to spread the word. When they come in during the permit process, he is able to relay the EDC has funds to help with business projects.

Councilwoman Dusek stated we can have the ordinance language read there must be wiring installed for the lights.

Councilwoman Plant stated this is a great idea. This would not be hugely expensive. The conduit will be in place, so we know where the lights will be placed and it will not affect their landscaping or irrigation.

Ricardo Cavazos stated as far as the electrical conduit running through the landscaping for the lights, it is already in place. The platform mount for the lights is not in the ordinance.

Mayor Rickabaugh stated there is one more step to accomplish what our EDC representative have suggested. Does this need to go through the Planning and Zoning Commission or can this be done at the Council level?

Richard Lindner stated I would recommend this go through the Planning and Zoning Commission. You use your zoning powers to create that ordinance.

Councilman McDonald moved to approving the Olmos Park EDC 5005-5007 McCullough Lighting Project to engage professional services to include the installation and purchase of three lights not to exceed \$85,000.00.

Councilwoman Dusek seconded the motion.

The vote in favor of the motion was unanimous.

Mayor Rickabaugh stated my recommendation is any ordinance that comes from the Planning and Zoning Commission be crafted by our City Attorney.

Councilwoman Plant moved to instruct City Manager Celia DeLeon to instruct our City Attorney Richard Lindner to work with Ricardo Cavazos using the Bain Medina Bain drawings to draft an ordinance adding the footing and base for a light fixture in the commercial district and present this ordinance to the Planning and Zoning Commission for consideration.

Councilman McDonald seconded the motion.

The vote in favor of the motion was unanimous.

Ordinance Review and discussion NO ACTION: regulations relating to condition of construction sites, storage of construction equipment and vehicles on construction sites and matters related thereto; including, but not limited to City Code 8-23; and Industrialized structures, City Code 8-35
Mayor Rickabaugh stated we will move this item to our August agenda for discussion.

Ordinance Review and discussion NO ACTION: Fence regulations, City Code 8-159; 8-323 and 8-163

Ricardo Cavazos stated we need to be careful on how to describe the surface of the ground because there are a lot of contours in Olmos Park. For instance, regarding Councilwoman Plant's property, her property line is over the corner lot of 135 E. Mandalay which is higher. They have a retaining wall, but her actual property line is on the other side. Therefore, when the permit was pulled, it was in my opinion the height would be above the retaining wall because the property line is located on the other side. I do not use the 2 feet below the retaining wall, I use the contour of the property line.

Mayor Rickabaugh stated, for instance there is a home on Alameda Circle where the fence fell over onto the car. There is a sever slope here in which the wall being reconstructed is much higher

than the adjacent property. Your calculation would be on the high side where the owner is building the wall.

Ricardo Cavazos stated that is correct.

Mayor Rickabaugh stated for properties that have the same grade, the rear can be 8 feet tall and the sides can be 8 feet tall from the natural surface. I could not come in put a berm there, then go up 8 feet from there.

Ricardo Cavazos stated that is correct. Every property has a front setback and varies throughout Olmos Park. Anything from the front setback line and up is 6 feet ornamental, however you can have a combination of 3 feet solid and another 3 feet ornamental.

Councilwoman Dusek asked there is an example of a gate that I love on Stanford, in which the gate changes with elevation and the top remains the same. If my house was on a hill, I would want the top to be the same all the way across and I would not want to lose measurement.

Ricardo Cavazos stated there is a calculation step to keep that even.

Discussion on authorizing the purchase of bunker gear from Fire Department reserve funds in the amount of approximately \$9,000; take possible action.

Councilwoman Plant moved to authorize the purchase of bunker gear from Fire Department reserve funds in the amount of approximately \$9,000.

Councilman McDonald seconded the motion.

The vote in favor of the motion was unanimous.

Consent Items:

- a. Approve Cash Disbursements June 2022;
- b. Approve regular City Council minutes of June 15, 2022 and special City Council minutes of June 22, 2022;

Councilwoman Plant moved to approve consent items A and B.

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 June 2022;
 - (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 have heard there has been a drop-off location that has been relocated to San Pedro Avenue for individuals coming from the border. It is an old CPS headquarters. As I was driving by, I noticed a large amount of people walking down San Pedro which is very unusual. This has been getting into our weekly crime report and we have had an increase in mishaps in Olmos Park. What do you believe has caused the increase in the crime rate?

Police Chief Rene Valenciano stated I can tell you for the 19 years I have been employed with the City of Olmos Park, we have not seen an increase like this with contacts of persons who are in the United States illegally or homeless. We have had an increase in emergency detentions and mental health issues with persons who are homeless and in the United States illegally. I do correlate over 2 million people arriving in San Antonio with the increase in crime. We are about 4 ½ miles from downtown San Antonio and about 3 ½ miles from the old CPS building that is receiving people daily.

Councilwoman Harrison stated it is labor intensive to process the increased incidents, how much extra time is this putting on our officers in terms of overtime?

Police Chief Rene Valenciano stated we have officers that are leaving for better salary and benefits. Finding police officers across the United States is getting harder and harder. When I have 2 or 3 officers that have to take multiple people to hospitals, a mental health facility or the jail, it definitely has an impact on resources left in Olmos Park.

Councilwoman Harrison asked is there a way to include the number of encounters with repeat offenders in the monthly reporting?

Police Chief Rene Valenciano stated this can be included. Once an offender has been in the system, the officer is able to see how many times they have been handled by criminal justice agencies.

Councilwoman Dusek asked can we include turnover in the departmental reports?

Celia DeLeon stated this will start to be included in the departmental reports.

Councilwoman Dusek moved to approve the department reports as submitted.

Councilwoman Harrison seconded the motion.

The vote in favor of the motion was unanimous.

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

Deanna Rickabaugh
Mayor

ATTEST:

Kyndra Munoz
City Secretary