

MINUTES OF REGULAR  
CITY COUNCIL MEETING HELD  
MARCH 16, 2022

The City Council of Olmos Park, Texas held a regular meeting on March 16, 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, Erin Harrison, Kenyon McDonald, Sharon Plant and Deanna Rickabaugh. Staff present were City Manager, Celia DeLeon, City Secretary, Kyndra Munoz; Fire Chief, Michael Goodreau; Police Chief, Rene Valenciano; Director of Public Works, Gilbert DeLeon and Building Official, Ricardo Cavazos. Also present was City Attorney, Richard Lindner; Hank and Carol Cornelius, 107 E. Hermosa; Michael and Ceci Goldstone, 146 Park Drive; Don Heep, 142 Park Drive; Robert Latimer, 159 Park Hill Drive; Cosmo Guido, Guido Construction; Lonnie Knight, Guido Construction; Matt Bright, Turner Roofing; and Megan Rodriguez, San Antonio Express News.

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.

Michael Goldstone, 146 Park Drive stated I spoke before and I am here complaining again to the City Council about the construction at 151 Park Hill Drive. There is a corporate saying that the only thing worse than not having policies is having a policy and violating it or not following that policy. It puts the organization in a bad position and the worst I believe, is when you sprinkle a little blatant conflict of interest on top of it. That is the situation the City of Olmos Park is in right now. They passed ordinances regarding storm water run-off and drainage plans; those have been ignored and those violations have been papered over by the City Engineer who is also the Engineer for the property. What is the harm here? There hasn't been any flooding yet because they haven't done the construction. The harm is not just to me, it is the liability of Olmos Park and that liability would fall on Olmos Park residents and tax payers. Harm to residents, owners and buyers. It hurts all of Olmos Park property owners when values go down, when new construction is approved and flooding occurs and when 45-foot-high structures block the sun in your backyard. I was here about 6 weeks ago and since then, the platform and the pad have probably gone up from 6 feet high to 10 feet high. The contractor knocked a hole through the stone wall that separates our property. In the 11 years we have been here there has been no such hole in that wall. If that is their plan, we have a big problem with it. Representatives of the property at 151 have admitted they don't have a storm water drainage plan that actually meets the requirements of the Cities ordinance. So that's where we are. We are at about that time where you won't be able to fix or reverse these mistakes but there is still some time left. Let me last say, whether I am represented by counsel or not, we always have a right to reach out to our elected officials directly and we will continue to do that.

Robert Latimer, 159 Park Hill stated I want to talk about 151 Park Hill also. I am going to read a couple of the codes. 6 and 8-322 of the code of City of Olmos Park provides the following: drainage and control of run-off water shall be unlawful and an offense for any person granted 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 property or causes damage to property. Section 8-325 C provides that in order to minimize runoff rates to adjacent properties, the following standards shall apply to all projects which propose alterations of drainage weathered by increased structural footprint, an increase in impervious surface cover or any work which alters existing drainage

conditions. Diversion of surface water shall be contained within the limits of the owner's continuous property and shall be conveyed by 3 positive and uninterrupted means. The Givler engineering report of December 15, 2021 fails to meet the requirements of an SDP of the City code for numerous reasons. The report does not include a site plan with drainage flow arrows imitating direction of proposed runoff and a location of all proposed swells or drains. Nor does the report show diversion of surface water shall be contained within the limits of the owner's continuous property. The Givler report also fails to include all necessary plan sheets, profiles, hydraulic calculations, culvert pipe sizing locations and all other necessary information prepared, sealed and signed by the registered professional engineer. Finally, Section 8-326 requires the SDP is to be mailed to voters to the immediately adjacent property and a permit may not be granted sooner than 10 days after the notice is mailed. We never received any notice of a proposed SDP. Additionally, construction on the property began in November 2021 while the Givler report was not delivered to the City until December 15, 2021. We have serious concern about the City's issuance of the building permit, a proper SDP and the notice to adjacent property owners. We have special concern that the Williams' engineer is also the engineer to the City of Olmos Park which raises a substantial question of potential for conflict of interest and preferential treatment. The City of Olmos Park has a duty to enforce building codes, especially ones that directly impact adjoining property owners. It is not the responsibility of homeowners to negotiate or attempt to enforce building codes among themselves. Because the Williams' have not provided a proper SDP and given notice to adjacent landowners as required by Section 8-326 we demand the City immediately suspend the Williams' building permit and cease construction activities unless and until they submit a proper SDP for approval and comply with the notice requirements. Failure to do so can expose the City to tremendous liability if construction causes damage to our properties.

Don Heep, 142 Park Drive stated I was going to say a lot of what has already been said but I will just say a few things. If 151 Park Hill was to connect to your property, I suspect the members of the Board would not want that structure and would not agree to any type of drainage that would impact your property.

Discussion and possible action on city hall roof repair bids received.

City Manager Celia DeLeon stated we published a request for bids on February 2<sup>nd</sup> and February 9<sup>th</sup>, 2022 and we received one bid from Guido Construction. We have representatives from Guido Construction to go over any questions on the bid received.

Councilwoman Harrison asked why is the price of the bid so high? I was told by a source that was interested in bidding that all bids had to go through Guido and could not go directly to us. Where was this published?

Celia DeLeon stated that is incorrect. We published the bid in the San Antonio Express newspaper for anyone to bid on. I would like to know if this is subcontracted and if so, who is the subcontractor?

Lonnie Knight, Project Manager with Guido Construction stated it is subcontracted out to Turner Roofing. The proposal that was put together for the \$128,720 plus the \$54,815 to re-roof the flat roof; all includes street closures and the crane we would use to pull off the AC units on all 3 roofs. There is another opportunity for an alternate product which puts the project at \$106,938. This product can be rolled straight on the existing roof once the blisters and problems are fixed. You still get your 20-year NDL warranty for the roof.

Councilwoman Harrison stated these options will be without any kind of construction or change in the pitch to the roof but it will just be replacing what is a known issue with another band-aid.

Matt Bright, Turning Roofing stated it will not be a band-aid, it will be sealing the whole roof. The first option is a total re-roof and the second option is a coating.

Councilwoman Harrison stated this is the second time the roof has come up, so clearly there is an issue with the engineering of the roof. There is a 20-year warranty, but if you are not changing the pitch or addressing the issue that is being repeated every 2-3 years, are you guaranteeing that you come out and redo all of the work at your cost if it fails in 2 years?

Matt Bright stated yes, it is a no dollar limit warranty.

Councilwoman Rickabaugh asked how old is the roof?

Celia DeLeon stated it was built in 2009.

Lonnie Knight stated about a year ago, we painted the exterior of the building and there were cracks that led to a leak in the Police Chief's office at the door and created a hole in the floor. There are labor rates in here to include fixing the floor.

Mayor Hornberger asked who is the warranty with?

Matt Bright stated we take responsibility of the first 2 years and then the manufacturer of the product steps in and takes the remainder of the 20 years.

Councilwoman Harrison asked who is the manufacturer and what is the product called?

Matt Bright stated the manufacturer is Tropical and the product is a 100% silicone.

Councilwoman Rickabaugh asked have you been using the product for a long time and what were the results?

Matt Bright stated yes, we have been using this product for a long time and the results are great. This product is great not only for shedding water but also for reflectivity. It does a great job of not getting dirty and you will possibly see a difference in your heating and cooling coils.

Councilwoman Harrison stated my concern is I would like to see why this keeps on failing every few years. Even with a warranty, it seems that it is more of an engineering issue that the original roofer maybe didn't consider.

Councilwoman Dusek asked is there a way to negotiate maintenance in which you come out once a year to check the roof?

Matt Bright stated the biggest thing on low slope roofs is the maintenance. If you get any debris settlement or if it gets really hot or cold, the roof can expand or contract and the seams can open. This falls on you to maintain it; we would be happy to set up a maintenance program and come out once a year.

Lonnie Knight stated the roof has bowing and when you have expansion and contraction, any water that gets underneath will have steam build up and create bubbles. When we do the roll on, we will let the air out of all of these bubbles and get everything corrected before we put this on. If you had any hail damage that has caused any type of roof degradation of the material, eventually you will get water if it hasn't been replaced.

Councilwoman Harrison asked if it was hail damage why wasn't this covered under our insurance policy?

Celia DeLeon stated she currently does not have the reason on why TML denied our roof claim.

Cosmo Guido, Guido Construction stated we have experience in dealing with the insurance companies when they deny the claim initially, it does not mean that is the final say. Because the roof hasn't been touched, we can still have them come out here, take a look at it and talk through it.

Councilwoman Harrison if this was caused by hail damage and insurance wrongly denied it, I think we need to pursue this. I also think we need to be certain if we go with one of these options, we aren't putting a band-aid and we aren't having this conversation again next term. Did Guido install the original roof and was there a 20-year warranty?

Cosmo Guido stated yes, we built the original structures and I will be happy to look into the warranty.

City Attorney Richard Lindner stated I am not advocating for TML, but for a lot of private insurances you have to fight very hard and advocate for hail damage in roofing. TML's business model is more of air on the side of coverage and they tend to not aggressively deny coverage as your typical insurance company does.

Councilwoman Harrison stated it would be nice to enter this in a collaborative way. Since I have been on Council the roof has lasted on average 3-4 years. I don't want to spend \$130,000 that we don't have and end up in the same boat again in a year. I will happily volunteer to provide my experience to work with Celia and TML to get more information and make sure we are doing our due diligence regarding the roof claim.

Matt Bright stated you keep referring to the roof failing and I am going to put that back on the maintenance; if you neglect it, you are going to have issues. The entire roof is not failing, you have areas that are having issues because of maintenance.

Councilwoman Plant asked how long will it take to complete this project?

Cosmo Guido stated if you go with the roll-on project it will take a lot less time and be less impactful on your ongoing operation and this is what we would recommend.

Matt Bright stated if we need to remove the AC units, we would schedule this over the weekend to minimize impact.

Councilwoman Harrison asked if we have to put in a new AC unit at some point down the road we need to know the limitations to be mindful to not void the warranty. Is this something we would call you on to inspect after it has been installed?

Cosmo Guido stated yes, we should be present to make sure it meets all of the requirements. If it is an AC change, it should not affect the roofing.

Councilwoman Dusek asked if we wanted to do a packaged project with the roof repair and new AC units, is this something we would need to re-bid?

Richard Lindner stated you would need to re-bid this because you are limited to 25% contingency of the project and I doubt the AC unit would be less than 25% of the project.

Councilwoman Plant moved to place this agenda item back on the agenda next month for continued discussion.

Councilwoman Dusek seconded the motion.

The vote in favor of the motion was unanimous.

Discussion and possible action on FY2022 budget amendment to transfer funds from surplus funds into capital account Building repairs.

Councilwoman Plant moved to moved to amend the FY2022 budget by transferring \$130,000 from the general fund surplus into the capital building repairs fund to cover the cost for repairs of the three flat roofs at city Hall and give Mayor Hornberger authority to sign the budget ordinance. Councilman McDonald seconded the motion.

The vote in favor of the motion was unanimous.

Discussion and possible action on City of San Antonio's ("COSA") request for Olmos Park to install a flood gauge at the Annie/Gillespie intersection within Olmos Park City limits, or alternatively, permission for COSA to install one itself.

Councilwoman Plant moved to allow COSA to install a flood gauge at the Annie/Gillespie intersection within Olmos Park City limits at the expense of COSA.

Councilman McDonald seconded the motion.

The vote in favor of the motion was unanimous.

Discussion and possible action regarding budget amendment to provide all department supervisors and Building Official a 5% salary increase.

Councilwoman Plant stated I have looked at what we have done with our staff in our business and this will be a one-time situation. I think our staff has done an excellent job, worked really hard and I would really like to give them a one-time increase for their efforts.

Councilwoman Harrison asked why was this not brought up when we were discussing salary increases while setting the budget?

Councilwoman Dusek stated I brought this up when we received the COVID funds and I am very happy this is back for discussion.

Councilwoman Harrison stated I will have the unpopular decision in that we keep spending money and as taxpaying citizen, I feel that this will not ever be a one-time situation, it will be every year and become expected. Most companies can't afford to give increases right now.

Councilwoman Dusek stated that is not necessarily true. I feel it is a very competitive market because employers are willing to pay. They do such a good job and if you stay somewhere for a long time, it needs to be acknowledged.

Councilwoman Rickabaugh stated this will be an amendment to the budget for the remainder of the fiscal year.

Councilwoman Plant stated last year we approved the budget at a 3% merit increase for this fiscal year, the amount listed is the addition 2% difference for the department supervisors that requires the budget amendment.

Councilwoman Dusek asked is it difficult to give a everyone a bump or lump sum from the COVID funds?

Richard Lindner stated using the American Rescue Plan Act money for salaries there is indication you could, but you have to ask permission and show cause to the treasury.

Councilwoman Plant moved to approve budget amendment for a one time 2% increase from the 3% approved budget to equal a total of 5% salary increase for the City Manager, Building Official, City Secretary, Police Chief, Fire Chief and Public Works Director.

Councilman McDonald seconded the motion.

The vote in favor of the motion was unanimous.

Discussion and possible action on a Resolution of the City of Olmos Park by establishing procedures for appointing City Boards and Commissions and considering term limits for such Boards and Commissions:

Councilwoman Plant stated using version #1 under membership, I think we should say all applicants must be residents of the City of Olmos Park for a minimum of 12 months and remove unless exempted by City Council. On option #2 I think we should say all board and commission members may serve unlimited consecutive terms of any individual office.

Councilwoman Rickabaugh stated I don't think we should say unlimited terms and I think limiting to three terms would be okay, this would be 6 years of service.

Councilwoman Dusek stated I feel that there are some people on these Boards that have so much knowledge and movement. I hate to term them when this is something so important to the City and not a lot of people in the City have the time to give. I have been on Council now for over 6 years and I feel that I know so much more now. If someone is willing to be unlimited on one of our Boards and is good, I do not want to limit that.

Councilwoman Harrison stated we do kind of push people out who are very beneficial to the City with these limits. Council also has the ability to remove someone. If there is a problem with a Board Member, although I have not been faced with this, we can't ignore a situation.

Councilwoman Rickabaugh stated as Councilmembers, we need to be occasionally attending these meetings so we can see how it's performing and how the members are doing.

Councilwoman Plant stated the suggestion would be on option 1 to read: all board and commission members are limited to serving no more than 3 complete consecutive terms of any individual office unless exempted by City Council.

Richard Lindner stated the difference in the resolution versions you have been provided is version 1 under membership lists applicants must be residents or business owners. Version 2 and 3 do not list business owners under membership. Version 3 includes some recitals to give a history of various versions. If you are okay with not having business owners, I would prefer version 3.

Councilwoman Dusek stated I would prefer membership be limited to residents.

Councilwoman Rickabaugh asked, under attendance can we change the language from a member misses three scheduled consecutive meetings the member *will* be removed by the City Council to the member *may* be removed by the City Council?

Mayor Hornberger stated there can be a provision to read unless excused by the Board itself.

Richard Lindner stated it is my understanding the changes you would like made for version #3 in which business owner is removed: under membership option 2, all applicants must be residents of the City of Olmos Park for a minimum of 12 months and we are striking the phrase unless exempted by City Council. For number 3, terms of office you would like option 1 to read limited to serving no more than 3 complete consecutive terms of any individual office and delete option 2. Under subparagraph c, we are adding the phrase unless exempted by City Council. Under section 4, attendance we are adding the phrase after b: a member misses 3 scheduled consecutive unexcused meetings.

Councilwoman Plant moved to adopt a resolution of the City of Olmos Park by establishing procedures for appointing City Boards and Commissions and considering term limits for such Boards and Commissions with the added changes read by City Attorney Richard Lindner.

Councilwoman Harrison seconded the motion.

The vote in favor of the motion was unanimous.

Discussion regarding appointment of Councilwoman Plant to the Economic Development Corporation to serve a two-year term through December 31, 2023; take possible action.

Councilwoman Dusek moved to appoint Councilwoman Plant to the Economic Development Corporation to serve a two-year term through December 31, 2023.

Councilman McDonald seconded the motion.

The vote in favor of the motion was unanimous.

Consent Items:

- a. Approve Cash Disbursements February 2022;
- b. Approve City Council minutes of February 16, 2022;

Councilman McDonald 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 February 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 would like to get an update on the issue discussed during citizens to be heard.

Celia DeLeon stated we will meet for a special meeting with executive session on Monday, March 28, 2022 at 5:30 p.m. to receive an update.

Councilwoman Dusek moved to approve the Departmental Reports as submitted.  
Councilwoman Plant seconded the motion.  
The vote in favor of the motion was unanimous.

There was no further business and the meeting was adjourned at 7:41 p.m.

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Ronald Hornberger  
Mayor

ATTEST:

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Kyndra Munoz  
City Secretary