

MINUTES OF SPECIAL  
CITY COUNCIL MEETING HELD  
FEBRUARY 13, 2013

The City Council of Olmos Park, Texas held a special meeting on February 13, 2013 commencing at 6:00 p.m. in the Council Chambers at City Hall. Mayor Kenneth Farrimond presided and Council members present were Enzo Pellegrino, Ernest Locker, Pat Semmes, Gayle Girdley and Sharon Plant. Staff present was City Manager Michael W. Simpson and City Secretary, Celia M. DeLeon. Also present were Steve Pena, City Attorney, Carol McMorris, 116 Paseo Encinal, Patricia Meier, 140 Stanford Drive; Gene Allen, 204 Wildwood; Valerie Guenther, 1 Ironwood; Ronald Hornberger, 215 Belvidere; Melissa Branch, 525 East Mandalay; A.T. Brainerd, 201 East Mandalay; John Whitsett, 443 Paseo Encinal; Marty Hutchon, 1045 Shook #165; William Keller, 134 Brittany; Jeff Judson, 205 East Wildwood; Sandy Hornberger, 215 Belvidere; Susan Gragg, 321 Paseo Encinal and Sandra Ryan 250 Belvidere.

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

Public Hearing on Ordinance 2013-02 concerning possible changes to auxiliary building height changes

Mayor Farrimond announced a Public Hearing at 6:03 p.m.

No comments were heard.

Mayor Farrimond closed the Public Hearing at 6:04 p.m.

Receive and discuss Ordinance 2013-02 concerning possible changes to auxiliary building height changes: take possible action.

Councilman Locker moved to approve Ordinance 2013-02 concerning changes to auxiliary building height changes. Councilwoman Semmes seconded the motion. The vote in favor of the motion was unanimous by all City Council members.

Public Hearing on Ordinance 2013-04 concerning the scope and authority of the Planning and Zoning Commission

Mayor Farrimond provided the history of this agenda item. He said a number of years ago before he was on City Council, one of the Council members without any approval of the City Council went before the Planning and Zoning Commission to request the development of a PUD (Public Utility District), the Planning and Zoning Commission agreed and in the process without checking with the City Council for approval, they looked into a PUD and incurred some legal fees without City Council's permission. You will notice on the agenda, we are talking about Planning and Zoning Commission. He said Texas state law requires all cities our size to have a Zoning Commission; the Zoning Commission is made up of people appointed by City Council. The Commission has certain responsibilities and powers and there are things they can do with the approval of City Council and certain things they can do with no one's approval. Not only does the City Council not have to approve these things but Council can't even review these things. The Zoning Commission can legally do things that end up costing the City money, without City Council's approval. The Zoning Commission is required to develop a centralized plan for the City on its initiation and make the zoning fit that plan. This was done for the City of Olmos Park in the 1930's. The original Zoning Commission developed the plan that we now have which includes the commercial, multi-family and single-family residential districts. A number of cities have a Planning and Zoning Commission. The planning function is not required by law and is not clear in our ordinance how the planning function, functions in accordance with the zoning function and whether the planning function can also have powers that the zoning function has. Since it's the same people it's very difficult to decide exactly whether they are the zoning or the planning. A number of cities in this area have a Zoning Commission and a

Planning Commission some cities in this area have a Zoning Commission and no Planning Commission and others like us, have a Planning and Zoning Commission. When I was first on City Council (2011), this question came up about what should we do about this, the Mayor at that time appointed a sub-committee to review the subject. He said Dr. Semmes and I were the sub-Committee, we spend this last two years looking into the subject and looking at other cities, laws, and other cities situations. We heard from some cities that they are having problem with their Planning and Zoning Commission because the same type of thing has happened. We reported the results to the City Council a month ago and presented a possible proposed ordinance the ordinance simply addresses the zoning portion of Planning and Zoning Commission stating that the Zoning Commission would be a stand-alone and fulfill all the laws of the state. We have not official discussed what would be done on the planning portion. Since that time we have received a resolution from the Planning and Zoning Commission which suggested ways we can change the existing ordinance and keep the Planning and Zoning functions separate and have oversight, we have not official discussed this Resolution and the City Council does not have an opinion on it at this point.

Mayor Farrimond announced a Public Hearing at 6:14 p.m.

Melissa Branch, 525 East Mandalay asked if the Planning and Zoning Commission had the authority to spend funds or did they not have the authority and they did, is that what the issue is? Mayor Farrimond stated the Zoning Commission does have the authority to incur expensed under certain circumstances. So the question is, does the Planning also have that authority, it is not mentioned in state law. Mrs. Branch stated that may be something that needs to be tightened up.

Steve Pena, City Attorney stated most cities that have a zoning Commission usual couple it with Planning. In the absence of a Commission that is either required by law or permitted by law, then the City Council assumes those functions. If there is some concern on City Council on who is doing your planning, then of course you address it by looking your ordinances and making the necessary changes. He said some cities the City Council do both the planning and zoning.

Jeff Judson, 205 East Wildwood asked what were the expenses expended by the Planning and Zoning Commission that were unauthorized. Councilwoman Semmes stated prior to the EDC (Economic Development Corporation) Marc Schnall, (previous City Attorney) was working on a PUD ordinance for Planning and Zoning, so any legal fees from Marc as he was charging the City to work on the ordinance.

John Whitsett, 443 Paseo Encinal stated he was on the Planning and Zoning Commission and involved with the PUD ordinance and the Planning and Zoning is responsible for creating ordinances at City Council's direction when there is an issue, the other part is the planning portion. My perspective is you would want the Planning and Zoning Commission to be thinking creative and think out of the box and that they can't make anything happen without coming with a plan and a proposal that City Council would ultimately accept.

Councilwoman Semmes stated the current structure of the Planning and Zoning allows the Planning and Zoning to have a life of its own.

John Whitsett, 443 Paseo Encinal stated the Planning and Zoning Commission should be left like it is, because the City Council has the ultimate control. You want the Planning and Zoning to bring ideas and be creative.

Councilwoman Plant stated the Planning and Zoning Commission that has done every single thing we have asked them to do on time.

Jeff Judson, 205 Wildwood stated we don't know what the expenses were; I guess they were some small legal expense. Over the life of the Planning and Zoning that may be the only expense and assume we were within the budget

Councilwoman Girdley stated the Council that has been trying to study what we have, we have codes that have been updated and they are we are looking at this is part of our process of making sure that what we have in Olmos Park is the best that we could have. Obviously, some people have felt there were some problems with the current ordinance. It's time to look at something and not just sweep under the table and move on.

Ronald Hornberger, 215 Belvidere stated first of all I would like to say I dimly recall controversy surrounding the PUD and the EDC. I came from the City of Houston that has no zoning, Houston is one of the most vibrant redeveloping cities in the entire country and it does it without zoning or planning.

Councilman Locker stated what I'm seeing we need with Planning and Zoning is to have an attorney and an engineer on the Planning and Zoning Commission.

Ronald Hornberger stated the suggestion made that the Planning and Zoning Commission always have one City Council member, I think there are several way to do that it's an excellent idea. I think any committee or commission of this City should at least have at least one City Council member as an ex-officio member and always at the meetings to give input from the City Council or on his or her behalf.

Carol McMorris, 116 Paseo Encinal stated she was at the last EDC and City Council meeting and your associate Mr. Garza talked about was asked questions and I do want to thank the City Council for thinking this through for the entire good of the City of Olmos Park. I think that's what they are really doing here and Mr. Garza also said that in cities where they also have EDC's that the EDC's takes over the planning function because of the overlap and the need for accountability and transparency.

Susan Gragg, 321 Paseo Encinal stated she thinks it's ironic to be talking about the PUD and making sure we don't have a Planning and Zoning that goes rogue in our City. We currently have a Planning and Zoning and we did not end up with a PUD, so it seems like that we don't need to make that kind of change. I understand that there can be Planning and Zoning that can go with a life of its own. I believe that there are other ways to close the gap rather than to split off Planning and Zoning and remove planning from the zoning.

Mayor Farrimond closed the Public Hearing at 7:00 p.m.

Receive and discuss Ordinance 2013-04 concerning the scope and authority of the Planning and Zoning Commission; take possible action.

Councilwoman Semmes moved to submit a substitute ordinance for consideration. She said the changes in the substitute ordinance names the Zoning Commission the Planning and Zoning Commission and it also changes Section V, (b) combining and harmonizing #4 and #5, to read: Annually prepare and or review the General Work Plan for the City and recommend to the Council any changes; and perform municipal functions only as duly delegated to them from time to time by the City Council by resolution. Councilwoman Girdley seconded the motion.

Councilwoman Girdley moved to amend the substitute ordinance Section V, (a) by changing five (5) members to seven (7) members on the Commission, and striking sub-paragraph (c) in Section V. Councilwoman Semmes seconded the motion.

The vote in favor of the amendments to the substitute ordinance was:

AYES: Girdley, Semmes, Locker

NAYES: Plant, Pellegrino

The motion in favor of the amendments to the substitute ordinance passed.

The vote in favor of adopting the substitute ordinance as amended was:

AYES: Girdley, Semmes

NAYES: Plant, Pellegrino, Farrimond

ABSTAINED: Locker

The motion in favor of adopting the substitute ordinance as amended failed.

CONSENT ITEM: Approve Resolution 2013-01 authorizing adoption of VALIC Retirement Services Company Governmental Volume Submitter Plan to implement approved 401a/457 retirement plan.

Councilwoman Plant moved to approve consent item as submitted. The motion in favor of the was unanimous by all City Council members.

There was no further business and meeting was adjourned at 7:52 p.m.

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Kenneth Farrimond  
Mayor

ATTEST:

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Celia M. DeLeon  
City Secretary