

CITY OF CASTLE HILLS
REGULAR CITY COUNCIL MEETING
MINUTES OF JUNE 14, 2011

The City Council of the City of Castle Hills convened at 6:30 p.m. on the 14th day of June, 2011, in the Council Chambers of the City of Castle Hills, 209 Lemonwood Drive, Castle Hills, Texas.

The attendance roster included Bill Martin, LaVerne Japhet, Bill Schluter, Brother William Dooling, Frank Paul, Vera Howard, Robert Riley, Suzanne Riley, Patricia Cruz, Betty Chandler, Ardell Weber, Sandra Martin, and Marianne Huizar.

I. OPENING

A. QUORUM

Present and composing a quorum of the City Council were Mayor Bruce Smiley-Kaliff, Dr. Steve McGuire, Douglas Gregory, Tom Davis, Tim Howell, and Marcella Huff.

Staff present was City Manager Michael Steele, Assistant City Manager Rita Hoyle, City Secretary Linda Gill, City Attorney Michael S. Brennan, Police Chief Donny Davis, Fire Chief Jerry Riedel, and Public Works Director Rick Harada.

B. INVOCATION – Bill Martin delivered the invocation.

C. PLEDGE OF ALLEGIANCE – LaVerne Japhet led the pledge.

II. ANNOUNCEMENTS & PRESENTATIONS

A. MAYOR'S COMMENTS ON AGENDA ORDER

Mayor Smiley-Kaliff explained that sign-up sheets for citizens who want to speak on an agenda item or have another topic that they would like to address before City Council. He said the agenda is in a different format that has been recommended to streamline the meetings and make them more efficient. He noted the Consent agenda, which includes multiple items that have a low possibility of dissent. If there is dissent on an item, or a council member wants to discuss it in detail, it can be moved from the Consent agenda to the regular agenda for discussion and said that *Citizens to Be Heard* is the last item on the agenda.

B. CITY MANAGER'S REPORT ON THE SELECTION PROCESS OF A CITY ATTORNEY

City Manager Michael Steele recalled that City Council had requested

that all city contract employees be evaluated and to look into whether they wished to look into other applicants. He indicated that he was reporting on the city attorney. He briefly described current City Attorney Mike Brennan's experience before and during his time with the city. He said the council has two choices, either to retain Mr. Brennan as city attorney or choose from the candidates who sent in their qualifications. Mr. Steele emphasized the need for a certain level of trust and comfort between the council and the attorney, as well as knowledge and experience in dealing with the legal issues facing the city. He said that, if the council wants to consider another firm, he and Ms. Hoyl recommend Ryan Henry of Denton, Navarro, Rocha & Bernal, who they have both worked with. He mentioned that Mayor Smiley-Kaliff requested consideration of Cheree Kinzie of Davidson and Troilo. Mr. Steele suggested that an executive session for a brief period of questions and answers between the council and the candidates be held before the July council meeting.

C. PRESENTATION OF THE FINANCIAL AUDIT FOR FY 2010.

Debbie Fraser, CPA of Armstrong, Vaughan & Associates presented the fiscal year 2010 audit of the city's financial statements. She summarized the city's financial condition and went over significant audit findings and other issues, touching on weaknesses found in the city's accounting procedures and policies that need to be addressed. Ms. Fraser pointed out that the city has five months of unreserved funds, which is considered extremely good.

III. OLD BUSINESS

D. CONSIDER CREATING THE POSITION OF FINANCE ASSISTANT AND AUTHORIZE THE CITY MANAGER TO FILL THE POSITION

Mr. Steele remarked that the auditors have recommended for the third time that a person be hired to handle the financial accounts. He recounted that the city hired an outside consultant who suggested the same thing. Mr. Steele added that, unaware at the time of these recommendations, he also recommended during his interview with the city that a finance person should be hired. He said having a competent city secretary do all the finance accounting, including payroll and reconciliation of accounts is unheard of in this area. He said he had called all the small cities in the area and found that all but two had a person dedicated to finance. Giving it to outside agencies would be far more expensive. Mr. Steele stressed that it is time the city moved forward with the creation of this position. He explained that this person would work closely with and be audited weekly by the person doing this job now. He stated that the person auditing would report to him weekly. The mayor called for a motion.

Motion: Councilman McGuire moved to create the position of Finance Assistant and to authorize the city manager to fill the position. Councilman Davis seconded the motion. The motion carried 3 to 0. Councilman Gregory abstained.

IV. NEW BUSINESS

A. CONSENT AGENDA

1. Consider the minutes of the City Council meeting held May 17, 2011.
2. Consider the minutes of the Special City Council meeting held May 24, 2011.
3. Consider the Treasurer's Report for the month of May, 2011.
4. Accepting the Financial Audit for FY 2010.
5. Approve the recommendations of the Architectural Review Committee on design of the Antonian High School concession stand and restrooms.
6. Approve the recommendations of the Architectural Review Committee on expanding their duties to address exterior construction of existing and new residential properties.
7. Approve the appointment of Councilman Davis to serve as Mayor Pro Tempore for a period of one year.
8. Approve a Memorandum of Understanding with the San Antonio River Authority.
9. Adopt the Investment Policy as presented.
10. Approve the appointment of Dr. Gilbert Ruiz as the Public Health Officer.
11. Approve the appointment of Ronald Rocha as City Treasurer.
12. Consider the dissolution of the following committees:
 - Zoning Review Committee (task completed)
 - Building Code Review Committee (task completed)
 - Street Light Committee (to be reorganized and renamed with updated goals)
 - Job Description Review Committee (to be reorganized and renamed with updated tasks)

Council member Huff asked that items 10 and 11 be removed from the consent agenda and placed on the regular agenda. Mayor Smiley-Kaliff said that he would be glad to move those items to the regular agenda. He asked if there were any questions regarding any other items on the consent agenda. He asked if there were any council members with a dissenting view of moving items 10 and 11 to the regular agenda. No council members responded; and the mayor stated that, there being no objections, the consent agenda and the items therein are adopted.

Mayor Smiley-Kaliff said that a council member requested an appointment for Alderman Place 4 be included on this month's agenda. Since it was a last minute request, it was placed last on the agenda. He

said that Councilman Gregory has now requested that the item be placed first on the regular agenda. There were no objections from council members, and the mayor announced Item M next.

M. CONSIDER APPOINTMENT TO FILL ALDERMAN PLACE 4.

Motion: Council member Huff moved to nominate Tim Howell to fill the vacancy of Alderman Place 4. Councilman Davis seconded the motion.

Mayor Smiley-Kaliff responded to a question from Councilman McGuire by saying that the vote will be first in, first out, up or down. Mr. Brennan clarified for the council that the motion made is a main motion. He said there can be one amendment, called a primary amendment; and the primary amendment can also be amended by a secondary amendment. Then there can be no further amendments.

Amendment: Councilman McGuire amended the main motion to nominate Steve Ackley to fill the vacancy of Alderman Place 4. Council member Gregory seconded the amendment.

Amendment: Councilman Gregory made a secondary amendment to the amended motion to nominate Pamala Farris to fill the vacancy of Alderman Place 4. Council member McGuire seconded the amendment.

Councilman Davis pointed out that, before the amendments can be considered, the maker of the main motion has to accept them. Council member Huff said she would like her original motion to stand as stated. Mr. Brennan said that she had no right to reject the amendments to her motion.

The mayor called for a break at 7:35 for a conference with the city attorney. The council reconvened at 7:38 p.m.

Mayor Smiley-Kaliff read number 7 from Robert's Rules of Order that says "motions may be voted on as a whole, but any council member can request that the parts of a motion or an amendment be voted on separately. If any council member opposes the motion to divide, the motion to oppose shall be put to a vote." The mayor said that on this type of motion the vote must be 2/3 of the council, including vacancies; which means the vote must be unanimous to oppose the objection to divide.

The mayor called for a vote to divide the motion. The vote was 2 to 2. The mayor again asked for a vote to divide the motion. The vote was again 2 to 2. Council members McGuire and Gregory voted in favor of dividing the motion. Council members Davis and Huff cast opposing votes. Mayor Smiley-Kaliff broke the tie by voting against the motion to divide. The motion carried with a vote of 3 not to divide and 2 to divide.

Motion: Councilman McGuire expressed his disapproval of this technique of selecting a person for Place 4 for the simple reason that it forces the council to discuss the merits of one individual, knowing that other excellent candidates are out there. Council member Huff explained her reasons for nominating Tim Howell, saying she has worked with him on the council before and knows that he has always done what is best for the city. Councilman Davis stated his opinion that the person who got 49.29% of the vote in the last election should be considered; but since no one seconded his nomination, he was going to go along with the person he knew the council could work with. Mayor Smiley-Kaliff called for a vote on council member Huff's original motion to appoint Tim Howell to fill the vacancy of Alderman Place 4. The motion carried 3 to 1. Councilman McGuire cast the opposing vote.

The mayor continued the meeting in the order of the agenda, going back to Item B.

- B. CONSIDER DESIGNATION OF COUNCILMAN STEVE MCGUIRE AS THE LIAISON BETWEEN THE CITY COUNCIL AND HUGH H. BATCHELDER, III AND NANCY BATCHELDER TO DISCUSS SETTLEMENT OF THE PENDING LAWSUIT BETWEEN THE CITY AND THE BATCHELDERS INVOLVING CONNECTION OF THEIR PROPERTY TO THE CITY SEWER SYSTEM, WITH COUNCILMAN MCGUIRE TO REPORT THE RESULTS OF THE NEGOTIATION AT THE JULY CITY COUNCIL MEETING.

Motion: Councilman Davis moved to designate Councilman Steve McGuire as the liaison between the city council and Hugh H. Batchelder, III and Nancy Batchelder to discuss settlement of the pending lawsuit between the city and the Batchelders. Councilman McGuire seconded the motion.

Councilman McGuire explained that he originated this and thinks if he and Mr. Batchelder can sit down together without attorneys, they may be able to come up with a reasonable compromise that can then be brought back to council. In response to comments and concerns expressed by council member Huff, Councilman McGuire confirmed that mediation was tried before, but an agreement was not reached. He said the court date is set for September. The mayor said this meeting was cleared with the two attorneys, and McGuire said he did not want to do it without the express consent of the council. Councilman McGuire's report of the meeting and his recommendation will be on the July meeting agenda for the council's consideration. He said, in plain English, it is a last ditch effort to save money. He said he would like to see an agreement reached to avoid having to go to court, adding that Councilman McGuire has a unique talent for negotiation and will come back to the council with his report. City Attorney Brenan said that the discussion and its outcome will not be binding and will not affect the case.

Judge Alex Briseno came forward to say that the report should be brought back to the council in Executive session to ensure confidentiality in the case.

Motion: Councilman McGuire moved to amend the previous motion to say that the results of the negotiations will be brought back to the council in Executive session. Councilman Davis seconded the motion. The motion to amend passed unanimously. The main motion passed with a vote of 3 to 1. Council member Huff opposed the main motion.

The mayor said Item 10 that was removed from the Consent Agenda would be next.

10. Approve the appointment of Dr. Gilbert Ruiz as the Public Health Officer.

Motion: Council member Davis moved to appoint Dr. Gilbert Ruiz as the Public Health Officer. The motion died for lack of a second.

General consensus among council members indicated they would like to set aside items appointing the City Treasurer, the Municipal Court Judge, and an appointment to city boards until a full council is in place. City Manager Steele asked Mr. Brenan to confirm that the Municipal Court Judge needed to be appointed because the current judge's term expires in a couple of days. Mr. Brenan said the council could not set aside Item C under New Business because the city has a jury trial in two days.

Mayor Smiley-Kaliff called for a five minute recess at 8:00 p.m. The council reconvened at 8:06 p.m.

Council member Huff asked for confirmation that the judge serves until the new appointment is made. Mr. Brenan read from the state statute that the municipal court judge serves for a term of two years. He said it doesn't say the term will continue until somebody replaces him.

Motion: After the mayor noted the items on the agenda that could be deferred, council member Huff moved to postpone Items 10 and 11 on the Consent Agenda and Items D, E, F, J, and K until next week at a special city council meeting. Councilman Davis seconded the motion. The mayor confirmed that a special meeting will be scheduled for next Tuesday at 6:00 to consider the deferred items. The motion passed with a unanimous vote.

C. CONSIDER AN ORDINANCE APPOINTING LISA WOLFF AS MUNICIPAL COURT JUDGE AND DOUGLAS E. DILLEY AND KEVIN BERRY AS ALTERNATE JUDGES.

Councilman Gregory questioned why specific names were stated in this

agenda item. Mayor Smiley-Kaliff said that he was recommending specific people. Gregory said that he was surprised that the current judge is not mentioned. Mr. Brennan said that a motion could be made to appoint other individuals not named in the agenda item. The mayor called for a motion.

Motion: Council member Gregory moved to appoint Brother William Dooling as Municipal Court Judge for another term. Council member Huff seconded the motion. Brief discussion followed. The motion carried 3 to 1. Councilman Davis cast the opposing vote.

Motion: Council member Huff moved again to appoint Douglas E. Dilley, Kevin Berry, and Alex Briseno as Alternate Judges. Councilman Davis seconded the motion. The motion passed unanimously.

G. CONSIDER ENTERING INTO A CONTRACT WITH LINEBARGER GOGGAN BLAIR & SAMPSON, LLP FOR COLLECTION OF DELINQUENT TAXES.

Motion: Councilman McGuire moved to approve entering into a contract with Linebarger Goggan Blair & Sampson for collection of delinquent taxes. Councilman Davis seconded the motion. The motion passed unanimously.

H. CONSIDER AUTHORIZING THE CITY MANAGER TO NEGOTIATE WITH GIVLER ENGINEERING, INC. FOR CITY ENGINEERING SERVICES.

Motion: Upon recommendation from the staff, council member Huff moved to authorize the city manager to negotiate with Givler Engineering, Inc. for city engineering services. Councilman McGuire seconded the motion. The motion passed unanimously.

I. CONSIDER AN ORDINANCE TO AUTHORIZE ABATEMENT OF JUNK VEHICLES ON PUBLIC AND PRIVATE PROPERTY.

Ms. Hoyle explained that this ordinance will allow the city to abate a nuisance and remove junk vehicles. Mr. Brennan added that the ordinance tracks state law exactly.

Motion: Council member Huff moved to approve Ordinance No. 1073 authorizing abatement of junk vehicles on public and private property. Councilman McGuire seconded the motion. The motion passed unanimously. The ordinance as adopted is captioned as follows:

ORDINANCE NO. 1073
AN ORDINANCE AMENDING CHAPTER 26,
TRESPASS AND MISCELLANEOUS CRIMES, BY
ADDING A NEW SUBPART ENTITLED ABATEMENT

AND REMOVAL OF JUNKED VEHICLES.

(A copy of Ordinance No. 1073 is attached and made a part of these minutes.)

L. PRESENTATION, DISCUSSION, AND CONSIDERATION OF BUSINESS WEBQA WEBSITE.

Mr. Steele explained what the WebQA website does for businesses in the city and explained that the website is offering a special, or he would not put the council through a presentation in such a lengthy meeting. He recommended the website as a way to promote the city and its businesses. WebQA gave a 15 minute online presentation of how it works.

Motion: After discussion among council members Councilman McGuire moved that the city contract with the website as described in the presentation. Councilman Gregory seconded the motion. After discussion of what the website provides and the cost of implementing it, the council unanimously opposed the motion.

V. CITIZENS TO BE HEARD-None

VI. ADJOURNMENT

There being no further business, Mayor Smiley-Kaliff adjourned the meeting at 9:00 p.m.

These minutes were approved on the 12th day of July, 2011.

APPROVED: _____
Bruce Smiley-Kaliff, Mayor

ATTEST: _____
Linda Gill, City Secretary