

CITY OF CASTLE HILLS  
REGULAR CITY COUNCIL MEETING  
MINUTES OF AUGUST 9, 2011

The City Council of the City of Castle Hills convened at 6:30 p.m. on the 9<sup>th</sup> day of August, 2011, in the Council Chambers at 209 Lemonwood Drive, Castle Hills, Texas.

The attendance roster included Scott Graef, Frank Paul, Bill Martin, Michael Catalani, Christine Catalani, Pamala Farris, Susan Kilgore, William Beuhler, LaVerne Japhet, G. Delgado, Vera Howard, Janna Hamstra, Ellen Szczy, L. David Givler, Joe Izbrand, Suzanne Riley, Robert Riley, Terry Carter, Joan Buerschinger, and Matt Stroud.

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

I. OPENING

A. QUORUM

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

B. INVOCATION

The invocation was led by Bill Martin.

C. PLEDGE OF ALLEGIANCE

City Judge Briseno led the Pledge of Allegiance.

II. ANNOUNCEMENTS & PRESENTATIONS

- A. Council member Huff presented Greg Reininger a plaque of appreciation for his volunteer internship with the city in Code Compliance this summer.

III. OLD BUSINESS-None

IV. NEW BUSINESS

A. CONSENT AGENDA

1. Consideration of the minutes of the Special City Council meeting held July 12, 2011.
2. Consideration of the minutes of the City Council meeting held July 12, 2011.
3. Consideration of the minutes of the Special City Council meeting held July 18, 2011.
4. Consideration of the minutes of the Special City Council meeting held July 19, 2011.
5. Consideration of the Treasurer's Report for the month of July, 2011.
6. Consideration of the duties of the city treasurer.
7. Consideration of an ordinance approving a settlement of Cause No. 2008-CI-06988, Castle Hills vs. Batchelder.
8. Consider amending Castle Hills Code, Section 25.802.1, establishing the speed limit main lanes and frontage roads.

**Motion:** Councilman McGuire moved to approve the consent agenda, with the exception of Items 2, 4, 5, 6, 7, and 8. Councilman Davis seconded the motion. The motion to approve items 1 and 3 of the consent agenda carried unanimously.

A. CONSENT AGENDA (Omissions)

2. Consideration of the minutes of the City Council meeting held July 12, 2011.

**Motion:** Council member Huff, after clarifying the action on one item, moved to approve the

minutes of the City Council meeting held July 12, 2011. Councilman Howell seconded the motion. The motion passed unanimously.

4. Consideration of the minutes of the Special City Council meeting held July 19, 2011. Council member Huff thought it was important to add that she had asked, in the discussion of the increase in Municipal Court salaries, if that decision was made based on education and experience.

**Motion:** Council member Davis moved to approve the minutes of the meeting held July 19, 2011, as amended. Seconded by Councilman Gregory, the motion passed unanimously.

5. Consideration of the Treasurer's Report for June, 2011.

**Motion:** Mr. Steele responded to questions from Councilman Gregory concerning the city's treasury bills and whether the 2010 budget will end in a debit or a credit. Mr. Steele said that sales tax revenue is significantly up from what was budgeted, and he expects a positive budget outcome. Councilman Gregory moved to approve the July, 2011, Treasurer's Report. Council member Huff seconded the motion. The motion carried unanimously.

6. Consideration of the duties of the city treasurer

Mayor Smiley-Kaliff asked council member Huff to read the duties of the city treasurer out loud. Councilman Gregory stated that, other than payroll checks, the city treasurer should sign all checks with receipts attached. The mayor said that is being done; and in the absence of the city treasurer, the mayor is signing checks. He added that, for a General Law city, duties for a treasurer are not provided for in state law, but the functions of a City Manager form of government are. He cautioned that the council needs to avoid being too restrictive or they will fall over the edge concerning their authority.

**Motion:** Council member Huff moved to accept the duties of the city treasurer as submitted by the city manager. Councilman Davis seconded the motion. The motion passed unanimously.

7. Consideration of an ordinance approving a settlement of Cause No. 2008-CI-06988 Castle Hills vs. Batchelder.

Council member Huff suggested that the key points of the Batchelder settlement be disclosed to the public, since many have followed the lawsuit from the beginning. The mayor said that, after the ordinance is voted on, the settlement will be public record, and Councilman McGuire and the city attorney can explain the terms of the settlement.

**Motion:** Council member Huff moved to accept the settlement of Cause No. 2008-CI-06988, City of Castle Hills vs. Batchelder. Councilman Gregory seconded the motion. The motion passed unanimously.

In response to a question from Councilman Gregory, concerning future owners of the property, Mr. Brennan stated that the agreement "runs with the land" as stated in No. 4.10 of the agreement and burdens the property. Councilman McGuire said that the agreement will be available in the city manager's office for anyone to see. He said that, bottom line, both parties agreed that they have a disagreement and felt it was best to negotiate an agreement rather than go through a very expensive litigation process. He said that the agreement does not place blame on either party. What it does do is acknowledge that all city, county, and state ordinances must be obeyed, and it contains specific requirements. He indicated that it does allow for a penalty that will be applied with council's action. Mayor Smiley-Kaliff indicated that the agreement will be placed on the website. Ordinance No. 1074 as adopted is captioned as follows:

ORDINANCE NO. 1074  
AN ORDINANCE APPROVING A SETTLEMENT OF CAUSE  
NO. 2008-ci-06988, CITY OF CASTLE HILLS VS. HUGH H.  
BATCHELDER, III AND NANCY BATCHELDER, AND  
AUTHORIZING THE CITY MANAGER TO IMPLEMENT THE  
SETTLEMENT.

*(A copy of Ordinance No. 1074 and the settlement agreement is attached and made a part of these minutes.)*

8. Consider amending Castle Hills Code Section 25.802.1 establishing the speed limit on IH 410 main lanes and frontage roads.

Mr. Steele explained TxDot's process, as it pertains to Castle Hills. He said they use the highest to lowest speed of traffic of 80% of the drivers on the loop and frontage roads in the city to determine what the recommended speed limit should be. Mr. Steele said that TxDOT recommends changing the speed limit on Loop 410 from 60 to 65 miles per hour and setting the speed on the frontage roads at 45 miles per hour. Councilman Davis said that; although he knows TxDOT is going to change it, he thinks their logic in doing so is flawed. Stating that the council really has no choice on this, the mayor asked for a motion.

**Motion:** Council member Huff moved to amend Castle Hills Code Section 25.802.1 establishing the speed limit on IH 410 main lanes and frontage roads. Councilman Davis seconded the motion. The motion passed unanimously. Ordinance No. 1075 as adopted is captioned as follows:

ORDINANCE NO. 1075

AN ORDINANCE AMENDING CHAPTER 25, "TRAFFIC AND  
PARKING," SECTION 25.802.1 INTERSTATE HIGHWAY 410;  
AND PRESCRIBING A PENALTY OF A FINE OF NOT LESS  
THAN \$1.00 NOR MORE THAN \$200.00.

*(A copy of Ordinance No. 1075 is attached and made a part of these minutes.)*

B. CONSIDER THE RENEWAL OF THE WEBSITE AGREEMENT AND APPOINTMENTS BY THE MAYOR OF A COMMITTEE TO STUDY THE SUBJECT AND REPORT BACK TO COUNCIL IN 60 DAYS.

Mayor Smiley-Kaliff indicated that he would like to postpone this decision. He said he, with City Council's permission, would like to appoint a committee, with a council member acting as a liaison, to research the subject and report back to the council in the October council meeting.

**Motion:** Council McGuire moved to postpone renewing the website agreement for 60 days and have the mayor appoint a committee to study the subject and report back to the council. Councilman Howell seconded the motion. The motion carried unanimously.

Mayor Smiley-Kaliff appointed the following people to the committee: Matari Gunter, Joe Izbrand, Judge Briseno, and Rene Mulholland, with council member Marcella Huff acting as liaison to the council. The mayor gave a brief statement of each committee member's knowledge and experience concerning website information.

C. CONSIDER ENTERING INTO AN AGREEMENT WITH MUNICIPAL CODE CORPORATION.

Mayor Smiley-Kaliff opened discussion by explaining that Municipal Code Corporation (Municode) is the oldest and most experienced codifier of local government Codes. He said this is the most important piece of legislation that has come before the council since he has been on City Council. He briefly explained that Municode's attorneys will codify the city's ordinances, ensuring that they are in compliance with state law. The mayor said that most cities in the area use Municode, and he strongly recommends it because it will give the city a much stronger footing in court, as well as aid in the enforcement of ordinances.

Councilman McGuire said that he thinks it is an excellent idea, but he questioned not getting bids from other companies, considering the amount it will cost. In addition, he asked how this is prioritized among accounting software, a new pickup for the Fire Department, the unfunded pension the city owes, and the payout of compensatory time to employees. He suggested that the council have a session to do strategic planning and postpone making a decision for one or two months. He pointed out that none of the items he mentioned are included in any budget.

In answer to a question from Councilman Gregory, the city manager said the cost will be \$10,500.00 up front and \$500.00 ongoing per year. Councilman Gregory said he agreed that it was a very good idea, but he also agreed that the council needs to prioritize. He said that, as long as the city has a good attorney, they can put it off a few months until they can prioritize it.

Councilman Howell asked how the city will pay for this. The mayor answered that there will be some money left over from the Batchelder settlement after legal bills are paid. Councilman McGuire pointed out that the budget last year was in the red after the unfunded items were figured, and this year's budget will be the same at year end. He said they need to realize that the unfunded items will be paid from the city's reserves.

The mayor recognized Judge Briseno, who stated that codification is expenditure that you don't realize the cost of, until it jumps up and bites you. He said it is much more expensive if you have to go through a lawsuit because an ordinance is challenged.

Council member Huff asked how much jeopardy the city is in. Mr. Brenan responded that the city is not in serious jeopardy. He said he tries to advise the city when state laws change. He commended Municode as a great service and indicated that he has experience with them in other cities. He said he hopes the city will go with them at the earliest opportunity. Council member Huff said she would like to a couple of months to allow the council to prioritize. Ms. Hoyl said the city ordinances were last codified in 1996. She said, at the present time, she has two quarters to codify. The mayor asked for a motion.

**Motion:** Councilman Davis moved to enter into an agreement with Municipal Code Corporation. Councilman Howell seconded the motion.

Councilman Gregory said that he wanted to know exactly where this money is going to come from and that he would like to have that as part of the motion. After consulting with Mr. Brennan, Councilman Howell amended the motion to include that payment for the services of Municipal Code Corporation will be made from the \$50,000.00 settlement of the Batchelder lawsuit. The amendment was seconded by Councilman Gregory.

The amendment to the original motion carried 3 to 2. Council members Huff and McGuire cast the opposing votes.

The original motion carried 3 to 2. The opposing votes were cast by council members Huff and McGuire.

**D. DISCUSSION TO ESTABLISH A POLICY TO MANAGE THE CITY'S LIABILITY OF COMPENSATORY TIME.**

Councilman Davis explained an idea he came up with to lower the city's liability for employees' compensatory time earned, which never seems to go away. He suggested a pay-out of 20 to 40 hours in October or November to those employees due compensatory time. In addition, he said that hiring one more police officer and assigning him or her totally to the Drug Enforcement Association (D.E.A.) would mean that the city would split any money recovered through drug enforcement. Councilman Davis recalled that one city he knows of, comparable to Castle Hills, has collected \$300,000.00 this year as of the end of June. He said that more than covers an officer's salary and even compensatory time. He stressed that City Council needs to think about increasing revenue in order to lower debts.

The mayor called on Captain Wayne Davis to explain how assigning an officer to the D.E.A. or a drug enforcement task force, such as in the City of San Antonio would work. He said that the city would collect a portion of the seizure funds from drug busts; and those funds must be used for specific purposes, such as payroll. He said there are a lot of things to consider, but it is possible to make it work and be a revenue source for the city.

Council members continued discussion of ways to lower the city's liability for compensatory time. Councilman McGuire commented that ways to pay off compensatory time need to be a part of the council's strategic planning. Council member Huff questioned what the impact would be if the city paid 10 or 20 or 30 hours of comp time to employees. Mr. Steele said that there are different ways it could be limited to ensure an employee keeps a certain amount of comp time in case he is injured and needs that time off. Councilman Davis agreed with the importance of that, noting that the city does not have short-term disability insurance for employees. Mayor Smiley-Kaliff asked Mr. Steele to bring a report to the November council meeting regarding the impact of paying employees for time earned. Councilman Howell confirmed with Mr. Steele that TMRS would apply to any comp time payments. No action was taken.

- E. CONSIDER PROCEEDING TO BID PROCESS ON THE MIMOSA DRAINAGE PLANS AND APPOINTMENTS BY THE MAYOR OF A COMMITTEE TO STUDY THE SUBJECT AND REPORT BACK TO COUNCIL IN 60 DAYS.

Mayor Smiley-Kaliff said that the city engineer has designed everything the council has asked him to, but he would like to postpone this item until a "look and see and study" committee can study the project for 60 days only and report back to the council in October. He assured the council that it is not a delay, that the project has down-stream issues and cost issues, which have all been discussed before. The mayor said he would like to appoint a committee comprised of Richard Szecsy, Douglas Steadman, and Trey Batchelder and appoint Councilman Gregory as liaison to the council.

**Motion:** Councilman McGuire moved to postpone this item for two months and bring it back for discussion and a presentation. Councilman Davis seconded the motion. After comments from council members, the motion carried with a unanimous vote.

*The mayor called for a 15 minute break at 7:45 to have cake and sing "Happy Birthday" to celebrate City Manager Michael Steele's birthday. The council reconvened at 8:00 p.m.*

- F. CONSIDERATION OF THE PROPOSED FY 2012 CITY BUDGET

**Motion:** The mayor announced that there would be two budget workshops next week. Councilman McGuire moved to approve the draft of the proposed FY 2012 City Budget to move forward with budget workshops. Council member Davis seconded the motion. Councilman McGuire stated that the proposed budget would cause a property tax increase. The motion passed unanimously.

- G. CONSIDER PLACING A PROPOSAL TO ADOPT A TAX RATE UP TO \$0.522370/\$100 ON THE AGENDA OF A FUTURE COUNCIL MEETING. (*This year's proposed rollback rate (\$0.543910)*)

Councilman Davis explained cards, with a dime pasted on them, which he had distributed before the meeting. He read the cards, which questioned what citizens were willing to forfeit if they let the council vote down raising the tax rate, resulting in a dime a day, to continue current city services.

**Motion:** Councilman Davis concluded with a motion to approve placing a proposal to adopt a tax rate up to \$0.522370/\$100 on the agenda of a future council meeting. Councilman McGuire seconded the motion. The motion carried 4 to 1. Councilman Gregory cast the opposing vote.

- H. CONSIDER AND ACT UPON SCHEDULING PUBLIC HEARINGS FOR THE FY 2012 TAX LEVY.

**Motion:** Council member Huff moved to schedule public hearings for the FY 2012 tax levy on August 25<sup>th</sup> at 5:30 p.m. and August 30<sup>th</sup> at 5:30 p.m. Councilman Howell seconded the motion. The motion carried with a unanimous vote.

- I. CONSIDER SCHEDULING A PUBLIC HEARING FOR THE FY 2012 CITY

BUDGET.

**Motion:** Council member Huff moved to schedule a public hearing for the FY 2012 city budget on August 30<sup>th</sup> at 5:30 p.m. Councilman Gregory seconded the motion. The motion passed unanimously.

- J. MAYOR TO ORDER DRAFT PROPOSAL OF THE FY 2012 CITY BUDGET TO BE FILED WITH THE CITY SECRETARY AND AVAILABLE FOR TAXPAYER INSPECTION UNTIL THE NEXT REGULAR CITY COUNCIL MEETING TO BE HELD ON SEPTEMBER 13, 2011.

Mayor Smiley-Kaliff so ordered.

- K. CONSIDER AND ACT UPON ENTERING INTO AN AGREEMENT WITH THE CITY ATTORNEY.

**Motion:** Councilman Gregory moved to enter into an agreement with Michael Brennan, the current city attorney. Seconded by Councilman McGuire, the motion carried 4 to 1. The opposing vote was cast by Councilman Davis.

VII. CITIZENS TO BE HEARD

LaVerne Japhet of 12 Shady Cove commented on enforcement of city ordinances and the utilization of the 1/4 cent sales tax allocated to the Street Maintenance Fund.

VIII. ADJOURNMENT

**Motion:** Councilman Gregory moved to adjourn. Council member Howell seconded the motion. The motion passed unanimously.

The meeting was adjourned at 8:20 p.m.

These minutes were approved on the 13<sup>th</sup> day of September, 2011.

APPROVED: \_\_\_\_\_  
Bruce Smiley-Kaliff, Mayor

ATTEST: \_\_\_\_\_  
Linda Gill, City Secretary