

CITY OF CASTLE HILLS
REGULAR CITY COUNCIL MEETING
MINUTES OF FEBRUARY 8, 2011

The City Council of the City of Castle Hills convened at 6:30 p.m. on the 8th day of February, 2011, in the Council Chambers of the City of Castle Hills, 209 Lemonwood Drive, Castle Hills, Texas.

The attendance roster included Pat Butler, Kathy Tarkington, LaVerne Japhet, Bill Martin, Frank Paul, April Lazri, Suzanne Riley, William Beuhler, William Schluter, Patricia Cruz, Robert Riley, Marty Steelman, Terry Carter, Joseph Rodriguez, Joan Buerschinger, Brother William Dooling, Tim Howell, and Delia Arellano.

I. OPENING

A. QUORUM

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

Staff present was City Manager Michael Steele, Assistant City Manager Rita Hoyl, 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.

PLEDGE OF ALLEGIANCE – LaVerne Japhet led the pledge.

C. CONSIDER AND ACT UPON THE MINUTES OF THE CITY COUNCIL MEETING HELD JANUARY 11, 2011.

Motion: Councilman Smiley-Kaliff moved to approve the minutes of the January 11, 2011, city council meeting. Councilman Davis seconded the motion. The motion passed unanimously.

D. CONSIDER AND ACT UPON THE TREASURER'S REPORT FOR THE MONTH OF JANUARY, 2011.

Motion: Council member Gregory suggested a change to the description of an account on the report, then moved to approve the Treasurer's Report for the month of January, 2011. The motion was seconded by Council member Huff. The motion passed unanimously.

II. ANNOUNCEMENTS

Councilman Smiley-Kaliff announced that "Snow Day" was a rousing success and complimented the Fire Department's interaction with residents.

Councilman Davis commended the Police Department for its handling of the traffic control and accidents that occurred during the ice and snow weather experienced recently.

III. CITIZENS TO BE HEARD

Mr. Pat Butler of 215 Briarcliff said that he believed he was the one responsible for raising the point of putting the content of the council meetings on the website. Mayor Harper indicated that Mr. Butler would have a chance to speak about that when Item D on the agenda is addressed.

Former mayor Joyce Buie of 202 Carolwood thanked Chief Davis for making hot chocolate on "Snow Day" by himself. She encouraged the council to consider updating some of the city's old ordinances and to develop a plan to help out small businesses in Castle Hills that carry the burden of city taxes and help keep property taxes low. She stressed that the council also needs to do something about BexarMet. She said that residents have paid them thousands of dollars over the years in past due charges and annual rate increases, and she would like to see something done before the May election.

IV. REPORTS

- City Attorney Mike Brenan gave an update on Castle Hills vs. Batchelder. He said mediation is scheduled for next week, which he will be attending on behalf of the city.
- City Manager Michael Steele presented the January, 2011, Investment Report. He pointed out that Administration, Municipal Court, Police Department, Fire Department, and Sanitation were all under budget last fiscal year. He mentioned that the Streets Department was over budget due to an unforeseen engine replacement on a tractor. He commended the department heads. He added that all departments appear to be on budget as of January, 2011.
- Assistant City Manager Rita Hoyl gave the January, 2011, Building and Health Inspections, Code Enforcement Activities, and Municipal Court Activity Report..
- Police Chief Davis gave the January, 2011, Police Activity Report, and STEP Report.

- Fire Chief Riedel gave the January, 2011, Fire Incident and Activity Report. He said that three CPR classes have been completed, and another one is scheduled for next week. He indicated that the department has applied for a FEMA grant to purchase an inflatable fire house that can be used to take to schools to educate students about fire safety. He said that the department is still in competition for a 2010 grant for a rescue tool (Jaws of Life).
- Public Works Director Harada gave his report for January, 2011.

V. OLD BUSINESS

A. CONSIDER AND ACT UPON ACCESS RESTRICTION FROM NORTHWEST MILITARY TO SOUTH GARDENVIEW.

The city manager referred council members to a drawing in their packet, approved by TxDOT, indicating a *Left-turn In/Left-Turn Out* entry access to South Gardenview. He mentioned that it should say *Right-turn In/Right-turn Out*. He said that TxDOT approved the Public Works Director's design and estimated the cost at \$10,000. He said that the Public Works Director found an estimate of \$2,625.00. Mr. Steele said that, once this is approved, TxDOT is willing to remove the *Left Turn Only* sign at Lemonwood and to stripe the left turn pocket at Gardenview. He said the island will be built according to TxDOT specifications, which are used for that type of barrier. The Fire Chief said that his vehicles will have no problem accessing the street.

William Beuhler questioned the need for an island if striping of the left-turn lane at Gardenview was going to keep people from turning left.

William Schluter of 112 Lemonwood suggested making Gardenview a one-way street.

Joe Rodriguez of 110 South Gardenview said that he would love to see the police log showing enforcement at Gardenview and Northwest Military for the past two years.

Marty Steelman of 103 South Gardenview said she thinks the island would solve the problem for Gardenview residents and thanked the council for their time and effort to find a solution.

April Lazri of 102 South Gardenview said that she thinks the island will work and hopes the council will agree.

Motion: Councilman Smiley-Kaliff made a motion to construct an island, pursuant to TxDOT's design and approval, funded by the city as drawn and included in the council packet. Council member Davis seconded the motion. The motion passed unanimously.

VI. NEW BUSINESS

- A. CONSIDER AND ACT UPON AN ORDINANCE AMENDING CHAPTER 25, SECTION 25.302 TO ALLOW A U-TURN AT NW MILITARY HWY AT LEMONWOOD AND ADDING SECTION 25.1021 PARKING ON SOUTH GARDENVIEW.

Motion: Councilman McGuire moved to adopt an ordinance amending Chapter 25, Traffic and Parking, Section 25.302, and adding Section 25.1021. The motion was seconded by Councilman Smiley-Kaliff and passed unanimously.

ORDINANCE NO. 1066

AN ORDINANCE AMENDING CHAPTER 25:
TRAFFIC AND PARKING, PERTAINING TO U-
TURN INTERSECTIONS AND PARKING.

A copy of Ordinance No. 1066 is attached and considered a part of these minutes.

- B. PUBLIC HEARING ON A REQUEST BY WAYSIDE CHAPEL FOR A SPECIAL USE PERMIT TO UTILIZE THE PROPERTY AT 100 IVYWOOD AND THE PROPERTIES AND EXISTING STRUCTURES AT 102, 103, 104, 105, 107, 109, 111, 115, AND 117 IVYWOOD FOR RELIGIOUS PURPOSES. AFTER THE PUBLIC HEARING AND CONSIDERATION BY CITY COUNCIL OF THE RECOMMENDATIONS OF THE ZONING COMMISSION, THE CITY COUNCIL MAY DENY OR APPROVE AN SUP FOR THE WAYSIDE CHAPEL PROPERTIES.

John Gordon, executive pastor of Wayside Chapel, thanked City Council for their time and consideration. He described the church's relationship with the city since Wayside moved to Castle Hills in 1987 as one of a good neighbor, involved in the community. He mentioned the donation that the church has made each month to the Fire and Police Departments.

Scott Farrimond, who has been assisting Wayside Chapel through the SUP (Special Use Permit) process, addressed a few of the issues and answered some of the questions raised at the Zoning Commission hearing concerning the application and whether it satisfied the requirements of the city codes. Mr. Farrimond went through Section 31.1702 of the code and the components required for an SUP and how the two separate applications submitted by Wayside meet them. He said the SUP would have no impact on safety, no negative impact on public welfare, and no material impact on traffic.

Mr. Farrimond indicated that one of the issues raised in the Zoning meeting was parking. He said that the church has retained Hayden

Phillips of RBK Architects, who has extensive knowledge and experience working with churches in regards to parking. Mr. Hayden came forward and said that, when dealing with city ordinances pertaining to parking; square footage is used to determine the number of spaces needed for a building when there is no fixed seating. He said that his experience is that parking spaces are determined by the amount of seating in the sanctuary, which is the main use of the property. Mr. Phillips said that he had never known the parking ratio to be figured on the whole campus. Attorney Marc Schnall, who is chairman of the Zoning Commission, was invited by Mayor Harper to speak on the issue.

Mr. Schnall remarked, with all due respect, that the Castle Hills Code speaks for itself. He said the code clearly states that all churches shall have 3 parking spaces for every 200 square feet of indoor church area or 0.2 (1/5th) parking spaces per church seat (including ministers and choir) whichever produces the greater number of parking spaces. He said the church may have enough parking spaces, but he has not seen the numbers. He added that the main reasons that the Zoning Commission made two different recommendations to City Council were the parking and a coordinated, comprehensive site plan that put on one piece of paper all the things that Wayside was requesting. Mr. Schnall said that the commission's recommendation was to approve an SUP for the two houses that were being used as residences for visiting clergy and others, but to deny the SUP for the other five properties.

Responding to a question from council member Huff, Mr. Phillips referred the council to three different site plans given to them for the meeting. He said there are three identical site plans because the church wanted to give them an aerial, they wanted to give them one showing the footprints of the buildings, and they wanted to give them one showing different areas of the campus in great detail. Mr. Phillips stated again that they were comprehensive, detailed site plans. He mentioned that surrounding cities, such as Alamo Heights, San Antonio, Live Oak, and Schertz based their parking on the area of the church building only. He said he believed that the Castle Hills Code is meant to do the same because it states 3 parking spaces per 200 square feet, but also .2 parking spaces per church seat. He said there is too much disparity in the numbers to interpret it any other way.

Joan Buerschinger of 212 Glentower commented that she admires the church and has seen it grow over the years, and she thinks it has outgrown the city.

Bill Martin of 113 Cobblestone recounted that he had tried many years ago to get a law passed in the State of Texas that would limit the total square footage in a city that could be non-taxable. He said that, at that time, there were six churches in the city, the boy scout camp, and the elementary school. He said that totaling all that up, 26% of the Castle Hills land mass was non-taxable. Mr. Martin said the legislature told him

that Castle Hills was the only city in Texas with that problem, and the law would not pass. Mr. Martin said that Wayside Chapel should be given consideration for the money they donate to the city because they do not have to do it. He asked the council members to take into consideration that they are good neighbors.

Pastor Gordon said that Wayside has demonstrated that it is in compliance regarding parking now; and the first step, when they get the SUP, will be to get cars off the street. Council member Huff asked what the second step is. She said an inordinate amount of time has been spent on the parking issue. Ms. Huff said she would like to know, as she believes some citizens would like to know, more about what the houses have been used for and will be used for so she can get a full picture of what is involved in the church's request.

Roger Poupard, senior pastor of Wayside Chapel, explained the occurrences that led to the church applying for an SUP. He stressed that the council had the church's assurance that its plans do not include becoming a mega church. He said that they are seeking to consolidate parking and move the two-story education building closer to Loop 410. He indicated that the church does not want more area, but would like to make an attractive doorway into Castle Hills with trees and landscaping. Pastor Poupard briefly described what the houses on Ivywood have been used for.

The city manager reminded City Council that the Zoning Commission makes a recommendation to them, and it is only a recommendation. He said it is the right of any council member to make a motion to approve an SUP that is more restrictive than the one applied for. He said that the issues can then be discussed. Mr. Steele said his recommendation to them is that, if anyone has a recommendation or something that would be palatable to the church, as well as the city; that would be something that would help move things forward.

Councilman Gregory announced that he had something to propose.

The mayor recognized Terry Carter of 125 South Winston, who compared the current issue with what happened in her neighborhood years ago. She stressed that the council needs to maintain the single family zoning in making their decision. She added that donations made to the city should not sway the decision.

Former councilman, Joe Rodriguez of 110 South Gardenview, asked the council to not let the tail wag the dog, to do their due diligence in enforcing the laws and ordinances of the city.

Councilman McGuire referred to RLUIPA, a federal statute concerning religious entities and concluded that denying the SUP will create a substantial burden on the church. He indicated that he does not see that

the city has a defensible position, and they need to come to a mutually beneficial decision.

Council member Huff said the application has to stand and fall on its own merits, and the council cannot be swayed by what they have done in the past or what they might do in the future.

Councilman Gregory commented that he agrees with the Zoning Commission's recommendation and referred to an ordinance that he has been working on. He proceeded to read the ordinance, granting the SUP with certain restrictions, to the council and audience. Brief discussion followed regarding conditions of the SUP, and Councilman Gregory indicated the conditions were open for discussion. Councilman Smiley-Kaliff confirmed with the city attorney that he had read the ordinance; and it could be considered under the current agenda item, if the council wanted to vote on it.

Joe Rodriguez questioned Mr. Gregory concerning the ordinance he read. The councilman said that he wrote the ordinance himself after talking to the church and Mr. Brennan. Mr. Rodriguez then confirmed with the city attorney that any tentacles that may connect with other city ordinances have been checked.

Motion: Council member Smiley-Kaliff stated that he would like to make a motion and moved to approve a Special Use Permit for Wayside Chapel Evangelical Free Church for certain properties on Ivywood Circle for religious purposes as drafted, written, and triple approved. Councilmen Davis and Gregory noted two corrections to the wording of the ordinance. Councilman McGuire seconded the motion.

Councilman Smiley-Kaliff opened discussion by remarking that he thought Mr. Gregory did an excellent job writing the ordinance. Council member Huff commented that the ordinance was well thought out and well done; but she would feel better if it had come about because the council had discussed it and appointed Councilman Gregory to work with the church and the city attorney to prepare an ordinance to bring to the council, rather than have it brought to the council as a done deal. She feels that the ordinance was done behind the council's back. She said it has been done in the past, and those kinds of action do not sit well with her.

Councilman Gregory said that, after much thought about what happened in past years, he decided last week to write the ordinance. He stressed its importance, but granted that the council did not have to vote on it tonight.

Mayor Harper remarked that she was in shock and told Councilman Gregory that she thought it was in extremely poor taste to go to the

church one-on-one. She said that the council wants to work with Wayside, but now he has created a document, an ordinance, that is very different from what the recommendation of the Zoning Commission was. She said no one on the council knew about it, and she found it very rude as mayor of the city.

Councilman Davis commended Councilman Gregory for addressing every single thing and restricting every single thing that was of concern to the Zoning Commission. He applauded Mr. Gregory.

Councilman Gregory stressed to the council that it is a proposed ordinance. He said you can table it for a month, you can vote it down, or you can do nothing tonight. Councilman McGuire commended Mr. Gregory for taking the initiative to put the ordinance together, but he indicated that he would like to have more time to review and think about whether it's the best solution. He reiterated that, according to his legal research; the city has to compromise with the church. He proposed that the ordinance be tabled for 30 days. After Councilman Smiley-Kaliff confirmed with Mr. Brennan that 4 votes are needed to pass the ordinance, he withdrew his motion.

Motion: Council member Huff moved to table the agenda item until next month. Councilman Gregory seconded the motion. The motion carried 4 to 1, with Councilman Davis casting the opposing vote.

C. CONSIDER AND ACT UPON METHOD OF MAILING POSTCARDS FOR MONTHLY COUNCIL MEETINGS.

City Manager Steele proposed, if the council wants to save \$6,000 per year and an untold number of staff hours, that the next postcards that are sent out have a little box at the bottom that says *check here if you want to continue receiving this postcard* and *check here if you want to be sent an e-mail*. He estimated that 95% to 98% of the postcards are not read. Mr. Steele requested that staff be allowed to send out postcards with the little box on them, and they can mail them in to the city or drop them off at City Hall. He said that no response from a resident is probably an indication that the postcard is not being read. Consensus of the council was to send cards out for two months to give ample time for people to respond.

Motion: Brief discussion among council members led to a motion from Councilman Smiley-Kaliff to allow the city manager to rework the card notification system as discussed. Council member McGuire seconded the motion. The motion carried 4 to 1, with council member Huff casting the opposing vote.

D. CONSIDER AND ACT UPON POSTING THE FULL AGENDA PACKET ON THE WEBSITE (PACKETS ONLY WHEN REQUESTED)

Mr. Steele explained that the full agenda would be posted on the website, and if information about an item is desired, a click on the letter of the item would link to the information about that particular item. He said it would save an enormous amount of staff time in copying large packets that can have 100 or more pages. He added that, if requested a hard copy of the packet could be requested.

Councilman Davis pointed out that it would benefit the citizens to be able to see what the council is looking at in the meetings. Council member Huff asked that the council be given an e-mail reminder that the packet is on the website, until they get used to it.

Ms. Hoyl said the plan is to have it on the website for the next council meeting. She said that she will have the hard copy of the packet on file, if anyone needs it. Mr. Steele said the paper packet will be sent to the council if there is a technological problem.

Joe Rodriguez expressed concern about the possibility that costs would increase later and the legal liability of the city if there is a problem. Mr. Brennan responded that the only legal requirement is that the agenda be posted 72 hours in advance of the meeting.

Pat Butler of 215 Briarcliff remarked that the real reason to post the packet on the website is not to serve the council, but to serve the public.

Brother William Dooling of 201 Gladiola suggested using the Court Technology Fund and install computer terminals at each City Council seat to have the information available at the meetings. He proposed using court technology funds and coordinating with Municipal Court. He said the court is considering change to a court of record, which requires some of the same technology. He remarked that it is time to bring the city into the 21st century.

Motion: Council member Smiley-Kaliff moved to post the full agenda packet on the city website and provide paper copies only when requested. Council member Huff seconded the motion. The motion passed unanimously.

E. DISCUSSION RELATING TO PROJECTS FOR EXPENDING THE PERRY & MADELINE BURNHAM FUND.

Mr. Steele recalled the last council meeting, when he and Ms. Hoyl were asked to entertain proposals for spending the \$10,000 so graciously donated by Perry & Madeline Burnham for the beautification and enjoyment of the citizens of Castle Hills. He said they have two proposals to present. He showed the council a 30x30 metal gazebo that could be installed on The Commons for \$11,980, plus the cost of a foundation. He said the second is a street clock that starts around \$8,900, depending on the type of trim. Mr. Steele said the mayor had suggested

selling commemorative bricks that could be used to design a plaza around the clock and help fund the project.

Council member Huff said the gazebo is an unattractive structure; and since the money was donated for the enjoyment of the citizens, she would like to see the money put toward something that was near and dear to them. She said these two ideas are a start, but she would like to see more ideas and take more time before the council decides.

Councilman Davis cautioned that the council needs to consider the upkeep and maintenance on whatever they decide and whether the city can afford to keep it in pristine condition. Mr. Steele said that is why he suggests this style of gazebo, which requires very little maintenance. He said the street clocks are atomic and require no maintenance, unless there is a power failure; and they are very easy to reset.

Joan Buerschinger related that the Burnham children will be in town this spring to bury the Burnham's ashes at Fort Sam, and she suggested asking them for ideas. Ms. Buerschinger said she liked the clock idea.

Councilman Gregory expressed his approval of the clock. He added that he liked something that will last beyond him and the council.

Robert Riley of 102 Irongate commented that he like the clock because it sets the tone for the area. He suggested it be placed at Northwest Military and West Avenue, which is the center of the city. He said it is a great idea and maintenance would be very low.

Mayor Harper suggested the city could look at matching funds to build a pavillion that Fiesta can enjoy, Staff can enjoy, and everyone can enjoy, with ceiling fans. She said that it could be very simple, made of metal or hardee board. Joan Buerschinger responded that it would be nice, and the Woman's Club is willing to do that. She said that, if it was going to be a memorial for the Burnhams, she didn't think they should mix any funds with the Burnhams' money.

Bill Schluter indicated that, if they decide on the gazebo, the structure should not be put in the center of The Commons because the kids run and play and fly kites in that area. He said he loves the clock idea.

No Action was taken.

F. CONSIDER AND ACT UPON POSTING "NO PARKING" IN THE 404 ANTLER AREA.

The mayor said she drove to 404 Antler this afternoon and there weren't any cars parked on the street, so she doesn't know what this item is about.

Mr. Steele said that he received a call from a citizen, who presented it as a public safety issue. Mr. Steele then drove to the area, both alone and with Ms. Hoyl, and found cars parked on the inside of the curve there made it difficult to see around the corner. When he turned, he met an oncoming car traveling west and had to stop to let it pass where the cars were parked. Mr. Steele said that he contacted the police chief, who made an assessment and recommended that the area needs to be designated as a "No Parking" area.

Discussion between Chief Davis and council members revealed that the house is an assisted living home, and the problem is with the nursing staff or visitors who come and park on that curve. He said the owner of the house has not been notified that they will have no parking in front of the house.

Motion: Council members did not want to vote on the matter until the affected residents had been notified. Councilman McGuire moved to table the item for one month to inform residents of the change. Councilman Gregory seconded the motion. The motion passed unanimously.

G. CONSIDER AND ACT UPON AN ORDINANCE THAT PROHIBITS TEXTING WHILE DRIVING.

Council member Huff said that she requested this item be placed on the agenda. She said that, since San Antonio has made it a law, and Castle Hills is surrounded by San Antonio; it makes good sense to make the transition seamless between the cities.

Motion: Councilman McGuire moved to amend Chapter 25, Traffic and Parking, to prohibit texting while driving. Councilman Davis seconded the motion. The motion carried with a vote of 4 to 1, with Councilman Gregory casting the opposing vote. The ordinance as passed and approved is captioned as follows:

ORDINANCE NO. 1067

AN ORDINANCE AMENDING CHAPTER 25: TRAFFIC AND PARKING, OF THE CODE OF ORDINANCES OF THE CITY OF CASTLE HILLS, TEXAS, BY ADOPTING SECTION 25.1601 PROHIBITING THE USE OF A HAND-HELD MOBILE COMMUNICATION DEVICE TO SEND, READ OR WRITE A TEXT MESSAGE OR ENGAGE IN ANY OTHER USE OF THE DEVICE BESIDES DIALING TELEPHONE NUMBERS OR TALKING TO ANOTHER PERSON WHILE OPERATING A MOVING MOTOR VEHICLE; AND PROVIDING FOR A FINE OF UP TO \$200.00 PER VIOLATION

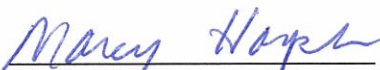
A copy of Ordinance No. 1067 is attached and considered a part of these minutes.

VII. ADJOURNMENT

Mayor Harper adjourned the meeting at 9:44 p.m.

These minutes were approved on the 8th day of March, 2011.

APPROVED:



Marcy Harper, Mayor

ATTEST:



Linda Gill, City Secretary