

CITY OF CASTLE HILLS
REGULAR CITY COUNCIL MEETING
MINUTES OF OCTOBER 13, 2009

The City Council of the City of Castle Hills convened at 6:00 p.m. on the 13th day of October, 2009, in the Council Chambers of the City of Castle Hills, 209 Lemonwood Drive, Castle Hills, Texas.

The attendance roster included Scott Parker, Marianne Huizar, Bill Martin, William Beuhler, Dr. R. E. Szecsy, Stephen Yang, Pamala Farris, William and Helen Schluter, Brother William Dooling, Bill Cannon, Joan Buerschinger, Bernie Wright, L. David Givler, LaVerne Japhet, Suzanne Riley, Robert D. Riley, Evangeline O'Sullivan, Joe Rodriguez, Ramiro Estrada, and Terry Carter.

I. OPENING

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

Staff present was Interim City Manager Rita Hoyl, City Secretary Linda Gill, City Attorney Michael S. Brennan, Court Administrator Wendy Reyes, Police Chief Donny Davis, and Fire Chief Jerry Riedel. Public Works Director Rick Harada was absent.

- B. INVOCATION – Bill Martin

- C. PLEDGE OF ALLEGIANCE – LaVerne Japhet

- D. CONSIDERATION OF THE MINUTES OF THE CITY COUNCIL MEETING HELD SEPTEMBER 8, 2009.

Motion: Council member Huff moved to approve the minutes of the city council meeting held September 8, 2009. Councilman McGuire seconded the motion. The motion passed with a unanimous vote.

- E. CONSIDERATION OF THE TREASURER'S REPORT FOR THE MONTH OF SEPTEMBER, 2009.

Motion: Councilman Gregory moved to approve the Treasurer's Report for the month of September, 2009. Seconded by Councilman Smiley, the motion carried unanimously.

II. ANNOUNCEMENTS

Mayor Harper wished Marcella Huff *Happy Birthday*. Her birthday was last Friday.

III. CITIZENS TO BE HEARD

Scott Parker of 122 Palm Circle, representing the Oaks of Castle Hills, brought a graffiti problem to the attention of the council and asked for any suggestions they might have to combat the problem.

Marianne Huizar of 109 Twin Leaf said she wanted to officially ask everyone to participate in Fiesta Castle Hills, which will be held the first week of Fiesta on April 17, 2010. The theme will be *Uniting the Community*. She said the next meeting will be October 31st at 9:00 a.m. in the council chambers.

Bernie Wright of 120 North Manton described the level of water that came across his property when it rained recently. Some of the paving in the street was lost, and part of a fence was knocked down. He said that he had a meeting with the city manager and city engineer 4-6 months ago and predicted a flooding problem, but he never had any response from them. The mayor suggested that Mr. Wright contact the interim city manager about the problem.

Robert Riley of 102 Irongate related a problem with people running through the intersection at Oak Royal and Wickford Way where there are no stop signs and visibility is poor. He asked the interim city manager and the police chief to consider a remedy to make that intersection safer.

Dr. Richard Szecsy of 117 North Manton affirmed Mr. Wright's account of the flooding problem on North Manton and commented that it is worse than the 1998 flood. He stated that City Council needs to do something before someone gets tragically hurt.

Evangeline O'Sullivan of 115 Castle Lane reported that the property behind the fire station smells terrible, and she thinks it is a health hazard.

Joyce Buie of 222 Carolwood suggested that the council contact the City of San Antonio and see if they will drain the retention pond that lies behind the teeth at the end of Carolwood on the San Antonio side. She said that should cut down on some of the water that comes from San Antonio and lessen the flooding on Carolwood and Manton.

IV. REPORTS

- Lesley Wenger was not present to give the Update on BexarMet Water District.
- Interim City Manager Rita Hoyl gave the September Investment Report, the September Building and Health Inspections Report, and the September Code Enforcement Activity Report.
- Police Chief Donny Davis reported on the September, 2009 Police Activity and STEP program.

- Fire Chief Jerry Riedel presented the September, 2009 Fire Incident and Activity Report.
- Interim City Manager Hoyl gave the September Activity Report for Public Works in the absence of Director Rick Harada.
- Court Administrator Wendy Reyes presented the Municipal Court Activity Report for September, 2009.

V. OLD BUSINESS

A. CONSIDER AND ACT UPON AMENDING CHAPTER 11.111 TO PROVIDE BILLING FOR EMERGENCY MEDICAL TECHNICIAN CALLS TO RESIDENTS AND NON-RESIDENTS.

Interim City Manager Hoyl explained that this ordinance changes billing residents for EMT services from the second call to the fourth and subsequent calls. Calls will be counted for each person, not for each address. The billing will be waived for all calls that are transported by EMS. Ms. Hoyl said that non-residents will be billed for every call. Councilman McGuire remarked that keeping track of all calls could create a record keeping nightmare, but Chief Riedel said that the record keeping is usual for the Fire Department already and should cause no additional effort. He suggested trying it for a year and letting City Council know if it becomes too much.

Motion: Council member Smiley-Kaliff commented that the ordinance seemed to address all the concerns City Council had discussed, and he moved to approve the ordinance as written. Councilman Gregory seconded the motion. The motion passed unanimously. The ordinance as passed and approved is captioned as follows:

ORDINANCE NO. 1032

AN ORDINANCE AMENDING CHAPTER 11, FIRE DEPARTMENT, OF THE CODE OF ORDINANCES TO PROVIDE BILLING FOR EMERGENCY MEDICAL TECHNICIAN CALLS TO RESIDENTS AND NON-RESIDENTS.

(A copy of Ordinance No. 1032 is attached and made a part of the minutes)

VI. NEW BUSINESS

A. CONSIDER AND ACT UPON A PROPOSAL FROM GIVLER ENGINEERING TO PROVIDE SERVICES FOR IMPLEMENTING THE STORM WATER MANAGEMENT PLAN.

Ms. Hoyl indicated that the city is about 18 months behind schedule on implementing a federally mandated Storm Water Management Plan. Council member Huff interjected that she wanted it made clear that Ms. Hoyl was in no way responsible for not making the deadline. Ms. Hoyl said the plan must be fully implemented by August, 2012. Givler Engineering submitted a proposal of \$40,500 to provide the city with services to bring the city into compliance as of December 31, 2010. The Implementation Plan is included with the proposal.

City Engineer David Givler explained that there are six parts to the Implementation Plan and he assisted Castle Hills in submitting the plan to the TCEQ in February of 2008. He said the plan submitted was one step in a five year process. He said that his proposal included a list of 23 various portions of the plan and their level of completion at the end of 2010. In answer to Councilman Smiley-Kaliff, he said that he expected the cost to be considerably less after the city is in compliance. Mr. Givler commented that cities will start watching what flows across their borders with other cities. Councilman Gregory asked Mr. Brennan to find out if San Antonio is liable when its water runs into Castle Hills.

Motion: Councilman McGuire moved to accept the proposal from Givler Engineering to provide services for implementing the Storm Water Management Plan. Council member Huff seconded the motion. The motion carried with a unanimous vote.

B. CONSIDER AND ACT UPON A RESOLUTION DECLARING THE INTENT OF THE CITY COUNCIL TO ESTABLISH A DRAINAGE UTILITY.

Motion: Acting on the consensus of the council, council member Gregory moved to adopt a resolution declaring the intent of the city council to establish a drainage utility. Seconded by Councilman Smiley-Kaliff, the motion passed unanimously. The resolution as passed and approved is captioned as follows:

RESOLUTION NO. 0910-02

A RESOLUTION FINDING THAT THE CITY OF CASTLE HILLS WILL PROVIDE DRAINAGE FOR ALL REAL PROPERTY WITHIN THE CITY ON NONDISCRIMINATORY, REASONABLE AND EQUITABLE TERMS, AND WILL ESTABLISH A SCHEDULE OF DRAINAGE CHARGES AGAINST ALL REAL PROPERTY WITHIN THE CITY, UNLESS EXEMPTED, PURSUANT TO CHAPTER 402,

SUBCHAPTER C, OF THE TEXAS LOCAL
GOVERNMENT CODE.

(A copy of Resolution No. 0910-02 is attached and made a part of the minutes)

- C. CONSIDER THE ENGAGEMENT OF SAWS TO BILL, COLLECT, AND PROVIDE TECHNICAL SERVICES IN SUPPORT OF THE DRAINAGE UTILITY AND STORM WATER MANAGEMENT PLAN AND AUTHORIZATION FOR THE INTERIM CITY MANAGER TO EXECUTE AN INTERLOCAL AGREEMENT WITH SAWS ON BEHALF OF THE CITY OF CASTLE HILLS.

Ms. Hoyl said that the proposal from SAWS was presented to them in August, and no action was taken. She explained that, if the proposal is approved, she will contact SAWS to finalize an Interlocal Agreement.

Motion: Council member Huff moved to approve the engagement of SAWS to bill, collect, and provide technical services in support of the drainage utility and Storm Water Management Plan and the authorization of the interim city manager to execute an Interlocal Agreement with SAWS on behalf of the City of Castle Hills. Councilman Smiley-Kaliff seconded the motion. The motion passed unanimously.

- D. CONSIDER AND ACT UPON A RESOLUTION AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE A CABLE TELEVISION FRANCHISE MANAGEMENT AGREEMENT.

Ms. Hoyl explained that she had been contacted by Greg Fender with Local Government Services, LLC, a cable franchise management service that assists cities in conducting franchise payment fee compliance reviews. She said TML authorized Mr. Fender to contact its member cities regarding this service, and his company has collected over \$60,000 in unpaid franchise fees for each of the cities of Helotes, Schertz, and Windcrest. He will audit Time Warner Cable Television for the four years among 2005-2008, for a \$2,500 fee up front and a \$2,500 fee upon completion, plus 25% of any amount recovered by the city and any out of pocket expenses. Ms. Hoyl indicated that a substantial amount of recovery is likely.

Mr. Brennan said that Windcrest recently went through an audit; and out of the blue, the city received \$70,000.

Joe Rodriguez of 110 South Gardenview expressed concern regarding the name, Cable Television Franchise Agreement.

Mr. Brennan said it is the way it is worded in the agreement, but it is an audit of Time Warner's records. He said Mr. Fender's company addresses the problem of franchise fees going to the wrong city. It is the

same problem that can arise with sales tax. If sales tax permits are not issued under the name of Castle Hills, the tax will not be paid correctly to the city.

Councilman Smiley-Kaliff expressed his approval of the audit.

Brother William Dooling of 201 Gladiola Lane asked if the audit will also cover Grande Communications. Ms. Hoyl said the city gets paid about \$700 per quarter from Grande Communications, and Mr. Fender said it would cost more than we would gain for an audit.

In response to questions from council member Gregory, Ms. Hoyl said there is no guarantee that the problem will not happen again, but she expects to have a better handle on monitoring the fees after the audit. She plans to look into how that can be done.

Motion: Councilman Gregory moved to pass a resolution authorizing the interim city manager to execute a cable television franchise management agreement at a cost of \$5,000, plus 25% of any amount recovered. Council member Huff seconded the motion. The motion passed unanimously. The resolution as passed and approved is captioned below:

RESOLUTION NO. 0910-01

A RESOLUTION OF THE CITY OF CASTLE HILLS
THROUGH THE CITY COUNCIL TO AUTHORIZE
THE INTERIM CITY MANAGER OF SAID CITY TO
EXECUTE A CABLE TELEVISION FRANCHISE
MANAGEMENT SERVICE AGREEMENT.

(A copy of Resolution No. 0910-01 is attached and made a part of the minutes)

E. CONSIDER AND ACT UPON AN ORDINANCE REMOVING THE STATUTORY MAXIMUM CONTRIBUTION RATE LIMIT TO TMRS.

Ms. Hoyl related that TMRS sent the city a letter asking that the maximum rate limit imposed by the TMRS Act in 1947 be removed. She explained that, over the years, the city's levels of participation have increased; although, the original act is still in place. She said that, under the act, the maximum contribution rate Castle Hills can contribute is 11.50%. The phase-in rate exceeds that and is budgeted for 2010 at 12.28%.

Councilman McGuire said that the reality is that, unless the city is willing to change the retirement benefits, which they decided was not the thing to do in their last budget sessions; the only choice is to change the statutory amount. Councilman Smiley-Kaliff said that council will

make this decision every year. Council member McGuire added that whatever that decision is, it will drive what the statutory limit will be.

Motion: Councilman Smiley-Kaliff moved to adopt an ordinance removing the statutory maximum contribution rate limit to TMRS. Council member McGuire seconded the motion. The motion passed unanimously. The ordinance as passed and approved is captioned as follows:

ORDINANCE NO. 1034

AN ORDINANCE ELECTING FOR THE CITY TO MAKE CURRENT SERVICE AND PRIOR SERVICE CONTRIBUTIONS TO THE CITY'S ACCOUNT IN THE MUNICIPAL ACCUMULATION FUND OF THE TEXAS MUNICIPAL RETIREMENT SYSTEM AT THE ACTUARIALLY DETERMINED RATE OF TOTAL EMPLOYEE COMPENSATION.

(A copy of Ordinance No. 1034 is attached and made a part of the Minutes)

F. DISCUSSION ON ADDING AN ITEM TO THE REPORTS SECTION OF THE MONTHLY COUNCIL AGENDA CONCERNING DEPARTMENT BUDGETS.

Council member Huff said that it was her idea to put this item on the agenda for discussion. She thinks it is important to discuss the budget at each council meeting, by department, to give City Council the opportunity to look at things long term. She expected it to make the budget process smoother at the end of the year because the council would have been using it to understand why something is over budget or under budget. There will be no surprises, and everyone will understand the budget better. She suggested starting the discussion sooner, rather than later. Mayor Harper said that it will help the council understand when the budget needs to be amended.

Council member McGuire remarked one of the problems he has had since coming to the council was being unable to tell if a budget item was over or under budget. He said that he developed spend line graphs that he discussed with the interim city manager and council members. Mr. McGuire suggested that is what council member Huff is trying to do to determine where the budget is each month.

Discussion continued. Council member Huff indicated that she wanted to involve the department heads in the discussions; but she did not, in any way, mean for them to be put on the spot. She suggested looking at a different department every month, starting next month.

The mayor recognized Bill Martin of 113 Cobblestone. Mr. Martin stated it is City Council's job to lay out guidelines for the city manager;

and if those guidelines are not followed, the council should get a new city manager. But it is not the council's job to look at the budget monthly to see what it is doing. It is up to the city manager to tell the council what the budget is doing. City Council will be micromanaging; and if that is done, the city may as well not have a city manager. Councilman Gregory responded that he did think it would be better done if department heads meet with the city manager once a month or once a quarter. He said the city manager knows the historical ebb and flow of the budget, and he thinks the council would get lost if they went over every item in the budget at every meeting. Councilman Smiley-Kaliff commented that he would like to look at the budget in council meetings for the education.

Mayor Harper said this item can be put on next month's agenda for a vote. No action was taken.

Mayor Harper called for a break at 7:35 p.m. The council reconvened at 7:50 p.m.

G. DISCUSSION ON UPDATING THE CITY'S JOB DESCRIPTIONS, IMPLEMENTING A PERFORMANCE EVALUATION SYSTEM, AND SETTING PERFORMANCE OBJECTIVES.

Council member Huff said that, before each budget session the last two years and prior to coming to the council, she has talked about needing to update the city's job descriptions, implementing performance evaluations, and setting performance objectives. She said that she believed that a person should get a pay increase only if they are more valuable to an organization than last year, or they have added more to the organization. She said that she knows updating job descriptions is a lot of work, but she thinks it could be done using interns from local colleges. She said that she knows the city staff does not have the time to do the work. She contacted Bill Schluter; who mentioned the need for job descriptions at a budget meeting; and he indicated that he would be willing to coordinate the interns. Council member Huff said that the city will not have to pay interns because they get course credit for their work.

Council member Huff said that job descriptions will help managers manage better, and employees will better understand what is expected of them. Salary increases should be based on performance evaluations, and the city needs to set objectives for employees. She said these things maybe are being done now, but they need to be written down and codified.

Joe Rodriguez of 110 South Gardenview questioned whether it was a good idea to put job descriptions into the hands of interns. He said that true accountability is needed. He mentioned that the city has had three city managers in three years, and he did not want to see job descriptions watered down. Council member Huff said supervisors, department

heads, and the city manager will sign off on any job descriptions developed. She stressed that interns would primarily do the initial work in getting job descriptions updated. Councilman McGuire said that job descriptions are very important to ensure accountability. Councilman Smiley-Kaliff commented that how employees are appraised and job descriptions are the city manager's responsibility. He indicated that all the council is doing is giving the city manager an observation and a resource to help, if help is needed. It is not something that is being subrogated to the council. Council member Huff agreed and said it is a way to get job descriptions current.

In answer to questions from Councilman Gregory, Mr. Brennan said that TML is a resource for city job descriptions. He said employee bonuses must be part of a compensation plan that states it will be paid for a certain achievement. A bonus cannot be given ad hoc.

Discussion ended with the council in general agreement that job descriptions need to be updated, and performance evaluations need to be implemented. No action was taken.

H. CONSIDER AND ACT UPON AMENDING CHAPTER 5, BUILDING & BUILDING CODE, BY ADDING SECTION 5.207 SETTING GUIDELINES FOR TEMPORARY DISPOSAL RECEPTACLES AND ASSESSING A FEE.

Ms. Hoyl said this item has been brought to council in order to establish a way to enforce the length of time a temporary disposal unit can be stored on a property. She referred to one resident who has had a unit on the property for more than six months. She added that requiring a permit will provide a way to keep track of where the units are and the length of time they have been stored.

Motion: Council member Smiley-Kaliff moved to amend Chapter 5, Building and Building Code, by adding Section 5.207 setting guidelines for temporary disposal receptacles and assessing a fee. Council member Huff seconded the motion. The motion passed unanimously. The ordinance as passed and approved is captioned as follows:

ORDINANCE NO. 1033

AN ORDINANCE AMENDING CHAPTER 5, BUILDING & BUILDING CODE, LIMITING THE DURATION OF USE OF TEMPORARY TRASH, GARBAGE, RECEPTACLES, ROLL OFF CONSTRUCTION DUMPSTERS, OR OTHER SIMILAR UNITS AND ASSESSING FEE.

(A copy of Ordinance No. 1033 is attached and made a part of the Minutes)

I. CONSIDER AND ACT UPON AMENDING THE FY 2009 CITY BUDGET LINE ITEM 5005, BUILDING INSPECTOR, IN THE AMOUNT OF \$2,000 TO REFLECT AN INCREASE IN THE BUILDING INSPECTOR'S MONTHLY PAY.

Ms. Hoyl recalled that, earlier in the year, the building inspector requested that his pay be based on the number of plan reviews and inspections that he did. A review of permit fees and a survey of other cities indicated that the city's fees needed to be increased, and that changing the way the building inspector is paid was justified. She added that, in August, as a result of discussion in the budget workshops, City Council approved an increase in the plan review fees and permit fees; but Staff did not request the amendment to the method of monthly payment to the building inspector. The new fees went into effect in September and reflected an increase of \$4,000 when compared to the old fees.

Motion: Council member Smiley-Kaliff moved to amend the FY 2009 city budget line item 5005, Building Inspector, in the amount of \$2,000 to reflect an increase in the building inspector's monthly pay. Seconded by Councilman McGuire, the motion carried with a vote of 3 in favor and 1 opposed. Councilman Gregory cast the opposing vote.

VII. ADJOURNMENT

The mayor adjourned the meeting at 8:30 p.m.

These minutes were approved on the 10th day of November, 2009.

APPROVED:

Marcy Harper, Mayor

ATTEST:

Linda Gill, City Secretary