

CITY OF CASTLE HILLS
REGULAR CITY COUNCIL MEETING
MINUTES OF OCTOBER 11, 2011

The City Council of the City of Castle Hills convened at 6:30 p.m. on the 11th day of October, 2011, in the Council Chambers at 209 Lemonwood Drive, Castle Hills, Texas.

The attendance roster included Marianne Huizar, LaVerne Japhet, Pat H. Butler, Michael Catalani, Christine Catalani, Pamala Farris, Bill Martin, William Beuhler, B. Rollins, Susan Schopp, Joe Izbrand, Bill and Helen Schluter, Brother William Dooling, Marty Steelman, Dorothy Harle, Suzanne Riley, Robert Riley, Brent Hernandez, Joseph Rodriguez, Baylor Eidelbach, Jennifer Eidelbach, Richard Szecsy, and Vera Howard.

Staff present was City Manager Michael Steele, 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 Mayor 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

Young Marines Color Guard presented the flag and led the Pledge of Allegiance.

II. ANNOUNCEMENTS & PRESENTATIONS

- A. Rogelio Rodriguez, a 15 year veteran of public finance investment banking, was introduced by the mayor. Mr. Rodriguez discussed the upcoming bond election and explained how the projects to be funded will benefit the Castle Hills area.

III. OLD BUSINESS

- A. Council member Huff said that there was no report from the Website Committee.
- B. Council liaison Gregory gave a report for the Mimosa Drainage Committee. He said that the committee met on a Saturday, the mayor included, and tramped around the area of the drainage project. He said the following comments were made by committee members:

Dr. Szecsy commented that the project seems complicated and costly. He said that was not to say the project did not need to be done, but he suggested that maybe there were other street projects that might be more beneficial to Castle Hills residents.

Douglas Steadman, who is an engineer, gave a substantial report and suggested that three pipe culverts be removed and replaced with a single or double opening culvert. He added that caution be exercised to not disturb the sanitary sewer that lies below the channel.

Al Medina, who is a resident near the project and has seen it flood many times, suggested opening the channel wide and placing a bridge over where the water will run.

Councilman Gregory stated that those are the three proposals and it is up to the council to decide which is acceptable and how the money will be spent. Councilman Howell clarified that the project is being called a drainage project, but the money will come from the street funds. The mayor indicated that the project will be an agenda item on a following council meeting. He asked that, meanwhile, the information and reports put together by the committee be disseminated among the council members so that they can familiarize themselves with it.

Council member McGuire said the residents on each of the four corners of Mimosa need to be informed of which trees are going to be cut down and how the driveways will be when the project is completed so that they can give input. He said that it is important to know what is going to happen to Krameria when the water is allowed to run through from Mimosa.

Councilman Howell said that he hoped when this does come before council for a vote, he hopes council members keep in mind what this is all about; it is about our streets.

Mayor Smiley-Kaliff thanked everyone who worked on the committees.

IV. NEW BUSINESS

A. CONSENT AGENDA

1. Consideration of the minutes of the City Council meeting held September 13, 2011.
2. Consideration of the minutes of the Special City Council meeting held September 19, 2011.
3. Consideration of the Treasurer's Report for the month of September, 2011
4. Consider expending up to \$2,000 from the Municipal Court Building Security Fund for the purchase of two CPUs dedicated for security cameras.
5. Consideration of amending the FY 2011 Budget up to \$7,000 for replacement of an electrical service pole.

Council members Huff and Gregory asked that Item 4 be removed from the consent agenda for discussion, and Councilman McGuire requested that Item 2 be removed for

discussion. City Manager Steele requested that Item 5 be removed for his comments.

A. CONSENT AGENDA (Omissions)

2. Consideration of the minutes of the Special City Council meeting held September 19, 2011.

Council member McGuire noted two corrections to the minutes of September 19, 2011.

4. Consider expending \$2,000 from the Municipal Court Building Security Fund for the purchase of two CPUs dedicated for security cameras.

Council member Huff asked that Mr. Steele explain this item so that residents present can hear it. Mr. Steele explained that the extra cost is for computer processors that will be used strictly for the new camera system, to keep the cameras separate from the main system. He said it will ensure that, if there is any criminal activity or hacking of the main system, the cameras will not be affected.

5. Consideration of amending the FY 2011 Budget up to \$7,000 for replacement of an electrical service pole.

Mr. Steele explained that Staff obtained three estimates to repair the electrical service pole that he pointed out to council members recently. He called on Public Works Director Harada to give the particulars of the three alternatives.

(The mayor called for a short break at 7:05 p.m. while copies were made of the three estimates. City Council reconvened at 7:10 p.m.)

Mr. Steele handed out copies of the estimates for the electrical pole repair to council members. He said that Staff recommends going with the lowest estimate. Mayor Smiley-Kaliff confirmed that the council is approving up to \$7,000 for the replacement pole, not approving which repair estimate will be chosen.

Motion:

The mayor called for a motion, and council member Huff moved to approve the consent agenda as amended. Councilman McGuire seconded the motion. The motion passed with a unanimous vote.

B. CONSIDERATION OF ADOPTION OF A POLICY FOR REQUESTING AND HANDLING CITY ATTORNEY OPINIONS

Prompted by a request from Councilman Gregory, the mayor agreed to combine Item J with Item B. Mayor Smiley-Kaliff said that a policy for requesting and handling city attorney opinions started with a discussion he had with Texas Municipal League (TML) about an unrelated matter. He indicated that TML said that it had passed a new rule, and advised that cities probably should too, that any requests for an attorney's opinion be in writing. The mayor passed the information on to Mr. Brennan, and Mr. Brennan concurred with TML.

The mayor said he sent out emails to the council members and received several responses. He said, with Dr. McGuire's permission, he would like to read a response he sent to the councilman in answer to his specific questions. He read the email, giving his reasons for recommending a policy summarized as follows:

1. This is not a policy change; there has never been a policy in place.
2. This is a request for a policy, not a directive.
3. This applies to opinions which, according to what is taught in TML classes, are law until defined by the legislature. Even though the mayor has been vested by state law to ask directly for an opinion from the city attorney or the attorney general, it is the mayor's intention to direct any requests through the city offices to maintain the integrity of the file.
4. The company that is codifying the city's ordinances has asked for all the opinions, since they have the same effect as ordinances. In copying the documents, he found that the opinions are widely distributed throughout the city documents. This request would place all opinions in one place for future reference, preferably, numbered and dated.
5. This request was made after an extensive conversation with the city attorney concerning the difference between casual conversation and official opinions. Documentation of opinions will protect the city attorney, the city council, and the city from any E & O (Errors and Omissions) claims.
6. As an ancillary benefit, this will allow the city council, at the same time to always know what is being asked and answered. This request, in no way, alters the ability of any council member to talk to, wine and dine, or do anything else with the city attorney. It does clarify for Staff, Council, and the Mayor a procedure that will be constructive for the city's future and efficiency of operation.

City Attorney Brennan said that he heard nothing inconsistent with his conversations or discussions with the mayor.

Councilman McGuire commented that this matter is raising a much broader question than what has been relayed right here. He said what is being discussed right now is censorship, which is now being implemented in the city; and first off, censorship is not inherently bad. He said censorship drives behavior, which can be a good thing when applied judiciously. He added that everything he presents publicly in the military must first be reviewed by the Air Force to ensure that no classified information is released.

Dr. McGuire added that basic "Leadership 101" states that any time a censorship process is put in place, creative thought and innovation are automatically suppressed. He said that policy changes have occurred in the city already. What the public may not know is that the mayor reviews the council packets and makes editorial comments to the city manager before the packets are distributed to council members. Dr. McGuire made it clear, and he feels the city manager will concur, that the comments are astute, generally on the mark, and generally helpful; but they are the mayor's impression of the issue and not the unabridged impression of the city manager. He stated that the city manager can no longer call a press conference without prior approval of the mayor, which is not necessarily a bad thing; but it restricts behavior. He said the most bothersome policy for him is that city employees, if they are in the dissenting minority and have expressed their opinion to the city manager, are not permitted to put that dissent in writing and hand it to City Council.

Councilman McGuire granted that none of this is necessarily bad, but what it does do, is change his perspective of what is presented in the packets. In the past he would

have the unabridged view of the city manager, a possibility to consider the opinion of a city employee, and the opinion of the mayor. He said that gave the council three different opinions that were not funneled through one pair of glasses. Dr. McGuire said that was very advantageous; and without that, he has to be very careful with what he reads in the packet.

Council member McGuire said the initial email that went out implied that a process was going to be placed on council members, directing that all queries to the city attorney had to be passed through a similar process. He indicated that the reaction from council members was very substantial because the email implied a level of restriction on council members to pick up the phone and call the city attorney. The councilman said that the mayor responded to his return query with the email he just read, which states that his intent was not to restrict access to the city attorney. Dr. McGuire said that is not the way he took the initial email; and from the tenor of the responses from other council members, it appears he was not alone in taking that impression.

The best of all worlds, Councilman McGuire proposed, would be a return to the old system where the opinions in the packet would be strictly the unabridged work of the city manager because he would know that is what a very experienced and very intelligent city manager is recommending. He would also like an unabridged, insightful opinion from the mayor as a counterpoint where both opinions are presented to the council simultaneously. He added that he would like to return to a system where, if a city employee has a significant issue with the city manager's recommendation, and if that employee has already gone through proper channels to address the issue, that employee would be able to put the issue in writing and give it to the council. Dr. McGuire said, certainly, he does not support any restriction of the council's access to the city attorney.

Mayor Smiley-Kaliff said he wanted to make a counterpoint because he thinks it is very important when words like censorship are used. He decided to read his original memo to Mr. Steele, stressing that an opinion becomes law. The memo stated that the mayor had requested that the city attorney respond to all city inquiries in writing. He requested that the questions and responses are filed under separate cover for future reference. The mayor wrote that it is his intention, personally, even though he reserves the right as mayor to communicate directly with the city attorney, to direct and request that the city attorney ask Staff and the entire council to direct requests through his office to help maintain integrity of the opinion file. The mayor said he would also, by copy of this memo, ask that the city attorney confirm his agreement with this request. He concluded the memo with "thanking you in advance" and said that was the extent of the original memo. Again, the mayor stated, "not conversation, but the official asking of an opinion."

Councilman Howell said that, although his comments are more watered down than Dr. McGuire's, he first wants to say that; somehow for 60 years in this city, we have made it without this. He said he is interested in the city attorney's opinion, noting that he nodded earlier, confirming his agreement. Councilman Howell asked for clarification of his understanding that correspondence would go through the city manager to the city attorney and back to the city manager, then to the council so that there is a complete paper trail. Mr. Brennan said that's the way he understands it. Mr. Howell asked how Mr.

Brenan's other cities operate with this kind of thing. Mr. Brennan responded that he has not had any problems in other cities recently with this particular issue and doesn't believe his other cities have policies regarding opinions. He said that in a city with a city manager, the city manager is the conduit through which the city attorney reacts or responds. It's an efficient business way of doing things. Ordinarily, the mayor has the same prerogative to contact the city attorney about a legal opinion. Mr. Brennan added that he doesn't know of any other city that says a council member cannot do that. It just, usually, doesn't happen.

Councilman Howell said that he cannot vote on what is going to be the policy of the city with the information presented tonight. He thinks, if the council is going to do something this strong, it needs to be looked into, a policy should be written, studied, and decided on without wasting a lot of time.

Council member Huff said that, when she was teaching graduate school at Loyola University, she received one piece of advice from a fellow professor who had been teaching for years. He told her that when you write a question and get an answer, if everyone in the class understood the question, except one, then your question was "dead on." Ms. Huff said, if almost every council member read that email and got the same impact from that email, that email had the impact it was intended to have. She said that the mayor has every right to do things differently, and change can be good. Some changes take time to get used to.

Council member Huff said that one of her concerns is that the council is disenfranchising the residents. A case in point, which speaks to funneling questions, is when the agenda has *Citizens to be Heard* at the end of a meeting. It takes spontaneity away from people, who now have to sit through an entire meeting (many of them won't) to speak. Ms. Huff reminded everyone that this meeting is not for the council, not for the city manager, or the city attorney. She said it is for the residents who take the time to come to these meetings and find out what is going on with the city and how their elected officials are taking care of the business of the city. So she feels some of the changes are taking away from the citizens, and that's why she says they are being disenfranchised.

Council member Huff expressed concern that the particular issue being discussed tonight about access to the city attorney is a start to disenfranchise the council members. She has no problem with a paper trail for opinions, but not every call a council member makes to the city attorney will lead to a written opinion. She recounted that the email made no distinction of just talking to the city attorney about an issue in general that may not lead to a written opinion. Ms. Huff said the memo came across as an edict.

Councilman Gregory remarked that the mayor said the memo was a request, not a directive; however, the wording in the memo says, "...as mayor, I will direct..." He said that the idea that an opinion has the same effect as law is wrong. An opinion is an opinion. The only time an opinion has an effect as law is when a governmental agency such as the Treasury Department or the Internal Revenue hands down an opinion. That has the effect of law. An opinion from a city attorney does not have the effect of law. Mr. Gregory said that he wrote this memo to the city manager, stating that the mayor

may desire this, but he has no authority to mandate this. He said it could be put on a future agenda and discussed by Council; but at this time, it is only a request, and the council does not have to abide by it. Mr. Gregory asked the city manager to forward his response to the mayor, city attorney, and council members.

Mr. Gregory read a pointed response he received from the mayor. He said that he agrees with Mr. Howell that the idea of wanting to have an opinion trail is a good one; and that the city attorney should, at his discretion, put down any opinion he wants on paper so everybody can review it and it is on file. Mr. Gregory said that not every opinion needs to be put down on paper or funneled through the city manager, and he agrees that this should be put on a future agenda and the mayor's memo should be treated as a directive and ignored. The way the council has been doing things is adequate for the time being.

Responding to the mayor, Mr. Brennan said the rule is that, when a city attorney gives an interpretation of a city code or city ordinance or policy, it is generally considered correct or binding on the city, unless it is overruled by the city council. The city council does not have to take the advice of the city attorney. The council can reject it; but until it does, it is probably the official position of the city at that point in time. Mr. Brennan said that the attorney general, by contrast, is vested by statute to make an interpretation of laws; and until a court overrules that, it stands as a valid interpretation of the law. He explained that there is no law that says that about city attorneys; although he thinks that is the prevailing view.

Councilman Davis stated that they are talking about several issues, first of all, censorship and the mayor editorializing things written by the council. For the record, he recalled Ms. Huff doing that in the newsletter last year. Council member Huff contended that she only proofread the articles and did not edit anything. Mr. Davis said that the comment was, "other eyes seeing what is written," and that is not necessarily censorship. That has been done for some time. He addressed the comment that, "if everyone understood the question differently, the question was wrong." Mr. Davis said he did not feel the impact of the memo that other council members did, and he did not feel that Mr. Howell did either. He said that he read it and thought they were going to set up a separate file for attorney opinions so they can be found in one file. He did not read into the memo all the other things mentioned.

Secondly, Councilman Davis commented that what bothers him most is all these emails back and forth. It is absolutely silly. He emphasized that they have many important things to do in this city, for the council, including the mayor, to be writing emails back and forth like they are passing notes in study hall. He said they are not in junior high anymore, and it needs to stop. The fact that some people on the council do not like the fact that Mayor Smiley-Kaliff was elected is too bad. He was elected. They need to get on with serious business of the city, move on, and put this stuff behind them.

Councilman Howell said that his response to the mayor's letter was, "Good luck."

Council member Huff took Mr. Davis's remarks concerning her comments being made because she did not like the election of the mayor as a personal affront. Councilman Davis asked if he mentioned her name.

Mayor Smiley-Kaliff said that he agreed with every single person that had something to say tonight, with the exception of Dr. McGuire's censorship comment. He asked the council if they wanted to pull this item off the agenda, since he was the one who put it on there. Council member Huff suggested that maybe they should instruct the city manager, in conjunction with the city attorney, to draft a policy for the council's review and bring it to the council for a vote.

The mayor said due to his authorship, or his reactions to the council's reactions, things got totally out of hand. He apologized for his part in it. Councilman Davis said that this has never been a problem. Councilman Gregory clarified that, without a policy, management of any communication with the city attorney is an administrative decision.

Motion: Councilman Gregory moved to have the council come back next month with a policy to be voted on regarding how communications regarding opinions between council members and the city attorney will be managed. The mayor called for a second twice. The motion died for lack of a second. No action was taken.

C. CONSIDERATION OF OUTSOURCING THE CITY NEWSLETTER.

Mr. Steele explained the amount of work that goes into producing the city newsletter each quarter and the time and cost involved publishing it in-house. He asked the council to consider outsourcing the newsletter and referred to copies of other cities' newsletters, which are professionally done and printed in color. Mr. Steele said the only cost to the city for producing the newsletter will be postage. He said that Neighborhood News makes money from advertising. He assured the council that Neighborhood News would be encouraged to advertise Castle Hills businesses, but businesses outside the city would also advertise because Castle Hills residents do not shop or dine exclusively in Castle Hills.

Mr. Steele introduced Susan Shopp from Neighborhood News. She said Neighborhood News has been in business for about 16 years and publishes about 100 newsletters for community organizations and cities in the San Antonio area. She recalled that they published the newsletter for Castle Hills six or seven years ago. She said that she fully understands that cities want their local businesses to advertise in their newsletter and she said they are approached first and given substantial discounts to advertise.

Councilman Howell remembered when Neighborhood News published the city's newsletter and said they did a fantastic job. Council member Huff expressed concern that the articles were difficult to see among the ads. Councilman Gregory recalled that he was the one promoting Neighborhood News several years ago, and it was strongly objected to for several reasons. One reason was the advertising would have businesses inside the city competing with the businesses in other cities; and in this economy, Mr. Gregory said that is probably a legitimate argument. He thought he remembered that the city did not pay for postage. Ms. Shopp answered that there are different options for paying postage. It depends on the percentage of advertising.

Councilman Howell indicated that they, obviously, should look at this financially, but

this sample newsletter is very different from back then, very similar to what we do now. This is 4-color and glossy, the whole works. Council member Huff voiced her objection to the amount of advertising on each page. Ms. Shopp countered with the option of no advertising. She said Neighborhood News can still bill the city at the lowest rate in the area if no advertising is used.

Motion: At the mayor's suggestion, Councilman Howell moved to direct the city manager to sit down with Neighborhood News and come up with a proposal reflecting a newsletter cost with advertising and a newsletter cost without advertising. Council member Huff seconded the motion. The motion carried unanimously.

D. CONSIDER A RESOLUTION REQUIRING THAT NO BUSINESS ADVERTISEMENT, DISPLAY OR PROMOTION OF ANY BUSINESS OR FIRM IN WHICH A COUNCIL MEMBER MAY HAVE AN INTEREST IN BE ALLOWED ON ANY CITY PUBLICATION OR WEBSITE

The mayor deferred to Councilman Gregory, who requested this item be put on the agenda. Mr. Gregory said this piggybacks the code that says what council members can and can't do with agenda items in terms of business affinity. He said that, whereas it is not illegal for anyone to advertise anything they want to, he thinks it is highly inappropriate for any council member to promote their own business or a business in which they are involved, in a city sponsored and paid for publication. When the mayor asked for an example, Mr. Gregory indicated that he didn't need an example that it is plain on what he has said.

A question regarding the legality of the issue, presented to Mr. Brennan, prompted discussion regarding what can be construed as conflict of interest. Councilman McGuire pointed out that links, such as the city's link to *Fiesta Castle Hills* website, are not advertisements. Mr. Steele confirmed that there is no advertising on the city's website. Mr. Brennan said that, as long as everyone is treated equally, there is no problem with advertising.

Mr. Steele said he was unaware of any links on the website, other than Fiesta Castle Hills. Councilman McGuire suggested the city add more links to benefit the citizenry and to avoid any impropriety. The mayor said this is being discussed by the website committee. He clarified that there is no advertising, that it is just a sponsorship and has been going on for 3 plus years. Discussion ended and Councilman Gregory decided to withdraw the agenda item and bring it back next month. No action was taken.

(Mayor Smiley-Kaliff called for a break at 8:20 p.m. The council reconvened at 8:25 p.m.)

E. CONSIDERATION OF AMENDMENTS TO THE FY 2011 BUDGET AND THE PROPOSED FY 2012 CRIME CONTROL AND PREVENTION DISTRICT BUDGET

Motion: With no discussion Councilman Gregory moved to approve amendments to the FY 2011 budget and the proposed FY 2012 Crime Control and Prevention District budget.
Council member McGuire seconded the motion. The motion passed unanimously.

F. CONSIDERATION AND RECOMMENDATION OF APPOINTMENTS BY THE

MAYOR FOR A COMMITTEE TO REVIEW EXISTING SEWER & PLUMBING ORDINANCES AND THE POSSIBILITY OF RECOMMENDATIONS BY THE COMMITTEE ON A NEW ORDINANCE ADDRESSING RESIDENTIAL LIQUID & SOLID WASTE DISCHARGE

Councilman McGuire explained that the current ordinance, since the 1960s, requires connection to a sewer system if the property is within 200' of a sewer main. He proposed that the ordinance needs to be written with more clarity, include methods to ensure city septic tanks are in compliance with Bexar County regulations, and include what a reasonable person would consider an exception to the mandate to connect to the sewer system.

The mayor explained that both the sewer ordinance and the plumbing ordinance will need to be reviewed. He proposed that the committee come back to the council in February with preliminary recommendations to be voted on. He indicated the action item implementing those recommendations will be voted on in March. The mayor recommended Joe Izbrand as chairman, Marc Schnall, Dorothy Harle, Juan Solis, Jana Baker, and Steve McGuire. He said Mr. McGuire will be the council liaison.

Motion: Council member Davis moved to appoint the individuals recommended by Mayor Smiley-Kaliff to a committee to review existing sewer & plumbing ordinances and the possibility of recommendations by the committee on a new ordinance addressing Residential Liquid & Solid Waste Discharge. Seconded by council member Huff, the motion passed with a unanimous vote.

G. DISCUSSION OF PROPOSAL TO BAN U-TURNS ON MILITARY FROM 410 TO WEST AVENUE

Councilman McGuire described a near accident he witnessed when a vehicle made a u-turn on Military at Lemonwood. He thought that allowing a u-turn at that intersection should be put on the agenda again for discussion.

Mr. Steele said that he talked to TxDOT, and the response was that TxDOT builds safe highways, and it is inherent for drivers to drive safely on them. He recounted that the u-turn at that intersection is protected with a left turn signal. He said Castle Hills has jurisdiction to ban u-turns, but will require cooperation from TxDOT for the signage. He said TxDOT said the problem with doing this is that it will condemn the residents on streets north of the loop with y-turns being made, much as what happened on Gardenview. Mr. Steele said he is researching installation of delineators at Gardenview where most drivers are still making unprotected u-turns.

Chief Davis reported a total of 8 accidents on Military in 1400 to 1600 block area since January. He said he doesn't know what to do. He does not have the manpower to police the area full time.

Councilman Howell reported his one-man survey and counted 34 u-turns between 5:00 and 6:00 p.m. today at Military and Lemonwood. He said he talked to one resident who had a car run across her front yard to the alley to make the turn and left tire tracks in her yard. She has three young children. Mr. Howell said it makes sense for the council to

react before something happens.

Captain Davis said that he researched the accidents the chief had reported, and there were no accidents caused by u-turns out of the eight he recalled.

Joe Rodriguez of 110 Gardenview commented that the council needs to reevaluate the employees who are assigned to work with TxDOT.

Bill Schluter of 112 Lemonwood said his street has become a thoroughfare since the triangle was installed at Gardenview. He appealed to the council to think long and hard before eliminating the u-turn on Northwest Military.

Council members discussed various options to present to TxDOT. No action was taken.

H. CONSIDER ADOPTION OF AN ORDINANCE DESCRIBING THE AUTHORITY, DUTIES, AND RESPONSIBILITIES OF THE EDITOR OF THE CASTLE HILLS REPORTER OR ANY ITEM PUBLISHED BY THE CITY OF CASTLE HILLS

Councilman Gregory described a problem he had for the first time in nine years when he submitted his article to the newsletter. He remarked that the mayor displayed outrageous behavior in the way he communicated changes to his article and the deadline to get it in for the newsletter. He read the emails that the mayor sent him, commenting that again the mayor is censoring what he can write. As a result of this problem, Mr. Gregory proposed an ordinance is needed to appoint the city manager as editor, or in lieu of the city manager, the assistant city manager. He should have the right to review it, but not have any say over what an elected member of council writes. If he finds something inappropriate or wrong, he should immediately send it to the city attorney for review.

Mayor Smiley-Kaliff informed everyone that on May 16, 2000, the mayor and the mayor pro-tem were appointed as publishers of the city newsletter. He said that he sent everything from Mr. Gregory over to the city attorney. He said he was not going to share the attorney's responses to him, but there was an advocate for a vote; and the city has been sued for that in the past. The mayor said he did not change a word of Mr. Gregory's article, but he did make some pointed suggestions. He added that there was a chance of libel; and that was omitted, he assumed, by Mr. Gregory.

Discussion regarding the difference between a publisher and an editor led to a question from council member Huff as to whether an ordinance is needed. She said they have a system that has been working. There is a new mayor, and maybe this is a steep learning curve. She said she is not sure we should jump to an ordinance that delineates everything so specifically. That may turn around to bite us.

A general concurrence of council members led to Councilman Gregory withdrawing this item from the agenda. No action was taken.

I. CONSIDER AND ACT UPON DIRECTING THE CITY MANAGER TO PREPARE PERFORMANCE EVALUATION FORMS AND TO DEVELOP A MERIT BASED HOURLY AND SALARY INCREASE PROGRAM

Council member Huff said that this is something that has been near and dear to her heart for a very long time. She thinks it is critical that employees have a good idea of how their performance is viewed by their managers, for managers and supervisors to evaluate an employee's performance and coach and mentor them to do better, and to have a way, if the employee is not improving performance or attitude, to move them on out of the organization. Ms. Huff said she believes in merit based increases.

Council member Huff indicated, in addition, the council needs to set goals and objectives for the one individual that they manage, the city manager. This would be the first step, to set a goal and objective for the city manager to develop performance evaluations, to develop a merit based increase program for both hourly and salaried employees, and to also train supervisors how to use the performance evaluation system. Ms. Huff said it is to be in place by the next budget session. In the meantime, she wants a report to the council every 60 days on the status of both programs.

Motion: Council member Huff moved to direct the city manager to prepare performance evaluation forms and to develop a merit based hourly and salary increase program. Councilman Gregory seconded the motion, and the mayor asked for discussion.

Councilman Davis commented that they now have job descriptions and effective data to develop tools for performance evaluations. It is a way to instruct employees on what is expected in their job and how to perform it better.

Councilman Howell confirmed with Mr. Steele that he was clear on what the council was directing him to do.

Chief Davis asked where the job descriptions are. Mr. Steele explained that staff wrote job descriptions and turned them over to the Job Description Committee, but they were never returned. Chief Davis said he was not comfortable with the job descriptions he has as far as using them for performance evaluations. The mayor said they would have to be put together before Staff can proceed. He asked Ms. Huff if she can amend her motion to include job descriptions.

Motion: Council member Huff moved to amend her previous motion, to direct the city manager to prepare performance evaluation forms and to develop a merit based hourly and salary increase program, to include preparation of job descriptions. Councilman Howell seconded the motion. The motion passed unanimously. The mayor asked for a vote on the original motion. The original motion passed unanimously.

J. Item J was combined with Item B earlier in the meeting.

V. CITIZENS TO BE HEARD

Terry Carter of 125 South Winston Lane suggested that the city look into organic garbage pickup and "Go Green" recycling.

VIII. ADJOURNMENT

Motion: Council member Huff moved to adjourn the meeting at 9:35 p.m.. Councilman Gregory seconded the motion. The motion passed unanimously.

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

APPROVED: _____
Bruce Smiley-Kaliff, Mayor

ATTEST: _____
Linda Gill, City Secretary