

CITY OF CASTLE HILLS
REGULAR CITY COUNCIL MEETING
MINUTES OF DECEMBER 8, 2009

The City Council of the City of Castle Hills convened at 6:00 p.m. on the 8th day of December, 2009, in the Council Chambers of the City of Castle Hills, 209 Lemonwood Drive, Castle Hills, Texas.

The attendance roster included Jim Poage, Betty Howard, Pamala Farris, Martha von Nimitz, Sandie Martin, L. David Givler, Jack Joyce, Bill and Helen Schluter, Marc Schnall, Frank Paul, Beverly Rollins, Katherine Joyce, Peggy Stevens, LaVerne Japhet, Bill Martin, Gilbert Cruz, Patricia Cruz, Valerie Douthit, Joni Simon, John Poteet, Shirley Poteet, Baylor Eidelbach, Betty L. Chandler, Susan Kilgore, and Pat Butler.

I. OPENING

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

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, Fire Chief Jerry Riedel, and Public Works Director Rick Harada.

- B. INVOCATION – Bill Martin
- C. PLEDGE OF ALLEGIANCE – LaVerne Japhet
- D. CONSIDERATION OF THE MINUTES OF THE CITY COUNCIL MEETING HELD NOVEMBER 10, 2009.

Motion: Councilman Smiley-Kaliff moved to approve the minutes of the city council meeting held November 10, 2009. Councilman Gregory seconded the motion. The motion passed unanimously.

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

Responding to questions from council members, Ms. Hoyl said that department heads have been trying to keep expenses to a minimum. She indicated that the funds set aside in Capital Expenditures would be transferred to the *Major Purchases of Vehicles Fund* by December 31, 2009. Chief Riedel explained that an overage in the Fire Department's equipment maintenance is offset by reimbursement from insurance reflected in the income portion of the report.

Motion: Councilman McGuire moved to approve the November, 2009, Treasurer's Report. Council member Gregory seconded the motion. The motion passed unanimously.

II. ANNOUNCEMENTS

Council member Huff wished everyone a Merry Christmas and Happy Hanukah.

- A. Mayor Harper recognized the Woman's Club of Castle Hills for its 52 years of service to the Castle Hills community and presented a plaque of appreciation to President Katherine Joyce.
- B. The presentation of a watch and resolution recognizing Police Officer Bret Wosnig was postponed until January.
- C. Fire Chief Riedel presented Mark Finch with a framed resolution, commending him for 15 years of loyal and dedicated service as a firefighter and emergency medical technician. The chief said that Mr. Finch was leaving to take a Captain's position in the City of Boerne.

Ms. Hoyl introduced new employees, Matthew Edwards, Firefighter/EMT, and Chastity Park, Police Officer.

III. CITIZENS TO BE HEARD

Jim Poage of 117 Fox Hall Lane referred the council to a document he obtained through the Freedom of Information Act earlier this year. He appealed to the council for help in resolving a problem he has endured for two years from his neighbor, who uses city resources to engage in what he believes is a personal vendetta against him.

Former Mayor Joyce Buie of 222 Carolwood thanked Debbie Reeves and her volunteer organization for the successful Halloween party this year, as well as several area businesses that contributed to the party. She added her thanks to the volunteer residents who helped the Red Ribbon Corps place 60,000 red ribbons at Fort Sam Houston National Cemetery this year.

Valerie Douthit of 108 Fox Hall Cove commented that she has had no response from a report she made six weeks ago about two police officers whom she thought acted more aggressively than they needed to.

IV. REPORTS

- Interim City Manager Rita Hoyl gave the November, 2009, Investment Report, Building and Health Inspections Report, and the Code Enforcement Activity Report. She said that she had Ms. Douthit's report and would review it by the end of the week.

- Police Chief Donny Davis reported on the November, 2009, Police Activity and STEP program.
- Fire Chief Jerry Riedel presented the November, 2009, Fire Incident and Activity Report.
- Public Works Director Harada gave the November, 2009, Activity Report for Public Works.
- Court Administrator Wendy Reyes presented the Municipal Court Activity Report for November, 2009.

V. PUBLIC HEARING

A. PUBLIC HEARING AND COMMENTS ON THE PROPOSED ORDINANCE ESTABLISHING A DRAINAGE UTILITY.

Interim City Manager Hoyl explained that a resolution was passed by City Council to establish a drainage utility, the ordinance was published in the newspaper, and the last step is the public hearing before adoption of the ordinance.

Mayor Harper opened the public hearing and invited the public to come forward with their comments. No one responded, and the public hearing was closed.

B. PUBLIC HEARING AND COMMENTS ON THE PROPOSED ORDINANCE ESTABLISHING STORM WATER FEES.

Ms. Hoyl explained that the same process as the drainage utility was followed to establish the storm water fees, and the public hearing is to allow comments from the public before adoption of the ordinance.

Mayor Harper explained that there would be no storm water fees passed on to residents living in single family homes and then opened the public hearing to comments from the public. Nobody came forward to speak, and the public hearing was closed.

VI. OLD BUSINESS

A. CONSIDER AND ACT UPON AN ORDINANCE AMENDING CHAPTER 13, GARBAGE & REFUSE, ADDRESSING SOLID WASTE CONTAINERS AND REGULATIONS.

Ms. Hoyl briefly summarized the amendments to Chapter 13 and said that the changes will become effective in March, 2010. She said the ordinance provides a definition of "trash" and addresses the type of containers that can be used.

Motion: A motion was made by Councilman Smiley-Kaliff to pass the ordinance amending Chapter 13, Garbage & Refuse, and addressing solid waste containers and regulations. Council member Huff seconded the motion. The motion carried unanimously. The ordinance as passed and approved is captioned as follows:

ORDINANCE NO. 1037

AN ORDINANCE AMENDING CHAPTER 13, GARBAGE AND REFUSE, BY ESTABLISHING NEW RULES FOR GARBAGE CONTAINERS AND REGULATIONS.

(A copy of Ordinance No. 1037 is attached and made a part of the Minutes)

VII. NEW BUSINESS

A. CONSIDER AND ACT UPON A RESOLUTION HONORING BRET WOSNIG UPON HIS RETIREMENT.

Mayor Harper said that passage and presentation of the resolution honoring Bret Wosnig was postponed until the January meeting. No action was taken.

B. CONSIDER AND ACT UPON A RESOLUTION HONORING MARK FINCH FOR 15 YEARS OF EMPLOYMENT.

Motion: Council member Huff moved to adopt a resolution honoring Mark Finch for 15 years of loyal service to the City of Castle Hills. Council member Davis seconded the motion. The motion passed unanimously. The resolution as passed is captioned as follows:

RESOLUTION NO. 0912-01

A RESOLUTION COMMENDING MARK FINCH ON 15 YEARS OF LOYAL EMPLOYMENT AS FIREFIGHTER OF THE CASTLE HILLS FIRE DEPARTMENT AND HONORING MARK FINCH FOR 15 YEARS OF FAITHFUL AND DEDICATED SERVICE TO THE RESIDENTS OF THE CITY OF CASTLE HILLS.

(A copy of Resolution No. 0912-01 is attached and made a part of the minutes)

C. CONSIDER AND ACT UPON AN ORDINANCE ESTABLISHING A DRAINAGE UTILITY.

Motion: Councilman Smiley-Kaliff moved to pass the ordinance establishing a drainage utility. Seconded by Councilman Gregory, the motion carried unanimously. The ordinance as passed and approved is captioned as follows:

ORDINANCE NO. 1038

AN ORDINANCE REPEALING TITLE SEVEN (7) AND CHAPTER SEVEN (7) ELECTIONS OF THE CODE OF ORDINANCES, AND ADOPTING AN ORDINANCE ESTABLISHING A NEW CHAPTER SEVEN (7) OF THE CODE OF ORDINANCES TITLED STORM DRAINAGE, DECLARING THE DRAINAGE OF THE CITY TO BE A PUBLIC UTILITY, CREATING A STORMWATER FUND, STORMWATER DEVELOPMENT FEE AND MONTHLY STORMWATER FEE, PROHIBITING CERTAIN DISCHARGES INTO THE MUNICIPAL STORM DRAINAGE SYSTEM AND ESTABLISHING STORMWATER COMPLIANCE FOR CONSTRUCTION ACTIVITY.

(A copy of Ordinance No. 1038 is attached and made a part of the Minutes)

- D. CONSIDER AND ACT UPON AN ORDINANCE ESTABLISHING STORMWATER FEES.

Motion: Council member Gregory moved to approve the ordinance establishing stormwater fees. Councilman Smiley-Kaliff seconded the motion. The motion passed unanimously. The ordinance as passed and approved is captioned as follows:

ORDINANCE NO. 1039

AN ORDINANCE ADOPTING ARTICLE V OF CHAPTER SEVEN (7), STORM DRAINAGE, OF THE CODE OF ORDINANCES TO CREATE STORMWATER FEES.

(A copy of Ordinance No. 1039 is attached and made a part of the Minutes)

- E. CONSIDER AND ACT UPON AN ORDINANCE AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE AN INTERLOCAL AGREEMENT BETWEEN SAWS AND THE CITY OF CASTLE HILLS FOR STORMWATER COLLECTION FEES AND TECHNICAL SERVICES AND APPROVING THE AGREEMENT.

Motion: Council member Gregory moved to approve the ordinance authorizing the interim city manager to execute an interlocal agreement with SAWS for collection of stormwater fees and technical services. Councilman Davis seconded the motion. The motion passed unanimously. The ordinance as passed and approved is captioned as follows:

ORDINANCE NO. 1036

AN ORDINANCE AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE AN INTERLOCAL AGREEMENT BETWEEN SAWS AND THE CITY OF CASTLE HILLS FOR STORMWATER COLLECTION FEES AND TECHNICAL SERVICES AND APPROVING THE AGREEMENT.

(A copy of Ordinance No. 1036 is attached and made a part of the Minutes)

- F. CONSIDER AND ACT UPON THE RECOMMENDATIONS OF THE ZONING COMMISSION ON A REQUEST TO AMEND 31.1703 TO ADD THE USE, "SPECIAL EVENT FACILITY."

Zoning Commission Chairman Marc Schnall explained that the Zoning Commission voted unanimously to recommend denying the request to add the use, "Special Event Facility" because the current city ordinance provides the use through issuance of a Special Use Permit approved by City Council.

Motion: Council member Smiley-Kaliff moved to accept and approve the recommendation of the Zoning Commission to deny the addition of "Special Event Facility" to Chapter 31.1703. Councilman Davis seconded the motion. The motion passed unanimously.

- G. CONSIDER AND ACT UPON THE RECOMMENDATIONS OF THE ZONING COMMISSION ON A REQUEST FOR A SPECIAL USE PERMIT TO UTILIZE THE PROPERTY AT 212 LEMONWOOD DRIVE FOR FASHION SHOWS, TRAINING CENTER AND SEMINARS.

Zoning Commission Chairman Marc Schnall explained that the Zoning Commission voted unanimously to deny the request for a Special Use Permit, stating that one of the reasons was that the layout of the property would not allow adequate access for fire trucks if needed. He added that having enough parking spaces was an issue as well.

Councilman Smiley-Kaliff said that he would like to postpone an immediate decision until March to allow City Council and the principals

involved to get as much information as they possibly can to make what is a very important, long term decision.

Council member Huff said that she didn't know why, but it seemed like an odd request to her. She said that it's as though some kind of inside information is going on, and somebody should have prepared for this all along. She said that she thought they have all the information right now to make a decision on the request as it stands. If the applicant wishes to pursue it further, based on discussions that the applicant wishes to take on her own, that's fine; but it seemed uncomfortable to her, the applicant being coached by the city council on how to come back and present this issue.

Councilman Smiley-Kaliff responded that he heard what council member Huff was saying, but he wanted to clarify something. He confirmed that council member Huff was right, that it is his business, and he knows about the issue. He said that, when it was first brought in, he thought it was something that would be the best and highest land use. He offered to recuse himself from the discussion in March. He compared it to The Lodge and said it was a phenomenal, unique treasure to the city, and he is willing to assist a resident to do everything possible to accomplish something that is going to benefit the city and benefit the resident as well. He said that he would like to postpone the vote until March, which is 60-90 days away, to allow Ms. Howard to repackage her plan and bring it back to the council without having to spend \$400.00 and start the whole process over in six months.

Mayor Harper spoke very highly of Ms. Howard and her late husband, who has done much for the city. She agreed that the Carriage House is unique, but it is in a residential area. She said that she believed it was spot zoning, and she was against bringing a commercial aspect into a residential area.

Councilman Davis pointed out that a quarter of the property is next to commercial property. The property is not surrounded by residences.

Councilman Gregory remarked that the correct step is to vote tonight. He said the applicant can get her information in order and go back to the Zoning Commission. He stated that the commission should make the decision.

Councilman McGuire commented that the council should not supersede the Zoning Commission's decision. He suggested that the applicant remove the item from the agenda.

Mr. Schnall read the City Code regarding the applicant going back to the Zoning Commission. After brief consideration, the applicant withdrew her application. No action was taken.

H. CONSIDER AND ACT UPON AN ORDINANCE ESTABLISHING ILLICIT DISCHARGE RESTRICTIONS.

Motion: Council member Huff moved to approve an ordinance establishing illicit discharge restrictions. Councilman Davis seconded the motion. The motion passed unanimously. The ordinance as passed and approved is captioned as follows:

ORDINANCE NO. 1040

AN ORDINANCE ESTABLISHING ILLICIT DISCHARGE RESTRICTIONS IN THE CITY OF CASTLE HILLS, TEXAS PURSUANT TO U.S. ENVIRONMENTAL PROTECTION AGENCY GUIDELINES AND SUBSEQUENTLY ADOPTED TEXAS COMMISSION ON ENVIRONMENTAL QUALITY STANDARDS, AND PROVIDING A PENALTY UPON CONVICTION OF A VIOLATION OF THIS SECTION IN AN AMOUNT NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500.00) PER VIOLATION PER DAY AND/OR IMPRISONMENT FOR A PERIOD OF TIME NOT TO EXCEED 30 DAYS PER VIOLATION.

(A copy of Ordinance No. 1040 is attached and made a part of the Minutes)

I. CONSIDER AND ACT UPON AN ORDINANCE REPEALING CHAPTER 16 MUNICIPAL COURT AND ADOPTING A NEW CHAPTER 16.

Ms. Hoyl explained that Chapter 16 of the City Code has sections that are extremely outdated and redundant. She said the new ordinance brings the chapter up to date and simplifies it.

Motion: Council member Gregory moved to adopt the ordinance repealing the current Chapter 16 and adopting a new Chapter 16. Council member Huff seconded the motion. The motion carried unanimously. The ordinance as passed and approved is captioned as follows:

ORDINANCE NO. 1041

AN ORDINANCE REPEALING THE EXISTING CHAPTER 16: MUNICIPAL COURT OF THE CODE OF ORDINANCES AND ADOPTING A NEW CHAPTER 16: MUNICIPAL COURT OF THE CODE OF ORDINANCES.

(A copy of Ordinance No. 1041 is attached and made a part of the Minutes)

Mayor Harper announced a break at 7:30 p.m. The council reconvened at 7:45 p.m.

- J. CONSIDER AND ACT UPON AN ORDINANCE AMENDING CHAPTER 25 TRAFFIC & PARKING TO ADD A YIELD SIGN AT THE INTERSECTION OF OAK ROYAL AND WICKFORD WAY.

Motion: Council member Smiley-Kaliff moved to approve the ordinance amending Chapter 25 Traffic & Parking to add a yield sign at the intersection of Oak Royal and Wickford Way.

Council member Huff asked if a traffic study was done and if residents in the area were contacted. Ms. Hoyl said that a traffic study could be done, if the council wanted. Council member Huff said that she didn't think Oak Royal was a cut-through street. She said that drivers need to know the city. She indicated that she had a hard time believing a yield sign would help and was reluctant to add signs. Police Chief Davis said that he did not do a traffic study, but it would only show the number of cars going through that intersection. His opinion is that Oak Royal is a cut-through that developed when Loop 410 was under construction.

Councilman Smiley-Kaliff withdrew his motion. The item died for lack of a motion.

- K. CONSIDER AND ACT UPON AN ORDINANCE AMENDING CHAPTER 2 ADMINISTRATION BY ADOPTING A NEW SECTION TITLED INDEMNIFICATION OF CITY OFFICERS AND EMPLOYEES.

City Attorney Brenan explained that, if an officer or employee or board member of the city gets sued for an act done in good faith and within the scope of his authority, the city will indemnify and provide legal defense against any court costs, expenses, and attorney's fees.

Councilman Smiley-Kaliff recommended that TML be contacted to make sure the city has coverage. Mr. Brenan said that TML does not cover land use issues and some other issues. He confirmed that there is no state statute that covers cities regarding this issue. Councilman McGuire said people cannot be expected to volunteer if they are putting themselves at financial risk.

Council member Gregory commented that this ordinance is the first thing to do, then take care of insurance. Mayor Harper suggested that they pass the ordinance now and look at insurance coverage that will fill in any gaps. Then the ordinance can be amended or repealed as needed.

City Prosecutor Susan Kilgore of 110 Sheffield encouraged insertion of the word civil along with the word criminal in the ordinance.

Motion: Council member Huff made a motion to pass an ordinance amending Chapter 2 Administration by adopting a new Section titled "Indemnification of City Officers and Employees" and to insert the word civil in addition to the word criminal, to read, "civil and criminal." Councilman Davis seconded the motion. The motion passed unanimously. The ordinance as passed and approved is captioned as follows:

ORDINANCE NO. 1042

AN ORDINANCE AMENDING CHAPTER 2 ADMINISTRATION BY PROVIDING FOR THE INDEMNIFICATION AND LEGAL DEFENSE OF THE OFFICERS AND EMPLOYEES OF THE CITY AGAINST ANY COST, LOSS, OR EXPENSE, INCLUDING COURT COSTS AND ATTORNEY'S FEES, ARISING OUT OF ANY ACT OR ACTION OF SUCH PERSON UNDERTAKEN IN GOOD FAITH DURING THE DISCHARGE OF THAT PERSON'S OFFICIAL DUTIES AND COMMITTED WITHIN THE SCOPE OF SUCH PERSON'S AUTHORITY.

(A copy of Ordinance No. 1042 is attached and made a part of the Minutes)

- L. CONSIDER AND ACT UPON AN ORDINANCE APPROVING THE CITY OF CASTLE HILLS CERTIFIED TAX ROLL FOR THE YEAR 2009.

Motion: Councilman Smiley-Kaliff moved to adopt an ordinance approving the City of Castle Hills Certified Tax Roll for the year 2009. Seconded by council member McGuire, the motion carried unanimously. The ordinance as passed and approved is captioned as follows:

ORDINANCE NO. 1043

AN ORDINANCE APPROVING THE TAX ROLL OF THE CITY OF CASTLE HILLS, TEXAS FOR THE YEAR 2009.

(A copy of Ordinance No. 1043 is attached and made a part of the Minutes)

- M. CONSIDER AND ACT UPON AMENDMENTS TO THE CRIME CONTROL & PREVENTION DISTRICT FY 2010 BUDGET.

Motion: Councilman Gregory moved to amend the Crime Control and Prevention District FY 2010 Budget to increase the budget line item for Dispatch Upgrades to \$210,000. Councilman Davis seconded the motion. The motion passed unanimously.

N. CONSIDER AND ACT UPON CASTING A VOTE FOR A VIA BOARD OF TRUSTEES MEMBER TO SERVE FOR THE PERIOD OF JANUARY 2010 THROUGH DECEMBER 2011 TO REPRESENT THE VIA SUBURBAN CITIES.

Councilman Davis supported a vote for Steve Allison. Councilman Smiley-Kaliff supported voting for Mike McGlone.

Motion: Councilman Davis moved to cast a vote for Steve Allison as a VIA Board of Trustees member to serve for the period of January 2010 through December 2011 to represent the VIA suburban cities. Council member Gregory seconded the motion. The motion carried with a vote of 3 to 1. Council member Smiley-Kaliff cast the opposing vote. Councilman McGuire abstained from voting.

O. CONSIDER AND ACT UPON A RESOLUTION CASTING FIVE VOTES IN THE BEXAR APPRAISAL DISTRICT BOARD OF DIRECTORS ELECTION.

Councilman Gregory recommended Bill Keil, and Councilman Smiley-Kaliff indicated his support for Helen Dutmer.

Motion: Councilman Smiley-Kaliff moved to cast all 5 votes in the Bexar Appraisal District election for Helen Dutmer. Council member Huff seconded the motion. The motion carried with a vote of 4 in favor and 1 opposed, with Councilman Gregory casting the opposing vote. The resolution as passed is captioned as follows:

RESOLUTION NO. 0912-03

A RESOLUTION CASTING CITY OF CASTLE HILLS
VOTES IN THE BEXAR APPRAISAL DISTRICT
BOARD OF DIRECTORS ELECTION FOR 2010-2011

(A copy of Resolution No. 0912-03 is attached and made a part of the minutes)

VIII. ADJOURNMENT

Mayor Harper adjourned the meeting at 8:25 p.m.

These minutes were approved on the 12th day of January, 2010.

APPROVED:

Marcy Harper, Mayor

ATTEST:

Linda Gill, City Secretary