

CITY OF OVILLA MINUTES
Monday, 26 October 2009
Regular City Council Meeting
105 S. Cockrell Hill Road, Ovilla, TX 75154

Mayor Vansyckle called a Regular Council Meeting of the Ovilla City Council to order at 7:05 P.M. with the following City Council Members present:

Bill Vansyckle	Mayor
Tom Leverentz	Mayor Pro-Tem, Place 1
Michael Dickey	Council Member, Place 2
Jo Ann Graham	Council Member, Place 3
James Wade	Council Member, Place 5

Absent	Doug Hunt	Council Member, Place 4
--------	-----------	-------------------------

City Administrator Randy Whiteman and various department-head staff members were also present.

Nick Harris, Ovilla Road Baptist Church gave the Invocation.
Mayor Pro-Tem Leverentz led the Pledge of Allegiance.

COMMENTS, PRESENTATIONS, REPORTS, AND APPOINTMENTS:

- Pastor Nick Harris offered a brief summary about Ovilla Road Baptist Church.
- Ms Norma Epstein introduced the *Sassy Seniors Dance Troup* and explained that each year they collect donations to support the fire and police departments alternatively. This year the Fire Department was the recipient of \$1,000.

CITIZENS COMMENTS:

- Mr. Charlie Morton announced he was the representative accepting applications for Vet Appreciation to place a monument in Heritage Park to honor those that served or are currently serving in any branch of service. He asked that the City Secretary place the notice on the city's website.
- Ms Dani Muckleroy shared concerns about the need to purchase another police vehicle and the recent tree trimming performed by the company working for our electric provider.

DEPARTMENTAL REPORTS:

- **Police Department** Chief Mike Moon
 - **September 2009 Activity Report**
 - Chief Moon answered responded to Council regarding house checks and alarm fees.
- **Fire Department** Chief Donnie Pickard
 - **September 2009 Activity Report:**
 - Council Member Wade complimented Chief Pickard and his staff for Ovilla's great response times.
 - Chief Pickard advised everyone that Mr. Porter, a retired fire chief had passed away. Mr. Porter was a relative of Chief Pickard.
 - Chief Pickard announced plans for the upcoming *Halloween for Children* at the Fire Department.

- **Public Works** PW Director Jason Robinson
 - **September 2009 Activity Report:**
 - Council and Director Robinson discussed correcting Cockrell Hill and Silverwood Drive drainage ditch issues and department plans to help prevent and resolve future problems.
- **Finance Department** City Accountant Sharon Jungman
 - **September 2009 Municipal Court Report**
 - Ms Jungman advised Council that the court collections decreased 3.5% YTD from last year.
 - Ms Jungman complimented Mayor on the hanging of pictures in the Council Chamber room.
- **Administration** CA Randy Whiteman
 - **Inquiry Log for September 2009:** no comments.

PUBLIC HEARINGS:

None

CONSENT ITEMS:

- Minutes of the Regular Council Meeting 12 August 2009.
- Financial Transactions during September 2009.

Mayor Pro-Tem Leverentz made a motion that Council approve the consent items as presented. Council Member Graham seconded the motion.

VOTE: The motion carried unanimously.

INDIVIDUAL CONSIDERATION:

Discussion/Action – Consider approval for the purchase of one police vehicle complete with equipment package installed from Copstuff (state contract) in the amount of \$34,580.

Chief Mike Moon addressed Council and made a correction that the police department actually chose to recommend another vendor, Professional Safety Systems, at a lower quote of \$33,395. Council Member Graham voiced concerns of the genuine necessity for another squad and inquired if Chief Moon could provide detailed documentation of a vehicle maintenance log. Chief Moon gave reason of his department's need for another vehicle and advised that employee Jimmy Bryan kept detailed vehicle maintenance records.

Mayor Pro-Tem Leverentz made a motion that Council approve the purchase of one turnkey package police vehicle from Professional Safety Systems in the amount of \$33,395. Council Member Dickey seconded the motion.

VOTE: The motion carried unanimously.

Public Hearing and Discussion – A proposed Ordinance for property development on the installation and use of wind energy systems within the City of Ovilla.

Mayor Vansyckle opened the public hearing at 7:58 P.M.

Mayor Vansyckle asked for those in favor to come forward.

There was none.

Mayor Vansyckle ask for those opposed to come forward.

1. Mr. Don Ivory stood at the podium, advised Council he was a mechanical engineer and that he had visited the Planning and Zoning Commission meeting the week prior and had concerns regarding specifics in the proposed ordinance, i.e.: height restrictions and noise levels. Mr. Ivory stated he felt the confines of the ordinance were too restrictive.

Mayor Vansyckle closed the public hearing at 8:12 P.M.

Discussion/Action – Consider a proposed Ordinance and recommendation from the Planning & Zoning Commission regarding property development on the installation and use of wind energy systems within the City of Ovilla.

Council Member Graham was appreciative of the comments of Mr. Ivory and shared the same concerns. Mayor Pro-Tem Leverentz stated he like the ordinance as it was written.

Council Member Dickey made a motion to table this item for further review.

Council Member Graham seconded the motion.

VOTE: The motion carried unanimously. Item was tabled.

Public Hearing and Discussion – A proposed Ordinance for the drilling or re-entering a well for the purposes of oil or gas within the City of Ovilla.

Mayor Vansyckle opened the public hearing at 8:13 P.M.

Mayor Vansyckle asked for those in favor to come forward.

There was none.

Mayor Vansyckle ask for those opposed to come forward.

1. Ms Dani Muckleroy voiced opposition for any drilling or reentering a well for oil or gas.

Mayor Vansyckle closed the public hearing at 8:15 P.M.

Discussion/Action – Consider a proposed Ordinance and recommendation from the Planning & Zoning Commission regarding the drilling or re-entering a well for the purposes of oil or gas within the City of Ovilla.

CA Randy Whiteman and Council highlighted specifics in the ordinance and all agreed one needed to be in place in the event an applicant came to Ovilla.

Mayor Pro-Tem Leverentz made a motion that Council approve this ordinance regarding the drilling or re-entering a well for the purposes of oil or gas within the city of Ovilla as presented.

Council Member Graham seconded the motion.

VOTE: The motion carried unanimously.

Public Hearing and Discussion – A proposed Ordinance establishing criteria and regulation for the preservation of trees.

Mayor Vansyckle opened the public hearing at 8:25 P.M.

Mayor Vansyckle asked for those in favor to come forward.

1. Ms. Dani Muckleroy made a comment that this would protect our trees from new development.
2. Mr. Paul Nelson questioned whether this would protect trees in the right-of-way.

Mayor Vansyckle ask for those opposed to come forward.

1. Ms Norma Epstein questioned the ordinance and restrictions it would have over homeowners.

Mayor Vansyckle closed the public hearing at 8:37 P.M.

Discussion/Action – Consider a proposed Ordinance and recommendation from the Planning and Zoning Commission establishing criteria, regulation, permit requirements, pruning and tree replacement and protection for the preservation of trees within the City of Ovilla.

Council Member Dickey stated that at first glance, the ordinance did appear intimidating but after reading, it really was not. Mayor Pro-Tem Leverentz stated that “we” were trying to protect our trees, not control the homeowner. The utility company has the obligation to maintain the trees along any right-of-way that would affect the power lines. That would be outlined within the scope of the ordinance. Council Member Graham noted that some trees were not listed as protected trees. Council Member Wade questioned many parts of the ordinance regarding homeowner rights and felt it needed further review.

Mayor Pro-Tem made a motion that Council approve this ordinance establishing criteria and regulation for the preservation of trees as presented.

Council Member Graham seconded the motion.

Council Member Wade voted in opposition.

VOTE: The motion carried three in favor, one opposed.

Discussion/Action – Consider continued participation and payment of an annual membership fee of \$100 to ERCOT (Electric Reliability Council of Texas).

CA Randy Whiteman stated that ERCOT maintains a set of complex rules that establish the mechanisms by which electricity is bought and sold in the wholesale market. Membership will provide Ovilla continued insight and keep us abreast of changes in the electric market as well as have a voice in the decision making process for cost-effective ways that affect the City and its residents. Ovilla has been a continued member of ERCOT.

Council Member Graham make a motion that Council approve the 2010 ERCOT membership renewal of \$100 and appoint the CA Randy Whiteman as the designated representative.

Council Member Dickey seconded the motion.

VOTE: The motion carried unanimously.

Discussion/Action – Consider a proposed Engineering Service Agreement by and between the City of Ovilla and Birkhoff, Hendricks & Conway, L.L.P., to perform engineering services for a complete water and wastewater rate study.

Council had approved in the FY2009-2010 Budget to fund a rate study of the water and wastewater rates. Mayor Pro-Tem Leverentz confirmed that the engineers would report to Council in February 2010.

Mayor Pro-Tem Leverentz made a motion that Council approve the engineering agreement with Birkhoff, Hendricks & Conway, L. L. P., for a water and wastewater rate study as presented and authorize payment in the amount not to exceed \$12,000 for the rate study as defined in the agreement.

Council Member Dickey seconded the motion.

VOTE: The motion carried unanimously.

Discussion/Action – Consider a proposed Engineering Service Agreement by and between the City of Ovilla and Birkhoff, Hendricks & Conway, L.L.P., to perform engineering services for a complete analysis of the Water & Wastewater Systems Impact Fee.

CA Randy Whiteman explained that an analysis was mandatory and municipalities were advised to conduct either a full-blown analysis or at the least manage an update every five years. The proposed contract was an update and not quite as extensive. The proposal was based on a new CIP using the same land use plan and master plans established on the current impact fee.

Council Member Dickey made a motion that Council approve this engineering service agreement with Birkhoff, Hendricks & Conway, L. L. P., to perform a complete analysis of the Ovilla Water & Wastewater Impact Fee as presented and authorize payment of \$18,000 as outlined in this agreement.

Mayor Pro-Tem Leverentz seconded this motion.

Council Member Graham questioned the motion as the contract was written, *“To complete an analysis”* and was defined to be an update only. The first motion was a scrivener’s error.

Motion amended: Council Member Dickey made a motion that Council approve this engineering service agreement with Birkhoff, Hendricks & Conway, L. L. P., to perform an update analysis of the Ovilla Water & Wastewater Impact Fee as presented and authorize payment of \$18,000 as outline in this agreement.

Mayor Pro-Tem Leverentz seconded the motion.

VOTE: The motion carried unanimously.

Discussion/Action – Consider appointments to the Planning and Zoning Commission to fill two vacancies created by the resignations of Loyce Milam and Jeff Lincks.

Mayor Pro-Tem Leverentz initially stated he wanted to table this item to create a better appointment process. He suggested forming a committee to interview for the replacement of the two vacancies. Proposed appointments would return to Council with committee recommendations once applicants had been interviewed. Council Member Graham agreed with the idea. Council agreed not to table the item, rather take *“no action”* as Mayor Vansyckle would designate a committee.

There was no action on this item.

Discussion Only – Review and discuss HOA (Home Owners Association) contracts as requested by Council Member Wade.

Council Member Wade stated he questioned many aspects of the contracts between the City and the HOA’s regarding reimbursements the HOA’s owed the city; specifically, the mowing of right-of-ways, software purchase and attorney fees. Council Member Dickey asked if Council Member Wade was questioning the validity of the contract or implying there was a breach of the contract. Council Member Wade believed there was a breach and wanted to allow the legal department to address this as he had already been in contact with the Attorney General’s office on this matter.

Council Member Wade explained with the assistance of the CA Randy Whiteman that the AG’s office suggested Council confirm and possibly address these items relative to the contracts:

1. Is contract what was presented to council?
2. Is contract for a public purpose?
3. *In addition* - that the existing Council could readdress.

Council Member Graham admitted the need for significant changes in software to perform accurate billing and reimbursement for the HOA's. CA Randy Whiteman confirmed that the HOA fees did not totally compensate the city's expense for the software. Mayor Vansyckle stated it was a benefit to the city, not only the HOA's, by enhancing the utility billing software with report writer. CA Randy Whiteman stated that the upgraded software allows the utility department to pay the HOA's based on payments received, rather than on the active members billed.

Council Member Dickey suggested addressing further review of the contracts in an executive session. Council Member Wade stated that had already occurred with legal counsel in prior meetings. Council Member Graham acknowledged that the city probably had not received total compensation for the software but that the software was a benefit for public purpose. Council Member Graham also acknowledged that she was not a Council Member at the time the contracts were put into place but did attend meetings and understood Council Member Wade's opposition of the HOA contracts then as well as now. The HOA contracts expire in 2011, and Council could modify at that time. Council Member Wade disagreed, stating that the city continued to lose money, and believed that the Council should sever all agreements with all HOA's and allow them to hire their own accountants to collect fees. Council acknowledged Council Member Wade's concerns.

This was not an action item - discussion only.

TABLED ITEM FROM JUNE 08, 2009

Discussion/Action – Receive, review, and consider necessary and miscellaneous building renovations to City Hall, the police station and the old fire station.

Consider motion to remove item from table-Mayor Pro-Tem Leverentz made a motion to remove this item from the table for consideration.

Council Member Graham seconded the motion.

Mayor Pro-Tem Leverentz stated he was ready for the Public Works department to acquire bids for the painters. Council Member Wade believed the public works crews should do the painting. Council Member Graham voiced safety concerns to have city employees on scaffolding. The carpentry work/repairs would be completed by public works employees. The police station had numerous repair issues that would be addressed separately.

Consider Action on Item.

Mayor Pro-Tem Leverentz made a motion to authorize the City Administrator to acquired bids for the painting of City Hall, and the old fire station.

Council Member Dickey seconded the motion.

Council Member Wade opposed.

VOTE: The motion carried three in favor, one opposed.

EXECUTIVE SESSION

N/A

TABLED ITEM ON SEPTEMBER 14, 2009

Discussion/Action – Consider the authorization to allow the city administrator to enter into an agreement with Cbeyond for city email services.

Council's Request for Consideration of Future Agenda Items

1. **Council Member Wade:**
 - Address HOA contracts again, when Council Member Hunt is present.
 - Made mention of a letter received from Commissioner Brown complimenting staff.
2. **Council Member Graham:**
 - Requested a progress report on the selling of excess vehicles/equipment.
 - Would like to see more and better use of CTY.
 - Would like to view a records keeping system on false alarms.
3. **Council Member Dickey:**
 - Plan a workshop to discuss procedural issues for Council.
4. **Mayor Pro-Tem Leverentz:**
 - None

Adjournment

Council Member Graham made a motion to adjourn the meeting of October 26, 2009.
Council Member Wade seconded the motion.

VOTE: The motion carried unanimously.

Bill Vansyckle, Mayor

ATTEST:

Pamela Higgins, City Secretary

APPROVED: 14 Dec. 2009