



**MINUTES OF THE
REGULAR COUNCIL MEETING
Of the Elkhart City Council
June 3, 2019 at 6:00 P.M.
City Hall, 110 West Parker, Elkhart, Texas**

The City of Elkhart City Council convened in a regularly scheduled meeting on Monday, June 3, 2019 at 6:00 p.m. Present were Ms. Jennifer McCoy, Mayor, Raymond Dunlap, Mayor Pro Tem, and Councilpersons Taylor Bentley, Chuck Conner, Darryl Faulk and Lucia Butler, City Administrator, Judith Cantrell and Public Works Supervisor, BJ Perry. Also in attendance were Carmen Rickel, Cynthia Havens, Mr. Brian Bedre, Mrs. Christine Bedre, Mr. Jerry Hozsomback, Mr. Milton Davis, Ms. Connie Davis, and Ms. Brittany Storey.

CALL TO ORDER:

Mayor McCoy called the meeting to order at 6:00 p.m. The pledge of allegiance was recited and Ms. Carmen Rickel offered the evening's prayer.

PUBLIC COMMENT:

Mayor McCoy invited members of the community to speak during public comment. Ms. Carmen Rickel appeared before the Council and offered her thanks and gratitude for the efforts of the current Council. No other audience members requested to speak. Council then moved to the next Agenda Item.

AGENDA ITEMS FOR CONSIDERATION:

Mayor McCoy acknowledged that several members of the community were on the Agenda for various discussion items. In an effort to be a good steward of the community's time, the Mayor requested that several item numbers be rearranged, placing executive session towards the end of the meeting. Mayor Pro Tem Dunlap motioned that the Council allow the Mayor to rearrange the order of Agenda Items to benefit the audience. Councilperson Bentley seconded the motion, and the motion passed unanimously.

Item 2- Delegation of authority to discipline personnel up to suspension, with Council having final authority to terminate employment.

Mayor McCoy addressed the Council concerning discrepancies in the City's current policies and ordinances as it relates to the statutory authority afforded under the Texas Government Code. Specifically, pursuant to statute, Type A cities statutorily delegate administrative authority to the

Mayor and Council. However, the City's current employee policy handbook removes that authority from the Mayor and Council, and transfers same to the City Secretary alone. Mayor McCoy requested City Administrator Judith Cantrell to outline the issues found during a cursory review of the City's policies. Of note, the employment contract of Ms. Sheridan, entered into by a previous Council, presented a legal question as to the delegation of authority as that contract contradicts statute, City Ordinance and City policy. As the issue of discipline within the City's administration has been muddled by the various conflicting documents, City Administrator Cantrell recommended Council to revise the City's policy concerning delegation of authority to issue discipline up to suspension without pay. Under this revision, Council would, by a majority vote, have final authority to terminate employment. Further, depending upon the severity of the allegations giving rise to the discipline, the Mayor would make the determination as to whether the issue would be taken up during the next regularly scheduled meeting, or if the Council would convene in a Special Called Meeting. In the absence of the Mayor, the Mayor Pro Tem would make the necessary determination(s). In the absence of both the Mayor and the Mayor Pro Tem, the authority would then be given to the City Administrator.

Councilperson Butler motioned that the authority to discipline City staff up to suspension without pay be delegated to the Mayor, or, in the Mayor's absence, the Mayor Pro Tem. In the event neither the Mayor nor the Mayor Pro Tem is available to make such a determination, the authority to discipline shall then be delegated to the City Administrator, with the Council having the final authority to terminate. Mayor Pro Tem Dunlap seconded the motion, and the motion carried unanimously.

Item 3 – Ms. Cynthia Havens addressed the Council on her plans to construct a RV Park on State Highway 287.

Ms. Havens is currently clearing a plot of land on Highway 287 and County Road 1058, which is located near and across from Elkhart High School. Ms. Havens has plans to open a small, 2-phase RV park for both transient and permanent recreational vehicles and tiny homes. Ms. Havens has planned spaces for 15-20 units in Phase 1, which is located within city limits. Phase 2, located on the back side of the property, is located in the county. Ms. Havens has a limited business plan available to review with staff. She ensured Council that the project will not be tacky but rather governed by strict guidelines. The planned property will be fenced and have trees for shading. Professional signage, bricked and lit, will be visible from the highway. Ms. Havens posed the question to Council concerning the availability of sewer and adequate water pressure for the number of anticipated units. Ms. Havens petitioned the Council to consider running sewer under the state highway and requested financial assistance with bringing that utility service to her planned facility.

Councilperson Butler requested Ms. Havens' definition of "RV." Ms. Havens advised the Council she has planned a dog park in the back portion of the property, as well as a washeteria and store in the front portion of the property. She will have a rule implemented that RVs must be newer than 8 years old if staying long term. However, she acknowledges that the nation is seeing a "tiny house movement" and she would like to gear the park more towards residential than transient.

Council took no action on this issue. Ms. Havens will arrange to meet with City Administrator Cantrell to review her plans and verify that the park is in city limits. Discussion on permits and fees will also need to be reviewed and discussed.

Item 4 – Mr. and Mrs. Bedre addressed the Council concerning their desire to develop in Elkhart.

The Bedres recently purchased the mobile home park located on Highway 287. They are in the beginning stages of discussions on their future/long-term plans for the 9-acre property, including looking into developing multi-family units (duplexes, apartments, etc.). Currently, there are 18 mobile homes on the property, but over time, those homes will be phased out as the Bedres develop newer housing options.

Before the Bedres begin financially investing in architects and engineers, soil studies, land use and economic surveys, they would like to work with the City to see what options would be best for the taxpayers. They will set an appointment to visit with City Administrator Cantrell to discuss the matter further.

As the Bedres requested to address the Council for informative purposes only, the Council took no action on this Agenda item.

Item 5 – Mr. Jerry Hozsomback addressed the Council concerning his request to relocate the water meter on his property.

Mr. Jerry Hozsomback informed the Council that approximately around 2009, previous City staff laid a 4-inch water line through his property on Bonners Ferry Road, and he granted the City an easement to do so. The City placed a water meter at no charge to Mr. Hozsomback, but the meter was placed over a quarter mile down the road from his structure. Public Works Supervisor BJ Perry addressed the Council concerning his knowledge of the meter placement and advised that the meter is no longer “on the books” and the meter is in a very poor location.

Mr. Hozsomback informed the Council that, although he verbally approved the easement through his property, the agreement was never memorialized in writing. He is requesting that the meter be relocated to a more convenient location. Notably, Mr. Hozsomback is not relating the need for a written easement with his request for relocation.

Councilperson Bentley motioned to relocate Mr. Hozsomback’s water meter to a location to be agreed upon by the Public Works Supervisor, and that staff obtain a written easement to be filed at the Anderson County Courthouse following its execution and notarization. Councilperson Conner seconded the motion and the motion carried unanimously. Mr. Hozsomback is to make an appointment with the City Administrator to execute the written easement to align with the oral easement granted in 2009.

Item 6 – Councilperson Butler addressed the Council concerning an amendment to the City’s current ordinance governing the placement of mobile homes within city limits.

Councilperson Butler counseled with City Attorney Blake Armstrong concerning her request to place a “year model” limit on mobile homes to be placed within city limits. Specifically, Ms. Butler would like to amend the City’s Ordinances to disallow placement of mobile homes older than 10 years old at the time of placement. Ms. Butler reached out to the City Attorney, who recommended a 5-year limit. The Council discussed the need to limit what is allowed within the City; however, the limitations should not be limited to the year-model, but should be reviewed on a case-by-case basis to include the overall appearance, structural integrity, and other physical components that would be enforceable by Code Enforcement.

Mayor Pro Tem Dunlap motioned that the Council take no action, and that more research be performed on standards used by other cities similarly situated. Councilperson Conner seconded the motion and the motion passed unanimously. After the City Administrator has time to settle in, she will do a survey of other cities that have strict guidelines for RVs, tiny homes and mobile homes and will place the matter back on the agenda for further discussion.

Item 7 – Clarification/modification of procedure/allowance to contact City Attorney for legal advice.

Councilperson Butler requested that the Council modify the City’s current policy allowing the City Secretary to consult with the City Attorney without the knowledge or permission of Council. Council reiterated the discussion had under Item 2 concerning the discrepancies in the policies, ordinances and statutes.

Ms. Butler motioned to table the item until the June 17, 2019 meeting, with an interim modification to require that any staff requesting to contact the City Attorney obtain permission on a case-by-case basis from the Mayor, or, in his/her absence, the Mayor Pro Tem, prior to make such contact. Motion to table item until June 17th meeting. Councilperson Conner seconded the motion and the motion passed unanimously.

Item 8 – Purchase of laptop for Public Works Supervisor, BJ Perry.

City Secretary Carla Sheridan, absent from the meeting, has requested that Council consider purchasing a laptop for Mr. Perry due to the level of field work required for his position. Currently, Mr. Perry is using his personal laptop. Councilperson Bentley expressed concern with Ms. Sheridan not including this request in the recent bid grant to Cynergy for IT services and computer equipment. Mr. Perry stated that he was unaware that the issue was on the agenda, as he did not request that it be placed on the agenda. Mr. Perry stated we should consider this matter at budget time. Councilpersons Conner and Bentley reminded Mr. Perry that Council previously okayed the purchase of tablets for field work, which had yet to be purchased.

Councilperson Bentley motioned that the Council take no action at this time. Councilperson Conner seconded the motion and the motion carried unanimously.

Item 9 – Purchase of cell phones for Mayor and Public Works Supervisor

Councilperson Lucia Butler has requested that Council consider purchasing cell phones for the Mayor and the Public Works Supervisor. Both are currently using their personal cell phones to conduct City business, which opens their private, non-reimbursed cell phones to public disclosures. Council reiterated the same concerns as discussed with the laptop in Item 8, and also discussed the need to place the issue back on the Agenda for another time, to include cell phones for “Council and staff” in general.

Councilperson Butler motioned that the Council take no action at this time. Councilperson Bentley seconded the motion and the motion passed unanimously. Mr. Perry will work with City Administrator Cantrell to obtain quotes for phone plans and specific phones for field workers.

Item 10 – Approval of April 2019 Minutes

Council discussed numerous discrepancies in the Council minutes for the City Council meeting of April 15, 2019. Specifically, Councilperson Bentley brought attention to the minutes related to Item 4 wherein she specifically abstained from the vote. However, Ms. Sheridan noted in the official minutes that the vote was unanimous. Those minutes need to be amended to reflect the correct vote of 4 “yay” and 1 “abstained.” Also, Item 13 noted that the issue would need to be brought back before the Council. However, that matter has not been brought back before the Council. Council instructed City Administrator Cantrell to calendar the matter to be recalled before the Council at a future date. The minutes related to the City Council meeting of April 1, 2019, specifically Item 5, also needs to be brought back before the Council for further discussion.

Councilperson Butler motioned to accept the Minutes of April 1, 2019, April 15, 2019 and April 24, 2019, with an amendment to the Minutes of April 15, 2019, Item No. 4, as discussed. Councilperson Conner seconded the motion and the motioned carried unanimously.

Item 11 – Executive Session

Council convened into executive session at 8:46 pm.

A certified agenda was completed, signed by all in attendance and placed into a sealed envelope, clearly marked and identified as “Certified Minutes for June 3, 2019.”

Council reconvened into open session at 9:16 pm.

Item 12 – Take Action on Item 11

Mayor Pro Tem Dunlap motioned to terminate probationary employee, Brandon Hankins, due to violations of state law and city policy. Councilperson Butler seconded the motion and the motion carried unanimously. City Administrator Cantrell will assist Mayor McCoy with Mr. Hankins’ termination on Tuesday, June 4, 2019.

Item 13 - Request by Carla Sheridan to attend TRWA conference on June 5-7.

Ms. Sheridan not being in attendance, Councilperson Butler motioned to take no action on the matter. Councilperson Bentley seconded the motion and the motion carried unanimously.

ADJOURNMENT:

Councilperson Butler motioned to adjourn the meeting for the evening. Councilperson Conner seconded the motion and the motion carried unanimously. The Council dismissed at 9:18 pm.

AGREED AS TO FORM AND CONTENT:

ATTESTED:


Jennifer McCoy, Mayor


Judith Cantrell, City Administrator