

LAKEWOOD VILLAGE TOWN COUNCIL

COUNCIL MEETING

OCTOBER 12, 2017

Council Members:

Dr. Mark Vargus, Mayor
Ed Reed – Mayor Pro-Tem
Clint Bushong
Gary Newsome
Dan Tantalo
Elizabeth Shields

Town Staff:

Linda Asbell, TRMC, Town Secretary

REGULAR SESSION - 7:00 P.M.

With a quorum of the Council Members present, Mayor Vargus called the Regular Meeting of the Town Council to order at 7:05 p.m. on Thursday, October 12, 2017, in the Council Chambers of the Lakewood Village Town Hall, 100 Highridge Drive, Lakewood Village, Texas.

PLEDGE TO THE FLAG:

(Agenda Item A)

Mayor Vargus led the Pledge of Allegiance

VISITOR/CITIZENS FORUM:

(Agenda Item B)

No one requested to speak.

PUBLIC HEARING:

(Agenda Item C)

A public hearing was held to provide an opportunity for citizens to comment on the proposed fence ordinance. Mayor Vargus opened the public hearing at 7:02 p.m. Mayor Vargus invited questions from the audience. No one requested to speak.

MOTION: Upon a motion made by Councilman Bushong and seconded by Mayor Pro-Tem Reed, council voted five (5) “ayes”, no (0) “nays” to close the public hearing at 7:03 pm. *The motion carried.*

PUBLIC HEARING:

(Agenda Item D)

A public hearing was held to provide an opportunity for citizens to comment on the proposed investment ordinance. Mayor Vargus opened the public hearing at 7:03 p.m. Mayor Vargus reported that the State requires municipalities to have an investment policy and investments are regulated under the Public Funds Investment Act. Mayor Vargus invited questions from the audience. Brent Ashton, 829 Carrie Lane, asked what percentage of excess funds are going to be invested. Mayor Vargus reported that the Town Council will discuss and decide that amount. Councilman Tantalo stated that the policy will include controls.

MOTION: Upon a motion made by Councilman Newsome and seconded by Councilman Bushong, council voted five (5) “ayes”, no (0) “nays” to close the public hearing at 7:26 pm. *The motion carried.*

REGULAR AGENDA:

(Agenda Item E)

**Consideration of Simple Recycling Program
(Asbell)**

(Agenda Item E.1)

Town Secretary Linda Asbell introduced Mr. Keith Kahn with Simple Recycling. Mr. Kahn reviewed the program, stating there is no cost to the town or the citizens. The company will prepare a mailing using the town logo and will distribute two collection bags. Citizens will place items inside the bag and set the bag out at the street on the same day as normal recycling is collected. Mr. Kahn reviewed the distribution of the items collected. Simple Recycling asks that the town assist with awareness campaigns. There was some discussion about the investment the company makes into sending out the mailers and the length of the contract. There was some discussion about the possibility of including the extraterritorial jurisdiction. Simple Recycling will pay the town \$20/ton of collected materials. The funds could be used for any purpose. Some municipalities use the funds beautification. There was some discussion about the terms of the contract and frequency of collection. There was some discussion about preventing individuals from picking up the orange bags before Simple Recycling trucks collect the bags. There was some discussion about centralized collection versus individual address collection.

MOTION: Upon a motion made by Councilman Bushong and seconded by Councilman Newsome, council voted five (5) “ayes”, and no (0) “nays” to authorize the Mayor to execute the contract with Simple Recycling as presented. *The motion carried.*

**Discussion of Findings of the Capital
Improvement Advisory Committee, Darrell
West, CIAC Member (Bushong)**

(Agenda Item E.2)

Mayor Vargus introduced Mr. Darrell West, Mr. Danny Cook, and Councilman Gary Newsome and thanked them for their service on the Capital Improvement Advisory Committee. Mr. West reported that the committee is an advisory group that has met with the Town Engineer. Mr. West reported that the board recommends the maximum allowable fees be adopted. Councilman Tantalo requested to see the information the committee received from the Engineer. There was some discussion about the standard procedure for adopting impact fees. There was some discussion about on-site versus off-site costs.

**Consideration of Investment Ordinance
(Vargus)**

(Agenda Item E.3)

**Consideration of Resolution Authorizing
Participation in TexPool Investment Pools
(Vargus)**

(Agenda Item E.4)

Council discussed both agenda items concurrently.

Mayor Vargus reported that he incorporated most of the changes proposed by Councilman Tantalo. Mayor Vargus reviewed the language added on controls. There was some discussion about where the funds were invested and council adoption of limits.

Jerry Landrum, Vice President Federated Securities Corporation, reported that they hold the contract for the State to invest funds in TexPool. Mr. Landrum reported that the investment policy the council is considering mirrors the requirements of the State. Mr. Landrum stated that most entities designate an investment officer, either by title or individual. The town will assign authorized representatives to act on the Town's behalf. TexPool requires two signatures for transactions. TexPool is regulated by the State of Texas and is extremely structured. The state of Texas created the pool in 1989, is currently holding 19 billion dollars and, approximately half of Texas municipalities participate in the pool. The state of Texas, in 1987, outlined a specific list of authorized investments. Mr. Landrum stated that he is surprised by exceptionally low \$10,000 limit being considered by the council. Mr. Landrum stated TexPool requires a minimum of three people be authorized on the account. Every transaction is tracked by a PIN number tied to a specific person. Mr. Landrum reported that it is standard practice for a single investment officer to be named by the council. There was some discussion about fees/costs associated with investments. Mr. Landrum reported that TexPool investments offer daily liquidity. Mayor Vargus reported on the interest rates offered by Point Bank versus the rate of return available by participating in TexPool.

Council discussion returned to the investment policy. Mayor Vargus reviewed the investment policy and the acceptable investment instruments.

MOTION: Upon a motion made by Mayor Pro-Tem Reed and seconded by Councilman Newsome, council voted three (3) “ayes”, two (2) “nays” (Tantalo, Shields) to approve the investment ordinance as discussed. *The motion carried.*

Mr. Landrum reported that the State Comptroller’s office has to approve the town’s application to participate in the pool. There was some discussion about the authorized signers.

MOTION: Upon a motion made by Mayor Pro-Tem Reed and seconded by Councilman Bushong, council voted three (3) “ayes”, two (2) “nays” (Tantalo, Shields) to approve the resolution authorizing participation in TexPool Investment Pools. *The motion carried.*

**Consideration of Authorizing Expenditures
for Road Repairs (Newsome)**

(Agenda Item E.5)

Mayor Vargus reported that the town has a separate account for road repairs, the balance is currently approximately \$30,000. Mayor Vargus reported that a statement was made at the previous council meeting indicating that most of the asphalt repairs made by Walt’s Paving had failed. Mayor Vargus played a video that showed the current condition of the repairs made on Melody Lane and Carrie Lane. Mayor Vargus reported that four of the twenty-two repairs only a few had some damage that needed to be repaired. There was some discussion about the longevity of patches on asphalt roads and damage caused by construction equipment used by home builders. Councilman Newsome reported that Walt’s Paving will come back and repair the patches that have damage/wear. There was some discussion about the process used by the company making the repairs. There was some discussion about maintaining the asphalt roads until they can be replaced by the concrete roads. Council discussed having the warranty work being completed at the same time as additional patching done on the roads. Councilwoman Shields offered to contact a company she found at the Texas Municipal League conference. Councilwoman Shields reported that the company will come out and provide a free demonstration and submit a bid. There was some discussion about the company marking the areas they would repair. Mayor Pro-Tem Reed asked Councilman Newsome to partner with Councilwoman Shields so a valid comparison can be made between the services offered by the two repair companies.

MOTION: *No motion was made*

Consideration of Fence Ordinance (Vargus)

(Agenda Item E.6)

Mayor Vargus reported that the ordinance is unchanged from last month. Mayor Vargus reported that the primary concern is the provision regulating waterfront properties. Mr. Jeff Williams, 630 Highridge Drive, spoke about his property and view of the lake. Mr. Williams stated he has concerns that changes to this ordinance might change the view from his home. Mr. Williams stated that it is common across the State of Texas and the State of Minnesota (where he previously lived) to protect the views on lakeside communities. Mr. Williams provided a report he compiled based on a review of other lakeside communities' regulation of fences on waterfront properties. Mr. Williams stated that the current Lakewood Village ordinance is much more lenient than the ordinances of the majority of municipalities he found. Mr. Williams stated that he has some ideas he would like to propose to the council on the fence ordinance. There was some discussion about council reviewing Mr. Williams' report and considering options based on size of property. Mr. Sam Merrick, 434 Lakecrest Drive, reported on changes in views on oceanfront property in an area he comes from which negatively affected property values. Dr. Carl Menckhoff, 710 Stowe Lane, thanked Mr. Williams for a reasonable and well researched presentation. Dr. Menckhoff stated that he previously served on the Town Council and understands the council's job is to consider the entire town. Although he lives on the lake, and would like privacy, he believes more people would be negatively affected by permitting privacy fences on waterfront properties. Mayor Vargus reported he would bring an updated fence ordinance for council consideration at the next meeting.

MOTION: *No motion was made*

Discussion of Dark Skies Initiative (Reed)

(Agenda Item E.7)

Mayor Pro-Tem Reed thanked Councilman Bushong for adding Dark Skies information to the town website. Mayor Pro-Tem Reed encouraged citizens to review the information posted and invited citizens interested in the Dark Skies Initiative to contact him to participate in this effort.

**Consideration of Ordinance Regulating
Wireless Network Facilities Within the
Public Right-of-Way (Asbell)**

(Agenda Item E.8)

Town Secretary Linda Asbell reported that no changes have been made to the ordinance since council reviewed it last month. Council thanked Mr. Chad Maddison for reviewing the law and Town Secretary for the research she put into creating the ordinance and design manual. There was some discussion about proposed part numbers to be included in a design manual and proposing changes at a future council meeting.

MOTION: Upon a motion made by Councilman Tantalo and seconded by Councilman Newsome, council voted five (5) “ayes”, no (0) “nays” to approve the ordinance regulating management of the rights-of-way as presented. *The motion carried.*

**Discussion of Finance and Audit Committee
(Shields)**

(Agenda Item E.9)

Councilwoman Shields reported that she and Councilman Bushong will attend the next City of Corinth Finance and Audit Committee meeting. Councilwoman Shields invited interested citizens to attend the meeting with her on October 18th at 2:00.

**Discussion of Wastewater Plant Master Plan
(Vargus)**

(Agenda Item E.10)

Mayor Vargus reported that he and Councilman Bushong have begun work on the layout for the expansion of the wastewater plant. Mayor Vargus reported that CoServ has been very responsive about addressing the changes necessary to their power equipment. There was some discussion about creating the scope of the project and creating a master plan for the area and prioritizing the capital projects. Information will be provided to council as the plan is developed.

**Discussion Year End Financial Review
(Tantalo)**

(Agenda Item E.11)

Councilman Tantalo read Local Government Code § 102.009 and stated that council cannot spend funds over budget without amending the budget. Mr. Brent Ashton, 829 Carrie Lane, stated that he sued Mark Vargus as a resident and neighbor but the lawsuit was changed to include the town. Mr. Ashton stated that he dismissed the suit because he did not want to sue the town and the case included a gag order that he did not want to abide by. Mr. Ashton asked if the council is okay with the town spending money on the town attorney for a private lawsuit. Mayor Vargus reported that when he received documents notifying him that Mr. Ashton filed suit he submitted them to the town’s insurance carrier, Texas Municipal League. Texas Municipal League reviewed the lawsuit and determined that it was related to town business and a covered event. Mayor Vargus reported that it was assigned to a Texas Municipal League attorney and at that point Texas Municipal League and the attorney made the decisions.

Councilman Tantalo reviewed the legal fees line item on the budget. Councilman Tantalo reported that there are several items on the budget that have been exceeded. Councilman Tantalo stated that he is concerned that there is either a disregard for the limits or an uninformed spending. Mayor Vargus reviewed the budget process and reported on the difference between

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expenditures and expenses. Mayor Vargus provided a breakdown of the legal budget line. Of the \$41,795 total, \$3,907 was incurred by the MDD, \$1,990 was for impact fees, and \$10,664 was from the prior fiscal year that was paid in this year, which results in \$25,234 expenses for this current year. There was some discussion about the reports being on a cash basis and the audit being on the accrual basis. Councilwoman Shields stated that “reclass” of expenses should be done monthly. Mayor Vargus reported that numbers being reviewed on these reports are unaudited and the auditor will do the accruals. Councilman Tantalo stated that the budget must be amended before the budget is exceeded. Mayor Vargus reviewed the General Fund operating revenues versus operating budget and the General Fund operating expenses versus operating budget. Mayor Vargus reported that previous councils included reserve funds in the budget but decided against continuing that policy when reserve funds began to grow. There was some discussion about the responsibilities of the Mayor to bring a budget to council however, it is up to the council to bring a budget amendment. Mayor Vargus reported on the emergency sewer repairs. Councilman Tantalo reviewed the law on public necessity and emergency. Mayor Vargus reported on the individual projects that council voted to approve which took expenses over budget. Councilman Tantalo stated that there is no credibility to the financial report. Mayor Vargus reported on the lawsuit filed by Brent Ashton and why it was considered a covered event by Texas Municipal League insurance.

EXECUTIVE SESSION:

(Agenda Item F)

At 10:32 p.m. Mayor Vargus recessed into executive session in accordance with Texas Government Code, Section 551.001, et seq., the Town Council will recess into Executive Session (closed meeting) to discuss the following: (1) §551.071(2): Consultation with Attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter; (2) §551.087: To discuss or deliberate regarding commercial or financial information that the Town of Lakewood Village has received from a business prospect that the Town seeks to have locate, stay, or expand in or near the territory of the Town of Lakewood Village and with which the Town is conducting economic development negotiations; and/or to deliberate the offer of a financial or other incentive to the business prospect.; and (3) § 551.072 Texas Government Code to wit: deliberations about real property

RECONVENE:

(Agenda Item G)

Mayor Vargus reconvened the regular session of the Lakewood Village Town Council at 10:45 p.m.

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**Consideration of Minutes of September 14,
2017 Council Meeting (Asbell)**

(Agenda Item E.12)

Councilman Tantalo stated he would like the exchange with Mr. Gowing included in the minutes. There was some discussion about what items are included in the minutes. There was some discussion about action minutes.

MOTION: Upon a motion made by Mayor Pro-Tem Reed and seconded by Councilman Bushong, council voted four (4) “ayes”, one (1) “nay” (Tantalo) to approve the minutes of the September 14, 2017 council meeting as presented. *The motion carried.*

COUNCIL AND STAFF COMMENTS

(Agenda Item H)

Town Secretary Linda Asbell reminded everyone of the community event this Saturday celebrating the 40th anniversary of the Town of Lakewood Village.

ADJOURNMENT

(Agenda Item I)

MOTION: Upon a motion made by Councilman Bushong and seconded by Councilwoman Shields council voted five (5) “ayes” and no (0) “nays” to adjourn the Regular Meeting of the Lakewood Village Town Council at 10:52 p.m. on Thursday, October 12, 2017. The motion carried.

These minutes approved by the Lakewood Village Town Council on the 9th day of November 2017.

APPROVED

Ed Reed
MAYOR PRO-TEM

ATTEST:

Linda Asbell, TRMC, CMC
TOWN SECRETARY