

LAKWOOD VILLAGE TOWN COUNCIL

COUNCIL MEETING

FEBRUARY 12, 2009

Council Members:

Mike Schnittker, Mayor
Mark Vargus
Ken Guthrie
Harold Wood
Carolyn Coleman
Dave Getka

Town Staff:

Linda Asbell, Town Secretary
Ben Wyse, Assistant Town Attorney

REGULAR SESSION - 7:00 P.M.

With a quorum of the Council Members present, Mayor Schnittker called the Town Council to order at 7:00 p.m. on Thursday, February 12, 2009, in the Council Chambers of the Lakewood Village Town Hall, 100 Highridge Drive, Lakewood Village, Texas.

Pledge to the Flag

(Agenda Item A)

Mayor Schnittker

Visitor/Citizens Forum:

(Agenda Item B)

Eric Hancock, 10701 Alexandria Drive, Frisco, TX requested Council consider recording all future meetings with the ultimate goal of placing recordings of meetings on the website. Mr. Hancock stated that most Towns record their minutes. Mr. Hancock stated that it would be more transparent for citizens to be able to listen to meetings via recording. Mr. Hancock provided some examples of items he would like to have seen included in the minutes, rather than condensing discussions to "some discussion was made". He requested this be considered as a future agenda item.

Consent Agenda:

(Agenda Item C)

1. Minutes of the December 11, 2008 Council Meeting

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2. Minutes of the December 23, 2008 Council Meeting
3. Minutes of the January 20, 2009 Council Meeting
4. Ordinance calling a General Election for Council Places 1, 3, and 5 on May 9, 2009
5. Interlocal Agreement with Denton County for Election Equipment

MOTION: Upon a motion made by Mayor Pro-Tem Vargus and seconded by Councilman Getka, the Council voted five (5) “ayes” and no (0) “nays” to approve the items on the consent agenda. The motion carried.

Regular Agenda:

(Agenda Item D)

Mayor Schnittker requested item D.11 be considered first.

**Consideration of proposal for installation of
playground equipment**

(Agenda Item D.11)

Mr. Jenks stated that he has been installing equipment for 20 year and is certified by the manufacturer of the playground equipment the Town recently purchased. Mayor Pro-Tem Vargus explained that Attorney Messer outlined the liability of the Town using volunteers to install the equipment and recommends that the Town uses a certified installer. Mayor Schnittker asked Mr. Jenks if the Town has the option of selecting between item 2, item 5, and item 6 of his quote. There was some discussion on the options for replacing deck boards and the installation in general. Mayor Schnittker recommended replacing all the decks and suspension bridge due to the age of the wood. Mayor Pro-Tem Vargus expressed his appreciation to Mr. Jenks for allowing the Town to split the payment over two fiscal years. Mr. Jenks stated that he believes he can get the equipment installed prior to the Easter Egg Hunt as long as his quote is approved right away to allow him to order supplies. Councilman Guthrie asked about the wood fiber and the history of spontaneous combustion. Mr. Jenks reported that the fiber in his quote is the same fiber reported in the news but at least one of the fires was discovered to be due to arson. Councilman Guthrie asked if other installation quotes were obtained. Councilman Wood reported that he attempted to get another quote but the number of certified installers able to work with this particular playground equipment is very limited. Mr. Jenks reported that he would be able to start within a few weeks. Mr. Jenks reported that if the Town takes advantage of his offer to split the payment between two fiscal years it would be with the understanding that if he is called for another installation he would complete that order and then return to finish our installation. Mr. Wayne Nabors reported that the equipment would be reported as a fixed asset in the current year along with the liability. Mr. Nabors recommended there be a contract in place showing the split payment agreement so it did not appear that the Town was delinquent in payment.

MOTION: Upon a motion made by Councilman Guthrie and seconded by Councilman Wood, the Council voted five (5) “ayes” and no (0) “nays” to authorize the Mayor

to enter into an agreement with options one through four and make payment arrangements per Mr. Nabors' recommendation. The Motion Carried

Presentation of 2007-2008 Audit Findings

(Agenda Item D.6)

Mayor Pro-Tem Vargus reported that in 1995 the Town hired an auditor to complete an audit. The Auditing firm reported that they were unable to make an opinion due to the condition of the books. Mayor Pro-Tem Vargus reported in 2006 the Town hired an accounting firm to perform an audit and the firm refused to perform an audit. Mayor Pro-Tem Vargus reported that Mr. Nabors sent a list of between 30 and 40 items where information was needed. Mayor Pro-Tem Vargus reported that this is a year long process and is the first in the Town's 30 year history.

Mayor Schnittker reported Pingleton, Howard & Company is the same firm that attempted to audit the Town in 1995

Mr. Wayne Nabors, CPA of Pingleton, Howard & Company in Frisco. Mr. Nabors reviewed the opinion letter included in the audit. Mr. Nabors stated that in the firm's opinion the financial statements accurately reflect the financial position of the Town. Mr. Nabors reviewed the balance sheets, and highlighted the firm's recommendation that the Town maintain a 25% or three month operating revenue in excess revenues. Currently the Town has approximately 22% in excess revenues. Mr. Nabors explained that the Utility Fund does include Capital Assets unlike the General Fund. Mr. Nabors reported that the Utility Fund needs build reserves to come to the 25% recommended amount.

Mr. Nabors reported that bonding agencies or banks look at the amount of debt, whether the fund balances are increasing, the Town's ability to grow, and the Town's credit rating (Bond Rating) in order to loan funds. Mr. Nabors encouraged Council to find out what the Town's bond or credit rating is. Mr. Nabors reported that his firm reviewed the Town's internal control structures and reported that internal controls for the Town are adequate for the size of the Town. Mayor Pro-Tem Vargus reported that the City Secretary, Linda Asbell, operates the Town's official accounting system, and Mayor Pro-Tem Vargus maintains a duplicate accounting of the transactions in order to verify, reconcile and provide accountability.

Mr. Nabors reported that the only item the firm found that needs corrective action was the contract with the depository needs to require the bank to provide pledged securities for funds that exceed FDIC coverage. Mayor Pro-Tem Vargus explained that approximately a year ago the Town began transferring into the investment accounts to provide that additional coverage.

Councilman Guthrie asked Mr. Nabors to explain the accounting for the revenue received from the lawsuit. Mr. Nabors explained that the audit firm does not recognize that as a revenue or as income, and he expressed that the Town should not expect those funds to continue to come in due to diminishing likelihood of prosecution as the amount owed decreases.

Mr. Nabors explained the need to budget for depreciation to allow for the ability to replace assets as it becomes necessary.

Councilman Getka asked Mr. Nabors to explain what allowed his firm to provide a positive opinion where in the past no opinion was able to be offered. Mr. Nabors explained that the Town was able to provide documentation to support the value of assets, bank statements, loan contracts, accounts payable, coding vendor invoices, etc. Mr. Nabors reported that he can only guess that in 1995 the books were in such bad shape that there was no way the firm could make a determination on the condition of the Town. Councilman Getka expressed appreciation to Mr. Nabors and his firm for putting the Town on their schedule so quickly. Mr. Nabors stated that the current Town Council and City Secretary, Linda Asbell are doing a very good job and the Citizens of the Town should have every confidence in the positive direction the Town is heading.

Councilman Getka asked if the audit next year would be less expensive due to the current audit providing a good starting point. Mr. Nabors explained that although he has no control over pricing he does expect the audit next year to be much easier.

Councilman Getka stated that as a citizen of Lakewood Village he appreciates the work Mayor Schnittker, Mayor Pro-Tem Vargus, and City Secretary Linda Asbell put into making this audit a success.

**Discussion on 2008-2009 Budget and
Financial Statement**

(Agenda Item D.7)

Mayor Pro-Tem Vargus stated that the Town of Lakewood Village has more assets than Oak Point which is six-times the size of Lakewood Village. Lakewood Village has very low debt and lots of assets in comparison to the towns surrounding us.

Mayor Pro-Tem Vargus reviewed the year to date financial statements for General Fund and Utility Fund.

Public Hearing:

(Agenda Item E)

A Public Hearing on Land Use and Thoroughfare plans

Mayor Schnittker opened the public hearing at 8:13 p.m.

Mayor Pro-Tem Vargus reviewed the land use assumptions which were adopted in 1994. Mayor Pro-Tem Vargus explained that the land use assumptions need to be changed to reflect the current assumptions and provide a basis for the Impact Fee Committee. Mayor Pro-Tem Vargus explained that developers put in roads, the Town does not put in roads in undeveloped land,

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however, the Town determines where the roads are located. Mayor Pro-Tem Vargus explained that currently there are no impact fees.

No one requested to speak.

MOTION: Upon a motion made by Councilman Getka and seconded by Councilman Wood, the Council voted five (5) “ayes” and no (0) “nays” to close the public hearing at 8:20 p.m. The Motion Carried

Regular Agenda: (continued)

(Agenda Item D)

**Consideration of Resolution 09-01 Adopting
Land Use and Thoroughfare Maps:**

(Agenda Item D.8)

Councilman Guthrie expressed concern that the maps themselves are not each labeled as exhibits. Councilman Guthrie also corrected the preamble to the resolution to include the “Land Use Assumption”. Mayor Schnittker stated that the zoning remains at one acre minimum residential. There was some discussion on the road size, and two versus one entrance. Councilman Wood stated that he would like a sidewalk that would allow pedestrian access to the retail section of Town. There was some discussion on the extension of the section of roadway that accesses Garza Lane and possibly blocking that off until it is necessary to open it. Councilman Guthrie asked if the plan has the flexibility to allow for adjustments on the location of the road. Mayor Schnittker confirmed that his understanding is that the plan is flexible. Councilman Guthrie stated that based on some of the statements made at the meeting last month, he was thinking that the Town would consider making the entrance commercial. Mayor Pro-Tem Vargus stated that right now he is assuming that most of the Town does not want to drive through commercial to get into Town, however, if an entrance can be created that provides the aesthetic the Town wants and allows for commercial use the Council could consider that at the time it is submitted.

MOTION: Upon a motion made by Councilman Getka and seconded by Councilwoman Coleman, the Council voted five (5) “ayes” and no (0) “nays” to approve Resolution 09-01 adopting the Land Use and Thoroughfare Maps with the noted amendment to the preamble. The Motion Carried

**Consideration of an Ordinance calling an
election on one or more propositions
concerning the adoption of sales and use
taxes: regular and general, additional
general, Municipal Development District,
Section 4A Economic Development**

(Agenda Item D.9)

**Corporation, Section 4B Economic
Development Corporation, Street
Maintenance, and/or Municipal Development
Corporation**

Mayor Schnittker reported that now that the Town has the assumption that some of the Town will be commercial/retail the Town can implement sales tax that will be collected. Mayor Schnittker reviewed the memo Assistant Town Attorney Ben Wyse provided explaining the different types of sales taxes. Mayor Schnittker stated that through a process of elimination it seems that a 4B sales tax and the Municipal Development Corporation would be the best options for the Town. Mayor Schnittker reported that a Municipal Development District operates essentially the same as a 4B but it can be imposed inside the Extra Territorial Jurisdiction.

Mayor Schnittker explained that the sales taxes must be voted on in an election which will be held along with the General Election in May 2009. There was some discussion on the impact of the sales tax on the current bills the residents receive. There was some discussion on the length of time it takes the comptroller to begin collecting sales tax and the revenue the Town would lose on any retail establishment that opens in the meantime.

MOTION: Upon a motion made by Mayor Pro-Tem Vargus and seconded by Councilman Wood, the Council voted five (5) “ayes” and no (0) “nays” to approve the Ordinance calling for an election for general sales tax, 4B, and MDD sales tax. The Motion Carried

**Consideration of monument requirements
for Witt Park**

(Agenda Item D.10)

Assistant Attorney Ben Wyse reported that the owners of the land have disbursed the land and signed the land to Lillian Witt who will then deed the land to the Town of Lakewood Village. Attorney Wyse explained that the land will revert to the heirs if it ceases to be used as a park, and a monument must be maintained acknowledging the Witt Family for donating the land.

Councilman Getka suggested that the Witt family be invited to a Council Meeting when the deed is received to acknowledge their donation.

MOTION: Upon a motion made by Councilman Vargus and seconded by Councilman Wood, the Council voted five (5) “ayes” and no (0) “nays” to authorize Mayor Schnittker to take necessary actions to acquire a monument to the satisfaction of the Witt Family. The Motion Carried

Executive Session

(Agenda Item F)

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Mayor Schnittker adjourned into executive session at 9:00 p.m.

Mayor Schnittker reconvened the regular session at 9:28 p.m.

MOTION: Upon a motion made by Councilman Getka and seconded by Councilman Wood, the Council voted five (5) “ayes” and no (0) “nays” to appoint: Doug Mousel, Chip Hill, Frank Jaromin, Mary Begis, and John Horwedel to the Impact Fee Committee. The Motion Carried

Adjournment

(Agenda Item E)

MOTION: Upon a motion made by Mayor Pro-Tem Vargus and seconded by Councilman Wood the Council voted five (5) “ayes” and no (0) “nays” to adjourn the Regular Session of the Lakewood Village Town Council at 9:36 on Tuesday February 12, 2009. The motion carried.

These minutes approved by the Lakewood Village Town Council on the 12th day of March, 2009.

APPROVED

Mike Schnittker
MAYOR

ATTEST:

Linda Asbell
TOWN SECRETARY