

**MINUTES OF THE PUBLIC HEARING
HELD ON JULY 10, 2007 AT 7:00 P.M.,
AND THE REGULAR MEETING
OF THE OAK LEAF CITY COUNCIL THAT
FOLLOWED AT OAK LEAF CITY HALL**

I. CALL TO ORDER & ROLL CALL

Council members present:

Mayor Paul Klooster	Councilman Jim Tuma
Mayor Pro Tem Pat Mahlstedt	Councilwoman Susan Walker
Councilman Ray Brindle	Councilman Ron Spurlock

II. MAYOR KLOOSTER CALLED THE PUBLIC HEARING AND REGULAR CITY COUNCIL MEETING TO ORDER AND ANNOUNCED A QUORUM PRESENT.

III. INVOCATION & PLEDGE OF ALLEGIANCE

Mayor Klooster gave the invocation followed by the Pledge of Allegiance.

IV. PUBLIC HEARING – MORATORIUM

Mayor Klooster identified the purpose for the Public Hearing: to discuss the City's possible implementation of a 60-day moratorium on the issuance of building permits for Indian Trail and Indian Ridge in the Indian Hills subdivision. Notice of the Public Hearings were published on July 4th, and will be again on July 11th, with the Hearings scheduled for July 10th and July 17th, 2007. Klooster read the proposed moratorium ordinance.

Klooster identified State law allows for temporary enactment of the moratorium on the fifth business day after the date a notice is first published, which will be in effect until the moratorium ordinance is either adopted or denied. At the scheduled July 17, 2007 Special City Council meeting this moratorium ordinance will be on the agenda as an action item.

At this time Mayor Klooster gave a synopsis of the events that have taken place; between the City of Oak Leaf and the Developer of the Indian Hills subdivision. He summarized that the Developer is of the opinion that the City has fully accepted the roads verses the opposite opinion by the City. Klooster identified that the City initiated the process to cash out the Developer's Letter of Credit, but the Developer filed suit to stop the City. The Letter of Credit is in escrow at this time.

The City and Developer have been in discussions for nearly a year to mutually hire an acceptable Geotechnical engineering firm to do an evaluation of the streets; to primarily see why the roads failed and what would be required to repair/rebuild the streets.

He identified that in June a company was selected however the contract document language was not successfully negotiated thus the City proceeded to negotiate with a third party geo-tech company, CTL Thompson, to proceed with the required analysis.

The Report is anticipated within 4 – 5 weeks. In the meantime the City was in contact with various asphalt contractors to determine what options existed for “temporary” repairs; which would allow for passable streets for school buses and emergency service vehicles. Once the geo-tech Report could be received, reviewed, and discussed then the City plans discussions as to what options existed for the permanent repairs/replacement of the two streets. Klooster assured citizens that steps would be taken to address the condition of the streets. He further stated that the City would pursue the Developer for the Letter of Credit funds and road repair costs as supported by the Geotech report.

Citizen/Council comments:

Tyrone Stanley - 912 Indian Trail - asked Council if Ellis County could help us out in repairing the streets. Klooster identified they could, but they would charge us. Klooster stated that the City would definitely seek a competitive price from the County.

Councilman Brindle spoke to the audience in regard to several comments received from citizens criticizing the City for the lack of discussion, from the City, at the June council meeting. He reiterated by Texas Open Meeting Laws, the Audience Participation portion of the Council meetings was for citizen comments only ... the Council could not verbally respond because the Indian Hills street issue or possible litigation with the Developer was not on the agenda.

John Webb – 909 Indian Trail (lot owner only) - identified that he spoke with Chief Pickard of the Ovilla Fire Department 7/9/07. Mr. Webb asked if Ovilla Fire Department was able to offer fire protection for the Indian Hills subdivision at this time. Klooster identified that the City had not received anything from the Emergency Service District or the Ovilla Fire Department that identified that they would no longer be providing emergency service.

Randy Adams – 1786 Indian Ridge - asked if we had a timetable for the temporary fix of the streets. Klooster identified possibly 30-days ... prior to the start of the ROISD school year.

Rick Rand – 1790 Indian Ridge (lot owner only) - asked after the initial 60-day moratorium how far will it go before new home construction can occur. Klooster identified the City anticipated having at the most two 60-day moratoriums.

Robert Young – 1800 S. Westmoreland (lot owner only) - identified that he applied for a building permit 7/9/07. The intended construction entrance would be from S.

Westmoreland. Will the moratorium affect his permit? Klooster identified we would consult with the City attorney and respond back to him.

Harold Holland – 920 Indian Trail - asked whose specifications were used for the original design and construction of the streets. Klooster identified that the Developer's specifications were used. Holland asked if our engineer reviewed and approved. Klooster responded yes. Holland stated there was no road base material in parts of the streets and asked if there were any inspections done as they were putting the road down, and if so, why didn't they catch that mistake?

Klooster responded that the infrastructure inspections were done by the City Inspector. In addition there were engineering support documents that identified the compliance with the required infrastructure materials and standards. Holland stated the documents from the Developer showed the roads designed were for a subdivision already built out.

Kevin Bernard – 1810 Indian Ridge stated that at the last meeting it appeared Council was against citizens, now it appears Council was for the Indian Hills' citizens. Bernard identified that Council made them feel like outsiders at the June meeting. Bernard stated that the roads were built for 3 to 5-years of life expectancy. City specifications require roads to be built to last 15 to 20-years. At the June meeting it was mentioned by the Mayor that the Indian Hills' deed restrictions state that the resident has to repair the road if they damaged the streets during construction.

Mr. Bernard felt that Council is trying to put the cost of repairing or replacing the streets back on the homeowners. Bernard asked "who is the person who knows who damaged the road?" Bernard identified that other building traffic was diverted through Indian Hills, because they couldn't use Highland. Bernard stated that an assessment ordinance was not right, what if they can't pay, would a lien be put on their property. Bernard asked what the city's tax dollars were being used for. He identified that the geo-tech company will only show what we already know; the roads were not built to standard.

Melanie Killian – 1809 Indian Ridge (lot owner only) - identified that she just closed on her current home in DeSoto, and would need to move out within the next two-weeks. Her husband found out about the Public Hearing from the City website.

Ms. Killian identified that to deny building permits to the Indian Hills property owners wasn't beneficial to her as a citizen or the City. Killian identified that the Indian Hills property owners were victims by bad mistakes, past and present by the City Council and the subdivision Developer. Killian identified that her first contact with the City was nuisance violation letter to mow, and the second contact from the City was a letter to contact the Developer regarding comments or complaints about the roads. Killian

identified that this showed a lot about the character of the City. She asked Council to please think about the citizens.

Mr. Howard Koch – 1798 S. Westmoreland - identified that the government's first priority is to protect and serve its citizens. Koch asked how we came to the conclusion to use CTL Thompson. Klooster identified through the City's consulting engineer's research and expertise. Koch asked what credentials did the CTL-Thompson firm have. Klooster identified that the firm's professional qualifications were available through the firm itself or the City office.

What credentials did the inspector have that did the inspections? Klooster responded that the city's inspector was licensed and certified by the State. Koch stated that in April of 2005 Mactec engineering informed Council that the roads were not holding up. Klooster responded that Mactec was an engineering firm brought in by the Developer. Koch asked if the roads were accepted. Klooster identified when the Developer first completed the roads, they looked fine and by the end of the 2-year maintenance period the roads were bad and were not accepted.

Harold Holland – 920 Indian Trail - stated, "so the City accepted the subdivision, but not the streets." Klooster identified that the infrastructure, and two-year warranty and maintenance time frame, was part of the subdivision process. Holland asked if the citizens were going to have to pay the bill for the repair of the roads. Klooster identified that that could be a possibility. Councilwoman Walker spoke and stated that Council has to look at all options.

Steve Hester - 916 Indian Trail - identified that the subdivision opened in 2004, but the roads were not up to specifications, why did the city continue to issue permits? Klooster responded that the Developer provided numerous commitments to take steps to repair the road. Hester asked if the City inspector went out to look at the roads when the base was put down. Klooster identified that inspector did look at the infrastructure progress on numerous occasions.

Hester asked if he wanted to build a driveway using asphalt could he do it. Klooster identified if a variance was requested the Council would review and make a decision one way or the other. Hester asked if city building inspector was qualified to do road inspections. Klooster identified there were parameters on construction in place, and that the inspector was qualified to do the inspections ... and the city intended to have its consulting engineer do the inspections on the future subdivisions.

Kennon Coleman – 1793 Indian Ridge - asked Council why the Developer did not install concrete? Klooster identified the Developer applied for a variance and Council granted. Coleman asked where it was in the law that the Indian Hills' citizens would have to pay for the repair/replacement. Klooster identified that an assessment ordinance, if passed, would apply.

Randy Adams - 1786 Indian Ridge - asked what Council was going to do to keep this from happening again? Klooster identified that the consulting engineer's review and onsite inspections should reduce the likelihood of this issue from reoccurring, as well as the likelihood that a non-concrete variance would not be approved again.

Amy Waldrum – 1802 Indian Ridge - asked about the school buses not being able to drive on the streets and the children having to be dropped off at Highland. Waldrum identified that it was not safe for the children to walk on the streets and how would Council feel if one of the children were injured. Waldrum identified that school started on August 8th. Klooster identified the City is taking steps prior to the start of the ROISD school year.

Steve Hester - 916 Indian Trail - asked if the County could fix the streets cheaper than a private sector company. Klooster identified that we intended to check with the County. Hester identified that this was bringing property values down. Klooster identified that Council recognized this.

Melanie Killian – 1809 Indian Ridge (lot owner only) - asked if the temporary repairs would allow new home construction. Klooster identified that it was a possibility.

Jeff Mathes – 1806 Indian Ridge - stated that there was a broad assumption the Developer would never pay for the repair/replacement work. Mathes queried Council on the cost of replacing the streets. Klooster identified that the repair/replacement cost would be based on the specifications that the city's consulting engineer and CTL-Thompson would provide in the forthcoming Report. Mathes asked again what the street cost would be, an estimate. Klooster identified that they would have to guess any where from \$100k to 200k for the same type of street as the engineer originally installed. Mathes discussed his possible breakdown of the costs using as an offset for the cost, the value of the Letter of Credit, and possible cost to the people on Indian Trail and Indian Ridge from an assessment.

Mathes identified that he doesn't understand how an assessment for street improvement would be done on these roads. At this time, Councilman Brindle identified the Public Hearing had digressed from the proposed moratorium and that the Public Hearing needed to be closed. Mayor Klooster asked if anyone else had any questions or comments about the proposed moratorium.

Sam Allen – 1814 Indian Ridge (lot owner only) and Robert Young – 1800 S. Westmoreland (lot owner only) - sought clarification for what type of trucks would be restricted by the proposed moratorium ordinance. Klooster identified that the moratorium would apply to permits for construction activity that involved the use of a truck that would be in excess of the weight allowed by the moratorium.

V. ADJOURNMENT OF THE PUBLIC HEARING

With no additional comments or questions regarding the proposed moratorium, at 8:10 p.m. Mayor Klooster called for an adjournment of the Public Hearing.

VI. CONVENE INTO REGULAR SESSION

Mayor Klooster called the regular session to order at approximately 8:20 P.M.

VII. GUEST LIST ATTACHED

VIII. AUDIENCE PARTICIPATION

At this time Mayor Klooster opened up the meeting for audience comments.

Mr. David Russell - 1936 Willow Bend Drive - identified that due to the excessive rain on July 1st, a drainage problem at the culvert on the east and west side of the street that caused water to collect on both sides and water to flow across Willow Bend. He asked Council for assistance with this matter and identified that it was a hazard for the neighborhood.

Mr. John Webb – 909 Indian Trail - asked Council to please understand that the issue with the Indian Hills subdivision streets was a situation that would not go away and that the property owners in the subdivision were all upset.

IX. CONSENT ITEMS

Minutes of the regular meeting of June 12, 2007 were reviewed. A motion was made by Spurlock to accept the minutes as submitted. Mahlstedt seconded the motion.

Ayes: All present voted aye.

Nays: None.

The motion was passed.

X. NEW BUSINESS

A. Consideration and approval for expenditure to create new City website

Mayor Klooster identified that he was looking for a motion. Brindle made a motion for City staff to proceed with the creation of a new City website as well as an alternate source for high-speed Internet connection. Mahlstedt seconded the motion. Brief discussion followed. Klooster called for a vote and the motion passed. Klooster asked City staff to update the Council on the status at the August Council meeting.

Ayes: All present voted aye.

Nays: None.

The motion was passed.

B. Ordinance 0705 – Assessment for street improvement in Type A General-Law municipality per the Texas Transportation Code, Article 311.095

Mayor Klooster identified proposed ordinance 0705 followed State Law (311.095). City attorney Weston has reviewed and approved proposed ordinance. Klooster stated that he was looking for a motion. Walker moved to accept ordinance 0705 as submitted. Inasmuch as there was no second to Walker's motion the proposed ordinance failed.

C. Discussion of draft Ordinance requiring general contractors to register

It was identified that the agenda called for discussion only. Discussion followed. Klooster directed Secretary Cortes to put the proposed ordinance on the July 17, 2007 agenda as an action item.

XI. OLD BUSINESS

A. Weight restrictions

Klooster identified that he has another city's weight restriction ordinance, but has not yet given it to the city attorney or consulting engineer. This item will continue as Old Business until a review and input could be received and reviewed by the city's attorney and consulting engineer.

B. Guardrail - east side of Hampton – a) Locust to Red Bud, and b) at the north end of Elm at the cul-de-sac.

Klooster identified that the materials for the guardrails would cost \$2,000 and labor to install approximately \$2,900; total cost will be approximately \$5,000. He is seeking council direction on proceeding to obtain materials and to schedule a contractor to get the work done. Brindle identified that we should obtain the materials. No objection was made by any of the other council members.

C. Crime Prevention Survey

Klooster identified that the City had received written communication from the Sheriff's Department confirming they would do Crime Prevention Surveys for the citizens of Oak Leaf. City staff was directed to send out written communication to all citizens giving the particulars. Walker asked if this would be sent out via a newsletter. Klooster identified via direct mail to each homeowner.

D. Coe Farms Phase II (Preliminary Plat)

Klooster identified that no revised documentation had been received from the Developer. An adjacent property owner, Mr. Thomes, has requested a building permit for a new home, on his 6.71-acre tract. Upon review of the ingress/egress easement, the permit was approved to be issued subject to the applicant's installation of a fire hydrant and upgrade to the existing water line (4 inch to 6 inch).

E. Allied Waste

Klooster identified that we are still waiting for the Allied Waste account manager, Len Lyons, to get back with us regarding contract renewal support documentation.... tonnage of trash hauled (Monday/Thursday) as well as quantity of homes participating in the

recycling program. He asked Secretary Cortes to have the current contract expiration date for next council meeting.

F. 701 Winding Creek Trail

Klooster identified that the citizen's permit expires October 2007. The property owner has not done the required improvements primarily due to wet weather.

G. Fire Hydrant - 2059 Willow Bend

Klooster identified that the fire hydrant has not been moved yet in spite of written directions to the citizen to do so. He has not had an opportunity to speak with the property owners.

H. Streetlights

Mahlstedt queried City staff on the status of the streetlights for Lariat Circle. City staff will check with TXU to find out what the status is and report at a future meeting.

XII. MAYOR'S UPDATE –

Mayor Klooster updated Council on items listed below.

- **Ellis County Declaration of Disaster**
Klooster identified that Ellis County Judge, Chad Adams, had ordered a declaration of disaster for Ellis County for the month of June 2007 (and specifically on the 29th day of June). Klooster identified that there may be State funds available to uninsured homeowners if the Governor also made a declaration of disaster.
- **Flood prone property**
City staff was asked to check with the Ellis County Emergency Management office regarding a development on a FEMA buyout grant for flood-prone property.
- **ETMC (ambulance) service meeting**
Klooster notified Council of a meeting being hosted by ETMC on Wednesday, July 11, 2007 at the Waxahachie Central Fire Station. The meeting was to introduce the Emergency Medical Service (EMS) subsidy reduction program, which could possibly allow us to reduce our ambulance subsidy up to 30% due to federal funding. Klooster identified that a City representative needs to be in attendance and he was unable to do so personally. Spurlock identified that he may be able to attend, Klooster identified that if not, Secretary Cortes would need to attend.
- **Flood Insurance Study – Ellis County**
Klooster identified Half & Associates had been contracted by FEMA to update the Flood Insurance Study in Ellis County. A generic letter was sent to all municipal entities in the county regarding copies of any existing data in that particular municipality's files.

- **Indian Hills**
Klooster identified that discussion with the Developer to mutually hire a third party Geotechnical engineering firm to evaluate the roads has not been fruitful, thus the City has executed an agreement with CTL-Thompson solely. The contract calls for this engineering firm to analyze why the roads failed, determine whether the roads were built as specified by the Developer's engineer, determine whether the roads had been designed correctly, and to determine what design is necessary for a road as specified by the City's design criteria. Tuma asked if there was any way to expedite the testing, Klooster identified that the engineering firm is aware that time is of the essence. The report should be completed within 4-5 weeks. The City will be paying approximately \$9,000 for the evaluation, testing, and Report.

XIII. REPORTS AND ACTION BY COUNCIL

LAND/BUILDING

- **Fire Hydrant – Hackberry and Hampton Road**
Klooster identified that there is water in the area that was dug up to do repair, and directed City staff to contact Glenn Heights to make sure it is not from the fire hydrant, and when would the job site be restored to previous condition.

LEGAL & PUBLIC RELATIONS - None

PUBLIC WORKS

- **Street Signs**
Klooster identified that we needed to place an order for new street signs. He asked Council if they had noticed any missing signs or signs that were in need of replacement in their areas and, if so, to please let City staff know by Monday, July 16, 2007. A sign order was to be placed soon thereafter.
- **Trimming**
Brindle identified that foliage at E. Highland and Westmoreland needed to be trimmed due to visibility issue with an existing sign. Klooster identified that trimming also needs to be done around the signs at the Locust/Uhl Bridge as well as a sign changed on southbound Uhl Rd. showing that you can go left or right (presently a sign indicating left turn only).
- **Potholes**
Klooster identified that there were numerous potholes around the City and contractor B.G. Williams Asphalt, Inc. has been contracted to drive the City and repair. Walker identified that Walnut Drive has areas badly damaged now, and as it was one of the roads that was repaired last year, is it covered by warranty. Klooster identified any roads resurfaced last year are covered under warranty.

SECRETARY'S REPORT - None

ORDINANCE REVIEW/UPDATE – CHAPTER 2, ANIMAL CONTROL

Secretary Cortes identified that the updates from the last meeting were not completed yet, and that she was still looking into new state law on tethering. Klooster identified that this would be a discussion item on the July 17, 2007 special meeting agenda.

XIV. ADJOURNMENT FROM REGULAR CITY COUNCIL MEETING

A motion to adjourn was made by Brindle, and seconded by Spurlock.

Ayes: All present vote aye.

Nays: None.

The motion passed.

PASSED THIS _____ DAY of _____ 2007

Paul Klooster, Mayor

ATTEST: _____
Patricia Cortes, Secretary