

**MINUTES OF THE PUBLIC HEARING HELD ON JULY 17, 2007 AT 7:00 P.M., AND
THE SPECIAL CALLED 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 Ron Spurlock (absent due to funeral)

Councilman Ray Brindle (absent due to work)

II. MAYOR KLOOSTER CALLED THE PUBLIC HEARING AND SPECIAL 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 2nd Public Hearing: to solicit input from citizens and to have discussion between citizens and Council on 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.

Klooster identified that the moratorium ordinance was on the special meeting agenda as an action item tonight. Klooster identified the City has retained a geo-tech company, CTL Thompson to do the analysis of the roadways in the subdivision, and we anticipate the report in mid August.

Since the City Council meeting last week, the City has sought estimates from three (3) different road contractors to do the temporary repairs. The consensus among them was for the City's consulting engineer to provide to them the scope of work for the temporary repairs. Klooster identified that he spoke with the City's consulting engineer and received this afternoon, the engineer's recommendation for the temporary repairs.

Klooster identified that he understood the citizens concerns with getting the roads repaired as quickly as possible. It is the Council's intention to have the temporary repairs in place before school starts. As of this date, there has been no indication from the Developer to repair the roads. During the special meeting tonight, Council will convene into executive session to discuss possible legal action against the Developer of the Indian Hills subdivision.

Klooster identified that the moratorium is for a specific time period and if it needs to be extended, it would be to discuss replacement of the roads, costs etcetera and there would be another set of Public Hearings prior to any Council action.

Councilwoman Walker did the second reading of the proposed moratorium ordinance.

Citizen/Council comment:

John Webb – 909 Indian Trail (lot owner only) – Asked if Council has consulted with the City attorney on this matter. Klooster stated yes. Webb identified that the moratorium would impede the right of the people to use their property to their benefit, and he would rather not have the moratorium.

Robert Killian – 1809 Indian Ridge (lot owner only) – Stated that he was against the moratorium and asked the Council to proceed with the temporary repairs. Killian asked if the Developer and the City were co-paying for the geo-tech company. Klooster identified that the City was funding the engineering study without the Developer's contribution. Killian identified that he wants to build his house. From his point of view "let's get as much construction done as possible before any permanent repairs are done". Killian stated that the City needs revenue and that if the City is pitted against the citizens, we are all going to lose. Killian asked if the City could stop traffic from going through the subdivision, could no truck signs be put up. He asked Council for their consideration and asked that they place themselves in the Indian Hill's property owner's position.

Steve Hester – 916 Indian Trail – Identified that he had been living in Indian Hills for 2-2 ½ years and the citizens should have the right to build. He stated that no truck signs should be put up. Hester asked if the developer had other insurance. Klooster identified that the Developer's engineers have errors and omissions insurance. Hester asked if the citizens could sue the Developer for pain and suffering. Klooster identified that as lot owners they may have a course of action to take with the Developer. Hester identified that he didn't think it was fair that citizens had to wait to build their dream home. Walker asked Hester if he was against the moratorium and he replied he was against it.

Kevin Bernard – 1810 Indian Ridge – Asked if there would be variances for the lots on South Westmoreland and East Highland. He identified that he put gravel in front of his home (11-yards), which cost him approximately \$250. Bernard identified that the process of putting gravel down should be continued, as it seems to be holding up well.

Discussion followed on putting stipulations on the permit holders and suppliers on bringing in smaller loads of concrete and bricks. It was identified that we don't have our own police department, and that it would be a challenge to enforce the smaller loads. Steve Hester asked if there was an inspector on site at the time of a concrete pour. Klooster identified there was a process, but someone was not onsite each step of the way.

More discussion followed on inspection at the time of concrete pour. Tuma queried other Council members on the possibility of having an inspector at the site at the time of the pour.

Robert Young – 1800 S. Westmoreland (lot owner only) – Asked if the temporary repairs would be done just on the areas of the roads that are bad. Klooster identified that we would start with the worst sections. Young identified that he would use S. Westmoreland as his construction entrance and his driveway will be on Indian Trail. If Indian Trail is still torn up when it is time to pour his driveway he will use a pump truck to pour cement.

Young identified that he has concerns for the lot owners with loans and that he was against the moratorium. Young identified that he has installed a temporary fence, because of construction trucks cutting across the lots. Young stated there was a Southwestern Bell fiber optic box on his lot.

Councilwoman Walker asked in the event that there is something put in place regarding the load weight of trucks, and if a citizen or resident sees something wrong, what can we do? Tuma identified that two years ago the County put in place weight restrictions on County roadways with two deputies doing the weights and measures. That restriction was soon lifted due to pressure from contractors, developers, as well as enforcement challenges due to the size of the County.

Tuma identified that E. Highland road has two coats of tar and gravel and will not hold up to heavy construction traffic.

Cory Griffin, Designer for Lisa Lowrie – 1801 Indian Ridge (lot owner only) Asked for clarification regarding the moratorium, would it be for all building permits or just for building construction? It was identified that the moratorium would be for permits for construction activity involving a vehicle with a gross weight of more that 10,000 pounds.

Ernie Martinek – 2001 Willow Bend – Identified that Willow Bend needs repair and that he was against the moratorium.

Kevin Bernard – 1810 Indian Ridge – identified that if the assessment ordinance was passed, it could be a costly thing for the citizens and the City. Bernard asked if tax exemptions could be considered.

Harold Holland – 920 Indian Trail – asked if the assessment would be just to the Indian Hills homeowners or would the City spread the costs to all homes in the city.

Klooster stated that there were different possibilities to look at, and it is the City's intention for the Developer to make it right. Klooster identified that the Public Hearing was to discuss the proposed moratorium and not the assessment ordinance.

Lisa Lowrie – 1801 Indian Ridge - (lot owner only) Identified that she opposed the moratorium. Lowrie asked if there could possibly be a surcharge added to a permit for damage construction trucks do to the roads. Klooster identified that a surcharge might be

possible, but that it was not right. Lowrie stated that she is willing to pay her fair share and that she bought her lot thinking that the roads were built to withstand construction traffic.

V. ADJOURNMENT OF THE PUBLIC HEARING

Mayor Klooster called for a motion to adjourn the Public Hearing. Mahlstedt made a motion to adjourn. Tuma seconded the motion.

VI. CONVENE INTO REGULAR SESSION

Mayor Klooster called the regular session to order.

VII. GUEST LIST ATTACHED

VIII. AUDIENCE PARTICIPATION

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

John Webb – 909 Indian Trail – Identified that it was difficult for him to say, but he does not have a lot of confidence in Council. He asked if the City had a liability policy in effect and mentioned claiming negligence and putting on the insurance policy.

Ernie Martinek – 2001 Willow Bend – Identified that he would be in favor of the ordinance requiring general contractors to register with the City. Being registered by the Texas Residential Construction Commission (TRCC) is something that the City can enforce.

IX. CONSENT ITEMS

Klooster identified the minutes for the July 10th and July 17th meeting would be ready at the August meeting.

X. NEW BUSINESS

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

Klooster identified that he would like the Assessment ordinance to be tabled due to two Council members being absent.

B. Ordinance 0706 for Council consideration and approval imposing a moratorium on the issuance of building permits for the Indian Hills subdivision for a period of time for the City to determine what is wrong with the roads (Indian Ridge and Indian Trail) and what would be necessary to repair said roads.

Walker commented that it was the will of the people to not impose a moratorium. Klooster identified that he was looking for a motion. Walker made a motion to deny imposing a moratorium. Mahlstedt seconded the motion. Tuma identified that the developer needs to be held accountable not

the citizens and the City needs to go in and do the temporary repairs.

Walker identified we need to look at the different options the citizens have suggested to protect the roads from further damage. Mayor Klooster called for a vote. Unanimous vote by Council to deny Ordinance 0706.

Ayes: All present voted aye.

Nays: None.

The motion was passed.

For Council discussion and Consideration, Ordinance requiring general Contractors to register

Klooster identified the Ordinance was for discussion only and that he was seeking Council input. Tuma identified the Ordinance looked good to him.

Klooster identified this is something the City of Cedar Hill has recently done and that it will allow us to hold general contractors accountable. Klooster read part of the Ordinance and identified that it would be on the August agenda as an action item.

Ernie Martinek – 2001 Willow Bend – asked if there was anything in the ordinance regarding enforcement. It was identified that there was a penalty clause in the Ordinance.

John Webb – 909 Indian Trail stated that it would exclude private citizens. Klooster requested Secretary Cortes to check with the state to see if private citizens building their own home would have to register with the Texas Residential Construction Commission.

For Council discussion and consideration, Ordinance amending Chapter 2,

Animal Control of the City Code of Ordinances

Klooster identified the Ordinance would be on the August agenda as an action item. Walker identified there was a grammatical error on page 3, “its” does not have an apostrophe. Walker asked about state law on tethering. Secretary Cortes identified that she had spoken to Councilman Brindle regarding the new law and we did not need to change what we had.

XI. OLD BUSINESS

A. Excavation Ordinance

Klooster identified that he has another city’s excavation 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, staff, council, and consulting engineer.

B. Road repair on Locust Drive and Walnut Court

Klooster identified that the work is to start next Monday.

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

Guardrails are purchased and will be stockpiled at City Hall.

D. ETMC (ambulance)

Klooster identified the agreement to participate in the EMS subsidy reduction program for the next fiscal year will be on the August agenda.

E. Budget

Klooster identified that we will have discussion in August as we did last year, and we will possibly have two meetings. Tentative meeting dates will be August 14th and August 28th.

F. Website

Klooster asked Secretary Cortes if she had an update on the website. Cortes did not. Klooster asked Cortes to have an update ready for the next meeting, and to contact AT&T about the fiber optic line being installed on S. Westmoreland Road.

XII. ADJOURNMENT INTO EXECUTIVE CLOSED SESSION

Pursuant to Texas Government Code 551.07 – Pending legal matters.

Klooster adjourned Council into executive closed session at 8:30 P.M.

XIII. RECONVENE INTO REGULAR SESSION AT 8:50 P.M.

Action as a result of executive closed session:

1.) Councilwoman Walker made a motion to authorize Mayor Klooster to proceed with temporary repairs on the roads (Indian Ridge and Indian Trail) in the Indian Hills subdivision based on the best estimate received. Tuma seconded the motion.

Ayes: All present voted aye.

Nays: None.

The motion was passed.

2.) Councilwoman Walker made a motion to authorize Mayor Klooster to proceed with consultation with the City attorney to obtain the Letter of Credit funds from the Indian Hills Developer. Mahlstedt seconded the motion.

Ayes: All present voted aye.

Nays: None.

The motion was passed.

XIV. REPORTS AND ACTION BY COUNCIL

LAND/BUILDING

- Klooster asked Cortes to provide, at the next council meeting, a total expenditure amount for engineering fees related to Summerhill Estates (Phase II).
- **Flood prone property**
Klooster identified that Sharon McKinney, with Ellis County, had only filed a notice of intent for the grant for property on Little Creek Trail. Further clarification will have to be sought from the State Hazard Mitigation office. The grant is a purchase grant of 75/25 %.

LEGAL & PUBLIC RELATIONS

- Indian Hills Subdivision
Klooster identified that the City attorney needs an accurate set of pictures of the Indian Hills roads on disc. Discussion followed on who could take the pictures. Klooster identified he would contact CTL Thompson as they would be the best option for taking the pictures.

Walker queried Klooster on suggestions given by the citizens regarding construction traffic. Klooster suggested they be typed up and distributed to Council.

- NIMS (National Incident Management System)
Klooster asked Secretary Cortes who had to take the ICS -300 and ICS-400. Cortes identified that she would have to look into.

PUBLIC WORKS - none

SECRETARY'S REPORT

- Crime Prevention Survey
Klooster asked Secretary Cortes when the notice would be going out to the citizens on the Crime Prevention Survey, Cortes identified tomorrow.

ORDINANCE REVIEW/UPDATE

- Klooster identified that he had two samples of ordinances regarding weight restrictions on roadways. The sample ordinances (from other cities) would be reviewed by the City attorney and consulting engineer prior to Council consideration as a possible Oak Leaf ordinance.

XV. ADJOURNMENT FROM REGULAR CITY COUNCIL MEETING

A motion to adjourn was made by Tuma, and seconded by Walker.

Ayes: All present vote aye.

Nays: None.

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The motion passed.

PASSED THIS _____ DAY of _____ 2007

Paul Klooster, Mayor

ATTEST: _____
Patricia Cortes, Secretary