

# The City of Hilshire Village

TUESDAY, November 20, 2012

REGULAR COUNCIL MEETING

6:00 P.M.

**1. CALL TO ORDER:** Mayor Whiting called the City of Hilshire Village Council Meeting to order at 6:00 P.M. at 8301 Westview, Houston, Texas 77055.

**1.1 Invocation:** was given by Council Member Castro.

**1.2 Pledge of Allegiance:** was led by Alexander Brittain.

**1.3 Present:** were Mayor Shannon Whiting, Mayor Pro Tem Stephanie Post and Council Members Connie Castro, Edward Davis and Bill Bristow. Council Member David Gunn arrived at 6:13 PM. Also present were Susan Blevins, City Secretary; Chief Gary Finkelman, Spring Valley Police Department; City Attorney, Scott Bounds, Olson & Olson and Efrain Him, P.E., HDR/Claunch & Miller, Inc.

## **2. CITIZENS COMMENTS:**

**Robert Wolf, 1205 Pine Chase,** wanted Council to know that the construction noise from the road work is going on later than the City's construction hours. It was 7:45 PM last night and continues all day very close to his home so he would like the noise spread out over the project and not just concentrated near his home.

### **3. COUNCIL COMMENTS:**

**Mayor Pro Tem Post** wanted to publically thank Mayor Whiting for her work on the Metro Mobility talks as the Mayor attended most meetings and was engaged even when out of the country. Her efforts and her strong case for why the small cities needed the funds even though they had no sales tax base are the reason that we will continue to get over \$100,000 per year in Metro funds. Mayor Sue Speck of Hedwig also was a great help in the effort as was Susan Blevins, City Secretary.

The Mayor commented that the current contract expires in 2014 and starting in 2015 the City will receive \$115,000.00 per year until 2025 for paving and drainage issues.

### **4. REPORTS TO COUNCIL:**

**4.1 Police:** Chief Finkelman reported that there was one (1) arrest for intoxication where a suspicious person was walking down Ridgeley looking for his way home. A burglary on Archley is still being investigated. Also, he stated someone's purse was stolen out of their vehicle at the School of the Woods. Chief Finkelman stated that there had not been any incidents in November at this time. Mayor Whiting stated that residents should put their house on vacation watch if they plan on being out of town. Council Member Bristow said he would like to see School of Woods put up a surveillance camera up.

**4.2 Engineers Report:** Efrain reported in regard to the Texas Department of Public Safety/Governor's Division of Emergency Management (DEM), Hurricane Ike **Hazard Mitigation Grant Program (HMGP)** that Triple B Services had submitted eighteen (18) submittals for review to date. The contractor has completed installation of the water lines. The new water lines have been chlorinated, disinfected and pressure tested. The contractor is currently working on the water line service leads. Once they connect the new lines to the existing water system, the contractor will transfer the services. Efrain stated Triple B had rehabilitated approximately 90% of the sanitary sewers. He stated Triple B is 98% complete with the removal and replacement of the existing driveway culverts. The contractor has completed the lime stabilization subgrade and base roadway work in Phase 1.

Efrain said that there is an obstruction in the sewer line that has stopped the rehabilitation of the sewer line at Glourie and Westview. The Contractor has to coordinate with The City of Houston and pull permits before they can start the work to remove the obstruction. The contractor is going to wait until after Thanksgiving to start the work. Efrain stated they will monitor the lines on a regular basis to make sure no problems arise. They will have a vacuum truck on standby.

Efrain stated that after replacement of a cut service line the resident at **1301 Glourie** reported their water smelled like diesel. The contractor discovered that a 10 foot poly-pipe that was being temporarily used to make the repair had previously been used to siphon diesel. The line was replaced, flushed, and then chlorinated. The City will test the water for the homeowner.

Efrain reported that the Monthly Construction Progress Meeting was held at City Hall on November 14, 2012. As of October 31, 2012, the contractor is approximately 46.87% complete and has used 25.75% of the contract time.

Efrain also reported that on November 7, 2012 HDR submitted a request for reimbursement to the State for work associated with the Contractor's Pay Application No. 3. He reported that HDR had reviewed the Contractor's Pay Application No. 4 for work performed and recommends the City approve the payment.

Efrain stated the City had received approval for the **Glourie Drive Project Extension Request**. He stated Mayor Whiting had requested that he prepare an estimate to engineer the extension.

Efrain stated he had reviewed and approved the Drainage Plan for **1122 Guinea**. He stated he was in the process of reviewing the **1305 Glourie Drive Drainage Plan**.

Efrain stated he had reviewed the 2012 revisions to the Manual on Uniform Traffic Control Devices to verify compliance of the proposed **street signs** with the current regulations. He stated the street sign blades need to be an 8" minimum height. The background colors have to be either the standard green,

blue, brown or white. Efrain also stated the height and width of the City's logo cannot exceed the upper-case letter height of the principal legend of the sign.

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## **5. ACTION ITEMS:**

### **Out of Order**

**5.4** Council Member Davis made a motion to approve a replacement fence located at 1209 Pine Chase, seconded by Mayor Pro Tem Post. Chris Thelen with Thompson Custom Homes explained that the home owner wanted to replace the existing wood fence and wooden rot board with a new seven (7) foot cedar fence. The new fence will not exceed the 8 foot height maximum on either side. The one (1) foot rot board, all along the fence, would be wood except the area extending across the City's easement. The area over the easement would be made of a 12 inch high wrought iron fencing with maximum 4" bar spacing. Efrain Him indicated that two (2) inches would allow for water flow, but to allow for silt and debris he has asked the contractor to allow for 12 inches.

Council Member Bristow wanted to know if the City ordinance regarding the blockage of R-O-W was still in effect. He read a portion of the ordinance section 7.400 Blockage of Right-Of-Way which states "No person, firm, corporation or other entity shall place or permit to be placed, any dirt, sand, gravel, concrete, asphalt or any other material in or upon any public rights-of-way, ditch or drain area, except as provided for in this Article. The material stated herein shall include any material that would alter, change, divert, impede, or dam any drainage ditch area. Ditches are to remain open and without culverts except as stated in subsection (b)." He also quoted part of Section 22.042 of Texas Law where the Mayor is charged with ensuring that laws and ordinances are properly carried out so he wanted to know where Council gets any authority to make a decision that violates City ordinances. Scott Bounds, City Attorney, replied: "the City has the right to control any rights-of-ways, easements and/or streets". The City has authority to do what is appropriate and in this case Council is being asked to determine the appropriate use of the easement by the home owner.

Mayor Whiting indicated that there is and always has been a drainage easement in the middle of private property and there are other instances of similar cases within the City. She said the City is trying to find a solution to accommodate a homeowner for privacy, safety, security and the fence has been in existence for a number of years. Scott Bounds stated that the ordinance also cross references Article 4.600 Rules & Regulations where it states that City Council determines what is appropriate to be located in an easement of the City. Council Member Bristow wanted to know how this relates to the fence and Mr. Bounds stated that a person has to follow the procedure in Article 4.600 to get permission from the City Council to use the public Right-of-Way for other purposes. Council Member Bristow stated, for the record, "that Council is being asked to give the ok to a project that would benefit one (1) person and one (1) person only to the possible detriment of all other residents and home owners in the Pine Chase/Glourie watershed that utilize that drainage easement to drain their property". Scott Bounds stated that in this meeting Council wants to protect the people's interest. He said the property owner has the right to fence his property. Council Member Bristow stated that a resident in the Pine Chase Glourie watershed can go to court and file a law suit if their property floods or is damaged in anyway by rising water that is a result of any blockage of any structure that has been put on this easement by this one property owner. Mr. Bounds stated the Texas Water Code prohibits a property owner from diverting water to the detriment of other properties. The owner and the City may both be sued in a lawsuit like that but the homeowner would have some liability. Council Member Gunn asked what was there at this time. Mayor Whiting said there is a wood fence with a rot board with no clearance and has been there for years. The residents want to replace the existing fence and the new fence would be an improvement because it would have a wrought iron rot board instead of wood. Mr. Bounds stated there were two pipes underground and a swale. Council Member Gunn and Mayor Pro Tem Post wanted to take the information they were given tonight and walk the property.

Council Member Davis made a motion to table the motion to approve a replacement fence located at 1209 Pine Chase, seconded by Mayor Pro Tem Post. **A vote was taken approving the motion to table the motion approving a replacement fence located at 1209 Pine Chase. The vote passed 4-1, Mayor Pro Tem Post, Council Members Castro, Davis and Gunn voted for the motion and Council Member Bristow voted against the motion.**

**5.1** Council Member Castro made a motion to authorize HDR to engineer the extension of the Glourie/Pine Chase Construction Project with a not to exceed price of \$132,731.00, seconded by Council Member Davis. Mayor Whiting stated the City has been waiting for the approval to extend the project. This would extend the project of a 3 to 1 match of money. She stated she had been working on the cash flow with Mayor Pro Tem Post and City Secretary Blevins to ensure that there are enough funds in the Utility Fund to do the project. The engineering will include services HDR will provide the City during the Design and Construction Phases, as well as, other services necessary to support the project extension. Efrain Him stated it would take approximately three (3) months to engineer and prepare documents.

Mayor Whiting stated that the engineering cost was eligible for the 3 to 1 match. Efrain stated the contractor was aware of the project extension and they have agreed to honor their bid unit prices for the extra work. Mayor Pro Tem Post thinks that before the City approves this extension that additional time should be given so that she and the Mayor can continue to review the funds due to the fact that the City has to fund the project up front. She stated that the City needs to make sure they use the proper funds to pay for the utility portion of the project. Mayor Whiting stated the deadline for completion of the project would be the same as the original project. Council Member Gunn stated a special meeting would be fine with him. Council Member Bristow stated he was in favor of the project but he wanted to make sure it was done correctly. He wanted to make sure the City did not have to go out for bids. Scott Bounds stated the City can do a change order for projects for up to 25% of the original bid. Mayor Whiting stated that this extension was less than 25% of the original contract. Council Member Davis pointed out that if the City takes the opportunity to do this project as a change order the City would be eliminating 10 to 15% of the cost. The City has already paid for mobilization, start-up and other items that would have to be done. He stated it would be negligent to miss the opportunity. Council chose to meet December 11, 2012, for a Special Council Meeting at 6:00 PM with hopes that they could cancel the December 18<sup>th</sup> meeting.

Council Member Castro made a motion to table the motion to authorize HDR to engineer the extension of the Glourie/Pine Chase Construction Project, seconded by Council Member Davis. **A vote was taken to table the motion to authorize HDR to engineer the extension of the Glourie/Pine Chase Construction Project with a not to exceed price of \$132,731.00. The vote passed unanimously.**

**5.2** Council Member Davis made a motion to authorize payment of Triple B Services, L.L.P., Pay Application No. 4 for work related to the Pine Chase & Glourie Paving, Drainage & Utilities Improvements Project in the amount of \$87,872.01 to be paid by the City of Hilshire Village, seconded by Mayor Pro Tem Post. **A vote was taken to authorize payment of Triple B Services, L.L.P., Pay Application No. 4 for work related to the Pine Chase & Glourie Paving, Drainage & Utilities Improvements Project in the amount of \$87,872.01 to be paid by the City of Hilshire Village. The vote passed unanimously.**

**5.3** Council Member Castro made a motion to authorize payment of Triple B Services, L.L.P., Pay Application No. 4 for work related to the Pine Chase & Glourie Paving, Drainage & Utilities Improvements Project in the amount of \$263,616.01 to be paid by the City of Hilshire Village and then reimbursed by the Texas Department of Public Safety, seconded by Council Member Davis. **A vote was taken to authorize payment of Triple B Services, L.L.P. Pay Application No. 4 for work related to the Pine Chase & Glourie Paving, Drainage & Utilities Improvements Project in the amount of \$263,616.01**

**to be paid by the City of Hilshire Village and then reimbursed by the Texas Department of Public Safety. The vote passed unanimously.**

**The City Engineer was excused at this time.**

**6.1 Fire Commissioner:** Council Member Davis said that the next meeting would be in two (2) weeks. The Fire Department is 3.76% under budget at this time.

**6.2 Building:** City Secretary Blevins reported there were fourteen (14) permits issued this month. She said there were twenty-six (26) inspections. City Secretary Blevins said there were no Certificate of Occupancy's issued no plan checks and no red tags.

&#61623 **6.3 City Secretary:** City Secretary Blevins said the storm sewer line issue at 1007 Ridgeley was not resolved. She stated the line is blocked by tree limbs. City Secretary Blevins said she has asked CenterPoint to look at the tree at # 8 Pine Creek. She stated she has sent the Mennonite Church a letter and a certified letter asking them to remove a brush pile.

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&#61623 **6.4 Treasurer's Report:** City Secretary Blevins stated that she had not presented the income statement because she was working with the auditors; however, she had included the balance sheet.

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## **7. ACTION ITEMS:**

**7.1** Mayor Pro Tem Post made a motion to approve the City of Hilshire Village Fraud and Misconduct Policy, seconded by Council Member Davis. Mayor Whiting stated that through the audit the City found out that it should have a Fraud Policy. She said City Secretary Blevins drafted the policy by reviewing other policies and using what was applicable. City Secretary Blevins stated the State Comptroller's office has requested that all Municipalities have a Fraud Policy. Council Member Gunn said he had concerns with some of the wording especially "wrong doing". He did not think we needed a Fraud Policy to know that Fraud is bad. Scott Bounds said the policy was a recommendation not a requirement by the State

Comptroller's office. City Secretary Blevins stated that if the City does not have a Fraud Policy, the auditors would "ding" the City in the audit. Scott Bounds stated it would be noted in the City's Management Letter. Council Member Gunn said that he wanted to protect everyone and asked to have more time to review. Mayor Pro Tem Post made a motion to table the motion, seconded by Council Member Davis. **A vote was taken to approve the motion to Table the motion to approve the City of Hilshire Village Fraud and Misconduct Policy. The vote passed unanimously.**

**7.2** Mayor Pro Tem Post made a motion authorizing the Mayor to enter into an agreement with Election Systems & Software for the election equipment for the 2013 election, seconded by Council Member Davis. City Secretary Blevins indicated the City had to order election equipment early for the May 2013 election in order to get the equipment they wanted. She pointed out that by law the City is required to have a handicapped access machine and if the City orders now they would get a 10% discount.

Mayor Pro Tem Post wanted clarification on the options. City Secretary Blevins indicated that Option A was to use the same equipment as the 2012 election where the machine marks the ballots but does not tabulate them. Paper ballots would be marked again with markers to ensure ballots cannot be changed and the count would be done manually. Option B is a new touch screen machine that marks and tabulates the votes. There would have to be two machines, one for early voting and one for the Election Day. Option B would cost \$1,500.00 over the budgeted amount. She indicated that Option B is easier and faster on tabulation as everyone would use the same machine except for absentee voters. Mayor Pro Tem Post and Council Member Castro indicated that they were in favor of paper ballots to save money. Mayor Whiting asked and was told that less than 400 ballots were cast in the last election. Council Member Bristow indicated he was against paper ballots and thought the extra cost for the tabulation machine would keep controversy and accusations about the election "at bay".

Mayor Pro Tem Post made a motion to amend the original motion to read: authorize the Mayor to enter into an agreement for Option "A", seconded by Council Member Davis.

**A vote was taken to approve the motion to authorize the Mayor to enter into an agreement with Election Systems & Software for Option "A", ballot marking device, for the 2013 election. The vote**



**passed 4-1. Mayor Pro Tem Post and Council Members Castro, Davis and Gunn voted for the motion and Council Member Bristow voted against the motion.**

## **8. DISCUSSION ITEMS:**

**8.1 Removal of all obstructions in the City's R-O-W:** Council Member Bristow indicated he wanted to discuss the removal of all obstructions in the City's Right-of-Way and he used 1209 Pine Chase as an example. He views these obstructions as a violation of City ordinances and requested that Council direct the Mayor to enforce the ordinances by requesting voluntary cooperation of the resident who has the violation. If the resident fails to remove the illegal structures or improvements, then Council should direct the City Attorney to file a lawsuit in court to force the removal or remove them at city expense and file a monetary lien on the property. Council Member Bristow also indicated that removal of trees, brush and other debris in the drainage easement should be at the City's expense.

Council Member Gunn asked the Mayor to comment. The Mayor indicated that one of the obstructions in the City Right-Of-Way had been previously discussed. As for the brush and overgrowth, Council has discussed and wanted to get more information before continuing to pursue the issue. The Mayor requested that Council Member Bristow make an inventory of all structures that need to be removed and present the list to Council. Council Member Bristow said that he is not sure exactly where the boundaries for the easements are and recommended a survey be taken if Council wishes to pursue the matter. Mayor Pro Tem Post indicated that the brush and debris cleaning of the ditches had been discussed and bids were obtained; however, Council did not put the cost of the project as a line item in the budget. She stated the project needs to be considered in the context of everything else the City is doing. The Mayor clarified for Council Member Gunn that the main area for the debris was behind 1209 Pine Chase and along Burkhardt where the drainage easement is very congested.

**8.2 Professional Services:** Mayor Whiting stated she would like to see the City review all its professional service agreements on a regular basis. She indicated that there was a need to make sure that contract terms meet the City's needs and that the City was getting the service and value it needs. Mayor Whiting wanted to see if Council Member Gunn would look over the contracts language.

Council Member Bristow said he did not have anything specific; he just wanted to make a general request for consideration of a review of everything concerned on a periodic basis. He said "that is good

and responsible City government to do so and that is what the citizens expect". Council Member Davis commented that the City has done everything in accordance with good faith and the state law. He stated that unless the City has an engineering department, a City needs a relationship with a competent engineering firm and the selected firm becomes the engineering department. Council Member Davis stated it would cost the City more money if they piece meal the engineering services. He repeated that it was against state law for the City to solicit for engineering services. A new firm would have to start over and the City would have to build trust, records, history, etc. He said everything would have to be rebuilt. Council Member Davis stated Claunch & Miller has resources far beyond what they had when originally hired. They are now part of HDR which is a nationally recognized leader in the industry. Council Member Bristow said "thank goodness the voters have the opportunity if they wish to change the makeup of the Council if they have any problems with any of the professional people that we hire that they do not like".

**8.3 Capital Improvement Workshop** Mayor Pro Tem Post stated that in the Workshop on October 30, 2012, Council decided that Bridle Spur was a priority. She stated that Council's main concerns were the utilities. The utilities would cost approximately \$138,000.00 which is money that was not in the budget at the present so the City would have to incur some sort of debt. Mayor Pro Tem Post said Council needs to consider the cost to borrow a small amount of funds or waiting a little while and doing more of the water and sanitary projects throughout the City. The cost of all the projects comes to approximately 1.3 million dollars and adding Bridle Spur comes to 1.4 Million. She stated the City has an anticipation note that comes due in 2014, so the idea would be, in order to keep tax rates where they have been, to add something after that. Interest is low and it might be worth having higher taxes for a couple of years to get a better deal in the long run for capital improvements. Council Member Post said that the City is working on capital improvement projects, talking to banks and scrutinizing the finances of current projects. Mayor Whiting indicated that the consensus was to identify projects with key components of not incurring debt on top of debt, only having one project at a time and making sure that any debt incurred was for high priority projects. She said Council was moving forward with caution and diligence. As for Bridle Spur the recommendation is that utilities and paving should be done at the same time rather than at separate times as more cost effective. Council is looking at the Utility Cash flow and cash balances along with a forecast of where the City will be if the extension of the current project is done and where the City will be at the end of the current project.

## **9. REPORTS FROM COUNCIL:**

**9.1 Mayor and Council:** The contract with Hilco has been terminated. Council has spent today \$2,531.00 to date. Total cost should not exceed \$2,800.00.

**10. ACTION ITEMS – CON'T:**

**10.1 CLOSED EXECUTIVE SESSION: NONE**

**10.2 ACTIONS FROM THE CLOSED EXECUTIVE SESSION: NONE**

**The City Attorney was excused at this time.**

**11. CONSENT AGENDA:**

**11.1** A motion was made by Council Member Davis to approve the Consent Agenda, excluding the Minutes from the Regular Council Meeting of October 16, 2012, seconded by Mayor Pro Tem Post. Mayor Pro Tem Post wanted to make sure HDR was working on the reimbursements and she wanted City Secretary Blevins to follow-up with Severn Trent on a reimbursement from CenterPoint on repairs. **A vote was taken to approve the motion approving the Consent Agenda including disbursements and the Minutes from Council Workshop of October 30, 2012. The vote passed 4-1. Mayor Pro Tem Post, Council Members Castro, Davis and Gunn voted for the motion. Council Member Bristow voted against the motion.**

**11.2** A motion was made by Council Member Davis to approve the Minutes from the Regular Council Meeting of October 16, 2012, seconded by Mayor Pro Tem Post. Council Member Castro stated on page 5, Agenda item 7.2; the date of referendum should have been November 6th. **A vote was taken to approve the motion approving the Minutes from the Regular Council Meeting of October 16, 2012 including changes to item 7.2. The vote passed unanimously.**

**12. ADDITIONAL COUNCIL COMMENTS: NONE**

**13. ANNOUNCEMENTS:** Mayor announced the Civic Club Christmas Party would be December 9<sup>th</sup>.

**14. ADJOURNMENT:** Mayor Pro Tem Post moved to adjourn, seconded by Council Member Davis. The meeting was adjourned at 8:18 P.M.

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Shannon Whiting, Mayor

ATTEST:

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Susan Blevins, City Secretary