

NOTICE OF REGULAR COUNCIL MEETING

APRIL 2ND, 2012 7:00 PM

SHADY SHORES COMMUNITY CENTER

101 S. SHADY SHORES ROAD

SHADY SHORES, TX 76208

AGENDA

- 1. CALL TO ORDER - *The meeting was called to order at 7:00 p.m.***

MEMBERS PRESENT

**Jerry Williams, Mayor
Cindy Aughinbaugh, Mayor Pro-Tem
Cindy Spencer
John Reedy
Lance Sandmann
Charles Grimes**

MEMBERS ABSENT

**Also Present: Sarah Swanson, Town Secretary
Jim Shepherd, Town Attorney**

- 2. PLEDGE ALLEGIANCE TO THE UNITED STATES FLAG AND THE TEXAS FLAG.**

(HONOR THE TEXAS FLAG; I PLEDGE ALLEGIANCE TO THEE, TEXAS, ONE STATE UNDER GOD, ONE AND INDIVISIBLE.)

3. CONSENT AGENDA-each item listed on the consent agenda is considered to be routine by the Town Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council Member so requests, in which event the item will be removed from the Consent Agenda and considered in its normal sequence on the agenda. Information concerning consent agenda items is available for public review.

1. Consider and take action relative to the following minutes:
 - a. Town Council Meeting 3/05/2012
 - b. Special Council Meeting 3/19/2012

- Cindy Spencer asked for the Special Council Meeting Minutes to be moved to agenda item number 9 for discussion.

- c. Consider and take action relative to the February Financial Reports.

Cindy Aughinbaugh made a motion to approve the minutes and financial reports with the exception of the Special Council Meeting Minutes from 3/19/2012. Cindy Spencer seconded. Motion carried.

4. COUNCILMEMBER/COMMITTEE REPORTS-Consider and take action relative to the following Councilmember/Committee member reports:

1. Road Report (Williams)

The three road areas of concern are complete and Quality Excavating did a good job. No issues have been seen, but there will be a walkthrough with the engineer before they are paid. Some of the roads are shared with other towns and we try to work an interlocal agreement for roadwork. We had one such case in South Shady Shores with Lake Dallas, which is an ongoing battle, trying to get that section of road repaired. Mayor Williams is still working with the city manager and they did pass a bond and hopefully within the next fiscal year we can work together on that stretch of road and share the cost on that. In addition, we share the cost on Dobbs Road with Corinth, which also has some issues. Mayor Williams will be driving with the engineer in the next couple of weeks and will address it with their interim city manager to see where they are with fixing the road. Mayor Williams committed to the repair of our side of West Shady Shores Road because there was a waterline that was put on our particular side of the thoroughfare that had over the years continued to sink, which could be a safety issue. The three areas of road are now complete and safe. Mayor's next agenda is to get with Richard and John Reedy and spend the day driving all the roads for damage and drainage issues, and then put together a cost factor that can be presented to council this summer.

2. Police Report (Grimes)

The March police report was not available from Denton Police Department so Charles Grimes discussed February's report. There was a total of 190 plus calls in February. There was quite a bit of activity down in Fox Hollow and down on Shady Shore Road. We still need to get a more detailed report.

3. Strategic Planning Report (Reedy)

The committee met in March to discuss three main items: 1) looking at the size of the Town Hall for now and in the future, factoring in population growth. The committee determined that the Town Hall is an adequate size for now and in the future 2) the roads and drainage issues, which will be surveyed later in the month 3) the budget, specifically the emergency

and reserve. The committee will be meeting again in May to discuss the roads, drainage and budget further.

4. Community Events Committee (Spencer)

The Trash Bash is Saturday, April 14th. All of the Lake Cities are involved. There will be a free breakfast at the Sonic in Lake Dallas at 9:00 and then everyone will meet back at the Community Center at 9:30. West Shady Shores is the main area of focus.

5. New website (Aughinbaugh)

Sarah Swanson has met with the project manager and is getting started on the design. Shady Shores also has a new Facebook page, which is called 'Town of Shady Shores', which will include updates for the town.

6. Candidate Forum (Williams)

The Candidate's Forum will be Tuesday April 24th at 7 PM. Frank Graham will once again be doing our moderating.

5. CITIZENS COMMENTS-PURSUANT TO THE STATE OF TEXAS OPEN

MEETINGS STATUTE: The governing body of the Town of Shady Shores may not take action on items not posted on the agenda. Those items mentioned by citizens may be placed on a future agenda.

Mike Thompson at 409 West Shady Shores

Thompson is concerned with water drainage directly related to the new middle school being built, which directly affects his neighbor, the creek and part of his property. He does not feel that the creek is big enough since the housing addition to the west of him made some changes to their drainage, which put more water to them. He is wondering if there is an option to dig the creek out bigger to flow the water. He is also concerned that the council approved the engineer's work when there are retaining ponds that are not working properly. His concern is liability if his and neighbor's property is affected. He believes there is a contradiction with claiming they will be putting more pipes under the road, but also claiming that they will not be flowing more water. He does not want to see the city liable for something the school is going to create, because the city engineer signed off on it.

- 6. WASTE MANAGEMENT:** John Klaiber will be present to give an update on procedures regarding Waste Management pickups and features per our contract with them.

Bill Kruger 103 Cielo Ln.

For years, we had pickup on Monday but a few years back this changed. He understands that Waste Management may have their reasons due to scheduling, but is asking for the day to be returned to Monday. This is because people do most of their cleaning and yard work on the weekends, and as it is now, it just sits there until Thursday.

John Klaiber

John Klaiber handles Waste Management for Shady Shores and all of Lake Cities. As far as the residence situation, it is a balancing act with all the communities they serve. However, they will take a look at the Thursday schedule, but he cannot make any decisions at the time. The new contract entered into with the town allows once per week residential trash collection and once per week recycle collection. In addition to weekly residential services, they do have a couple of different cleanup activities provided at no additional charge, such as the Trash Bash on April 14th. If there are other events in the fall, they are happy to provide services.

Klaiber then explained the new ‘At Your Door’ program, where household hazardous waste can be disposed of through Waste Management. The program is year-round and residents with hazardous waste can make arrangements by calling 800-449-7589 or emailing atyourdoor@wastemanagement.com.

Klaiber also explained that there is a landfill voucher program which allows residents to take their waste to the Lewisville landfill, with proper identification, once per year.

- 7. ORDINANCE 244-2-12 AMENDMENT:** Consider and discuss amending Ordinance 244-2-12 to place the early voting locations in the Ordinance

We have confirmed that you can early vote at Denton, Lake Dallas and Corinth and have adjusted our ordinance to reflect that. Cindy Aughinbaugh made a motion to amend Ordinance 244-2-12 and Lance Sandmann has seconded. Motion carried.

The new ordinance number is 247-5-12.

- 8. ORDINANCE 124:** Conduct a work session relative to the Zoning Ordinance 124, the Comprehensive Zoning Ordinance of the town. Consider and take action relative to approving the changes to Ordinance 124 and calling a public hearing.

Ralph Haver - 44 Hidden Valley

Haber has concerns on the revisions of this ordinance.

Article 5.3 DUTIES OF BUILDING OFFICIAL

- (a) He shall, when requested by proper authority, or when the public so requires, make investigations in connection with matters referred to in the codes and render written reports on the same.

Proper authority is not defined. Proper authority is nebulous and, as written, may be identified on a whim or ultimately defined for the sake of convenience. Our concern is that it could become self-defined by any city enforcement person, in the future, to become more of a punitive or punishment measure (it is simply assumed now, that such will not be so, but we are interested in staving off a future misinterpretation). In the same manner, what is the meaning of the phrase ‘public interest’?

- (b) Inspections required under the provisions of the construction codes shall be made by the Building Official, or his duly appointed assistants... No certificate called for by a provisions of the construction codes shall be issued on such reports unless the same are in writing and certified by a responsible officer of such service.

Where can we read these construction codes? Where can we find them? How does one become a duly appointed assistant to the building official, and what would be that process? What certificates are called for by provisions of the construction codes? Town residents are regulated by such certificates. Where can we find them?

- f) The Building Official shall perform such other duties as the Town Council shall, from time to time, impose upon the office.

This is also nebulous and clearly written without limitations. It should be deleted.

Keith Perry – 22 Hidden Valley

ARTICLE 5.4 RIGHT OF BUILDING OFFICIAL

The Building Official, in the discharge of his official duties, and upon proper Identification, shall have the authority to enter any building, structure or premises at any reasonable hour.

This appears to be unconstitutional because it mandates an unreasonable search and seizure. It is not connected in any way with construction or remodeling. It is a little too vague. We suggest that this article be renamed Authority of Building Official or Authorization of Building Official. ‘Right’ seems presumptuous.

We are aware that that the proposed changes to Ordinance 124, published on the Town’s website, had added the phrase “prior to issuing a certificate of occupancy” at the end of the

existing Article 5.4. We applaud this as an attempt to resolve the Article's questionable constitutionality. However, we believe the attempt does not totally resolve the problem. First of all, 'certificate of occupancy' is not defined in Article 1.1 of the existing Ordinance 124 nor the published proposed changes to Ordinance 124. In addition, the term 'certificate of occupancy' appears only once in the existing Ordinance 124 in Article 2.6, Planned Development Districts, (b) (2). It appears only twice in the published proposed changes to Ordinance 124, the above mentioned additional to Article 5.4 and Article 2.6, Planned Development Districts, (b) (2).

Once 'certificate of occupancy' is properly defined, it seems this section would not apply to homes already built because such homes do not need a 'certificate of occupancy' unless they have been rendered unlivable by fire, wind or flood. That issue should be clarified. As it stands, the Town's ordinance declares that it is the Building Official's right to enter the residence of any Town resident at any reasonable hour, which we believe is unreasonable search and seizure.

Perry recognizes and appreciates the efforts of council of working on this ordinance but would appreciate if the flaws are addressed.

In section 2.1:

(N) Vehicles

(iv) Trucks of one (1) ton or over must be parked in an area approved by the Planning and Zoning Commission or in a garage or other enclosed building.

Does 'one ton or over' refer to cargo, payload, gross vehicle weight, towing capacity, or design limit? The vagueness of the restriction, 'one ton or over', although well intentioned, makes this section unenforceable. We understand the intent of (iv) and we agree that without well-reasoned restrictions, our community may well become less than desirable. However, we point out that Dodge, Ford, General Motors and foreign manufacturers currently market attractive, unobjectionable trucks of one and half ton gross vehicle weight that we see on the roads of Shady Shores.

Jeff Pohlman – 36 Hidden Valley

ARTICLE 4.4 PENALTY FOR VIOLATIONS

We recognize, in the published proposed changes to Ordinance 124, that the Council proposes to delete Article 4.4. However, after our conversation on March 16, we are unsure whether the penalties prescribed in the existing Article 4.4 will be eliminated or not. Both the Mayor and Mr. Jim Shepherd assured us that the maximum penalty is 2,000 per violation (per day), the Town does not intend to impose the maximum penalty in every case. We were told that penalty amount varies. How do they vary? What are the

standards? Where can a Town resident find the penalty for grass exceeding the height limit? We suggest that violation penalties be shown for each section of the Ordinance that may be violated. Mr. Shepherd suggested that these definitions, limits and fee structure levels were simply boilerplate drawn directly from the overarching Texas code – so the Texas code and fee charts need to be clearly reprinted here, for all citizens to read, much like a speed limit sign along the road.

The Mayor and Council then worked through Ordinance 124 making modifications, starting off on Page 49 (Conditional Uses) to Page 61 (Regulation of Non-Conforming Uses)

As authorized by section 551.071(2) of the Texas Government Code, this meeting may be convened into closed executive session for the purpose of seeking confidential legal advice from the town attorney on any agenda item listed herein.

9. ADJOURN

Cindy Spencer asked that the minutes be more detailed from the previous council meeting as well as all future meetings. The March 19th meeting will be amended per Cindy Spencer's suggestion.

John Reedy made a motion to adjourn. Cindy Aughinbaugh seconded. Motion carried.

I, Jerry Williams, Mayor of the Town of Shady Shores do hereby certify that the above notice of the Regular Council Meeting was posted on the bulletin board at the Community Center, 101 S. Shady Shores Road, Shady Shores, Texas on _____ DAY OF _____, AT _____ P.M.

Jerry Williams

PASSED AND APPROVED THIS 7th DAY OF MAY, 2012

_____ JERRY WILLIAMS, MAYOR

ATTEST:

_____ SARAH SWANSON, TOWN SECRETARY