

NOTICE OF SPECIAL COUNCIL MEETING

SEPT 10, 2012 7:00 PM

SHADY SHORES COMMUNITY CENTER

101 S. SHADY SHORES ROAD

SHADY SHORES, TX 76208

AGENDA

Minutes

1. CALL TO ORDER – 7:02 PM

MEMBERS PRESENT

**Jerry Williams, Mayor
Cindy Spencer, Mayor Pro-Tem
Cindy Auginbaugh
John Reedy
Charles Grimes**

MEMBERS ABSENT

Lance Sandmann

**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 August 6, 2012
- b. Town Council Meeting August 27, 2012

c. Town Council Meeting August 29, 2012

2. Consider and take action relative to the June and July 2012 Financial Reports

Cindy Aughinbaugh asked to move the Town Council Meeting Minutes from August 29, 2012 to the end of the agenda for clarification.

John Reedy made a motion to approve the consent agenda. Cindy Aughinbaugh seconded. Motion carried, less August 29, 2012 minutes.

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

1. Budget Report (Williams)

Mayor Williams said that the budget has been finalized and has gone through the proper work sessions and public hearings. It will require moving some of our fund balance to balance the budget this year. Tonight we will pass our ordinance that we will submit to our county clerk, allowing us to budget and fund the operations of the Town for 2012-2013 budget year.

2. Road Committee Report (Williams)

There have been two Road Committee meetings. At the first meeting, the committee members introduced themselves and elected Judith Halaszyn as the Chairperson. They then took a look at the matrix that was submitted to them by the Strategy Committee of spots in the town with a history of road and drainage problems, as well as some items that we did not specifically see as needing work. The Chairperson then assigned each member to look at the sites on the matrix, investigate the area and then bring the information back to the committee at the following meeting, along with other areas that may not have been on the matrix. The committee met again on September 6th and each person had evaluated the weaknesses for which they were assigned as well as introducing some of their own opinions. The overall consensus was that the roads, with the exception of Oakwood Circle and West Shady Shores (which the council will be getting bids for this year) are really not in that bad of shape. The primary concern from the committee members was drainage issues. At their next meeting, on October 2nd, the committee will bring forth to the council a document with their suggestions for priorities for the budgeted year of 2012-2013.

3. Waste Management Downsize (Williams)

Williams said that Waste Management has downsized considerable and because of this, Shady Shores lost its representative. If anyone has issues, they need to call Customer Service with Waste Management.

4. Fire Report (Sandmann)

Sandmann was absent from the meeting so will update the Fire Report at the next meeting.

5. Police Report (Reedy)

Reedy gave a detailed summary of the Police Report for Shady Shores.

6. Website Update (Aughinbaugh)

Auginbaugh said that the website is being populated with each document from the current website, one document at a time.

7. Community Events Committee (Spencer)

Spencer said that the Hoot & Holler event was successful. The Trash Bash will be this Saturday. There will also be a community-wide garage sale on October 19th and 20th. If a resident does want to participate, they can put their names on a compiled list for the event. The committee will also start planning for the Christmas event.

8. West Nile Virus Update (Williams)

Denton has not yet finalized its report on the effectiveness of the spraying. There has been one reported case of the West Nile Virus in Shady Shores, but it is not severe.

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.

Mark Osborne – 322 W Shady Shores Rd.

- 1) The spraying for West Nile seemed like a kneejerk reaction. We need to do preventative measures before we are faced with the issue again. The spraying was pointless when Corinth and Denton opted out, because Shady Shores is such a small area in between, so it was not that effective. The spraying is toxic and kills beneficial insects so it needs to be avoided in the future.
- 2) On Fritz Lane, because the road is very narrow, there is a lot of speeding activity while there are many people walking and running on the road. Osborne recommended speed bumps for the problem.

- 3) During heavy rains, at the culvert after the curve of Shady Shores Rd., he is collecting water not just from the pasture lands but also all of the drainage coming down from Garza. Usually in heavy rains, the water is pooling faster where it actually flows over the driveway at that culvert. A culvert may need to be placed at the curve.

6. PUBLIC HEARING HIDDEN VALLEY ANNEXATION REQUEST-Conduct a public hearing relative to a request by Hidden Valley Airpark Association to annex 63 acres of land situated in the W. Durham Survey Abstract Number 330 and the M.E.P. and P.R.R Survey Abstract Number 911, Denton, Texas.

A. Open Public Hearing

When Williams became Mayor almost a year and a half ago, one of his first tasks was to update and redo the official town map. In the progress of redoing it, he hired a mapmaker and used the geodata from the County of Denton and with data that he was provided, and the map that he made, it did not show that we have some parts of Shady Shores that were basically not part of the town, so the map was accepted by council and became our official town map. By later looking at the taxing entity and taxing maps, Mayor Williams discovered that there was some land that belongs on the Town of Shady Shores, but is not there. Mayor Williams confirmed this with the residents of Hidden Valley and the former Mayor, realizing there was an error. So the Hidden Valley Association has asked to annex the land. This is our second hearing, the notices were published in the newspaper and the letters were sent out to all of those within 200 feet of the property stating that there would be two hearings, one on August 6 and one on September 10.

John Reedy made a motion to open the public hearing. Cindy Spencer made the second. Motion carried.

B. Public Comments

Tom Spencer 203 W 6th St.

Spencer said that at the last Council meeting, it was said that there is a possibility of Corinth annexing the property. He talked with an official of the City of Corinth, to confirm that the boundary of Shady Shores and Corinth is the middle of West Shady Shores Rd., and this was confirmed. So there is no chance of Corinth annexing the property because it is in our city limits. There may be a multitude of reasons to annex, but that is not one of them. His question has to deal with the Resolution concerning annexing, which states that the land annexed by the petitioners will be annexed and maintained as open space and pasture land – so he asked the petitioners if they have had the discussion about a timeframe for developing

the land. It implies that it will be maintained as open space and pasture but the city cannot control if that is maintained.

Bill Mfsos 37 Hidden Valley Airpark

He is under the impression that Corinth does have the ability to come in and annex the piece of property and if he is going to pay extra taxes, he just assumes paying them to Shady Shores. He has lived within Hidden Valley for 13 years and has never heard any discussion or seen any plans to develop the open space horse pasture into anything else.

JR Mosier - 109 Hidden Valley Airpark

Mossier has been President of the board for the last five years and wants to reiterate the things said at the previous council meeting. He wants to reassure that the Hidden Valley Airpark Association has gone through the internal process and gave notice to all of its members and invited all to the meeting. To answer the last question, there are no plans to develop that property. That does not mean that in 10-20 years this could not change, but there are no intentions to develop any time in the foreseeable future. Some residents may be misunderstanding the word 'annexation' in a document to think maybe the city was taking the property, but that is not the case. They are just trying to annex it from unincorporated county into the Town of Shady Shores. All but two homes in the community are in Shady Shores. It is their understanding that Corinth can incorporate the land because it is unincorporated and it is bordering their town. They are not suggesting that they have any intention to do so, but it is a possibility. They would rather have only one governing body. Right now, the Shady Shores ordinances do not cover the area. The property will also continue to be maintained by the Hidden Valley Airpark Association if annexed. There have never been any stockholders of the association.

Steve Aughinbaugh

Aughinbaugh said that it is his understanding that Texas law states that a town like Corinth, home ruled, has a right to annex any property directly adjacent to their property that is unincorporated. Jim Shepherd, Town Attorney, said that while there are a few exceptions to this rule, the center line city limit in the middle of Shady Shores is not what stops them. The whole point is that they could come across the line and annex unincorporated areas. Aughinbaugh does not want to develop the land and wants to make sure that a future board of the association cannot develop it without Shady Shores approving it. So it just makes imminent sense to have Shady Shores annex it. It will cause their taxes to be around \$150 more, which is fine.

C. Rebuttal

D. Close Public Hearing

John Reedy made the motion to close the public hearing at 7:40. Cindy Aughinbaugh seconded. Motion carried.

7. ORDINANCE 248-6-12 ADOPTING THE 2012-13 FISCAL YEAR BUDGET - Consider and take action relative to adopting the 2012-2013 Town of Shady Shores Budget.

Mayor Williams said that this budget will raise more total property taxes than last year by \$4,306.00 and of that amount \$51,137.00 is tax revenue to be raised from new property after the tax rolls this year.

Cindy Aughinbaugh made a motion to approve Ordinance 248-6-12. Cindy Spencer seconded. Motion carried.

8. ORDINANCE 249-7-12 SETTING AND ADOPTING A TAX RATE TO FUND THE 2012-2013 FISCAL YEAR BUDGET - Consider and take action relative to setting and adopting a tax rate to fund the 2012-2013 Fiscal Year Budget.

We are in compliance with what the Denton County Appraisal District is asking us to do.

John Reedy made a motion to accept Ordinance 249-7-12. Cindy Aughinbaugh seconded. Motion carried.

9. ALTERNATE DRAINAGE PLAN A-Consider and take action regarding a proposed adjustment to the Bettye Myers Middle School drainage documents to increase the size of the culverts as labeled Alternate Drainage Plan A.

Mayor Williams said that when we last tabled this motion, we were all in agreement that increasing the size of the culverts would aid in accepting the water coming in from the Northeast. One of the things that we had asked was if the school board will help fund the actual extension of the drainage that was on the East side of the property. The school board declined with helping. We are all in agreement that the culverts are an acceptable fix for this particular issue. We were hoping that they will help us, but in the event that they do not run over budget, there would be contingency money that they would prefer giving back to the taxpayers. Our Town Engineer was also asked to get us a cost in putting in a proper culvert going up the blue line and tying into the northeast corner and to see the particular components and cost.

The Town Engineer said that the option DISD is proposing is the Green Line which ends just before Garza Rd. He developed a cost estimate of what it would take to expand that Line A

from the termination point where they are proposing currently, which is a storm drain manhole, and extending that out into Garza Rd. to the Northeast corner of the existing elementary school property. So he factored in that it would go up the West side of Shady Shores underneath the payment so there is about 10 feet of asphalt removed and replaced and 36" RCP pipe going it. The dollar amount estimated for that is about 760 linear feet. There are some sidewalks that would have to be removed and replaced, block siding the clean up the area, barricading and traffic control (10% contingency). So the dollar amount is roughly about \$160,000. One of the concerns with extending the line from the storm drain manhole is the 27" upper trinity water line, existing 12" water line and 8" sanitary sewer line, which all run North-South along the West side of Garza. Looking at some of the flow line elevations, and talking with TNP, it appears that the sanitary sewer and 27 inch waterline would cost some dollars that would be required just to adjust the 12" water line at that location. He guessed this could be done for about \$2,500. This could be factored in the 10% contingency.

Tom Rutledge – TNP

Rutledge brought a presentation for a visual for the audience. He said that on March 19th they came to council to present the site plan and ask for approval of a permit for construction. The council approved, contingent upon the sidewalk change, \$50,000 escrow to address the drainage, and to protect the rights of the hawk. They have committed to all obligations and moved forward from that. Going from there, they looked at drainage options and looked at extending the storm drain system. They took all the approved drainage and from the council meeting, they went and upsized the line to the property line. They then presented this all at a meeting on June 28th with the Town. As they moved forward, they went to the contractor to get a change order to upsize the line and extend it to the property line. That change order was a little over \$53,000, as committed. By the time they reengineered, they have expended over \$61,000. They also made sure that the detention pond could receive the drainage in its undeveloped state so when the system was extended, it would drain into the pond. So they have accommodated through their detention pond design and through the onsite storm drain system, all of this upstream storm drainage. Because of the speed of construction, the storm drain system is in, and it has already been paved.

Mayor Williams said that the Town Engineer has said that at a minimum, if DISD is not willing to extend the line in its entirety, it may be advantageous to the City to request they extend it into Garza to ensure there are no issues with crossing existing utility lines. This would mean approximately 60 linear feet of the "red line" being constructed now. Rutledge said they he would have to let the District answer that.

Tom Spencer

Spencer said that we asked them to take it all the way up the street which should have been done the first time out, but it was not. He does not believe that in Denton they do their drainage systems like they are doing in Shady Shores. He is concerned because with every other school they have, they are using a different model. Now that it is being built, you can see the dimensions and what is happening out there. His concern is also the bus turn lane on West Shady Shores Rd. because of the traffic there. Their project is being driven by a schedule and budget so of course they ate eleven grand to get it done, which they should have done in the first place. Except now they are not going to run that drainage plan out there. If they were in Denton, they would be running that line. We need to tighten our procedures and negotiation a lot better than it is. As a last thing – the school district can spend money off the property. The first time someone slams into a bus, they will wish they had spent the money on the bus turn lane.

Paul Brown

Brown said that on July 18th Special Council Meeting, the Town Engineer, Richard Arvizu said, “The Middle School detention pond is basically a big hole in the ground that is storing up water. Along with an outlet control structure that will detain the water in the detention pond, it is a large enough hole to release it an allowable rate. They have an outlet control structure that has a vertical slit in its opening that detains the two through 100 year storm. When the 100 year storm level is reached, it overtops the structure, falls into a grate and the drainage is detained and released at a reasonable rate.” Brown asked Arvizu if that is a detention pond or a retention pond. Arvizu said detention. His said that the detention pond empties straight on to his property. Rutledge then explained to Brown that he is incorrect. Brown also questions the validity of the City Engineer and gave a description of a detention pond and a retention pond – Brown said that was Arvizu really described was a retention pond that holds water and does not release water. Brown then gave the council other options to consider, as he believes the detention pond or retention pond is maxed out and cannot carry any more. His other concern is that there is no consideration for the silt buildup, so all of this coming out of the detention pond goes to Lake Lewisville, a half mile away. The water quality has not been considered.

Mike Thompson – 409 W Shady Shores

Thompson asked why nobody is asking them if they are okay with them dumping more water on their property. Nobody has done any studies on how it’s going to affect those downstream. He also understands that they are going to add another culvert from what they

were already planning on, dumping straight into his front yard. The ditch can't handle the one that is there.

Steve Aughinbaugh – 122 Hidden Valley Airpark

Aughinbaugh wanted to first state that he is not a hydraulic engineer and does not think any other citizens that have spoken are. Some of the engineers that have spoken tonight do have that training. His observation of the topology of the land, what it looked like before the school was there, is that all of the water that was flowing there is draining through the same location. It is his understanding that the engineers designed it that the same flow went through those properties as went through before. So he does not understand why there is so much discussion about this.

Tom Rutledge said that he is only trying to address what is on the agenda, which is Option A. A couple of the people that have spoken tonight have hired an attorney and the statements that have been made are inaccurate. This is a detention pond, it does retain water. A retention pond is a permanent pool. This is a dry detention pond that does detain the water. The water will fill up like a bathtub, and like a bathtub, you will unplug that cork and it will slowly drain out. That is how this is designed. He is not going to address all of the comments made tonight by the two gentlemen because they have a different agenda than what we are here to talk about tonight – Option A. They have spent months and months trying to stand before the residents and answer their questions, met at their pleasure, and done studies after studies, and even modified them to make them more stringent – at the Town Engineers request. They will put whatever number of pipes under Shady Shores, based on those studies, because that is what they have been directed to do by the Town. They are very content to leave things as they are. But tonight, we are talking about the approval of Option A. They have gone beyond the \$50,000 because it was the right thing to do, to get the improvements in place.

Mayor Williams discussed with Mr. Rutledge – We have increased our culvert size to basically take in the extra flow. They have established a detention pond. With the engineering done on this site, and the engineering that our Town Attorney has approved, are you going to be releasing more water than you did before the detention pond was put in the middle school. Mr. Rutledge said that no – they would be releasing less water.

Charles Grimes asked if the water would be faster coming out of the detention pond. Mr. Rutledge said that yes. However it is metered at the pond, and the pond holds it and releases it at the pre-developed rate. That is why the pond is so large – to accommodate that. They are not releasing the water on anyone. The water will not be coming out of the detention pond faster than what they were receiving.

10. EXECUTIVE SESSION: Pursuant to the provisions of Chapter 551, Texas Government Code, Vernon's Texas Codes Annotated, the Town Council may hold a closed meeting.

- A. Government code 551.074-Personnel-to deliberate the appointment, employment, evaluation, reassignment or duties of a public officer or employee-Town Secretary, Bookkeeper, Court Clerk, and/or investment/Budget officer.
- B. Confidential legal advice from the town attorney on municipal regulation on employment and other legal matters on the agenda.

Cindy Aughinbaugh made a motion to move into executive session. John Reedy seconded. Motion carried.

Cindy Spencer made a motion to move back into open session at 9:35 p.m. John Reedy made the second. Motion carried.

Cindy Aughinbaugh asked about impact fees. Cindy Aughinbaugh made a motion to approve minutes from August 29th, provided that there is a correction under three, public hearing, comment B. Charles Grimes seconded. Motion carried.

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.

11. ADJOURN

Cindy Aughinbaugh made a motion to adjourn. Charles Grimes 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, MAYOR

PASSED AND APPROVED THIS _____ DAY OF OCTOBER, 2012

_____ JERRY WILLIAMS, MAYOR

_____ SARAH SWANSON, TOWN SECRETARY

