



**MINUTES OF THE REGULAR MEETING OF THE
HIGHLAND VILLAGE CITY COUNCIL
HELD AT THE HIGHLAND VILLAGE CITY COUNCIL CHAMBERS
1000 HIGHLAND VILLAGE ROAD
TUESDAY, SEPTEMBER 24, 2019**

Mayor Charlotte J. Wilcox called the meeting to order at 6:00 p.m.

Roll Call

Present:	Charlotte J. Wilcox	Mayor
	Jon Kixmiller	Councilmember
	Michael Lombardo	Mayor Pro Tem
	Barbara Fleming	Deputy Mayor Pro Tem
	Tom Heslep	Councilmember
	Robert A. Fiester	Councilmember
	Daniel Jaworski	Councilmember
Staff Members:	Michael Leavitt	City Manager
	Kevin Laughlin	City Attorney
	Ken Heerman	Assistant City Manager
	Angela Miller	City Secretary
	Doug Reim	Chief of Police
	Michael Thomson	Fire Chief
	Scott Kriston	Public Works Director
	Jana Onstead	Human Resources Director
	Laurie Mullens	Marketing & Communications Director
	Andrew Boyd	Media Specialist

EARLY WORK SESSION

1. Receive an Update and Discuss HB 3231

With the recent passage of HB 3231, City Manager Michael Leavitt reported the City has been contacted by an individual researching the opportunity to open a "Private Gun Club" in Planned Development (PD 2012-1) for Retail, Office and Residential Uses. In the identified PD, gun sales are a prohibited use. HB 3231 preempts most local regulations regarding the possession, sale, and storage of firearms, including zoning ordinances that specifically regulate firearms. As HB 3231 relates to our PD Ordinance, the express prohibition of firearm sales is not enforceable. Firearm sales would be prohibited only if retail sales was also a prohibited use. Therefore, if retail sales is permitted, then with respect to the building in which Private Gun Club sales are located, any retail sales of firearms occurring in this area (pursuant to a properly issued ATF license) is permitted, notwithstanding the language of the PD Ordinance.

City Attorney Kevin Laughlin added the retail sale of firearms will now be treated as any other retail store, unless the zoning district did not allow retail. In that case, gun sales would not be allowed either.

2. Discuss Cancelling the November 26, 2019 and December 24, 2019 City Council Meetings

City Secretary Angela Miller reported Council typically only has one meeting in November and December. The consensus of Council was to cancel the meetings. Staff will present a resolution at the next meeting for Council to take formal action.

3. Clarification of Consent or Action Items listed on Today's City Council Meeting Agenda of September 24, 2019

Relating to Agenda Item #18, Mayor Wilcox voiced concern that the proposed ordinance does not allow for a resident to sell his/her personal vehicle. With staff reporting that was not the intent of the proposed ordinance, Mr. Laughlin stated the definition of vehicle storage or vehicle auction within the ordinance could be modified to allow no more than two (2) or more operable motor vehicles for sale. He added the focus of the ordinance is to address persons conducting certain for-profit businesses in residential areas of the City that do not constitute home occupations and the parking/storage of motor vehicles in residential areas that are being held for future resale.

Mayor Pro Tem Lombardo and Councilmember Jaworski stated they wished to allow for the sale of one or two vehicles, such as a case of an estate sale. Councilmember Kixmiller suggested the threshold on the number of vehicles allowed be increased. Mr. Leavitt reported the City's current ordinance is vague and therefore difficult to enforce. He also voiced his concern with for sale vehicles being left in parking lots within the city. Council and staff discussed the possibility of allowing exceptions in the case of an adult child selling an aging or deceased parent's vehicle.

Further discussion continued during the Regular City Council meeting with Agenda Item #18.

Early Work Session ended at 6:30 p.m.

4. Meet and Greet with Board and Commission Applicants

Mayor Wilcox welcomed the applicants and thanked them for their interest in serving in Highland Village; members of Council and City staff were introduced. Council and staff visited with the applicants.

CLOSED SESSION

5. Hold a closed meeting in accordance with the following sections of the Texas Government Code:

- (a) Section 551.071 – Consultation with City Attorney Concerning Pending or Contemplated Litigation and on any Regular Session or Work Session Agenda Item Requiring Confidential, Attorney/Client Advice Necessitated by the Deliberation or Discussion of Said Item (as needed)**
- (b) Section 551.074 – Deliberate the Appointment, Removal, Evaluation and Duties of Public Officers, specifically Members of the Planning and Zoning Commission, Zoning Board of Adjustment, and Board of Directors of the Highland Village Community Development Corporation**

Council did not meet in Closed Session.

OPEN SESSION

6. Call to Order

Mayor Charlotte J. Wilcox called the meeting to order at 7:30 p.m.

Roll Call

Present:	Charlotte J. Wilcox	Mayor
	Jon Kixmiller	Councilmember
	Michael Lombardo	Mayor Pro Tem
	Barbara Fleming	Deputy Mayor Pro Tem
	Tom Heslep	Councilmember
	Robert A. Fiester	Councilmember
	Daniel Jaworski	Councilmember
Staff Members:	Michael Leavitt	City Manager
	Kevin Laughlin	City Attorney
	Ken Heerman	Assistant City Manager
	Angela Miller	City Secretary
	Doug Reim	Chief of Police
	Michael Thomson	Fire Chief
	Scott Kriston	Public Works Director
	Laurie Mullens	Marketing & Communications Director
	Andrew Boyd	Media Specialist

7. Prayer to be led by Deputy Mayor Pro Tem Barbara Fleming

Deputy Mayor Pro Tem Fleming gave the invocation.

8. Pledge of Allegiance to the U.S. and Texas flags to be led by Deputy Mayor Pro Tem Barbara Fleming

Deputy Mayor Pro Tem Fleming led the Pledge of Allegiance to the U.S. and Texas flags.

9. Visitor Comments

The following person spoke:

Lucas Brasher (635 Sugarloaf Court) – Mr. Brasher is working on his Eagle Scout project to make a “fidget box” for each classroom at McAuliffe Elementary. The boxes would include silent classroom fidget items that a student could use, if needed, to keep restless fingers busy, bodies relaxed and minds focused during class. Mr. Brasher explained the boxes are good for children with anxiety or sensory disorders. He is accepting donations for the project.

10. Mayor and Council Reports on Items of Community Interest pursuant to Texas Government Code Section 551.0415 the City Council may report on the following items: (1) expression of thanks, congratulations or condolences; (2) information about holiday schedules; (3) recognition of individuals; (4) reminders about upcoming City Council events; (5) information about community events; and (6) announcements involving imminent threat to public health and safety

With the recent passing of Marcus High School football player Deshaud Williams, Councilmember Jaworski Dan asked everyone to keep the friends and family in their thoughts and prayers.

- **Announcements regarding National Night Out and the TX Fallen Officer Bike Race & 5K**

Police Chief Doug Reim invited residents to attend the National Night Out event to be held on Tuesday, October 1, at Doubletree Ranch Park from 5:00 to 8:00 p.m.

11. City Manager/Staff Reports

- **HVTV Update**

The Update, which was filmed at the Olive Branch Tea Room located inside the Painted Tree Marketplace, informed residents of the events taking place for National Night Out at Doubletree Ranch Park on October 1, 2019. The Update also included information on Paper Shredding Day which is scheduled for Saturday, September 28, and the final Concert in the Park featuring King George on October 5 at Doubletree Ranch Park.

CONSENT AGENDA

- 12. Consider approval of Minutes of the Regular City Council Meeting held on September 10, 2019**
- 13. Consider Resolution 2019-2837 authorizing the City Manager to enter into an Interlocal Agreement with Texas Political Subdivisions for purposes of providing City Workers' Compensation Insurance for Fiscal Year 2019-2020**
- 14. Consider Resolution 2019-2838 appointing an Alternate Municipal Court Judge**
- 15. Consider Resolution 2019-2839 authorizing the Purchase of Vehicles from Silsbee Ford through the City's Cooperative Purchasing Agreement with the State of Texas Purchasing Co-op (Goodbuy)**
- 16. Receive Budget Reports for Period Ending July 31, 2019**

Motion by Councilmember Fiester, seconded by Mayor Pro Tem Lombardo, to approve Consent Agenda Items #12 through #16. Motion carried 7-0.

ACTION AGENDA

- 17. Take action, if any, on matters discussed in closed session in accordance with the following sections of the Texas Government Code:**
 - (a) Section 551.071 – Consultation with City Attorney Concerning Pending or Contemplated Litigation and on any Regular Session or Work Session Agenda Item Requiring Confidential, Attorney/Client Advice Necessitated by the Deliberation or Discussion of Said Item (as needed)**
 - (b) Section 551.074 – Deliberate the Appointment, Removal, Evaluation and Duties of Public Officers, specifically Members of the Planning and Zoning Commission, Zoning Board of Adjustment, and Board of Directors of the Highland Village Community Development Corporation**

NO ACTION TAKEN

Council did not meet in Closed Session.

18. **Conduct a Public Hearing and Consider Ordinance 2019-1265 amending the Comprehensive Zoning Ordinance Article IV “Use Regulations” by adding the Use “Vehicle Storage or Vehicle Auction”; establishing the Zoning Districts for Same; and amending Article VI “Definitions” of Vehicle Storage or Vehicle Auction (1st of two reads)**

PUBLIC HEARING CONDUCTED
APPROVED 1ST READ with MODIFICATION (6 – 1)

Discussion relating to this item started during Early Work Session with Agenda Item #3 and continued during the Regular City Council Meeting:

Public Works Director Scott Kriston reported that upon review of certain code enforcement matters relating to persons conducting a business in residential areas of the City that do not constitute home occupations, it was determined by City staff, including the City Attorney and City Prosecutor, that the application of provisions of the Comprehensive Zoning Ordinance (“CZO”) relating to the parking and storage of motor vehicles in residential areas that are being held for future resale needed further clarification.

Currently, it is difficult to prosecute alleged violations of property owners relating to the parking and storage of motor vehicles in residential areas that are being held for future resale. Revising the City’s CZO definitions and use charts relating to “auto storage and auto auction” would better clarify the definition of the use and where such use is permitted, permitted following approval of a conditional use permit, and prohibited, would provide a better basis for prosecuting violations.

Mayor Wilcox opened the public hearing. With no one wishing to speak, she closed the public hearing.

City Manager Michael Leavitt recited Section 2 of the proposed ordinance and asked if a specific number should be added that would allow a private owner to sell a vehicle(s) which are located on the parked street or right-of-way. Members of Council and City staff discussed the following as it relates to this topic: (1) code enforcement versus citations issued by the Police Department; (2) the ability of a resident to sell a vehicle if parked on public property such as a public ROW; and (3) commercial business sale of a vehicle versus an individual sale of a vehicle. City Attorney Kevin Laughlin reported it is difficult to distinguish between a commercial sale versus sale by an individual. He also added it is not the intent of the ordinance to restrict a resident from selling their own vehicle.

Councilmember Heslep suggested adding language to Section 2 that would allow two (2) vehicles owned by a private owner; Mayor Pro Tem Lombardo suggested allowing three (3). Councilmember Kixmiller voiced his concern with the clarity of the ordinance and the staff’s ability to enforce it. Mr. Laughlin added the ordinance is not solely to address the number of vehicles allowed on a property. If the property is located in an area that is not regulated by a homeowner’s association (HOA), then this would fall under the City’s nuisance ordinance. The ordinance is an attempt to address operating a commercial used car lot at a private residence.

Motion by Deputy Mayor Pro Tem Fleming, seconded by Councilmember Jaworski, to approve the first read of Ordinance 2019-1265, as presented.

The following person spoke:

William Kumpf (2611 Bierstadt) – Mr. Kumpf asked how long a vehicle can remain parked before receiving a notice or citation, even if parked in a driveway.

Mr. Kriston responded there is nothing that addresses the amount of time a vehicle for sale is parked unless there is a nuisance issue. If so, then a voluntary compliance notice is sent to the property owner. For clarity, Mr. Leavitt asked if Council wanted to include language in the proposed ordinance that addresses three (3) or more vehicles, thereby allowing an individual property owner the ability to sale a vehicle.

Deputy Mayor Pro Tem Fleming amended her motion to approve the first read of Ordinance 2019-1265 with a modification to Section 2 adding to the definition of vehicle storage or vehicle auction to include parking of no more than three (3) operable vehicles for purpose of vehicle sale or storage. Motion carried 6-1 with the following vote:

Ayes – Lombardo, Fleming, Wilcox, Heslep, Fiester and Jaworski

No - Kixmiller

- 19. Consider Ordinance 2019-1266 approving and adopting the Fiscal Year 2019-2020 Annual Budget (2nd and final read)**

APPROVED 2ND READ (7 – 0)

Assistant City Manager Ken Heerman reported this budget is a joint product of City staff and Council to reflect priorities established by Council in the initial stages of this budget process. He added that public hearings were conducted at the August 27 and September 10, 2019 City Council meetings, and that Council approved the first read of Ordinance 2019-1266 at their September 10th meeting. Mr. Heerman stated adoption of a budget that will require raising more revenue from property taxes than in the previous year requires a separate vote of Council to ratify the property tax increase reflected in the budget. As this budget does raise more revenue, this is to be presented as a separate companion agenda item with the second read of the budget ordinance.

He added that Truth in Taxation requires specific action in adoption of the budget and that a vote to adopt the budget must be a record vote.

Motion by Councilmember Kixmiller, seconded by Deputy Mayor Pro Tem Fleming, to approve the final read of Ordinance 2019-1266 adopting the Fiscal Year 2019-2020 Annual Budget. City Secretary Angela Miller took a roll call vote on the motion:

Mayor Pro Tem Lombardo – Aye

Deputy Mayor Pro Tem Fleming – Aye

Councilmember Kixmiller – Aye

Mayor Wilcox - Aye

Councilmember Heslep – Aye

Councilmember Fiester - Aye

Councilmember Jaworski – Aye

Motion carried 7-0.

- 20. Consider Ordinance 2019-1267 levying the Ad Valorem Taxes for the Year 2019 at a Rate of \$.56302 per \$100 Assessed Valuation on all Taxable Property within the Corporate Limits of the City of Highland Village as of January 1, 2019 (2nd and final read)**

APPROVED 2ND READ (7 – 0)

Mr. Heerman reported the Texas Tax Code §26.05 requires a tax rate be adopted by official action following passage of a budget. He added that the tax rate must be adopted in two separate components – Maintenance and Operations (M&O), and Interest and Sinking (I&S). The total tax rate of \$.56302/\$100 is unchanged from last year. Mr. Heerman explained proposed Ordinance 2019-1267 provides for the adoption of a total tax rate of \$.56302 per \$100 valuation (composed of a M&O rate of \$.476486 per \$100 valuation and a debt service rate of \$.086534 per \$100 valuation) to fund the FY 2019-2020 budget. Because the proposed tax rate will exceed the effective tax rate of \$.541706 per \$100 valuation, state law requires the governing body must vote by a record vote.

Motion by Deputy Mayor Pro Tem Fleming, seconded by Mayor Pro Tem Lombardo, that the property tax rate be increased by the adoption of a tax rate of \$.56302, which is effectively a 3.9 percent increase in the tax rate and, therefore, further move that Ordinance No. 2019-1267 be approved on final read. City Secretary Angela Miller took a roll call vote on the motion:

***Mayor Pro Tem Lombardo – Aye
Deputy Mayor Pro Tem Fleming – Aye
Councilmember Kixmiller – Aye
Mayor Wilcox - Aye
Councilmember Heslep – Aye
Councilmember Fiester - Aye
Councilmember Jaworski – Aye***

Motion carried 7-0.

- 21. Consider Resolution 2019-2840 ratifying the Property Tax Revenue Increase reflected in the Fiscal Year 2019-2020 Budget**
APPROVED (7 – 0)

While the property tax rate is unchanged from last year, Mr. Heerman reported overall tax dollars are increased – this year collecting \$13,274,851 compared to \$12,697,794 last year. The increase is reflective of a 4.5 percent increase in valuation, inclusive of new valuation of \$12,542,885 added to the tax base. Of the \$577,057 increased levy, \$163,124 is to be applied to increased debt service largely related to the 2018 bond issue approved by voters. In accordance with Local Government Code §102.007(c), adoption of a budget that will require raising more revenue from property taxes than in the previous year requires a separate vote of Council to “ratify the property tax increase reflected in the budget”. Mr. Heerman added that this action essentially acknowledges Council is aware this budget will cost more than last year’s budget and does indeed raise more revenue.

Motion by Mayor Pro Tem Lombardo, seconded by Mayor Wilcox, to approve Resolution 2019-2840 ratifying the property tax revenue increase reflected in the Fiscal Year 2019-2020 Budget as required by Local Government Code 102.007(c). Motion carried 7-0.

- 22. Consider Resolution 2019-2841 approving the Annual Rate Adjustment pursuant to the Solid Waste and Recycling Service Contract with Community Waste Disposal (CWD)**
APPROVED (7 – 0)

Mr. Heerman reported the City’s contract with CWD allows an annual rate adjustment, with this being their first request. Rate adjustments are based on specific criteria. He stated CWD has provided the pertinent CPI, natural gas index and disposal site cost

information for determination of the adjustment, as required by the contract, which has been substantiated by City staff. A resident's monthly bill will increase approximately 20 cents.

Mr. Heerman added the City had received notification that use of the current landfill being used by CWD will cease in December, 2019 and that this will be a factor next year as operating costs will be affected.

Motion by Councilmember Jaworski, seconded by Councilmember Heslep, to approve Resolution 2019-2841. Motion carried 7-0.

LATE WORK SESSION

- 23. Status Reports on Current Projects and Discussion on Future Agenda Items (A Councilmember may inquire about a subject of which notice has not been given. A statement of specific factual information or the recitation of existing policy may be given. Any deliberation shall be limited to a proposal to place the subject on an agenda for a subsequent meeting.)**

Mr. Kriston reported work is progressing nicely at the intersection of FM 407 and Highland Village Road. The contract requires work to be completed by mid-December 2019, but he does not anticipate the project taking that long to complete.

- 24. Adjournment**

Mayor Wilcox adjourned the meeting at 8:35 p.m.

Charlotte J. Wilcox, Mayor

ATTEST:

Angela Miller, City Secretary