

MINUTES OF THE SPECIAL MEETING OF THE CITY COUNCIL OF THE CITY OF JERSEY VILLAGE, TEXAS, HELD ON NOVEMBER 5, 2014 AT 6:00 P.M. IN THE CIVIC CENTER, 16327 LAKEVIEW, JERSEY VILLAGE, TEXAS.

A. CALL TO ORDER AND ANNOUNCE A QUORUM IS PRESENT

The meeting was called to order by Mayor Erskine at 6:00 p.m. with the following present:

Mayor, Rod Erskine	City Manager, Mike Castro, PhD
Council Member, Justin Ray	City Secretary, Lorri Coody
Council Member, Greg C. Holden	
Council Member, Harry Beckwith III, PE	
Council Member, Sheri Sheppard	
Council Member, Tom Eustace	

Council Member, Greg Holden was not present when the meeting was called to order. He joined the meeting in progress at 6:09 p.m.

Staff in attendance: Eric Foerster, Chief of Police; Isabel Kato, Finance Director; Mark Bitz, Fire Chief; and Michael Brown, Director of Parks and Recreation

Bobby Gervais, City Attorney; and Danny Segundo, Director of Public Works; were not present at this meeting.

B. SPECIAL AGENDA

- 1. Consider Ordinance No. 2014-36, amending the Code of Ordinances of the City of Jersey Village, at Chapter 42, "Offenses and Miscellaneous Provisions," Article II. *Firearms*, by amending Section 42-31 "Discharge of Firearms and Air Rifles"; and by adding a new Section 42-32 "Permitting Of Noise Making Device"; providing a severability clause; providing for repeal; providing a penalty as provided by section 1-8 of the code; and providing an effective date.**

Eric Foerster, Chief of Police, introduced the item. He explained that this initiative was brought by a home owners' association to provide relief from nuisance birds and the problems associated with nesting birds in a residential area. The birds causing the nuisance are egrets, which are a federally protected species. As a federally protected species, it is illegal to disturb them once they begin to nest.

This ordinance amendment will provide homeowners an avenue to disturb the birds prior to nesting, thus alleviating the problem. Since a majority of the birds are nesting on private property, this allows the homeowner a proactive measure that is supported by ordinance.

Council engaged in discussion about the definition of fire arms and how the definition applies to the noise making device to disturb the birds. Chief Forester explained how the device works. This sparked discussion about the number of times the device will be used in order to be effective. A member from the Lakeside Club explained that the device will be used several times to make noise over a period of time. Chief Forester further explained that the noise needs to start and continue up to nesting in order to be effective. Experts say that this is the only effective measure in eliminating the bird problem.

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Council then discussed the level of sound that the device will produce. The Lakeside Club member explained that the sound will be equivalent to the noise made by a bottle rocket; however, the shots will be projected out over the lake and away from homes and this will help to reduce the noise in the neighborhood.

It was further explained that the sound is similar to a fire cracker. There is also a second device used that makes a squealing sound.

There was discussion about the permitting process. Chief explained that the residents will apply and be responsible for operating the noise device.

Currently, the lake residents are using other noise making devices to scare the birds, but the devices provided for in the proposed ordinance are needed to eradicate the birds. It was explained that the noise has to be consistently consistent.

The Lakeside Club member explained that several residents will be able to operate the devices under the issued permit; however, which residents are approved for operation will be under the control of the Lakeside Club.

Council Member, Greg Holden joined the meeting in progress at 6:09 p.m.

Council then discussed the level of City Staff participation needed while the noise abatement is being carried out. There was concern that the City would receive calls pertaining to the noise. The Lakeside Club member explained that they have a plan in place to notify residents when the abatement will begin. Additionally, they plan to make arrangements to have an article placed into the JV Star alerting residents about the abatement process.

With no further discussion on the matter, Council Member Ray moved to approve Ordinance No. 2014-36, amending the Code of Ordinances of the City of Jersey Village, at Chapter 42, "Offenses and Miscellaneous Provisions," Article II. *Firearms*, by amending Section 42-31 "Discharge of Firearms and Air Rifles"; and by adding a new Section 42-32 "Permitting Of Noise Making Device"; providing a severability clause; providing for repeal; providing a penalty as provided by section 1-8 of the code; and providing an effective date. Council Member Sheppard seconded the motion. The vote follows:

Ayes: Council Members Ray, Holden, Beckwith, Sheppard, and Eustace

Nays: None

The motion carried.

ORDINANCE 2014-36

AN ORDINANCE OF THE CITY OF JERSEY VILLAGE, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF JERSEY VILLAGE, AT CHAPTER 42, "OFFENSES AND MISCELLANEOUS PROVISIONS," ARTICLE II. *FIREARMS*, BY

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AMENDING SECTION 42-31 “DISCHARGE OF FIREARMS AND AIR RIFLES”; AND BY ADDING A NEW SECTION 42-32 “PERMITTING OF NOISE MAKING DEVICE”; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR REPEAL; PROVIDING A PENALTY AS PROVIDED BY SECTION 1-8 OF THE CODE; AND PROVIDING AN EFFECTIVE DATE.

- 2. Consider Ordinance No. 2014-37, amending the Code of Ordinances of the City of Jersey Village, by amending Chapter 42 – Offenses and Miscellaneous Provisions by adding a new Article VI. Special Events; providing a severability clause; providing a penalty as provided by Section 1-8 of the Code; and providing an effective date.**

Eric Foerster, Chief of Police, introduced the item. He explained that the City of Jersey Village has begun to receive requests for 5K runs and other similar events on a more frequent basis. In order to ensure the health, safety and welfare of the general public, it is necessary to adopt rules and regulations regarding such special events.

The proposed Ordinance outlines the methods needed to ensure special events are carried out in a safe, orderly manner including ensuring pedestrian and vehicular traffic safety, to decrease congestion and to prevent detrimental overflow of crowds, light and noise in residential areas.

Chief Foerster explained the permitting process outlined in the proposed Ordinance. It is a 90 day process which involves a review of the request by all involved City Departments. It allows the City to plan for equipment and manpower connected with the requested event. The application fee is \$50 and is non-refundable. The policy applies to events using city streets and city right-of-ways. Therefore, if it is a church or similar event conducted on private property, the policy would not apply.

Council engaged in discussion about the proposed policy and if this policy would extend to events conducted at City Parks. There was also concern that the proposed policy does not specifically state that it does not apply to events conducted on private property.

Council discussed the definitions outlined in Section 42-1a of the proposed policy. There was concern that the language in this section may conflict with the language in our political/electioneering sign ordinance. With this concern, there was discussion about how the event policy may be connected to the political/electioneering sign ordinance, recalling a recent school function that turned into a visit by a political candidate. Council wondered how we could know in advance if this would happen again.

Council also discussed the current practices of Staff as it relates to event planning and wondered if this policy is to set those current practices of Staff to a written form. Chief Foerster confirmed that the proposed policy does in fact follow the current activities of Staff as they relate to event planning. He explained that the policy will help Staff monitor event activity. Currently, there are no provisions/laws governing an event that may assemble on City property without notice. The concern is that these events could be

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large, involving hundreds of attendees, and since there is no policy governing same, City Staff would have no remedy. With the proposed Ordinance changes, a permit would be required and City Staff would be allotted the necessary time to plan for the event.

Council then discussed the liability of the City under current circumstances since there is no written policy/ordinance addressing special events. They also wondered what other cities comparable to our size are doing by way of special events. Chief Foerster explained that in creating the proposed ordinance, policies from cities similar to Jersey Village were reviewed and a compilation of their policy elements were incorporated into the proposed ordinance.

Council then discussed the requirement for certificate of insurance. There was concern that this requirement may be onerous for applicants. However, Chief Foerster explained that the limits set in the policy are reasonable and should not pose a problem for event planners.

There was discussion if a permit would be required for City events. Chief explained that the Section 42-2(c)(6) of the proposed ordinance addresses this question. No permit would be required.

Council then discussed the following concerns:

1. How the policy would affect the Golf Course and golf tournaments.
2. The Homecoming Parade at the school.
3. The health department certification requirement.
4. Insurance policy for special events.
5. Effects of policy on track and other special events conducted by the school.
6. The need to set a minimum time for which a filed application would be considered.

City Manager Castro summarized the concerns of Council as follows:

1. Private property – No permit required.
2. First Amendment Activity – Should political activity be included?
3. Will the City need a permit for City sponsored events?
4. Set a minimum number of days for which an application will be processed.

With no further discussion on the matter, Council Member Beckwith moved to table the item. Council Member Holden seconded the motion. The vote follows:

Ayes: Council Members Ray, Holden, Beckwith, Sheppard, and Eustace

Nays: None

The motion carried.

3. **Consider Ordinance 2014-38, amending Chapter 2, “Administration,” Article IV, Schedule of Fees and Special Funds, Section 2-142 of the Code of Ordinances, City**

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of Jersey Village, by adding a new subsection (i) *Special Event Fees*; providing for severability; and providing for repeal.

This item was not called for discussion. No action was taken.

4. Consider Resolution No. 2014-59, adopting and implementing a Speed Cushion Program for the City of Jersey Village.

Michael Brown, Director of Parks and Recreation, introduced the item. Since this item has previously been discussed in the Work Session Meeting held on October 20, 2014, Mr. Brown gave a brief summary of the proposed Speed Cushion Program. In completing the summary, Council engaged in discussion concerning the program.

Discussion on the proposed policy centered on the following:

1. The speed study map included in the Council pack for this item.
2. The method for determining the order in which requests will be granted, especially if more than two (2) requests are received in any given year. The proposal calls for processing by request date. Some felt that criteria setting need for the device would be the better guide.
3. If the City even needs speed cushions or is the real problem cut-through traffic and traffic volume.
4. The number of requests for these devices that have been received over the years, and how having a policy will help address the requests.
5. The sunset provision. Most felt this was a good element to include in the proposed policy.
6. The traffic speed and volume on Village Drive.
7. The issue may be traffic volume and not speed.
8. A trial/pilot program may be warranted and would provide needed information about the need and consequences of installing the devices. However, there was concern about the cushions being permanent and the cost of repairing streets should the policy not work.
9. Alternative solutions to control speed and volume on all city streets, especially streets being used by cut through traffic. Suggestions included breaking up long streets; street closures; features in streets such as medians; and conducting a traffic study evaluation to understand the real problem.
10. The Fire Chief's concerns that the non-permanent devices would not be acceptable for ambulance transports, and presents cause for concern that all emergency equipment may incur damage in crossing the devices.
11. The cost of asphalt cushions compared to temporary cushions.
12. The cost to remove asphalt cushions compared to the cost to remove temporary cushions.

Council engaged in discussion about the hiring of a consultant to conduct a traffic study. Some felt that such a study would be very helpful in understanding the problem and in

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providing the necessary information needed for City Council to make an informed decision regarding this issue.

City Manager Castro explained that such a study could cost \$10,000 to \$15,000 or more depending upon the scope of work. Council then discussed the expectations in hiring an expert as follows:

1. To answer the question if cut-through traffic is a recent phenomenon.
2. To analyze traffic flows, speeds, and traffic issues. (To do this, the City must state which streets are to be analyzed and what time of day.)
3. To suggest alternatives/recommendations for addressing the problems.
4. To identify the source of cut-through traffic.
5. To specify if speed cushions will work, and if so, which type?
6. To identify the effects of the US Hwy 290 construction.

Council then discussed if using the existing police force in an over-time setting may be of help in assessing the suspect streets in order to provide a report as to speed, volume, etc. However, Chief Foerster explained that the department already does this with its STEP Program, and he told Council that a police presence is a temporary solution. Once the patrol stops the problem resurfaces.

There was further discussion about the traffic engineer. City Manager Castro explained that an engineer will gather data for review. He stated that a proposed scope of work could be drafted for Council's review.

There was a consensus of Council that Staff should bring back a scope of work for review. In discussing same, some members felt the scope should be for specific streets while others felt it should be citywide. Nonetheless, all agreed that the scope should contain a problem statement.

With no further discussion on the matter, Council Member Beckwith moved that we forego implementing and adopting a speed cushion program for the City of Jersey Village until such time as we have received a traffic study report that would suggest that such a program will be viable. Council Member Eustace seconded the motion. The vote follows:

Ayes: Council Members Ray, Holden, Beckwith, Sheppard, and Eustace

Nays: None

The motion carried.

D. CLOSE THE SPECIAL SESSION

Close the Special Session to Convene into Executive Session pursuant to the Texas Open Meetings Act, Government Code Section 551.071 – Consultation w/Attorney and Section 551.072 – Real Property.

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Mayor Erskine closed the Special Session at 8:07 p.m. to convene into Executive Session pursuant to the Texas Open Meetings Act, Government Code Section 551.071 - Consultation w/Attorney and Section 551.072 – Real Property.

D. EXECUTIVE SESSION

- 1. Consult with Attorney pursuant to the Texas Open Meetings Act Section 551.071 and Section 551.072 regarding condemnation proceedings for soundwall easements located within the US 290 project expansion area.**

E. ADJOURN EXECUTIVE SESSION

Adjourn the Executive Session, stating the date and time the Executive Session ended and Reconvene the Special Session.

Mayor Erskine adjourned the Executive Session at 8:55 p.m. and reconvened the Special Session, stating that no final actions, decisions, or votes were had during the Executive session.

F. ADJOURN

There being no further business on the Agenda the meeting was adjourned at 8:57 p.m.

Lorri Coody, City Secretary