



City of Winters
City Council Regular Meeting Minutes
Council Chambers, City Hall, 310 S. Main, Winters, TX.
Monday, April 25, 2022, 6:00 p.m.

*NOTE: D/A on this agenda stands for Discussion/Action.

Call meeting to order. Mayor Mark Burkhart called the meeting to order at 6:00 p.m.

Quorum Check.

Present: Mayor Mark Burkhart
City Attorney Ken Slimp
Aldерwoman Sandee Schneider
Aldерwoman Ursula Estrada
Aldерwoman Carolyn DeNigro
Absent: Alderman Clayton Woffenden
Alderman Elmer Buckelew

Pledge of Allegiance and Prayer.

Prayer was led by Acting City Secretary Sheila Lincoln.

Agenda Item # 1. Community input.

Mayor Burkhart opened the floor for community input, asking that each speaker use the microphone so they could be clearly heard. Melinda Meyers declined, stating she has a teacher's voice and can be heard, when Mayor Burkhart explained that the meeting was being recorded, she replied curtly with "I think you can probably hear me". She began by reading her statement saying that she and Angela New started Main Street Market Days two years ago and has repeatedly had success with bringing vendors to downtown Winters, coordinating with business owners where they have received great support. She states local businesses benefit greatly from this free event. She is opposed to charging vendors as this event has always been free and the vendors spend money in our town; she states that most surrounding or nearby towns do not charge vendors and after visiting with a nearby town began to charge the people stopped coming and money was no longer being spent in their town. She states that she says all of this "because we feel strongly that the Chamber President who is also a city council member has proposed this idea and we believe it is absolutely a conflict of interest for someone who is in those positions to be on both boards." Ms. Meyers states further that it is not in the best interest of our community and the people who live, work and own businesses here. This event is about growing our community and she feels that this will only take us a step back. Ms. Meyers also proposed that

the individual sitting on both boards chooses one or the other as not to impose any biased decisions to benefit the other; on that note she referred to TML chapter 8, Conflicts of Interest, page 74, to which she quoted *“mayors and council members are expected to avoid involvement that put their own personal interest and cross purposes with those of the public, in most cases good personal judgement is enough to keep city officials within the bounds of propriety. There are, however, state laws governing the behavior of city officials; at least three situations can impair the ability of mayors and council members to properly perform their duties. All three involve conflicts of interest in which a member of the city council is placed in the position of owing loyalty to the interest of the city on one hand and to some other interest on the other hand. The first situation occurs when a council member occupies two or more public offices at the same time. Incapability with respect of dual civil offices mayors and council members are prohibited from holding a second public office having duties and loyalties incompatible with those that must be performed as an officer of the city. This rule which applies to all public offices, whether paid or unpaid, heeds the mandate that no person can serve two masters. Full allegiance is required to do one or the other.”* The mayor referred the concern to City Attorney, Ken Slimp, who stated that the reading referred to two public offices; the Chamber (of Commerce) position is not a public office; therefore, they are not, per se, a conflict as they are not two public offices. There is only one public office and that is the council. Mr. Slimp goes on to say that is not to say that a conflict couldn't arise on a certain issue, but it is not a conflict, it is to be looked at on a case-by-case basis and a council member would need to look at each situation and see if they had a conflict on a particular issue. Mr. Slimp gave an example where there could be a conflict in which if the city wanted to buy a building and the Chamber wanted to buy the building as well, in that situation the council member must decide which to support, this could impose conflicting thoughts and in that particular case would have to abstain from voting for one or the other. But holding the office of a council member and serving on the chamber is not two public offices and therefore, not a conflict of interest. He stated further that it is also not a conflict of business interest because the chamber is not a business that she (Alderman Ursula Estrada) has a financial interest in. He states finally, each council member has to decide, whatever it is, whether it be a church committee, the Dove Fest, Jr. Livestock Association, any council member that may be serving on another committee somewhere, not a public office, as you cannot hold two public offices as quoted by Ms. Meyers from TML, must always be aware of potential conflict and has to be considered on a case-by case basis.

Angela New spoke to the council as well, beginning by stating what an asset Main Street Market Days has been to the community and to business owners stating that business owners have worked tirelessly to bring people downtown each month. Ms. New notes that it is typically the only Saturday of the month the streets are full. She further states that out-of-towners visit and spend money in our town and that is something to be proud of and in visiting with each business owner they have all stated how much their business is boosted by the event. “Vendors currently come from miles away to set up for this free event; our concern is that vendors will no longer come to Winters when they can go to neighboring communities for free.” Ms. New goes on to say, many vendors make little or no money but enjoy coming because it is free, and they enjoy seeing the event grow and are glad to be a part of it. Ms. New stated that while they are aware of the liabilities involved, there are liabilities and risks in every community event: the parade the

Chamber holds each year, brings people to fill the sidewalks which are liabilities, or any other public gathering hosted by any organization are liabilities as well. "Maybe another factor for you to consider in this proposal is the electricity, while we appreciate the outlets that do work, some do not and some of us provide cords from our own businesses to provide electricity for the vendors." While most of the food trucks run off generators, what is the purpose of the outlets if they aren't intended for public use, she asked. Ms. New says she sees citizens using outlets daily to charge phones, etc. and asks if our tax dollars pay for the usage. Another example is the hanging of Christmas lights by the Chamber which run the duration of the season and questions if the city is worried about who pays for that electricity and suggests that if the outlets are for city use only, they should have locks on them. Ms. New reminds the Council that they are not here to exert their will on the People but rather to serve them and they should be listening to them, "We don't want the vendors that come to our town to be charged, we want the business that they bring to our small town. We want our Council to listen to us and not control us, be transparent. We want answers rather than your refusal to speak to us." She too agrees with Melinda Meyers regarding the conflict of interest with Ms. Estrada sitting on the City Council and the Chamber of Commerce but notes that Mr. Slimp has already addressed that.

Ms. Teresa Walden thanks the mayor and council members for their service and the positions they hold. She states that she has served on numerous boards over the years and states that she currently sits on the Winters Daycare Board and the North Runnels Water Board, and notes she knows what the city charges NRW for water. She wants to see Winters have as many vendors as possible and questions why the city would want to stop a venue that comes to town once a month and that is supported by the community. If vendors will be charged, how many will come? As stated earlier, a neighboring town began to charge vendors and it has hurt businesses in their town. "Correct me if I'm wrong but the city does not own the sidewalks, TX DOT owns the sidewalks" and questions why the city would be involved there. She states that she is not aware that TXDOT is wanting to charge vendors to set up, nor is she aware of WISD charging people to walk on their track, the hospital does not charge the school district to be at all of the hometown football games, does the VFD charge to go to someone's home to put out a fire, she has never heard of a charge. One other question that she would like an answer to is why a certain business owner has items on our sidewalk every day and is the city going to charge him a fee? Again, she spoke of the conflict of interest with Alderwoman Ursula Estrada sitting on both boards but notes that Mr. Slimp addressed that.

Ms. Nan Miller said she has looked at the tax reports and at each business that pays city taxes; she believes we all have the same heart for our town. She noticed several people that she has shopped with in this town do not pay the 2% tax back to this town, so her question is: as a council, how is that watched, how is it monitored, so that we can achieve the most revenue for our city. Tia Emma's food truck is on the list and does pay taxes and is wonderful; if revenue is what we are looking for, lets look at the 8.25% and enforce and claim that back to our city.

Mr. Jim Frazier who is Director over the hospital ambulance, and while he does not live here, he is involved here, he also agrees that the city should not be charging vendor fees and that the amount of \$40-\$50 would be too much.

Mr. Jeff Gore addressed the council regarding Net Data, stating Judge Humphrey had reached out to him regarding updating the software in his office; it would be the same software that Judge Sellers uses. He would be interested in giving a formal presentation if the city is interested.

Mr. Justin Lopez informed the council that we have been approved for youth tackle football in our community; he and the Millers want to get a youth sports complex for all sports for the children of our town much like Ballinger has. He would like to get more volunteers and to focus on the children. He would like to ask for the community to express concerns on the correct platform and to handle it in a way that represents unity and growth. When others see the bashing of our leaders or community, it only hurts not builds. He asked that we spread the word to get help building the community and leading the children in the right community.

Mayor Burkhart stated that he was a bit confused regarding the Main Street Market Days showing flyer showing that there was a \$50 vendor fee at the park. Ms. New replied that the Film Festival was the one charging the vendor fee, she just listed it. She states further that they do not charge, however, during the Christmas parade put on by the Chamber, they asked vendors to give donation items and those who gave were entered for a drawing.

Agenda Item # 2. D/A regarding the Application of AEP Texas Inc. to Amend its Distribution Cost Recovery Factor.

Attorney Ken Slimp briefly explains the application of AEP Texas Inc. to amend its distribution cost recovery factor to the PUC. He stated further that if the city wished they could hire an attorney to handle this as it was out of his scope. Alderwoman Sandee Schneider asked if action had to be taken at all or if this would be a recurring item until action is taken, to which Mr. Slimp replied, no. He did say if the city wished to do anything it had to act by the May 6th deadline. No action taken.

Agenda Item # 3. D/A in consideration of the adoption of an ordinance regarding vendors, with changes. Example Ordinance 19-08, City of Bronte.

Mr. Slimp stated he was not advocating to approve the ordinance but to give the council the opportunity to consider using it for a template; it is for review only.

Ms. Josie Gonzales stated that she must pay taxes as the Comptroller wants their money, she is a part of this community and volunteers and shops local so if she pays so should the vendors coming in. Every vendor is a business owner, and they should be running legally as such. She notes that the vendor fee is not just per event, you must pay taxes on every dollar earned. Her biggest concern is why people are so ugly and just cannot get along she is just tired of the ugliness in the community. If people are Christian and confess to be neighborly then live it, practice what you preach.

The council will consider the example of the ordinance presented.

Agenda Item# 4. D/A regarding the approval for the recurring invoices from Metropolitan Compounds, Inc. & Eagle Labs, Inc. for chemicals used for the Water Plant.

Alderwoman Sandee Schneider wanted to know why these bills were being put before the council for chemicals now as she has never seen them before. Acting City Secretary, Sheila Lincoln, stated the chemical prices (for the water plant) have gone up and are above the threshold for signature for payment without council approval. City Attorney Ken Slimp suggested that they be submitted for approval each time they are above the threshold. Alderwoman Sandee Schneider made a motion to pay the invoices for Metropolitan Compounds, Inc. & Eagle Labs, Inc. Alderwoman Ursula Estrada seconded the motion, all in favor. Motion carried.

Agenda Item # 5. D/A regarding the lease agreement/rental terms of the house located at 108 E. Broadway to Sharon Miller.

Mr. Slimp asked if he should come up with a blanket agreement form and then the council could determine the specifics. Alderwoman Sandee Schneider asked that we table the agenda item until an agreement form is created. Alderwoman Ursula Estrada seconded the motion, all in favor. Motion carried.

Agenda Item # 6. D/A on moving the May 30th Council Meeting to May 23,2022 due to the Memorial Day Holiday.

Alderwoman Carolyn DeNigro made a motion to move the May 30th Council meeting to May 23,2022 due to the Memorial Day Holiday. Alderwoman Ursula Estrada seconded the motion, all in favor. Motion carried.

Agenda Item # 7. Monthly Reports for March 2022.

- A. **City Hall Reports.** Acting City Secretary, Sheila Lincoln reported that there was an approval for the incident claim submitted for the wreck in a city vehicle in which Tim Hilliard of the street department was driving. An estimate for repairs was approved for \$2,200. less the deductible of \$250.00. TCEQ violations are posted in City Hall.
- B. **Street Department.** No reports.
- C. **Animal Control/Code Enforcement.** No reports.
- D. **Chief of Police.** Chief Geyer stated that the animal shelter needs a new septic system.
- E. **Waterworks.** No report.
- F. **Municipal Judge.** Judge Humphrey states he spoke with TXDOT who states they will amend their contract; while repairing Hwy. 153 they will go into the airport and fill the cracks and chip seal and will put the numbers back on the runway. He states he is working on the back log left from several judges ago. He states it is time to start looking for his replacement. Alderwoman Sandee Schneider asked why the judge had reached out to Net

Data asking if it would lessen his workload. He replied that he thinks we need to hire a court clerk.

Nan Miller stated she read that the AG is making it official that all cities will have to have their City Charter on display and on their website and asked the Judge of this. He stated he is just a city judge and would direct that question to the attorney.

Mr. Slimp replied that if we were a Home Rule city we would have our city charter, but we don't have a city charter, we are a General Law city. To which Angela New stated that she talked to the Attorney General today and he said that Winters does have a charter. Mr. Slimp said that he disagrees, Winters does not have a charter as we are a General Law City. Ms. New stated that it was all confusing because they don't know about by-laws and charters. Mr. Slimp responded that we do not have by-laws, that we go by the Texas Government Code and the Local Government Code which governs us and says that we also have ordinances. He also states that if we find a charter we will put it on the website, but we don't have one.

Agenda Item # 8. Consent Items:


A. Approval of Bills. Alderwoman Carolyn DeNigro made a motion to pay the bills. Alderwoman Ursula Estrada seconded the motion, all in favor. Motion carried.

B. Approval of Minutes from March 28,2022.

Alderwoman Sandee Schneider made a motion to approve the minutes from March 28, 2022. Alderwoman Ursula Estrada seconded the motion, all in favor. Motion carried.

Agenda Item # 9. Adjourn meeting.

Alderwoman Carolyn DeNigro made a motion to adjourn the meeting. Alderwoman Ursula Estrada seconded the motion, all in favor. Motion carried. Meeting adjourned at 7:16.



Mayor, Mark Burkhart

Attest:



Acting City Secretary, Sheila Lincoln



