

Bill Vansyckle, Mayor
Tom Leverentz, Mayor Pro-Tem
Michael Dickey, Place Two

CITY OF OVILLA

AGENDA

James Wade, Place Three
Doug Hunt, Place Four
Richard Dormier, Place Five
Randy Whiteman, City Administrator

Ovilla City Council

105 S. Cockrell Hill Road, Ovilla, TX 75154

Monday, December 12, 2011

7:00 P.M.

Council Chamber Room

Pursuant to the provisions of Chapter 551 VTCA Government Code, NOTICE is hereby given of a Regular Meeting of the City Council of the City of Ovilla, to be held on Monday, December 12, 2011 at 7:00 P.M. in the City Hall Council Chamber Room, 105 S. Cockrell Hill Road, Ovilla, Texas, 75154, for the purpose of considering the following items.

CALL TO ORDER

- ◆ Invocation
- ◆ Pledge of Allegiance

COMMENTS, PRESENTATIONS, ANNOUNCEMENTS & REPORTS

Mayor's report: Fire Department & Chief Donnie Pickard

◆ **Citizen Comments**

The City Council welcomes comments from Citizens. Those wishing to speak must sign in before the meeting begins. Speakers may speak on any topic, whether on the agenda or not. The City Council cannot act upon, discuss issues raised, or make any decision at this time. Speakers under citizen's comments must observe a three-minute time limit. Inquiries regarding matters not listed on the Agenda may be referred to Staff for research and possible future action.

◆ **Department Activity Reports / Discussion**

- ◆ Police Department Chief M. Moon
 - Monthly Report
- ◆ Fire Department Fire Chief D. Pickard
 - Monthly Report
- ◆ Public Works Director B. Piland
 - Monthly Report
 - Cold weather preparedness
- ◆ Finance Department Accountant S. Jungman
 - Monthly Municipal Court Report
- ◆ Administration City Administrator R. Whiteman
 - Monthly Reports – Code Enforcement/Animal Control
 - Vacancies on Economic Development Corporation Board
- ◆ Mayor Pro-Tem Leverentz
 - Update Council on CIP (Capital Improvement Projects) Meeting

CONSENT AGENDA

- ◆ Monthly Financial Transactions
- ◆ Minutes of the November 28, 2011 Regular Council Meeting.

The following items may be acted upon in one motion. No separate discussion or action is necessary unless requested by a Council Member, in which event those items will be pulled from the consent agenda for individual consideration.

**REGULAR AGENDA
INDIVIDUAL CONSIDERATION**

- ITEM 1. Discussion/Action** – Receive report from ONCOR representative regarding extensive outages in Ovilla. Council may take any action deemed necessary.
- Requested by PL4 Hunt.
- ITEM 2. Discussion/Action** – Report of vacancy and consider appointments and/or reappointments to the Municipal Development District.
- Presented by Administrative staff.
- ITEM 3. Discussion Only** – Review and consider a request to amend the Employee Handbook, Sections 8.11 and 9.2.
- Requested by Mayor Pro-Tem Leverentz.
- ITEM 4. Discussion/Action** – Council’s deliberation of disciplinary action regarding the Code of Ethics violations of Mayor Vansyckle. Council may take any action deemed necessary.
- Requested by Council

EXECUTIVE SESSION

The City Council of the City of Ovilla, Texas, reserves the right to meet in a closed session on any item listed on this Agenda should the need arise, pursuant to authorization by Texas Government Code, Sections 551.071 (consultation with attorney), 551.072 (deliberations about real property), 551.073 (deliberations about gifts and donations), 551.074 (personnel matters), 551.076 (deliberations about security devices), 551.087 (economic development), 418.183 (homeland security).

Conflict of Interest

If a Council Member elects to refrain from an item(s) on this agenda, please see the City Secretary for an affidavit prior to the convening of the meeting.

Council’s Request for Consideration of Future Agenda Items

No action or in-depth discussion may occur during this item. It is intended to provide an opportunity for the Council to inform each other and the public about events and situations that are of general interest.

Adjournment

This is to certify that a copy of the Notice of the Regular City Council Meeting for December 12, 2011, was posted on the bulletin board at City Hall, 105 S. Cockrell Hill Road, Ovilla, on the 9 day of December prior to 6:00 p.m.


Pam Woodall Higgins
City Secretary

IF YOU OR YOUR REPRESENTATIVE HAVE A DISABILITY THAT REQUIRES SPECIAL ARRANGEMENTS AND YOU PLAN TO ATTEND THIS PUBLIC MEETING, PLEASE CALL THE CITY SECRETARY AT 972-617-7262 WITHIN 24 HOURS OF THE MEETING. REASONABLE ACCOMMODATIONS WILL BE MADE TO MEET YOUR NEEDS AT THE MEETING.
PLEASE SILENCE ALL PAGERS, CELL PHONES & OTHER ELECTRONIC EQUIPMENT WHILE THE CITY COUNCIL MEETING IS IN SESSION.

CERTIFICATION: I hereby certify that the Ovilla City Council Agenda was removed from the City Hall Bulletin Board, located at 105 S. Cockrell Hill Road, Ovilla, TX 75154, (a place accessible to the public at all times) on the _____ day of _____ 2011, at _____ am/pm, after having been posted for at least 72 continuous hours preceding the scheduled time of the posted meeting. _____ Pam Woodall Higgins, City Secretary

OVILLA POLICE DEPARTMENT

105 S. Cockrell Hill Rd.

Ovilla, TX 75154

(972) 617-7262

Mayor Bill Vansyckle, Mr. Randy Whiteman,
and the Ovilla City Council

Subject: Police Department Monthly Activity Report:

Nov-11	YTD
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Calls For Service	Total	Total
ACCIDENT	1	18
ALARMS: False: 8 Alarms: 1	12	149
ARREST	3	23
ASSAULT	0	7
ASSISTS: Agency/Unit: 23 EMS/Fire: 2 Motorist: 4	29	346
BLDG / HOUSE SECURITY CHECK	1066	10647
BURGLARY	1	8
BURGLARY OF MOTOR VEHICLE	0	2
CRIMINAL MISCHIEF	1	15
DISTURBANCE	9	56
NEIGHBORHOOD CHECK	1216	12960
OTHER CALLS FOR SERVICE	104	1343
SUSPICIOUS PERSON	8	65
SUSPICIOUS VEHICLE	5	84
THEFT	0	17
TRAFFIC ASSIGNMENT	28	409
TOTAL CALLS FOR SERVICE	2483	26149
RESERVE OFFICER HOURS	0	55.5
AVERAGE RESPONSE TIME (MINUTES)	4.5	4.63272727
TRAFFIC STOP (WARNINGS)	21	494
CITATION	24	407
TOTAL	45	901
PERCENT OF STOPS RECEIVING CITATIONS	53.3	45.2

OVILLA PD VEHICLE MILEAGE

October-11		November-11		December-11		January-11		February-11		March-11		April-11		May-11		June-11		July-11	
Unit #	Beginning	Ending	Accrued	Unit #	Beginning	Ending	Accrued	Unit #	Beginning	Ending	Accrued	Unit #	Beginning	Ending	Accrued	Unit #	Beginning	Ending	Accrued
100	41943	43207	1264	100	43207	44765	1558	100	41557	42384	827	100	41557	42384	827	100	41557	42384	827
101	110758	112163	1405	101	112163	113174	1011	101	51292	52317	1025	101	51292	52317	1025	101	51292	52317	1025
102	50237	51292	1055	102	51292	52317	1025	102	41557	42384	827	102	41557	42384	827	102	41557	42384	827
103	40304	41557	1253	103	41557	42384	827	103	14880	17477	2597	103	14880	17477	2597	103	14880	17477	2597
104	12171	14880	2709	104	14880	17477	2597	104				104				104			
December-11				January-11								March-11							
Unit #	Beginning	Ending	Accrued	Unit #	Beginning	Ending	Accrued	Unit #	Beginning	Ending	Accrued	Unit #	Beginning	Ending	Accrued	Unit #	Beginning	Ending	Accrued
100			0	100			0	100			0	100			0	100			0
101			0	101			0	101			0	101			0	101			0
102			0	102			0	102			0	102			0	102			0
103			0	103			0	103			0	103			0	103			0
104			0	104			0	104			0	104			0	104			0
February-11				March-11				April-11				May-11				June-11			
Unit #	Beginning	Ending	Accrued	Unit #	Beginning	Ending	Accrued	Unit #	Beginning	Ending	Accrued	Unit #	Beginning	Ending	Accrued	Unit #	Beginning	Ending	Accrued
100			0	100			0	100			0	100			0	100			0
101			0	101			0	101			0	101			0	101			0
102			0	102			0	102			0	102			0	102			0
103			0	103			0	103			0	103			0	103			0
104			0	104			0	104			0	104			0	104			0
April-11				May-11				June-11				July-11				August-11			
Unit #	Beginning	Ending	Accrued	Unit #	Beginning	Ending	Accrued	Unit #	Beginning	Ending	Accrued	Unit #	Beginning	Ending	Accrued	Unit #	Beginning	Ending	Accrued
100			0	100			0	100			0	100			0	100			0
101			0	101			0	101			0	101			0	101			0
102			0	102			0	102			0	102			0	102			0
103			0	103			0	103			0	103			0	103			0
104			0	104			0	104			0	104			0	104			0
June-11				July-11				August-11				September-11				October-11			
Unit #	Beginning	Ending	Accrued	Unit #	Beginning	Ending	Accrued	Unit #	Beginning	Ending	Accrued	Unit #	Beginning	Ending	Accrued	Unit #	Beginning	Ending	Accrued
100			0	100			0	100			0	100			0	100			0
101			0	101			0	101			0	101			0	101			0
102			0	102			0	102			0	102			0	102			0
103			0	103			0	103			0	103			0	103			0
104			0	104			0	104			0	104			0	104			0

City of Ovilla

OVILLA FIRE DEPARTMENT

DATE: November 2011

TO: Honorable Mayor and City Council Members

FROM: Fire Chief Donnie Pickard

TOPIC: Monthly Department Report

Average overall response time in the City of Ovilla	- 5:43
Average response time in the city between 07:30-17:40	- 5:17
Average response time in the city between 17:30-23:59	- 6:06
Average response time in the city between 00:00-07:30	- 6:44
Average overall EMS response time in the City of Ovilla	- 5:22
Average EMS response time in the city between 07:30-17:30	- 4:59
Average EMS response time in the city between 17:30-23:59	- 5:48
Average EMS response time in the city between 00:00-07:30	- 6:45

Ovilla Fire Department Structure Fires/Rehab Calls

For: November 2011

Percy Court	Lancaster
Creek View Drive West	Red Oak
Harvest Hill Land	Lancaster
Buckskin Drive	Red Oak
North 2 nd Street	Midlothian
Cumberland Drive	Ovilla
North Cedar Hill Road	Cedar Hill
Creek View Drive West	Red Oak
Elk Trail	Midlothian

OVILLA FIRE DEPARTMENT

November 2011 MONTHLY REPORT

TOTAL RESPONSES TO: 43

Automatic Fire/Med Alarms	0	Disregarded & Misc.	4
Brush/Grass Fires	2	Public Service Assist	2
Carbon Monoxide Alarm	0	Air/Rehab	4
Emergency Medical Service	14	Structure Fire	5
Hazardous Condition	0	Trash Fire	0
Investigation of Smoke/Odor	2	Fill In/Move Up	1
Lockout	4	Vehicle/Trailer Fire	0
Vehicle/Airplane Crash	5	Controlled Burning	4

STRUCTURE FIRES/REHAB LOCATIONS - 9

See Attached List	

EMS RESPONSES 21

Vehicle/Airplane Crash	5
Medical Emergencies	14
Basic Life Support Given (BLS)	14
Advanced Life Support Given (ALS)	2
Public Service Assist	2

MONTHLY STATISTICS:

Total Fire & EMS Responses	43	Total Gasoline Consumption	135.1
Total Fire/EMS Training Hours	162	Total Diesel Consumption	134.8
Total Personnel Attending Fire/EMS Schools	0	Approximate City Water Consumption in Gallons	6,000
Total Apparatus Training Hours	68	Fire Calls Made By Daytime FF	9
Extra Station Duty Hours	756	EMS Calls Made By Daytime FF	7
Total Donations Received	0	Total Calls Made By Daytime FF	16
		Overlapping Incidents	3

HOURS DONATED BY FIREFIGHTERS

Training Hours / Extra Station Duty	225/756
Responding To Fire/EMS Calls	418
Total Hours	1,399
Total Hours Savings @ \$21.47 per hour	\$ 30,036.53
Year To Date Savings	\$336,864.30



DATE: December 5, 2011

TO: Honorable Mayor and City Council Members

FROM: Brad Piland Public Works Director

TOPIC: Public Works Monthly Report for November 2011

- . Removed swing set from park and repaired
- Patched potholes Shadowood Brookwood Thorntree
- . Drainage at Public Works building
- Installed shelving in document room

- Sewer Lift Station Repairs- pulled Pump 1 at Heritage Lift Station
- Pump Station mow and weed eat
- Trimmed trees in right of way on Dusty oaks
- Maintained Right-of-Ways mowing and weed eating
- Read Water meters Service Disconnects and Reconnects
- Removed old culverts on Georgetown and installed new 30 inch culverts
- Finished document room at PD
- Update marquee as needed
- Daily Water Maintenance residual and pressure test
- Heritage Park and Silver Spur Park and Baseball fields and park- tree and grass maintenance

- Put up Christmas lights and banners
- Pulled pump #2 at Highland Meadows lift station and sent for repair
- Repaired fire hydrant at 130 Suburban
- Repaired Road at Juniper and Johnson Lane

- Jimmy Bryan -
 - repair JD Backhoe
 - Serviced PD # 103
 - Serviced all city equipment - antifreeze
 - Repair JCB backhoe
 - Repaired clutch dump truck
 - Flushed Hydrants

- Collect water samples for TCEQ reporting
- Water Maintenance – routine flushing mains and hydrant
- Meter Box repair and replace lids as needed

Water plants at City Hall and park



Jessica Foresman
Court Clerk

DATE: December 12, 2011
TO: Honorable Mayor and City Council Members
CC: City Administrator, Randy Whiteman
FROM: Jessica Foresman, Court Clerk
SUBJECT: Monthly Staff Report

34 traffic, and 5 penal related cases were filed for the month of November. 14 warrants were issued

Court Collection for the month of November was \$4,645.50

\$2,407.00 is kept by the City FYTD \$12,990.45
\$2,238.50 is remitted to State FYTD \$9,074.05

CODE ENFORCEMENT REPORT NOVEMBER 2011

- COMPLAINTS/VIOLATIONS – 68
- FOLLOW-UPS – 79
- EDUCATION - 80
- LETTERS SENT– 3 (2 PARKING IN YARD 1 JUNK VEHICLE)
- NUISANCE ABATED – 1 GRASS – CUMBERLAND DRIVE
- DOOR HANGER NOTICES – 15 (5 PARKING IN YARD, 3 PERMIT, 2 JUNK VEHICLE, 1 GRASS, 4 PERMIT REQUIRED)
- SIGNS REMOVED – 35 (25 BUSINESS, 10 GARAGE SALE)
- PICTURES TAKEN – 126
- GARAGE SALE PERMITS –11 FOR A TTL \$55
- COURT – 1 PLEA GUILTY- JUNK VEHICLE, FINE- \$194.00
- STREET LIGHT REPORTED
 - COMPLAINTS – 2 FOLLOW-UPS – 3
- PERMITS REVIEWS – 8 INSPECTIONS - 8
- ILLEGAL DUMPING – 1 (TRASH- RED OAK CREEK)

**ANIMAL CONTROL
NOVEMBER 2011**

- COMPLAINTS/VIOLATIONS – 48
- FOLLOW-UPS – 51
- ANIMALS PICKED UP – 7(7 DOG)
- ANIMAL RELOCATED – 3 (1 RACCOON, 2 POSSUM)
- TAG RENEWAL NOTICES SENT – 21
- DOOR HANGERS – 11
- PICTURES TAKEN – 67
- EDUCATION – 42
- IMPOUND FEES -\$90.00
- DECEASED / REMOVED –18
- CITY TAGS – 28 ISSUED = TTL \$336.00
- OAK LEAF CALLS – 3 (4 DOG, 1TRAP)
- 8 TRAPS CHECKED OUT



Villa City Council

CONSENT ITEMS

Item(s): 2 (City Secretary use only)

Meeting Date: December 12, 2011

Department: Administration

Discussion Action

Budgeted Expense: YES NO N/A

Submitted By: Staff

Attachments:
1. Monthly Financial Transactions
2. Minutes of the Regular Council Meeting of November 28, 2011
Agenda Item / Topic:
Discussion / Justification:
Recommendation / Staff Comments:
Staff recommends approval.
Sample Motion(s):
<i>"I MAKE A MOTION THAT COUNCIL APPROVES/DENIES THE CONSENT ITEMS AS PRESENTED."</i>
<i>"I MAKE A MOTION THAT COUNCIL APPROVES/DENIES THE CONSENT ITEM(S) AS PRESENTED WITH THE EXCEPTION OF _____ TO PULL FOR DISCUSSION/ACTION PRIOR TO APPROVAL."</i>



DATE: 12-12-11

TO: Honorable Mayor and Council Members

FROM: Sharon Jungman

SUBJECT: Account Payable Transactions Paid
in November 2011 over \$5,000

Accounts Payable Paid Transactions in November 2011 Over \$5,000

General Fund			Payee	Description	Amount
Date	Check#	Payee	Description	Amount	
11/17/2011	39627	Blackboard Connect	City Service Connect & Weather Alert Service	\$5,349.00	
11/17/2011	39642	Citibank	October Credit Card Charges	\$9,391.73	
11/9/2011	ACH	Quick Books Payroll Service	Payroll	\$31,036.09	
11/22/2011	ACH	Quick Books Payroll Service	Payroll	\$32,815.16	
11/14/2011	39624	T.M.R.S.	Retirement	\$9,353.61	
11/4/2011	39570	Texas Municipal League	Quarterly Insurance Payment	\$11,914.22	
11/10/2011	ACH	US Treasury	Payroll Taxes	\$6,434.23	
11/23/2011	ACH	US Treasury	Payroll Taxes	\$6,809.31	
Total General Fund Transactions Paid in November 2011 \$5,000 and Over				\$113,103.35	

Water & Sewer Fund			Payee	Description	Amount
Date	Check#	Payee	Description	Amount	
11/11/2011	14618	City of Dallas	Purchase Water	\$12,257.87	
11/29/2011	14638	City of Ovilla General Fund	Garbage Transfer for Nov. 2011	\$16,409.13	
Total Water & Sewer Fund Transactions Paid in November 2011 \$5,000 and Over				\$28,667.00	

CITY OF OVILLA MINUTES
Monday, 28 November 2011
Regular City Council Meeting
105 S. Cockrell Hill Road, Ovilla, TX 75154

Mayor Vansyckle called the Regular Council Meeting of the Ovilla City Council to order at 7:00 P.M. The following City Council Members were present:

Tom Leverentz	Mayor Pro-Tem, Place 1
James Wade	Council Member, Place 3
Doug Hunt	Council Member, Place 4
Richard Dormier	Council Member, Place 5

Absent: Michael Dickey Council Member, Place 2

Noted members were present, thus constituting a quorum.

City Administrator Randy Whiteman, various department-head staff members and Ovilla's legal counsel, Tim Sralla were also present.

PL4 Hunt gave the Invocation.

Mayor Pro-Tem Leverentz led the Pledge of Allegiance.

Comments, Presentations and Reports and Appointments

CITIZENS COMMENTS / CITIZENS FORUM:

1. Mr. Morris Gresham – Comments regarding Item 5: Urged Council to remember that despite claims heard or read this past week, a person that commits unethical and criminal acts *is not* a victim. The citizens that have to endure these acts *are* the victims. This is not about embarrassment but law and order. City and state codes are the laws we citizens depend on to protect each of us. Please remember after carefully examining all the evidence, facts exhibits and testimony, that friendships and political alliances must take a backseat for the task that is set.
2. Mr. Phil Lynch – Comments regarding Item 5: This was a contest of values and hoped that Council had done their homework and will not allow political favors. Tonight is not about misunderstandings or mischaracterizations. It is about values, actions and character. Upon reviewing the complaint, this is not about politics it is about right and wrong. When the City Council removes this official's keys and does not allow him to operate inside city hall after hours, he just might get the message, "*This is not his house, it is our house.*" (Complete written comments were given to the City Secretary)

◆ Department Activity Reports / Discussion

- | | |
|----------------------|-----------------------|
| ◆ Finance Department | Accountant S. Jungman |
| • Monthly Financials | |

Accountant Sharon Jungman advised those present that the auditors were expected next week to begin the annual audit.

CONSENT ITEMS:

- ◆ Minutes of the November 14, 2011 Regular Council Meeting.
- ◆ Annual UB Software Support and Agreement with AVR.

Mayor Pro-Tem Leverentz made a motion approve the consent items as presented.

PL5 Dormier seconded the motion.

Mayor Vansyckle asked for a record vote by announcement of AYE or NAY.

Present Council announced AYE in favor. No oppositions, no abstentions.

PL2 Dickey was noted absent.

VOTE: The motion carried unanimously: 4-0.

Mayor Vansyckle announced that he would pull Item 5 from the regular order of the agenda to address first.

ITEM 5. Discussion/Action – City Council will hear a complaint filed by City Administrator Randy Whiteman in open session pursuant to the Council Procedures on Hearing Complaints.

Mayor Vansyckle offered the Chair to Mayor Pro-Tem Leverentz to address Item 5. Mayor Pro-Tem Leverentz read Item 5 and stated each step of the Council Rules of Procedures beginning with the filing of a complaint to the rebuttal and the subsequent hearing of the complaint against a member of Council.

Mayor Pro-Tem Leverentz noted that the complaint information and the rebuttal were submitted in timely manner. Mr. Whiteman submitted eleven complaints/charges against Mayor Vansyckle. Council proceeded with the hearing. (City Secretary was instructed to make copies for citizens in attendance.)

Council allowed Mr. Whiteman to give opening remarks or clarify any materials as the complainant. Mayor Vansyckle was offered the same as the respondent. Both were satisfied with their submittals. The complainant and respondent were not allowed to speak to one another during the questioning and hearing.

Mayor Pro-Tem Leverentz opened the inquisition process with the City Administrator Randy Whiteman and allowed each individual Council Member to ask questions pertaining to each of the eleven charges-all with testimony and documented information to support his complaints. The inquiry was a very lengthy process. The allegations submitted by complainant, Randy Whiteman and individually reviewed were:

1. The Mayor overstepped his authority when he told me to suspend my removal of Mr. Ramsey.
2. The Mayor demonstrated Abuse of Power when he failed to follow Ovilla's Employee Personnel Handbook in his handling of the complaint against me and instead tried to remove me in a hasty special meeting.
3. The Mayor demonstrated Official Oppression when he purposely withheld Mr. Ramsey's original complaint from the whole council in an effort to eliminate support for me on the council.
4. The Mayor demonstrated Official Oppression when he purposely withheld the Mr. Ramsey's original complaint from me to thwart my defense against the accusation.
5. The Mayor's actions to fax Mr. Ramsey my letter and then personally deliver the doctored complaint showed bias against me.
6. The Mayor failed to declare a conflict of interest or excuse himself from the complaint process even though he had participated with Mr. Ramsey in the filing of the complaint.

7. The Mayor's participation with Mr. Ramsey in his second draft of the complaint shows an unhealthy relationship exists and that his participation in the complaint denied me due process, as he was the one administering the investigation.
8. The Mayor violated the Open Meetings Act in meeting with or having correspondence with several councilmen prior to the Council meeting where they discussed offering me to resign prior to the meeting or firing me if I didn't.
9. The Mayor failed to identify a conflict of interest with Mr. Ramsey and that the conflict of interest was material in his unfair handling of the complaint against me.
10. The Mayor's efforts to get me fired were in retaliation of my removal of Mr. Ramsey and provide grounds for a Whistle Blowers Suit against the City.
11. The Mayor demonstrated abuse of power when he went to the City Secretary and ordered her to allow him to view my personnel file, the Mayor copied my social security number down violating my right to personal privacy.

During the questioning, Council directed testimony to staff members, Mike Dooly, Chief Moon and Pam Woodall in order to substantiate the complaint(s) against the Mayor. Council also directed questions to City Attorney Tim Sralla.

Having concluded the questioning with the complainant, Mr. Whiteman, Mayor Pro-Tem Leverentz then turned Council's attention to the respondent, Mayor Vansyckle. Again, each individual Council Member asked questions and allowed Mayor Vansyckle his rebuttal to each of the eleven allegations. While the Mayor admitted he directed the City Secretary to pull the City Administrator's personnel file, and to faxing the termination document to Mr. Ramsey's office, he adamantly and strongly voiced everything else contained in the charges to be falsehoods and slanderous lies. Mayor Vansyckle stated he felt it necessary to conduct a personal investigation into Mr. Ramsey's complaint against the City Administrator, and into the opinion of a Municipal Court water case. Mr. Vansyckle furthered his comments with an excerpt from his written rebuttal that stated the City Administrator was working with certain citizens against him and that Mr. Whiteman was no longer capable of representing Ovilla. Council inquired as to why the Mayor had not supplied any supporting documentation to corroborate his responses.

Council also discussed the events, timelines and distribution of the original complaint filed by Mr. Rodney Ramsey and the written rebuttal with exhibits and testimonies submitted by Mr. Whiteman. Why some Council Members had knowledge of and received the information earlier than fellow members remained unanswered. A direct instruction from the Mayor to the City Secretary not to release some documents to PL 5 Dormier and PL 3 Wade during the same timeframe was also a matter unsettled. These questions alluded to the likelihood of a walking-quorum and were all discussed with City Attorney Tim Sralla.

Having concluded the inquiries from the complainant and respondent, Mayor Pro-Tem Leverentz allowed each to three-minute closing remarks. Following their statements, Mayor Pro-Tem and the Council (excluding the Mayor and City Administrator) adjourned into Executive Session at 10:10 P.M. to deliberate the following:

ITEM 1. The City Council will meet in closed session pursuant to Section 551.071 of the Texas Government Code for consultation with the City Attorney pertaining to any matter in which the duty of the City Attorney under the Texas Disciplinary Rules of Professional Conduct may conflict with the Open Meetings Act, including discussion on any item posted on the agenda.

- Complaint filed by City Administrator

*Bill Vansyckle, Mayor
Tom Leverentz, Mayor Pro-Tem
Michael Dickey, Place Two*

3

*Doug Hunt, Place Four
James Wade, Place Three
Richard Dormier, Place Five*

ITEM 2. The City Council will meet in closed session pursuant to Section 551.074 of the Texas Government Code to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; or to hear a complaint or charge against an officer or employee.

- Mayor Vansyckle

The Council reconvened into regular session at 11:27 P.M.

Mayor Pro-Tem Leverentz asked for a motion from Council under Item 1 of the Executive Session. PL5 Dormier made a motion that Council finds violations under the Council Code of Ethics by the Mayor for Complaint(s) 1, 5, 6 and 11 as listed:

- 1. Complaint number 1:** The Mayor overstepped his authority when he told me to suspend my removal of Mr. Ramsey.

Substantiated under Council Rules, page 6: Recognize that public and political policy decisions, based on established values, are ultimately the responsibility of the Mayor and City Council: Respect and adhere to the Council-Administrator structure of Ovilla City government out outlined by the Ovilla City Code of Ordinances. Members therefore shall not interfere with the administrative functions of the City of the professional duties of city staff; nor shall they direct/interfere with the ability of the staff to implement Council policy decisions.

- 2. Complaint number 5:** The Mayor's actions to fax my letter to Mr. Ramsey and then personally deliver the doctored complaint showed bias against me.

Substantiated under Council Rules, page 6: Recognize that public and political policy decisions, based on established values, are ultimately the responsibility of the Mayor and City Council: Because of the value of the independent advice of boards and commissions to the public decision-making proves, refrain from using their position to unduly influence the deliberations or outcomes of board or commission proceedings.

- 3. Complaint number 6:** The Mayor failed to declare a conflict of interest or excuse himself from the complaint process even though had had participated with Mr. Ramsey in the filing of Mr. Ramsey's complaint.

Substantiated under Council Rules, page 6: In accordance with the law, Members shall disclose investments, interest in real property, sources of income, and gifts, and they shall abstain from participating in deliberations and decision-making where an appreciable conflict of interest may exist.

- 4. Complaint number 11:** The Mayor demonstrated abuse of power when he went to the City Secretary and ordered her to allow him to view my personnel file, the Mayor copied my social security number down violating my right to personal privacy.

Substantiated under Council Rules, page 6: Recognize that public and political policy decisions, based on established values, are ultimately the responsibility of the Mayor and City Council: Members shall recognize their special role in dealings with city employees and in no way create the perception of inappropriate direction to staff.

PL3 Wade seconded the motion.

Mayor Pro-Tem Leverentz asked for a record vote by the raising of hands.

All present Council raised hands in favor. No oppositions, no abstentions.

Place 2 Dickey was noted absent.

VOTE: The motion carried unanimously: 4-0.

*Bill Vansyckle, Mayor
Tom Leverentz, Mayor Pro-Tem
Michael Dickey, Place Two*

4

*Doug Hunt, Place Four
James Wade, Place Three
Richard Dormier, Place Five*

Mayor Pro-Tem Leverentz asked if there was a motion from Council under Item 2 of the Executive Session. PL 5 Dormier stated that Council would schedule another date to take appropriate action under this item. The remaining seven complaints received no action at all from Council, neither in violation nor exoneration.

Mayor Vansyckle assumed the Chair again and returned to the regular order of the agenda.

PUBLIC HEARING & DISCUSSION

ITEM 1. Public Hearing and Discussion – Receive Comments and discussion to consider the approval of taxation of Goods-In-Transit that are otherwise exempt from taxation under Section 11.253, Texas Tax Code.

Mayor Vansyckle opened the Public Hearing at 11:30 P.M.

Mayor Vansyckle asked if there was anyone to speak in favor of this item.

Mayor Vansyckle asked if there anyone wishing to speak in opposition of this item.

Mayor Vansyckle asked if anyone wanted to make any comments.

There were no comments.

Mayor Vansyckle closed the Public Hearing at 11:31 P.M.

REGULAR AGENDA

INDIVIDUAL CONSIDERATION:

ITEM 2. Discussion/Action – Consider Ordinance 2011-028 relating to the approval of taxation of Goods-In-Transit that are otherwise exempt from taxation under Section 11.253, Texas Tax Code.

- Presented by Administrative Staff

PL4 Hunt made a motion that Council approves Ordinance 2011-028 relating to the taxation of Goods-in-Transit, pursuant to TX Tax Code 11.253 as presented.

PL3 Wade seconded the motion.

Mayor Vansyckle asked for a record vote by announcement of AYE or NAY.

Present Council announced AYE in favor. No oppositions, no abstentions.

PL2 Dickey was noted absent.

VOTE: The motion carried unanimously: 4-0.

ITEM 3. Discussion/Action – Update Council with audio/visual technical equipment and Council may take any action deemed necessary.

- Presented by Administrative Staff and Mayor Vansyckle

Mayor Vansyckle gave Council a demonstration with one of the seven Eee-Tablets he recently purchased on the city's behalf. Mayor advised he was working under advisement with the City of Ferris to gain tablet user knowledge and software capabilities. He advised Council that software needed to be purchased. Additionally, he stated he made a call for service regarding the not yet working audio equipment. Mayor stated he was not certain of the costs still pending to achieve working order of all the equipment. The City Secretary informed Council that the additional software required to enable the viewing of the tablets in the manner that the Mayor described and requested would run approximately \$200.

City Accountant Sharon Jungman advised that the original budget for this purchase was \$5,000. Over \$6,000 was expended to date. Ms Jungman asked that Council consider how they wanted to pay for the increased expenditures.

Mayor Pro-Tem Leverentz made a motion that Council approves the purchase of any necessary software to get the Eee-Tablets working.

PL4 Hunt seconded the motion.

Mayor Vansyckle asked for a record vote by announcement of AYE or NAY.

Present Council announced AYE in favor. No oppositions, no abstentions.

PL2 Dickey was noted absent.

VOTE: The motion carried unanimously: 4-0.

ITEM 4. Discussion/Action – Determine Council’s response to ONCOR regarding the many outages in Ovilla during the past two years.

- Requested by Council

Mayor Pro-Tem Leverentz announced that he had filed a Conflict of Interest with the City Secretary prior to the meeting regarding this Item.

PL4 Hunt advised that in recent conversation with ONCOR, they shared with him that they (ONCOR) had completed some extensive tree trimming and replaced various switches within the city with the intention to improve Ovilla’s service. PL4 Hunt suggested that an Ovilla representative (Council or staff) schedule a visit with ONCOR directly instead of filing a complaint with the PUC (Public Utility Commission).

PL5 Dormier made a motion that Council approves the scheduling of a meeting with ONCOR and to suspend previous plans to file a formal complaint with the PUC.

PL4 Hunt seconded the motion.

Mayor Vansyckle asked for a record vote by announcement of AYE or NAY.

Present Council announced AYE in favor. No oppositions, 1 abstention by Mayor Pro-Tem Leverentz.

PL2 Dickey was noted absent.

VOTE: The motion carried unanimously: 3 in favor, 1 abstention, 1 absent.

Council’s Request for Consideration of Future Agenda Items

Place 5, Dormier: Agenda Item to follow up on Council’s action(s) regarding the findings of Mayor’s violations.

Place 4, Hunt: None

Place 3, Wade: None

Mayor: None

Place 2, Dickey: Absent

Mayor Pro-Tem Leverentz: Discuss Accident Review Board
Agenda Item for Council’s further action(s) regarding the findings of Mayor Vansyckle’s violations.

Adjournment

PL3 Wade made a motion to adjourn the meeting of November 28, 2011 at 11:45 P.M.

PL4 Hunt seconded the motion.

Mayor Vansyckle asked for a record vote by announcement of AYE or NAY.

Present Council announced AYE in favor. No oppositions, no abstentions.

PL2 Dickey was noted absent.

VOTE: The motion carried unanimously: 4-0.

Bill Vansyckle, Mayor

ATTEST:

Pam Woodall

Approved December 12, 2011

Attachments: Conflict of Interest Affidavit from Mayor Pro-Tem Leverentz
Certified Executive Agenda for Executive Session Item 1
Certified Executive Agenda for Executive Session Item 2
Citizen's Comments by Mr. Phil Lynch



AFFIDAVIT

STATE OF Texas)
)
COUNTY OF Ellis)

That on this 28 day of November, 2011, TOM LEVERENTZ personally came and appeared before me at 6:45 o'clock AM/PM, Ovilla City Hall, of Ovilla, Texas, known, and known to me, who says:

Per the Local Government Code, Section 171.004, I am filing this affidavit stating that I shall abstain from voting and participating in the City Council matter of

Item 4

The nature and extent of my interest in this matter is _____

The company that I work for (ASPLUNDH)
is employed with Omer.

FURTHER AFFIANT SAYETH NOT.

Thomas Leverentz

(Signature)

PRINTED NAME: THOMAS LEVERENTZ

PRESENTED AND FILED with me on this 28 day of NOVEMBER, 2011.

Amelia Hall

CITY CLERK/SECRETARY

CERTIFIED EXECUTIVE SESSION AGENDA

Date: 28 November 2011

I, Tom Leverentz, Mayor Pro-Tem of the City of Ovilla, Texas hereby convene into Executive Session at 10:10 p.m. on the 28th day of November 2011.

The following Council Members were in attendance:

Council Members

Staff Members

Others

Bill Vansyckle, Mayor
 Tom Leverentz, Mayor Pro-Tem
 Place 2, Michael Dickey (Absent)
 Place 3, James Wade
 Place 4, Doug Hunt
 Place 5, Richard Dormier

R. Whiteman, City Administrator
 P. Woodall Higgins, City Secretary

City Attorney Tim Skalla
 Other Legal Counsel

The following is an agenda of an Executive Session of the City of Ovilla, Texas, held pursuant to the Texas Open Meetings Act, Government Code Section:

<input checked="" type="checkbox"/> 551.071 - Consultation w/Attorney	<input type="checkbox"/> 551.072 - Real Property
<input type="checkbox"/> 551.073 - Deliberations about Gift	<input type="checkbox"/> 551.074 - Personnel Matters
<input type="checkbox"/> 551.076 - Security Personnel or Devices	<input type="checkbox"/> 551.086 - Test item (SB 595)
<input type="checkbox"/> 551.087 - Economic Development Negotiations (SB1851)	
<input type="checkbox"/> 418.183 - Homeland Security	

Said Executive Session has been conducted in order to deliberate on the following matters:

ITEM 1. The City Council will meet in closed session pursuant to Section 551.071 of the Texas Government Code for consultation with the City Attorney pertaining to any matter in which the duty of the City Attorney under the Texas Disciplinary Rules of Professional Conduct may conflict with the Open Meetings Act, including discussion on any item posted on the agenda.

- Complaint filed by City Administrator

COUNCIL WILL RECONVENE INTO OPEN SESSION, AND TAKE ACTION NECESSARY PURSUANT TO EXECUTIVE SESSION, IF NEEDED.

The following further action was taken in open session:

COUNCIL FINDS VIOLATIONS UNDER COUNCIL CODE OF ETHICS BY THE
MAYOR FOR COMPLAINTS 1, 5, 6 AND 11.

I, Tom Leverentz, Mayor Pro-Tem, hereby adjourn the Executive Session at 11:27 p.m. on the 28th day of November 2011. No Action was taken. Any action, as a result of this Executive Session, will be taken and recorded in open session.

I certify that this agenda is a true and accurate record of the proceedings.

Tom Leverentz, Mayor Pro-Tem

***Note:** this certified agenda must be kept a minimum of two years after the date of the Executive Session, and is confidential. A person who knowingly and without lawful authority makes this record public commits a Class B misdemeanor and may be held liable for actual damages, court costs, reasonable attorneys fees, and exemplary damages. Texas Government Code § 551.145.

CERTIFIED EXECUTIVE SESSION AGENDA

Date: 28 November 2011

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The following Council Members were in attendance:

Council Members

Staff Members

Others

- Bill Vansyckle, Mayor
- Tom Leverentz, Mayor Pro-Tem
- Place 2, Michael Dickey (Absent)
- Place 3, James Wade
- Place 4, Doug Hunt
- Place 5, Richard Dormier

- R. Whiteman, City Administrator
- P. Woodall Higgins, City Secretary
- _____

- City Attorney Tim Skalla
- Other Legal Counsel

The following is an agenda of an Executive Session of the City of Ovilla, Texas, held pursuant to the Texas Open Meetings Act, Government Code Section:

- 551.071 - Consultation w/Attorney
- 551.073 - Deliberations about Gift
- 551.076 - Security Personnel or Devices
- 551.087 - Economic Development Negotiations (SB1851)
- 418.183 - Homeland Security
- 551.072 - Real Property
- 551.074 - Personnel Matters
- 551.086 - Test item (SB 595)

Said Executive Session has been conducted in order to deliberate on the following matters:

ITEM 2. The City Council will meet in closed session pursuant to Section 551.074 of the Texas Government Code to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; or to hear a complaint or charge against an officer or employee.

- Mayor Vansyckle

COUNCIL WILL RECONVENE INTO OPEN SESSION, AND TAKE ACTION NECESSARY PURSUANT TO EXECUTIVE SESSION, IF NEEDED.

The following further action was taken in open session:

COUNCIL WILL SCHEDULE ANOTHER DATE TO TAKE ACTION UNDER THIS
ITEM.

I, Tom Leverentz, Mayor Pro-Tem, hereby adjourn the Executive Session at 11:27 p.m. on the 28th day of November 2011. No Action was taken. Any action, as a result of this Executive Session, will be taken and recorded in open session.

I certify that this agenda is a true and accurate record of the proceedings.

Tom Leverentz
Tom Leverentz, Mayor Pro-Tem

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11 28 2011 Citizen's Comments

My name is Phil Lynch,

Before us tonight is a contest of values. Either we will witness a full item by item investigation as the city council meeting on October 3rd led us to believe, or will we witness a council who has not done their homework.

It is my hope, we will witness a full investigation without any political favors involved, no doubt, we the people can tell the difference.

Tonight is not about misunderstandings or mischaracterizations. It's about values, actions and character. It is a sad day in Ovilla when a citizen can report that he has too easily found serious ethics violations in each and every of the eleven paragraphs in our Code of Ethics.

Tonight many in this room will hear of a disrespect for civility and decorum which has been displayed out of sight from most of us. People of Ovilla, picture in your mind a guest in your home, much like an elected official in a city hall setting. Picture the guest, when receiving information he doesn't like habitually yelling and being extremely rude to your family, using language unbecoming to your family members. Then picture the guest in your home constantly slamming your doors in a furious outburst.

Gentlemen, that is what the guest in our home, our city hall, has been doing for two years. The family members are our employees. No one should have our consent by omission, default or any other method to act uncivilly in our house. Its unacceptable behavior and we should all be ashamed as we have condoned this behavior by our silence for two years. No more.

From this night forward, our employees are to be treated with respect and decency at all times, bad news or not. Elected officials are free to slam their own doors, yell at their own family members, and insult those in their household, but gentlemen, not our doors and not in our home, not any longer.

In my humble opinion, this kind of behavior is merely a window into what you will uncover this evening. What's the saying, I paraphrase, nothing shall remain uncovered, all things hidden will be revealed.

Another example of how the subject of this ethics investigation has mischaracterized an excuse for his behavior the past two years is to always blame others. What others? Contrary to what the Mayor is suggesting, my recollection is that nearly every council vote for two years has been 5-0, and only a hand

full have been 4-1 and I don't remember any 3-2, but there may have been a couple. So, with mostly unanimous votes, exactly what political opposition could he be referring to?

Gentlemen, as you can plainly see from the complaints, this isn't about politics. It's about right and wrong!

Let's quickly check a few facts. Was it political opponents who snuck in Ramsey as city prosecutor without disclosing a previous business and personal relationship?

Was it political opponents who began fixing tickets the month after Ramsey was on board and the ink not dry on the Oath of Office?

Was it political opponents who went against the Ovilla Code of Ordinances?

Was it political opponents who went against the city's lawyer's advice and legal opinion on a water case?

Was it political opponents who went against the Texas Constitution in a water case?

Was it political opponents who continually told the city prosecutor to not prosecute certain people and to actively prosecute people the official didn't like?

Was it the political opponents who made him use foul language, yell and slam doors in city hall as though it was his private property?

Was it the political opposition which led the official to appoint a citizen to the highly important Board of Adjustments overseeing property owners request for changes with permits that reportedly enclosed his garage recently and according to city records did it without a permit?

Is it political opposition that makes him operate his private investigator business out of city hall both during and after office hours?

Well gentlemen, when the city council stops the official from operating his business out of city hall, and removes his keys so he won't be here when the staff is not here, he just might get the message this is not his house, it's our house.

Thank you for your attention.



AGENDA ITEM REPORT

Item(s) Number: 1 (City Secretary use only)

Meeting Date: December 12, 2011

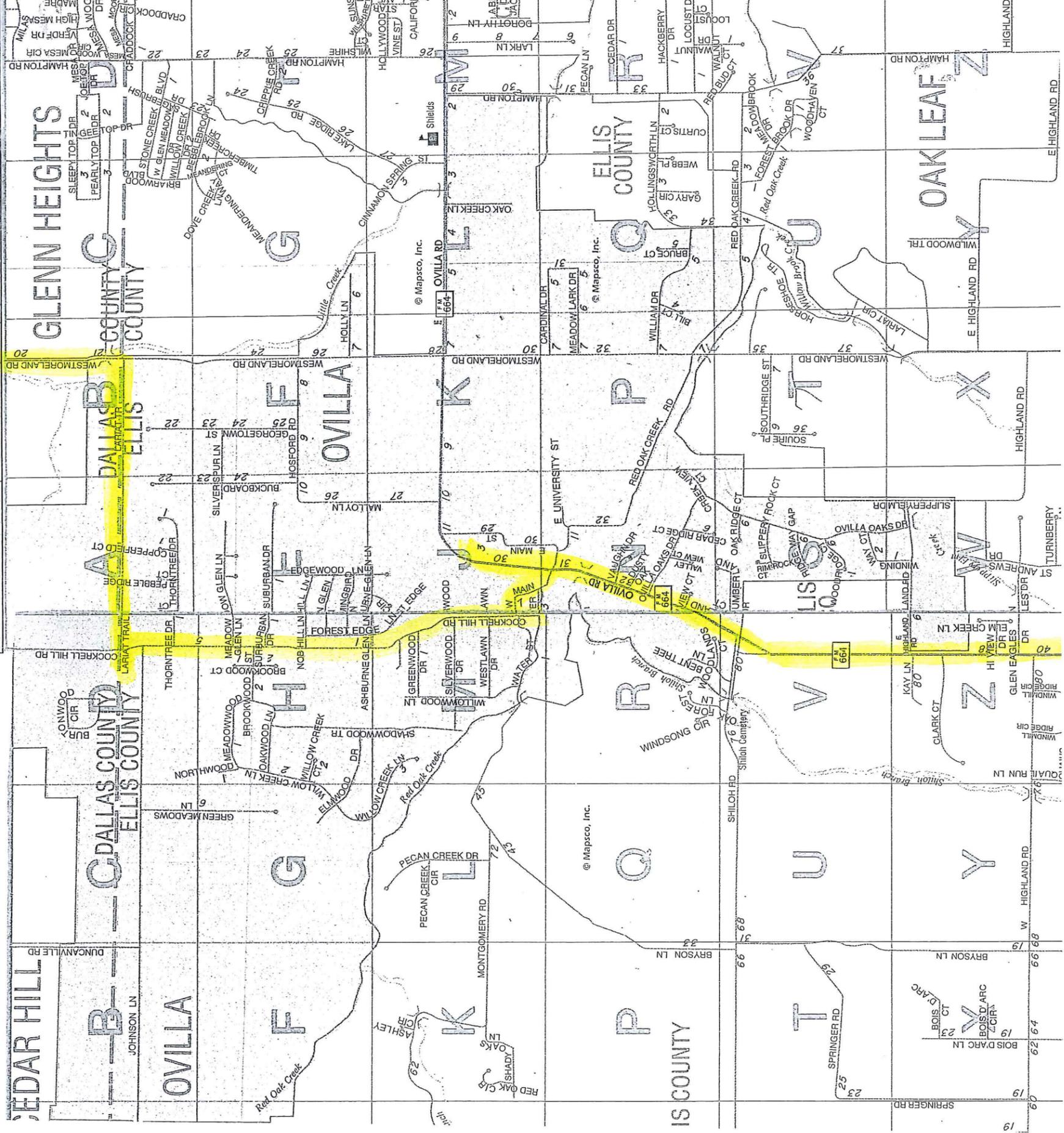
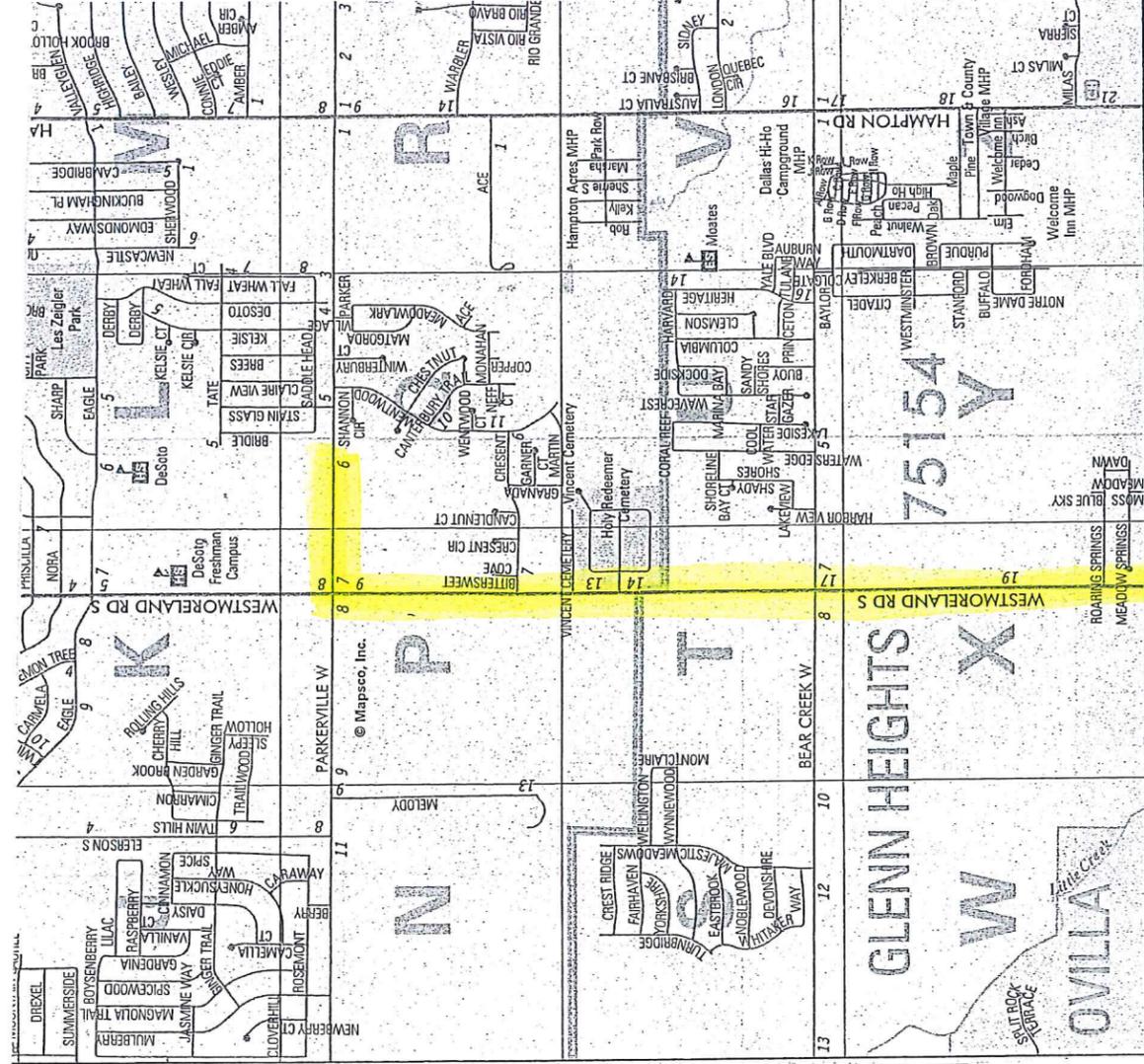
Department: Administration

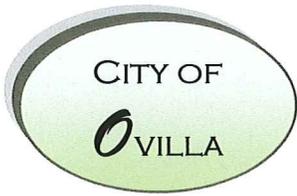
Discussion Action

Budgeted Expense: YES NO N/A

Submitted By: Staff

Attachments:
Feeder Map
Agenda Item / Topic:
ITEM I. Discussion/Action – Receive report from ONCOR representative regarding extensive outages in Ovilla. Council may take any action deemed necessary. <ul style="list-style-type: none"> Requested by Council.
Discussion / Justification:
PL4 Hunt requested representative(s) from ONCOR address the council with an explanation of the outages and offer remedies.
Recommendation / Staff Comments:
Sample Motion(s):
<i>"I MAKE A MOTION THAT COUNCIL APPROVES/DENIES _____."</i>





AGENDA ITEM REPORT

Item(s) Number: 2 (City Secretary use only)

Meeting Date: December 12, 2011

Department: Administration

Discussion Action

Budgeted Expense: YES NO N/A

Submitted By: Staff

Attachments:
Membership list
Agenda Item / Topic:
ITEM 3. Discussion/Action – Report of vacancy and consider appointments and/or reappointments to the Municipal Development District. <ul style="list-style-type: none"> Presented by Administrative staff.
Discussion / Justification:
November 2011 was the renewal month for three places on the Municipal Development District Board. PL1-Fitzgerald, PL3-Daniels, and PL5-Shortnacy have expiring terms. To date, PL1 and PL5 have responded to staff their desires for another term of appointment.
Recommendation / Staff Comments:
Staff recommends the reappointment of PL1 & PL5, and ask for Council’s direction to begin accepting board applications for PL3.
Sample Motion(s):
“I MAKE A MOTION THAT COUNCIL APPROVES/DENIES _____.”



105 South Cockrell Hill Road
Ovilla, Texas 75154
Ph: (972) 617-7262 Fax: (972) 515-3221

**INFORMATION
SHEET**

MUNICIPAL DEVELOPMENT DISTRICT – EST. 11.03.2009	
Renewed 2y Term EXP. 11.2012	Renewed 2y Term EXP. 11.2012
LEVERENTZ, Tom () – PL 4	DICKEY, Michael () - PL 2
621 Green Meadows	103 Robin Glen Lane
Ovilla, TX 75154	Ovilla, TX 75154
Hm:	Hm:
Wk:	Wk:
Cell:	Cell:
Personal E-Mail:	Personal Email:
TERM 2 YR – EXP. 11.2011	TERM 2 YR – EXP. 11.2011
DANIELS, Charles - PL 3, President	SHORTNACY, Lynn - PL5, V-P
601 Edgewood	141 Suburban
Ovilla, TX 75154	Ovilla, TX 75154
Hm:	Hm:
WK:	WK: retired
Cell:	Cell:
Personal E-Mail:	Personal E-Mail:
TERM 2 YR – EXP. 11.2011	
FITZGERALD, Sandra – PL 1 (replaced Vansyckle 07/25/2011)	
403 Shadowwood Trail	
Ovilla, TX 75154	
Hm:	
WK: Retired	
Cell:	
Personal ema:	



AGENDA ITEM REPORT

Item(s) Number: 3 (City Secretary use only)

Meeting Date: December 12, 2011

Department: Administration

Discussion Action

Budgeted Expense: YES NO N/A

Submitted By: Staff on behalf of Mayor Pro-Tem Leverentz

Attachments:
Sections 8.11 & 9.2 of the Employee Handbook Accident Review Board Procedures
Agenda Item / Topic:
ITEM 3. Discussion Only – Review and consider a request to amend the Employee Handbook, Sections 8.11 and 9.2. • Requested by Mayor Pro-Tem Leverentz.
Discussion / Justification:
Mayor Pro-Tem Leverentz asked to discuss and possibly recommend certain amendments to sections in the handbook pertaining accidents and the Accident Review Board.
Recommendation / Staff Comments:
N/A
Sample Motion(s):
"I MAKE A MOTION THAT COUNCIL APPROVES/DENIES _____."

- (D) The employee will immediately (within 24 hours or sooner) return the City computer and related items if requested by the City Administrator for any reason;
- (E) The employee will return the City computer and related items immediately upon termination of employment; and
- (F) A payroll deduction will be made for the cost of lost, damaged or unreturned items; in addition to payroll deductions, the City may take any other action it deems appropriate or necessary to recover and/or protect its property.

8.11 USE OF CITY VEHICLES

City-owned or leased vehicles may only be used for official City business. City owned or leased vehicles may only be driven by authorized City employees. If an employee drives his or her own vehicle to conduct City-related business, or a City-owned, rented or leased vehicle, the employee must comply with the following:

- Employee must have a valid State of Texas driver's license appropriate for the vehicle operated and must inform his or her supervisor of any change in status.
- Employee must always observe all posted laws and speed limits.
- Employee must always wear seat belts when the vehicle is in operation.
- **AT NO TIME MAY AN EMPLOYEE UNDER THE INFLUENCE OF ALCOHOL OR ILLEGAL DRUGS DRIVE A CITY VEHICLE OR A PERSONAL VEHICLE WHILE CONDUCTING CITY BUSINESS.**
- **EMPLOYEES INVOLVED IN AN ACCIDENT WHILE OPERATING A CITY VEHICLE, OR WHILE OPERATING A PERSONAL VEHICLE ON CITY BUSINESS, MUST IMMEDIATELY NOTIFY THE PROPER LAW ENFORCEMENT AGENCY (IF APPLICABLE) AND THE APPROPRIATE SUPERVISOR, DEPARTMENT HEAD AND/OR CITY ADMINISTRATOR. AN ACCIDENT REPORTS, ALONG WITH ANY LAW ENFORCEMENT REPORT, MUST BE FILED BY THE EMPLOYEE WITH THE DEPARTMENT HEAD THE DAY OF THE ACCIDENT (Accident Report Forms can be obtained from the Human Resources Department). AFTER FILLING OUT THE ACCIDENT REPORT, EMPLOYEES INVOLVED IN ACCIDENT WHILE OPERATING A CITY VEHICLE MUST TAKE A DRUG SCREEN IMMEDIATELY FOLLOWING (The Drug Screen will be set up by the Human Resources Department).**

Employees who drive a City-owned, rented or leased vehicle must also comply with the following:

- No passengers other than other City employees or others on City business unless otherwise approved in advance by the Department Head.
- No personal use of City-provided vehicles is allowed without the prior, specific approval of your Department Head.
- All maintenance and use records must be completed as directed by a supervisor.
- Report any broken, missing, or worn parts, tires, etc., or any needed maintenance, to a supervisor immediately.
- All drivers must be eligible for coverage under the City's insurance policy.
- Drivers covered by Department of Transportation regulations must comply with them at all times.

Accident Review Board

- A. An Accident Review Board will be established to review all accidents and damage. The chairman will be appointed by the City Administrator or his designee and will serve a one year period. The Board will be comprised of the following personnel:
1. one supervisor – chairman (No Vote)
 2. one patrol officer
 3. one city employee from administration
 4. one city employee from public works
 5. one fire employee
- B. At the discretion of the City Administrator the Accident Review Board may review and recommend action on other accidents involving the City of Ovilla

The City may, at any time, check the driving record of a City employee who drives as part of his/her job duties to determine that he/she maintains the necessary qualifications as a City driver. Employees agree that they will cooperate by providing the City any authorization that may be required for this purpose.

- (E) The employee's formal written agreement to abide by the above conditions as well as any other conditions deemed appropriate by the City. The employee must meet with a City representative to discuss the terms of his/her continued employment and sign a formal agreement before returning to work.

Policy Violations. Violations of this policy will generally lead to disciplinary action, up to and including immediate termination of employment and/or required participation in a substance abuse rehabilitation or treatment program. Employees with questions or concerns about substance dependency or abuse are encouraged to discuss these matters with their supervisor or Department Head to receive assistance or referrals to appropriate resources in the community.

The City may have additional obligations in addressing controlled substances and alcohol abuse for those employees regulated by the U.S. Department of Transportation. The City will ensure that the controlled substance and alcohol testing conforms to US DOT workplace testing requirements.

9.2 DRUG AND ALCOHOL TESTING / PRE & POST EMPLOYMENT DRUG TESTING TESTS REQUIRED:

1. **Pre-employment.** Following a conditional offer of employment and before hiring, the City requires applicants to submit to pre-employment drug/alcohol testing by a physician of the City's choice. Applicants who refuse to consent or submit to pre-employment drug/alcohol testing or inquiries when required by the City are ineligible for hire. If the drug/alcohol test is positive, then the applicant is ineligible for any City employment for a period of six (6) months from the date of the test result. Police and fire Department employees are subject to Departmental hiring policies, which may be more limiting than the hiring policies for other City Departments.
2. **Post-accident testing.** As soon as practical following an accident, an employee involved in a work-related accident or traffic accident while on duty and operating either a City owned or leased vehicle or the employee's privately owned vehicle while conducting City business shall submit to an alcohol and controlled substances test, if:
 - a. The accident resulted in bodily injury or a fatality; or
 - b. The employee received a citation for a moving violation; or
 - c. The employee is arrested for driving under the influence (DUI), driving while intoxicated (DWI), or public intoxication (PI); or
 - d. The employee is transporting a non-City employee in the vehicle; or
 - e. Testing is recommended by the Safety Manager or department supervisor; or

- f. The employee had a "near miss" while operating the vehicle or equipment.

Unless transported by ambulance or arrested, the employee shall remain at the scene until taken for testing. The employee's supervisor must arrange transportation of the employee to a collection site. Under no circumstances shall the employee be permitted to drive to a collection site. Nothing in this section shall be construed to require the delay of necessary medical attention for injured employees following an accident or the restraint of an employee at the scene of an accident.

Testing must be administered within two (2) hours following the accident. However, if in that time period a test is not administered, an alcohol test will be administered within eight (8) hours following the accident, or a controlled substances test within 32 hours following the accident and, the supervisor shall submit a report to the Human Resources Director stating the reason(s) the test was not administered within the two-hour period. If the alcohol test is not administered within eight (8) hours following an accident, the supervisor shall cease attempts to administer the test and submit a report to the Human Resources Director stating the reasons(s) the test was not administered within the time prescribed above.

Employees required to submit to post-accident alcohol/drug testing will not be permitted to operate a City owned or leased vehicle or equipment, or their own personal vehicle to conduct City business, until the results of the testing have been received and reviewed by Human Resources.

3. For post-accident testing for accidents that occur during normal business hours.
The supervisor must arrange for testing of the employee according to the following procedure:
 - a. The supervisor shall contact Human Resources to advise that an employee is reporting to a medical clinic for post-accident testing.
 - b. The supervisor shall make transportation arrangements for the employee to be taken to the medical clinic.
 - c. Results of the alcohol/drug test will be reported to the City's Medical Review Officer, who will report the results to the Human Resources Director.
 - d. Human Resources shall send a copy of the results to the City Attorney's Office, if requested.
4. For post-accident testing for accidents that occur after normal business hours.
The supervisor must contact the designated drug screening and testing facility to arrange for testing of the employee according to the following procedure:
 - a. The supervisor must make arrangements for collection. The supervisor must have available the employee's name and a number where a call can be returned. The testing facility will send a technician to the accident site, a City facility, or to their local testing office to conduct an alcohol and/or drug test.

- b. The supervisor shall contact Human Resources on the next business day to advise post-accident testing had occurred after hours.
 - c. Results of the alcohol/drug test will be reported to the City's Medical Review Officer, who will report the results to the Human Resources Director.
 - d. Human Resources shall send a copy of the results to the City Attorney's Office, if requested.
5. **Random testing.** Employees who hold safety-sensitive positions may be randomly tested. The Human Resources Director will maintain a list of positions deemed to be "safety-sensitive." All employees who are required to possess a CDL driver's license shall be subject to random testing. The selection of employees for random alcohol and controlled substances testing shall be made by random selection. These are unannounced tests. Each employee subject to random testing shall have an equal chance of being tested each time selections are made. For CDL drivers, the City will randomly test 50% of the employees for drugs and 10% for alcohol annually, as required by Federal Regulations.

Random tests shall be administered only during the selected employee's normal working hours except shift employees, who because of shift hours worked, may have to be tested prior to or after their shift.

6. **Reasonable suspicion testing.** The City may require urinalysis, or other drug/alcohol screenings of an employee where his/her supervisor has a reasonable suspicion that the employee is using or is under the influence of a drug or alcohol while on duty, or where circumstances or work place conditions justify it, including but not limited to the employee's involvement in any on-the-job accident involving property damage or injury to a person. The supervisor's determination may be based on specific, contemporaneous, articulate observations concerning the appearance, behavior, speech or body odors of the employees or indicators of chronic withdrawal affects. The supervisor's determination may be based upon other evidence sufficient to lead the supervisor to suspect the employee is under the influence of drugs or alcohol, including: changes in personal behavior that are otherwise unexplainable, deteriorating work performance that is not attributable to other factors, evidence of possession of substances or objects which appear to be illegal drugs or drug paraphernalia, and reliable reports of the employee engaging in activity which would violate this policy. The supervisor will review the suspicion with the Human Resources Director or designee. If the Human Resources Director concurs with the supervisor's suspicion, then the supervisor will transport the employee to a collection site for testing. Under no circumstances will the employee be allowed to drive to the collection site.
7. **Follow-up testing.** In the event an employee is permitted to return to work following a positive test determination by a substance abuse professional and

has successfully completed the prescribed rehabilitation program, the employee shall be required to undergo unannounced follow-up testing.

The number and frequency of such follow-up testing shall be as directed and administered by the Substance Abuse Professional and shall consist of random testing for alcohol, controlled substances, and illegal or illicit drugs.

Follow-up testing at the request of the City shall be conducted only during the employee's normal workday except some shift employees who, because of their hours worked, will have to be tested prior to or after their shift. Follow-up testing shall not exceed sixty (60) months from the date the employee enters a Substance Abuse Program.

An employee's consent to submit to such tests is required as a condition of continued employment and the employee's refusal to consent and/or

- (D) Test results will be maintained in a confidential file separate and apart from the employee's personnel file. Any medical-related information will be confidential and only accessible by designated City representatives on a need to know basis, including those who have a need to know about necessary restrictions on the work or duties of an employee and any necessary accommodation; first aid and safety personnel when appropriate; government officials; insurance companies as may be necessary to provide health or life insurance to employees; by court order or as otherwise legally mandated; and as necessary to protect the interests of the City.

Positive Test. A positive drug and/or alcohol test will result in termination.

Accident Review Board

A. An Accident Review Board will be established to review all accidents and damage. The chairman will be appointed by the City Administrator or his designee and will serve a one year period. The Board will be comprised of the following personnel:

- 1 one supervisor- chairman (no vote)
- 2 one patrol officer
- 3 one city employee from administration
- 4 one city employee from public works
5. one fire employee

B. At the discretion of the City Administrator the Accident Review Board may review and recommend action on other accidents involving the City of Ovilla

The City may, at any time, check the driving record of a City employee who drives as a part of his/her job duties to determine that he/she maintains the necessary qualifications as a City driver. Employees agree that they will cooperate by providing the City any authorization that may be required for this purpose.

The above is not a complete and exhaustive list of vehicle use policies. Violations of any specific items listed, as well as the improper , careless ,negligent ,destructive ,or unsafe use or operation of a vehicle, may result in disciplinary action, up to and including termination of employment.

Purpose

The purpose of the Vehicle Accident Review Board is to review all vehicle and drivable equipment accidents /incidents that occur in the course and scope of conducting city business. All vehicle accidents/incidents that involve property damage or personal injury will be reviewed by Accident Review Board to determine the degree of responsibility.

Procedures

1. All vehicle accident/incidents that involve property damage or personal injury will be reviewed by Accident Review Board to determine degree of responsibility.
2. Employee who have a vehicle accident while in the course and scope of their employment are required to immediately notify their supervisor who in turn will contact the following-
 - a. Department Head
 - b. City Administrator
 - c. Accident Review Board
3. Employees shall provide to Accident Review Board a detailed written statement that shall include a diagram giving their explanation of the accident/incident. Statements from witnesses to the accident may also be included
4. The Board will forward to the City Administrator the recommendation for each accident/incident reviewed.
5. Any points assessed to an employee /driver are in effect immediately upon assignment .

Accident Review Board Procedure

Voting

1. After examination of all material submitted, Police report , employee report, witness statement and full discussion, the Board Members will vote to classify accident /incident and assess points as agreed upon by the Board. At any time a silent/secret vote can be instituted by the Chairman.
2. The Accident Review Board may request additional information from the employee, the chairman or the department head, if, in its opinion, it would be material in the classifying of a part
3. If an Accident Review Board Member is involved in an accident he/she shall not be present during the intial review by the Board. The Department Head may appoint an interim member to represent the Department from which the Board member represented, during the hearing. Board members receiving points will be released from the Accident Review Board, upon no points being assessed Board member will return to his/her Accident Review Board seat and the interim will be released.

Appeal

Upon receiving notice of the number of points assessed, employees have 10 calendar days to serve notice of appeal of the Boards decision to the City Secretary in writing. They will then be notified of the date and time scheduled for the appeal.

The Appeal Panel consisting of the City Administrator, City Secretary and Accident Review Board Chairman cannot recommend additional points however the Panel can recommend reduction or removing the points initially given.

Accident Review Point System

- 1, The Vehicle Accident Board's investigation of accidents will be considered a personnel action. Thus , the privacy of employee personnel records will be followed.
2. The committee shall consider the type of accident being reviewed, to determine whether the accident was preventable, taking consideration whether there were any violations of established safety rules and regulations, violations of The State of Texas traffic laws ,and employees accident history within the past year in making its determination.
3. The point system shall be applied as followed:
 - a. If an accident is found to be non-preventable no points will be filed.
 - b. The Accident Review Board shall assign points regarding an accident regardless of whether there is a police report filed and whether or not an employee is charged. Therefore, each employee should be aware that any accident may result in the assignment of points.
4. The Vehicle Accident Review Board may access points to passengers provided their actions are determined responsible for damage .

Vehicle Accident Review Board (VARB) recommended action

0 Point	No Action / Safety Equipment Issue
1-5 Points	Documented Notice – Points on File
6- 10	Written reprimand, Recommended Driver Training /Defensive Driving
11- 13	Recommend Suspension 1 day - With or Without pay based on VARB Recommendation
14-16	Recommend Suspension 2 Day - With or Without pay based on VARB Recommendation
17- 24	Recommend 3 Day Suspension - With or Without pay based on VARB Recommendation
25 Points or Greater	- Termination Hearing By VARB and Department Head

In the event of an accident.....

- Emergency Vehicles may review damage and continue to destination. Non Emergency Vehicles should Park the vehicle or equipment safely.
- Notify the Police and your supervisor immediately.
- Discuss the accident ONLY with Policy and City personnel.
- Do not sign anything unless issued a traffic citation by a law enforcement officer.
- If there are witnesses, collect their names and contact information.
- Provide the contact information for City Hall to all parties involved in the accident for property/liability claims filing and follow-up.
- Report any injuries that you may have received.

- Provide the accident/injury information to City Hall within 24 hours of the accident.

For additional information on the City's property/liability coverage, contact City Hall.



CITY of OVILLA LA

VEHICLE ACCIDENT REPORTING KIT



This brochure has been provided to equip employees with specific guidelines that should be followed in the event of an accident.

- ✓ Following an accident, complete the information in this brochure as thoroughly as possible.
- ✓ A copy of this brochure should be available at ALL times in City vehicles
- ✓ Employees should familiarize themselves with the information periodically.
- ✓ In addition to the enclosed information, provide additional diagrams, photo and supporting documentation if possible.

City Hall

105 S Cockrell Hill Rd

Ovilla, TX 75154

972-217-7262

Vehicle Accident Reporting Kit

OPERATOR

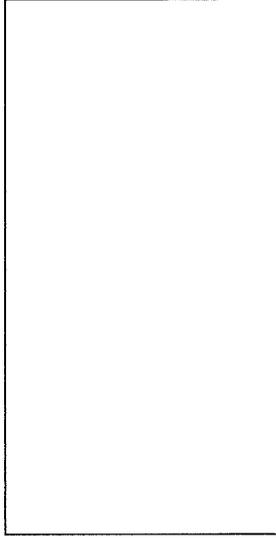
Employee _____
Title _____
Department _____
Vehicle/Equipment involved in accident _____

ACCIDENT

Date _____
Time _____ am pm
Location _____
Weather _____
Describe what occurred _____

DIAGRAM OF ACCIDENT

Show Street name(s), direction in which vehicles were going, etc.



OTHER VEHICLES

Driver's Name _____
Address _____
Phone _____
Driver's License _____
State Issued _____
Make of Vehicle _____
Insurance Co. _____

Policy # _____

WITNESS

Name _____
Phone _____
Name _____
Phone _____
Name _____
Phone _____
Name _____
Phone _____

POLICE OFFICER

Name _____
Report # _____

INJURED PERSON(S)

Name _____
Phone _____
Name _____
Phone _____
Name of Hospital, if transported _____



AGENDA ITEM REPORT

Item(s) Number: 4 (City Secretary use only)

Meeting Date: December 12, 2011

Department: City Council

Discussion Action

Budgeted Expense: YES NO N/A

Submitted By: Council

Attachments:	
N/A	
Agenda Item / Topic:	
ITEM 4.	Discussion/Action – Council’s deliberation of disciplinary action regarding the Code of Ethics violations of Mayor Vansyckle. Council may take any action deemed necessary. • Requested by Council
Discussion / Justification:	
During the November 28 Council meeting, Council found Mayor Vansyckle guilty of 4 violations of the ethics policy. Council will consider appropriate action.	
Recommendation / Staff Comments:	
N/A	
Sample Motion(s):	
“I MAKE A MOTION THAT COUNCIL APPROVES/DENIES _____.”	