

# CITY OF OVILLA MINUTES

**Monday, 23 January 2012**  
**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  
James Wade  
Doug Hunt  
Richard Dormier

Mayor Pro-Tem, Place 1  
Council Member, Place 3  
Council Member, Place 4  
Council Member, Place 5

Absent: Michael Dickey

Council Member, Place 2

Mayor Vansyckle noted absent member Mike Dickey. All other members were present, thus constituting a quorum. City Administrator Randy Whiteman and various department-head staff members were also present.

PL4 Hunt gave the Invocation.  
PL5 Wade led the Pledge of Allegiance.

## Comments, Presentations and Reports and Appointments

### **CITIZENS COMMENTS / CITIZENS FORUM:**

1. Ms Sharon Jungman, Mr. David Griffin and Mr. Ralph Hall signed up to speak when Council addressed Agenda Items 7 & 8, respectively.

### **◆ Department Activity Reports / Discussion**

- Police Department Chief M. Moon
  - Gave the annual 2011 UCR Report and stats comparisons depicting most crimes were down in Ovilla. Clearance rate was 57% - which is very good.
- Finance Department Accountant S. Jungman
  - Gave Monthly Financial Statements – Ad valorem tax collections were at 45.13% as of December 31, 2011.
  - Gave Reserve Fund Balance Calculation Report
- Administration City Administrator R. Whiteman
  - EDC (Economic Development Corporation) President Gary Jones gave an annual report. Mr. Jones said one problem for Ovilla was the density population was too small for large businesses to come in. The EDC was working on a website.

### **◆ CONSENT ITEMS:**

- ◆ Minutes of the January 09, 2012 Regular Council Meeting.
- ◆ Quarterly Investment Report
- ◆ Renewal of Inter-local Cooperation Contract Agreement between the County of Ellis and the City of Ovilla for "Governmental Functions and Services" beginning February 01, 2012.

Mayor Pro-tem Leverentz made a motion to approve the consent items as presented.  
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.**

**REGULAR AGENDA  
INDIVIDUAL CONSIDERATION:**

PL3 Wade proposed that Council address Items 7 & 8 before the other items on the Regular Agenda. Mayor Vansyckle agreed and turned the order of the meeting over to Mayor Pro-Tem Leverentz.

**ITEM 7.** **Discussion/Action** – City Council will hear a complaint filed by Mr. Phil Lynch on December 12, 2012, against Mayor Vansyckle in open session pursuant to the Council Procedures on Hearing Complaints. Council may take any action deemed necessary.

- Requested by Council

*The City Council of the City of Ovilla, Texas, reserves the right to meet in a closed session on this item, pursuant to authorization by Texas Government Code, Section 55.074 (personal matters).*

Mayor Pro-Tem Leverentz explained the procedures of the Hearing. First, allowing the Mayor to begin with opening comments or clarification. Mayor Vansyckle declined any comment and declared that he stood by his written response.

Mayor Pro-Tem Leverentz allowed Mr. Lynch an opportunity for opening comments or clarification. Complainant Phil Lynch read his preamble, stating that it was with humility and sadness that the following information was necessary to bring to daylight. Through the Public Information Act, he had acquired certain documents and information pertaining to the Mayor's behavior and actions that caused much alarm for Ovilla, its citizens and staff and asked Council for a full investigation. The charges were listed:

1. Charged the Mayor with systematically abusing his power as an elected official of Ovilla by seizing the city administrator's responsibility and forgoing the State Procurement Laws with the purchase of the city's audio/visual equipment and deceiving the citizens of Ovilla in the renovation of the council chamber room.
2. Charged the Mayor of providing falsified bids.

Ms Sharon Jungman had signed up to speak on this item.

Mayor Pro-Tem Leverentz allowed her to speak:

City Accountant Sharon Jungman announced that she was not only a resident of Ovilla, but also an employee of the city in the position of city accountant. Ms Jungman stated that she signed up to speak because her name was mentioned several times in the Mayor's response to Mr. Lynch's filed complaint. Ms Jungman felt she needed to present a rebuttal to the Mayor's response and had prepared a written document, but it was refused so she decided to speak as a citizen. She noted that she knew she was in a delicate position as a city employee but had to clarify the Mayor's response with her account of the audio/visual equipment purchase. Ms Jungman felt it imperative that she explain her timeline of Agenda Item #7 and the events up to and beyond the purchase of the city's audio/visual equipment. Ms Jungman stated that only two notations in the Mayor's summary were true. Everything else was false. Ms Jungman stated that Mayor Vansyckle noted in his response that staff completed all purchases and took delivery of said equipment. Ms Jungman emphatically said that was false – that in fact, Mayor Vansyckle made all purchases himself. Ms Jungman read from her own notes, disputing pages 2, 3, 4 & 6 of Mayor Vansyckle's written response to the complaint. Quotes and equipment were not comparable. Ms Jungman told Council she was aware of his purchases and the deliveries directed to his attention, but was unaware he had failed to follow State Procurement Laws.

Regarding the remodel of the Council Chamber room, Ms Jungman disputed the Mayor's response that the city received free materials and labor. Ms Jungman stated that at no time did the city receive free materials and labor.

Mayor Pro-Tem Leverentz allowed each Council Member to question Mayor Vansyckle pertaining to each of the two issues. PL5 Dormier clarified that Council was allowed to question witnesses as well as Mayor Vansyckle. PL3 Wade and PL5 Dormier asked questions. PL4 Hunt had no questions. Mayor Vansyckle shared his version of the events, stating he did his "due diligence" to enhance technical dissemination of city information to Ovilla citizens. Mayor stated he was not aware of the State Procurement Laws and that staff did not advise him, nor was it mentioned during Council meetings. (It was confirmed that in 2010, Council approved an Ovilla Purchasing Policy that followed State Procurement Laws.) Mayor Vansyckle stood by his written rebuttal and denied all allegations. Mayor blamed Council for not interceding if they felt he was doing wrong.

Council confirmed that some equipment was still not operational. PL4 Hunt advised that to be operational the equipment would already require updating. It was also confirmed that there were no specifications, no bids and that the purchases were made before the beginning of the fiscal year. PL5 Dormier stated that under the ordinance, the administrator should have taken on the project, not the Mayor. Mayor Pro-Tem Leverentz confirmed that Ms Jungman had finally received all the invoices for the equipment.

Pertaining to the Council remodel: Mayor admitted that he fell short of donations for the City Council Chamber Room remodel. Mayor Vansyckle stated that the City Administrator was responsible to ensure that all policies were followed and that he (Mayor) was not to blame.

Mayor Pro-Tem Leverentz allowed each Council Member to ask Mr. Lynch questions and permitted Mr. Lynch a rebuttal. Mr. Lynch stated that he had never seen such a blatant disregard for State Procurement Laws. Exhibits in the Mayor's rebuttal were identified and countered. Mr. Lynch charged Mayor Vansyckle of stepping out of his role and playing City Administrator. PL4 Hunt remarked that he felt the City Administrator had failed in his duties by not advising the Mayor or Council. Mr. Lynch concluded that what was equally saddening was that Mayor Vansyckle spoke unkindly about the city staff.

Mayor's final rebuttal comment was that the purchasing of this equipment was done honestly, openly and with Council's full knowledge and that Council was also responsible. He agreed it may not have all been done correctly, but it was not all his fault. Mayor Vansyckle again reiterated that staff and Council knew of his research for audio/visual equipment – that the City Secretary made the purchases with her city issued credit card. When the City Secretary was asked by Council if she made the purchases, she responded no, that the Mayor made all purchases with the use of her card.

Mayor Pro-Tem Leverentz called a short recess at 8:43 pm.  
The Council reconvened at 8:49 pm.

**ITEM 8. Discussion/Action** – City Council will hear a complaint filed by Mr. Phil Lynch on December 21, 2012, against Mayor Vansyckle in open session pursuant to the Council Procedures on Hearing Complaints. Council may take any action deemed necessary.

- Requested by Council

*The City Council of the City of Ovilla, Texas, reserves the right to meet in a closed session on this item, pursuant to authorization by Texas Government Code, Section 55.074 (personal matters).*

Mayor Pro-Tem Leverentz allowed two citizens that had signed up to speak on Item 8:

1. Mr. David Griffin presented Council with an affidavit of certification disputing the Mayor's response to Agenda Item #8. (Filed Complaint by Mr. Phil Lynch on Dec. 21, 2011)
2. Mr. Ralph Hall presented Council with an affidavit of certification disputing the Mayor's response to Agenda Item #8. (Filed Complaint by Mr. Phil Lynch on Dec. 21, 2011)

Mayor Pro-Tem Leverentz allowed each Council Member to question Mr. Lynch pertaining to each of the five articles.

Mayor Pro-Tem Leverentz allowed Mr. Lynch an opportunity for opening comments or clarification. Mr. Lynch read his preamble summarizing each of his charges listed as articles.

1. Article 1- Public Information Act violation.
2. Article 2- Mayor created an email outside Ovilla government.
3. Article 3- Abuse of power – fixing tickets.
4. Article 4- Filing a false police report.
5. Article 5- Continually violating the Mayor's Statement of Excellence.

Mayor Pro-Tem Leverentz gave Mayor Vansyckle an opportunity for any opening comments or clarification. Mayor offered no comments.

Mayor Pro-Tem Leverentz opened discussion inviting each Council Member to question Mayor Vansyckle and then Mr. Lynch pertaining to each of the five articles of complaint. The questions and discussion lasted for approximately 3 hours. The scrivener noted key points of the discussion.

**Articles 1 & 2: Mayor Vansyckle (Violation PIA and created email addresses)**

PL4 Hunt had no questions. PL5 Dormier and PL3 Wade asked the Mayor to explain his need to create multiple email addresses. Mayor Vansyckle responded that it was done to provide timely receipt to his personal phone and that the city assigned email address would not forward to his phone. PL5 Dormier disputed that explanation, giving proof that his (Dormier's) city assigned email address was forwarded to his phone. Mayor accused Mr. Lynch of opposing the use of "Ovilla" with all businesses. A letter in the Mayor's exhibit, (created stationary) spoke maliciously of fellow Council Member PL3 Wade, although the Mayor denied it was about PL3. This letter was not in the city files but attached to the Mayor's rebuttal as an exhibit.

**Articles 1 & 2: Mr. Lynch**

Mr. Lynch assured everyone that he did not intend to challenge the use of "Ovilla" with businesses, churches, etc. His only issue was the creation of multiple email addresses by the Mayor, including the [ovillamayor11@gmail.com](mailto:ovillamayor11@gmail.com). Mr. Lynch summarized his issues with Articles 1 & 2, reciting certain sections of the Public Information Act and his belief that the Mayor had violated the Act.

**Mayor's rebuttal to Articles 1 & 2.**

Mayor Vansyckle emotionally reiterated that there was no violation regarding his multiple email addresses or his created stationary. He stated the complaint had no merit. He advised if he delayed in responding to PIA requests, it was because he was unaware of the timeframe. Mayor apologized for raising his voice.

**Article 3: Mayor Vansyckle (Abuse of Power, Fixing Tickets)**

Mayor explained specific incidents regarding permits and his relationship (if any) with former City Prosecutor Rodney Ramsey. Mayor Vansyckle denied any communication with Mr. Ramsey about any citations or acquiring permits. PL3 Wade questioned the Mayor's

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

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

relationship with Mr. Ramsey based on affidavits of the Court Clerk and Code Enforcement Officer Mike Dooly. Mayor disputed any truth in both affidavits. PL4 Hunt had no questions.

**Article 3: Mr. Lynch**

Mr. Lynch stated he believed based on the affidavits of employees, there was multiple ticket fixing/dismissing. Mr. Lynch filed a PIA request to research Code Enforcement Dept. files and confirmed that Mr. Dooly kept detailed files with notations on every permit. Mr. Dooly testified to his knowledge of ticket dismissals between the Mayor and the former prosecutor.

**Article 3: Mayor Vansyckle rebuttal**

Mayor Vansyckle adamantly denied fixing tickets with former prosecutor Mr. Ramsey and disagreed with all comments made by Code Enforcement Officer Mike Dooly. The Mayor stated that the accusations were unlawful and slanderous and would be dealt with later.

**Article 4: Mayor Vansyckle (Filing a False Report)**

PL3 Wade asked the Mayor to share his opinion of being threatened and the police report he filed. Mayor was overwhelmed with emotion and anger regarding the accusation of filing a false police report. He voiced disappointment that the Council would question him on this. Having completed an investigation, Police Chief Moon shared the unfounded disposition, not only from his office but also from the Ellis County DA's office. PL4 Hunt confirmed with the Mayor that he had felt threatened. PL5 Dormier questioned a lapse in time from the Mayor knowing about the incident and waiting a month before filing the report. Mayor Vansyckle stated he conducted his own investigation before filing the report. He furiously stated that as his right, he could file a report to protect his family. Mayor Vansyckle remarked that he was sickened at being judged and accused of a crime.

**Article 4: Mr. Lynch**

Mr. Lynch stated that based on the affidavits in the report, a false statement was filed.

**Article 5: Mayor Vansyckle (Violating signed Statement of Excellence)**

Council Members permitted Mayor Vansyckle to comment on the allegations. Mayor stated he treated everyone fairly, ethically and honestly, and was never rude or unfair to any employee. Mayor adamantly denied every specific item listed on the complaint including door slamming or tyrants in the office or conducting his business out of City Hall. Mayor stated every noted witness listed in the complaint had ulterior motives and was deceitful. When questioned by Council regarding the Mayor's behavior, the City Secretary advised she was not confident in the Council's protection of her and would testify and/or witness to certain incidents, only if they were under investigation through the District Attorney's Office or the Attorney General's Office. The City Accountant pleaded the fifth when questioned about the Mayor's unpleasant or lewd behavior at work. PL4 Hunt confirmed with the City Secretary that she did in fact receive personal calls at work occasionally. When asked, Chief Moon responded that he received personal calls occasionally, but no business related calls.

Additionally, there were inquiries regarding the Mayor's possible violation of the TX Election Code 61.003 (Electioneering and Loitering) during the May 2010 General Election. Mayor Vansyckle adamantly denied the accusation, declaring the City Secretary was not truthful in her statement. PL5 Dormier interceded that he saw the Mayor at City Hall on Election Day, sitting outside the front door, shaking hands with voters. PL5 Dormier stated that he saw him most all day. The Mayor advised he was directing voters.

**Article 5: Mr. Lynch (Violating signed Statement of Excellence)**

In Mr. Lynch's final statement he implored Council to investigate.

**Article 5: Mayor Vansyckle Rebuttal**

Mayor firmly denied any inappropriate actions at City Hall but admitted receiving some business related and personal phone calls at City Hall. He stood by all his affidavits. He thanked Council for their consideration.

**Mayor Pro-Tem Leverentz and Council went into Executive Session at 11:40 P.M.  
Council reconvened into Regular Session at 1:15 A.M.**

Mayor Pro-Tem Leverentz stated no action was made during the Executive Session and asked Council for a motion.

PL5 Dormier made a motion regarding **Item 7**.

The Council finds Mayor Vansyckle in violation of both charges contained in,

- 1) Systematically abusing his power as an elected official; and
- 2) Fraudulently deceiving the City Accountant, Administrator, Council, and Citizens of Ovilla with three falsified bids. These charges correspond to the Council Code of Ethics, Sections 1, 2,3,5,8 & 9.

PL4 Hunt seconded the motion.

*Mayor Pro-Tem Leverentz 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.**

PL3 Wade asked to add to the motion that Council request that the Mayor withdraw from his seat. There was no second and the motion died.

PL5 Dormier made a motion regarding **Item 8**.

The Council finds Mayor Vansyckle guilty of Article 1, Violation of the Public Information Act, which corresponds to the Code of Ethics Item 9.

PL 5 Dormier stated the Mayor be found guilty of Article 2, Code of Ethics, regarding the letter contents, corresponding to Code of Ethics Item 1.

PL5 Dormier stated the Mayor be found guilty of Article 5, Code of Ethics Items 9 & 11. In addition, this would also refer the apparent violation of the TX Election Code, Title 6, Chapter 61, Section 61.003, Electioneering and Loitering Prohibited Near Polling Places to the presiding election judge.

Additionally, Council directed the City Administrator to speak with all staff regarding any inappropriate actions or comments made to them by any employee or elected official and report back to the City Council of his findings.

PL4 Hunt seconded the motion.

*Mayor Pro-Tem Leverentz 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.**

PL3 Wade asked to add a motion that Council request the Mayor to withdraw from his seat immediately. PL5 Dormier said he was not prepared to second the motion at this time but if these type issues reappeared, then he would be in favor. PL4 Hunt stated everyone needed to work together. Staff should make it their responsibility to aid Council in performing their jobs correctly. Mayor Pro-Tem Leverentz thanked staff and council, and acknowledged the difficult times for everyone involved. Mayor Pro-Tem Leverentz agreed with PL4 Hunt and reiterated that staff and Council must make a strong effort to work together. There was no second and the motion died. Mayor Vansyckle was not exonerated on the remaining items.

Mayor Pro-Tem Leverentz turned the meeting back over to Mayor Vansyckle and suggested Council address only Item 4 as it was late.

Mayor Vansyckle assumed the Chair of the meeting.

**ITEM 4. Discussion/Action** – Consider a proposed **Resolution 2012-001** to order a General Election to be held on May 12, 2012, for the election of City Council Officers, Place 1, Place 3 and Place 5, designate the main and early voting polling place(s), and designate the early voting period dates and hours. (TX Election Code Sections §3.006, §52.093, §85.001, §85.004, §85.007)

*Considerepar la **Resolucion 2012-001**, autorizando la eleccion general que se llevara cabo el dia 12 de mayo del 2012 con el proposito de elegir un tres posiciones para consejales 1, 3 y 5 lugar y designar las fechas para las elecciones primarias.*

State Legislation required the City Council to authorize the Order of General Election. May 12, 2012 is uniform Election Day. Early voting takes place from April 30, 2012 through May 08, 2012 at City Hall.

PL4 Hunt made a motion that Council approve Resolution 2012-001 authorizing the order of the General Election for May 12, 2012, designating the early voting period of April 30 through May 07 and posting notice for two days of 7am-7pm during early voting by personal appearance to be held on May 07 and May 08, 2012.

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.**

**Due to the late hour, Council did not address nor take any action on remaining agenda items. Those items listed by number on the agenda were:**

**ITEM 1. Discussion/Action** – Consider and discuss proposed changes and updates to the Ovilla Codification Ordinance, Chapter 14, Section 35: FENCES IN RESIDENTIAL DISTRICTS and direct staff to forward to the Planning & Zoning Commission for review and recommendation, initiating the legal requirements for adoption.

- Requested by Mayor Vansyckle

**ITEM 2. Discussion/Action** – Consider and discuss proposed changes and updates to the Ovilla Codification Ordinance, Chapter 3, Section 3.06: SIGNS, and direct staff to forward to the Planning & Zoning Commission for review and recommendation, initiating the legal requirements for adoption.

- Requested by Mayor Vansyckle

**ITEM 3. Discussion/Action** – Consider revision(s) to Resolution 2010-013, review and amend the Policy of Governance Process/Rules of Procedure and the Hearing of Complaints, and direct staff to return with an amended resolution for Council consideration.

- Requested by PL5 Dormier

**ITEM 5. Discussion/Action** – Consider and review applicants for possible board appointments to the vacancies on the Economic Development District Board, the Board of Adjustment and the Municipal Development District Board.

- Presented by Administrative staff

**ITEM 6. Discussion Only** – Review safeguards and protection of cash funds that come through the City.

- Requested by PL4 Hunt

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**Council's Request for Consideration of Future Agenda Items**

Not addressed

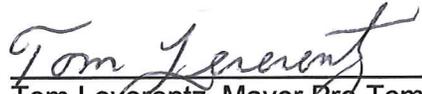
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**Adjournment**

Mayor Pro-Tem Leverentz made a motion to adjourn the meeting of January 23, 2012 at 1:26 a.m.

PL3 Wade seconded the motion.

**VOTE: The motion carried unanimously.**

  
Tom Leverentz, Mayor Pro-Tem

ATTEST:

  
Pam Woodall

**Approved February 13, 2012**

**Attachments:**

1. December 12, 2012 complaint filed by Mr. Phil Lynch
  - a. Mayor's response
2. December 21, 2012 complaint filed by Mr. Phil Lynch
  - a. Mayor's response
3. Certified Executive Agenda (Filed separately)
4. Council Code of Ethics (numbered by Complainant) that corresponds to Council's motions on Items 7 & 8.