

**REGULAR COUNCIL MEETING
NOVEMBER 3, 2008
MINUTES**

1. Call to Order

The Town Council of the Town of Shady Shores, Texas convened in a regular meeting on November 3, 2008 at 7:00 p.m., Shady Shores Community Center, 101 South Shady Shores Road, Shady Shores, Texas. Notice of the meeting was posted as required by Title 5, Chapter 551 of the Government Code. The following members were present: Mayor Olive Stephens, Mayor Pro tem Nita Watkins, Councilmembers Polly Carter, Charles Grimes, Sherry Starr and Jerry Williams. A quorum was present.

2. Pledge Allegiance to the Flag.

The Pledge of Allegiance to the United States Flag and the Texas Flag was recited by all present.

3. Discuss on-going projects with Town Engineer, Mike Saunders.

Town Engineer, Mike Saunders was not present.

NO ACTION TAKEN.

4. Discuss and take appropriate action regarding items needed for the completion of the new municipal building. (Presentation by Mark Martin)

ACTION TAKEN: JERRY WILLIAMS MADE A MOTION THAT WE BASICALLY ACCEPT THIS DESK (DIAS) OR PODIUM AS IT WAS BUILT AND ACCEPTED AT THE TIME THAT THIS BUILDING WAS BUILT AND THAT WE ASK THE ARCHITECT MAKE A MODIFICATION TO ADDRESS THE MOLDING (THAT'S WHAT EVERYBODY IS WANTING) SECONDED BY NITA WATKINS.

FOR: POLLY CARTER, SHERRY STARR, NITA WATKINS, JERRY WILLIAMS

OPPOSED: CHARLES GRIMES

MOTION CARRIED: 4-1

5. Discussion and take appropriate action regarding amending Ordinance 116 (12-15-94) prescribing regulations to the drilling of water wells for private use within the Town of Shady Shores.

ORDINANCE No. 213-11-2008

AN ORDINANCE PRESCRIBING REGULATIONS PERTAINING TO THE DRILLING AND OPERATION OF WATER WELLS FOR PRIVATE USE WITHIN THE TOWN OF SHADY SHORES, TEXAS; PROVIDING FOR THE COLLECTION OF AN ADMINISTRATIVE FEE; PROVIDING FOR A PENALTY OF FINES NOT TO EXCEED THE SUM OF \$500 OR \$2,000.00 FOR EACH OFFENSE, AS DEFINED IN THE ORDINANCE; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING A PUBLICATION CLAUSE.

WHEREAS, the Town of Shady Shores, Texas, (hereinafter referred to as "the Town") is a general law city located in Denton County Texas, and is a municipality organized under the laws of the State of Texas; and

WHEREAS, the Town, in cooperation with the Town's water provider, the Lake Cities Municipal Utility Authority ("LCMUA"), desires to protect the public health and the quality and integrity of the potable water system; and

WHEREAS, the Town desires to adopt an ordinance regulating the construction and use of

water wells within the corporate limits of the Town.

NOW THEREFORE BE IT ORDAINED BY THE TOWN COUNCIL FOR THE TOWN OF SHADY SHORES:

SECTION 1. WELL PERMIT

- 1.1. It shall be unlawful for any person, firm or corporation to commence drilling, boring or digging a water well within the corporate limits of the Town without a permit.
- 1.2. The Town may issue a water well permit only on lots containing 30,000 square feet or more, and which are zoned residential or agricultural.
- 1.3. No new permits authorizing the drilling, boring or digging of a private water well for a domestic water supply purpose (eg., potable water) within the corporate limits of the Town shall be issued unless no other water source is readably available. All existing wells must meet all other health and safety provisions of this ordinance if the well was operated prior to the date of this Ordinance.
- 1.4. No well shall be permitted under this section if the well head of the proposed well is within 1,320 feet, measured on a direct line, from the well head of a public well connected to the LCMUA's water system.
- 1.5. Permits authorizing the drilling, boring or digging of a private water well for irrigation purposes within the corporate limits of the Town may be issued only if the applicant meets all applicable town, county, LCMUA, and state regulations. A permit may be revoked and the well capped in the event of a violation, in addition to fines for the violation of this Ordinance.
- 1.6. Permits authorizing the drilling, boring or digging of a private water well within the corporate limits of the Town shall only be issued by the Town Secretary or designee.
- 1.7. The issuance of a well permit does not indicate that the Town makes any representation concerning the likelihood of successful completion of the proposed water well, its quality, utility, duration or length of production.
- 1.8. The Town Secretary or designee shall not issue a well permit until authorized by a Resolution entered in the Minutes of the Town.
- 1.9. Any person, firm or corporation desiring to drill, bore, or dig a water well within the corporate limits of the Town, shall file an application with the Town Secretary. Four copies of the complete application are required. (Two for the Town, one for the Town Engineer, and one to be provided to LCMUA.)
- 1.10. The application shall provide the following information for the proposed well and the property on which the proposed water well is to be located:
 - (a) Name and address of the property owner(s):
 - (b) Location of property where proposed well is to be located (Street address, block, lot, addition);

- (c) Purpose for which the proposed well would be used (irrigation watering of livestock);
 - (d) Scaled site plan or plat depicting the dimensions of the lot where such proposed well is to be located including: location of all easements, utility lines, connections or utility appurtenances and the distance from the proposed well to each;
 - (e) A state licensed water well driller must be hired to dig the well, and must provide the following information:
 - (1) Type of proposed well (dug, drilled bored or driven);
 - (2) Proposed depth of well;
 - (3) Diameter of well;
 - (4) **Any other information required by the Town.**
 - (f) Location and exact distance from proposed water well to any septic tank(s); sewer lift stations, sewer lines (trunks, collectors, laterals); the closest LCMUA well site; water lines (supply, mains, laterals, service); gas lines (supply, mains, service); underground telephone lines; streets, alleys, thoroughfares; animal or livestock pens, barns or shelters; dump grounds (public or private); creeks or streams; lakes or ponds, and any flood zone area.
 - (g) Size and type of pump and casing to be used;
 - (h) Depth of cementing of casing and method of cementing;
 - (i) Manner and site of well water storage tank and description of distribution system;
 - (j) Any other information requested by the Town.
- 1.11 All water wells, whether drilled, bored, cored or constructed, shall be completed by a state licensed water well driller and pump installer in conformance with all the applicable state and local laws rules, regulations, requirements and specifications.
- 1.12 Water wells shall be located so that there will be no measurable pollution or contamination from any source. Water wells shall also be located in accordance with the rules and regulations of the Texas Commission on Environmental Quality (TCEQ) and the Texas Department of Licensing and Regulation.
- 1.13 A completed water well drilling log shall be submitted to the Town by the approved state licensed water well driller and pump installer prior to the completion inspection.
- 1.14 The applicant shall deposit a fee for a water well permit of \$300.00.

SECTION 2. PUBLIC WATER SUPPLY PROTECTION

- 2.1 It is required that the LCMUA's water system be protected from any residence or establishment where an actual or potential contamination hazard exists. TCEQ rules Section 290.44, has listed private/individual/unmonitored wells as a health hazard to a

public water system. All water wells must be drilled and operated in compliance with TCEQ and LCMUA regulations.

2.2 To protect the LCMUA's water system, a backflow prevention assembly is required at LCMUA's water meter. TCEQ rules, Section 290.44 lists an air gap or reduced pressure detector assembly as means of providing the level of protection required.

2.3 Definitions:

(a) AIR-GAP—The unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet conveying water to a tank, fixture, receptor, sink, or other assembly and the flood level rim of the receptacle. The vertical, physical separation must be at least twice the diameter of the water supply outlet, but never less than 1.0 inch. (TECQ 290.38)

(b) REDUCED PRESSURE BACKFLOW ASSEMBLY ("RPBA")—An assembly consisting of two independently operating check valves, spring loaded to the closed position, separated by a spring loaded differential pressure relief valve loaded to the open position.

2.4 Prior to any use of the completed permitted well, and at any time thereafter, the LCMUA shall have the right to inspect and approve the backflow prevention assembly.

2.5 A RPBA shall be tested in accordance with LCMUA's requirements, the Town's plumbing ordinance, and TCEQ rules Section 290.44 annually. Copies of the test shall be submitted to the Town and the LCMUA.

2.6 Any area of town which is dual certified and holds its own Certificate of Convenience and Necessity (CCN), such as Hidden Valley, and has been operating its own water system for 10 years or more, is entitled to the same obligations and privileges as LCMUA has with respect to this ordinance. This provision is for the system being operated, and does not exempt individual homeowners within the dual certified area from the restrictions and requirements of this ordinance.

SECTION 3. PERMIT RESTRICTIONS

It shall be unlawful to abandon any water well drilled without first notifying the Town Secretary or designee and permanently plugging such well in accordance with the rules and regulations of the TCEQ and Department of Licensing and Regulation.

SECTION 4. COUNCIL ACTION

After receipt of a complete water well application and filing fee, the Town Secretary or designee shall forward copies of the application to LCMUA and the Town Engineer for review. After receipt of a report on the application from LCMUA and the Town Engineer, the permit request may be placed on the agenda of the next regularly scheduled meeting of the Town Council of the Town of Shady Shores, Texas. The Council may pass a resolution authorizing the granting of a water well permit or rejecting the permit based on the reports of LCMUA and/or the Town Engineer, and the Council's determination of the effect of the well on the health, safety, and welfare of the citizens of Shady Shores. Failure to pass a resolution authorizing the granting of a permit within the sixty (60) day period after the receipt of a

complete water well permit application shall automatically constitute a denial of the application.

SECTION 5. USE OF THE WELL

- 5.1. It shall be unlawful for any person, firm or corporation to use or permit the use of any water produced for domestic purposes, or to use or operate the well and its related plumbing and water in violation of this ordinance.
- 5.2. It shall be unlawful for any person, firm or corporation to use or permit the use of any water produced from such well until a certificate of completion has been issued by the Town Secretary or designee of the Town of Shady Shores, Texas.
- 5.3. Prior to any use of a completed permitted well, and at any time thereafter, the Town's designated representative shall have the right to inspect the completed well construction.

SECTION 6. UTILITIES TO WATER WELL

No person, firm or corporation having a franchise in the Town of Shady Shores Texas, shall furnish power, water, and/or gas to any water well drilled bored, or dug within the corporate limits of the Town unless and until a certificate of completion has been issued for the well by the Mayor or designee of the Town of Shady Shores Texas.

SECTION 7. PENALTIES

- 7.1 Any person, firm or corporation found to be in violation of any provision of this ordinance (with the exception of Section 2) shall be guilty of a misdemeanor and shall be liable to a fine of not more than five hundred dollars (\$500) for each violation. Each day in which a violation shall continue shall constitute a separate offense.
- 7.2 Any person, firm or corporation found to be in violation of Section 2, Public Water Supply Protection, shall be guilty of a misdemeanor and shall be liable to a fine of not more than two thousand dollars (\$2,000) for each violation. Each day in which a violation shall continue shall constitute a separate offense.

SECTION 8. REPEALING CLAUSE

That all provisions of the ordinances of the Town of Shady Shores in conflict with the provisions of this Ordinance be, and the same are hereby, repealed, and all other provisions of the ordinances of the Town of Shady Shores not in conflict with the provisions of this Ordinance shall remain in full force and effect.

SECTION 9. SEVERABILITY CLAUSE

That should any sentence, paragraph, subdivision, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Ordinance as a whole.

SECTION 10. PUBLICATION CLAUSE

In accordance with Section 52.011 of the Local Government Code, the caption of this Ordinance shall be published either (a) in every issue of the official newspaper of the Town of Shady Shores for two days, or (b) one issue of the newspaper if the official newspaper is a weekly paper. An affidavit by the printer or the publisher of the official newspaper verifying the publication shall be filed in the office of the Town Secretary or designee.

PASSED AND ADOPTED ON THE 3rd DAY OF NOVEMBER, 2008.

ACTION TAKEN: NITA WATKINS MADE A MOTION TO ADOPT ORDINANCE NO. 213-11-2008. SECONDED BY POLLY CARTER.

FOR: POLLY CARTER, CHARLES GRIMES, SHERRY STAR, NITA WATKINS.

OPPOSED: JERRY WILLIAMS

MOTION CARRIED 4-1

6. **Reports from Council and Committee Chairpersons**

Mayor Olive Stephens-Budget, finance

Preparing information for the annual audit

Statement of financial position report

Mayor Pro tem Nita Watkins-Financials, Roads Funding,

Mustang Estates project

Councilmember Sherry Starr

No report

Councilmember Polly Carter- Roads, Corps Committee

Take roads off. Add special events and projects

Councilmember Charles Grimes-Corps Committee, Police Department

Police report not available at agenda time—to be on next months agenda

Councilmember Jerry Williams-Shoreline report

Needs all articles for Shore line by next meeting (December 1, 2008)

7. **CITIZENS COMMENTS**

Betty Brown—Dedication of the new elementary school (Olive Stephens Elementary School) on Thursday, November 6, 2008

8. **Approval of Minutes**

(a) OCTOBER 6, 2008 REGULAR MEETING

ACTION TAKEN: NITA WATKINS MADE A MOTION TO APPROVE THE MINUTES OF THE OCTOBER 6, 2008 MEETING AS PRESENTED. SECONDED BY SHERRY STARR.

FOR: UNANIMOUS

THE MOTION CARRIED 5-0

9. **Adjourn**

ACTION TAKEN: POLLY CARTER MADE A MOTION TO ADJOURN THE MEETING OF NOVEMBER 3, 2008. SECONDED BY SHERRY STARR.

FOR: UNANIMOUS

THE MOTION CARRIED 5-0

As authorized by section 551.071(2) of the Texas Government Code, this meeting may be convened into closed executive session for the purpose of seeking confidential legal advice from the city attorney on any agenda item listed herein.

_____Olive Stephens, Mayor

ATTEST:

TOWN SECRETARY