

**REGULAR COUNCIL MEETING
FEBRUARY 1, 2010
MINUTES**

1. Call to Order

The Town Council of the Town of Shady Shores, Texas convened in a regular meeting on January 4, 2010 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 Betty Brown, Councilmembers Polly Carter, Charles Grimes, Jerry Williams and Nita Watkins. A quorum was present

2. Pledge Allegiance to the United States Flag and the Texas Flag.

(HONOR THE TEXAS FLAG; I PLEDGE ALLEGIANCE TO THEE, TEXAS, ONE STATE UNDER GOD, ONE AND INDIVISIBLE.)

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

3. Discussion and take appropriate action regarding Fiscal Year 2008-2009 Annual Audit (Presentation by Jerry Eastup)

ACTION TAKEN: BETTY BROWN MADE A MOTION TO ACCEPT THE AUDITED FINANCIAL STATEMENTS FROM HANKINS, EASTUP, DEATON TONN & SEAY FOR THE YEAR ENDING 2009. SECONDED BY NITA WATKINS.

FOR: UNANIMOUS THE MOTION CARRIED 5-0

4. Discussion and take appropriate action regarding the approval for Shady Shores to apply for Cornell University & Youth Birding Grant for \$500.00 (Presentation by Cecil Carter)

To: Shady Shores Town Council

From: Cecil Carter

Date: **2.1.2010**

Subj: Grant Application

I am seeking permission to apply, on behalf of the Town of Shady Shores, for a small grant from Cornell University.

You might title this grant a "nature" grant. It requires young people to [1] observe and add to the birds data base [individually], [2] to participate in an organized program of bird identification and [3] to participate in development of a small garden, using native plants and bushes, to attract birds.

If it were awarded, grant funds would be used to purchase supplies and materials. The biggest allocation of funds would be for the "garden". The Town of Shady Shores would be the fiscal agent for this grant.

I envision the space for this garden to amount to about **40'** square and we could locate it in the far southeast corner of the cities property.

ACTION TAKEN: BETTY BROWN MADE A MOTION TO GIVE CECIL CARTER PERMISSION TO APPLY ON BEHALF OF THE TOWN OF SHADY SHORES FOR THE BIRD—YOUTH BIRDING GRANT FROM CORNELL UNIVERSITY AND TO HEAD THE WHOLE THING UP. SECONDED BY CHARLES GRIMES.

FOR: UNANIMOUS THE MOTION CARRIED 5-0

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

a) Discussion and take appropriate action regarding appropriating funds and authorize an appropriate survey for Meadowview Estates Subdivision and Arbor Estates Subdivision.

ACTION TAKEN: BETTY BROWN MADE A MOTION TO APPROVE UP TO \$10,000.00 FOR A SURVEY FOR MEADOWVIEW ESTATES AND ARBOR SHORES

ESTATES PROVIDING WE DO ALL THE LEGAL STUFF RIGHT. SECONDED BY JERRY WILLIAMS.

FOR: UNANIMOUS

THE MOTION CARRIED 5-0

- b) Discuss and take appropriate action regarding adopting an Ordinance establishing regulations for fencing, requiring permits and inspections.**

Ordinance No. 222-2-2010

(Fence Regulations)

AN ORDINANCE OF THE TOWN OF SHADY SHORES, TEXAS, ESTABLISHING FENCING REQUIREMENTS; PROVIDING REGULATIONS FOR FENCING IN OR NEAR DRAINAGE EASEMENTS OR WATERWAYS; REQUIRING PERMITS AND INSPECTIONS; PROVIDING A PENALTY OF A FINE NOT TO EXCEED \$500.00 FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING A SAVINGS CLAUSE, AN EFFECTIVE DATE, AND A PENALTY CLAUSE.

WHEREAS, the town council of the Town of Shady Shores has determined that certain drainage ways and water ways within the town have been obstructed by the placement of certain man-made and natural objects, including fences, berms, and debris; and

WHEREAS, the obstruction of drainage ways within the Town creates a danger to the general health, safety, and welfare of the residents of the Town, and to their property; and

WHEREAS, the Town Council has determined that regulations for fencing are necessary.

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

SECTION 1. PURPOSE:

The purpose of this Ordinance is to regulate the construction, erection, enlargement, alteration, and maintenance of all fences within the boundaries of the town in order to provide a practical safeguarding of life, health, and property from hazards that may arise from improper construction of such installations. However, this Ordinance shall not apply to fences erected or maintained on property within the town which have agricultural tax exemption status approved by the Denton County Appraisal District.

SECTION 2. PERMIT TO INSTALL OR ALTER:

- (A) It shall be unlawful for any person to install or cause to be installed, or to permit any person to install a fence, or to make any alterations, additions or changes to a fence, without first having procured a permit to do so from the building official. Notwithstanding the foregoing, a permit shall not be required for alterations, additions or changes if repairs do not exceed twenty-five (25) percent of the area of the fence over a twelve-month period.
- (B) When installing a new fence parallel to and within three (3) feet of an existing fence on the same lot, the existing fence shall be removed. The term "parallel" is defined as a corresponding fence that runs in the same direction as the existing fence but does not have to maintain a precise constant distance from one another.
- (C) The fee for permit required by this section shall be established by fee schedule and shall be paid prior to the issuance of the permit.

SECTION 3. FENCES IN OR NEAR DRAINAGE EASEMENTS, FLOODWAYS, CREEKS OR RIVERS:

No fence shall be constructed within any drainage easement in the corporate limits of the town unless the town engineer shall have first determined and advised the chief building official, in writing, that he believes such fence shall, in all probability, not interfere with or impair the natural flow of water across the drainage easement. In that event, fences in or near the drainage must be constructed as set forth below:

- (A) Fences perpendicular to or crossing the drainage easement shall provide the following within the drainage easement:
1. The fence shall have a post set on each side of the easement line.
 2. No fence post or support shall be placed inside the easement without the written approval of the

Town Engineer.

3. The fence shall be constructed to span from top of bank to top of bank, or from one side of the easement to the other side, whichever distance is further.
4. The bottom of the fence shall be not less than three inches (3") above the top of channel/swale bank.
5. Subsections 1-4 above require the fence to be constructed in a manner leaving the drainage easement open and the flow of water unimpeded under the fence. Should the property owner desire to fence in the drainage way (area below the fence), the property owner may use:

- (a) vertical tubular steel or similar material. The tubular steel is to be no more than one-inch (1") across, to be spaced not less than four-inches (4") apart, (no horizontal bars shall be allowed in the drainage way); or,
- (b) 4-inch by 4-inch (4"x4") opening steel mesh, not less than one-fourth inch (1/4") thick.

The solid area of the fence in the drainage way shall not exceed twenty percent (20%) of the total area of the fence, leaving eighty percent (80%) open for the passage of water. There shall be no massing of solid fence material widths greater than one inch (1"), except for corners or posts.

6. The design and proposed materials are subject to the Town Engineer's advance written approval.
 7. The completed construction is subject to inspection and approval by the town. Not obtaining written approval of the "as-built" fence is a violation of this ordinance.
 8. Property owners are required to maintain the banks and contours of drainage easements which may cross their property, and to mow and keep clear of debris the drainage way.
- (B) Fences may not, without a specific building permit, be constructed between a residence and the side of a drainage easement nearest to a home. A fence may be constructed by the drainage easement if it is located within one foot of the rear property line, and does not hinder the flow of storm drainage water, and is not constricted in a drainage easement.
- (C) Any person who constructs or owns a fence, or property on which a fence or other obstruction is placed in an easement which does not comply with the terms of this ordinance, and which obstructs the flow of water in a public drainage way or easement, must remove the fence, and any obstruction, or be guilty of a violation of this Ordinance.

SECTION 4. ELECTRIC FENCES:

- (A) No fence constructed in such a manner that it may continuously conduct electrical current may be allowed in any zoning district wherein farm animals are not allowed.
- (B) Single-strand wires designed to conduct electricity through an approved low-voltage regulator shall be allowed only along the interior base line of an otherwise permitted fence. No permit shall be required for the erection and maintenance of such single-strand electric wires.

SECTION 5. COMPLIANCE WITH OTHER PROVISIONS:

All fences and fence locations shall conform to the requirements of the zoning ordinance of the town, and nothing in this article shall be construed as permitting construction of a fence which would violate the provisions of the zoning, swimming pool, or FEMA flood ordinances as the same now exist or may be hereafter amended.

SECTION 6. LOCATION ON OR PROTRUSION OVER TOWN PROPERTY:

No privately owned fence or guy wires, braces or any other part of a privately owned fence shall be constructed upon or caused to protrude over property owned by the town.

SECTION 7. FENCE ARMS:

Fence arms shall not be permitted in residential zoning districts.

SECTION 8. BARBED WIRE:

Barbed wire shall not be permitted except in agricultural pastures for the fencing of livestock.

SECTION 9. INSPECTION OF NEW FENCES:

When any fence for which a permit has been issued under this article is completed, it must be inspected. The

chief building official's office shall be notified by the property owner within 72 hours of completion of the fence. The chief building official will issue a card of acceptance if the fence complies with the provisions of this article or reject the fence if it does not so comply. A fence that is rejected shall be removed or reconstructed in compliance with this ordinance within the time permitted by the Town inspector, to be determined at the time of rejection.

SECTION 10. MAINTENANCE:

All fences constructed under the provisions of this article shall be maintained so as to comply with the requirements of this article at all times. Such requirements include, but are not necessarily limited to, the following maintenance standards:

- (A) The fence shall not be out of vertical alignment more than one foot (1') from the vertical measured at the top of the fence. Except, however, for fencing four feet (4') or less in height, the vertical alignment shall not be more than six inches (6") from the vertical measured at the top of the fence.
- (B) Any and all broken, loose, damaged, insect damaged, or missing parts (i.e., slats, posts, wood rails, bricks, panels) having a combined total area of twenty (20) square feet or more of said fences shall be replaced or repaired within sixty (60) days of notification of non-compliance. Fences enclosing swimming pools or spas must be repaired immediately. Repairs of any nature shall be made with materials of comparable composition, color, size, shape, and quality of the original fence to which the repair is being made. Products manufactured for other uses such as plywood, corrugated steel, or fiberglass panels are prohibited as fencing materials. Nothing herein shall be construed so as to prohibit the complete removal of a fence, unless such fence encloses a swimming pool or spa.
- (C) No fencing material and/or supports shall be located within a street or alley right-of-way.

SECTION 11. RESIDENTIAL DISTRICTS--REAR YARD OR ALLEY LINE:

No fence shall be constructed at a height exceeding eight feet (8') along the rear yard or alley line in residential districts.

SECTION 12. VERTICAL FENCES ON SIDE YARD LINE:

No fence shall be constructed at a height exceeding eight feet (8') on any side yard line in residential districts up to the building line of the house proper. All such fences constructed on side yard lines in residential districts must be vertical.

SECTION 13. PENALTY CLAUSE:

Any person violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not to exceed Five Hundred Dollars (\$500.00), plus costs of court.

SECTION 14. REPEALER CLAUSE:

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 15. SEVERABILITY CLAUSE:

It is the intent of the Town Council that each sentence, paragraph, subdivision, clause, phrase or section of this Ordinance be deemed severable and, should any such sentence, paragraph, subdivision, clause, phrase or section be declared invalid or unconstitutional for any reason, such declaration of invalidity or unconstitutionality shall not be construed to affect the validity of those provisions of the Ordinance left standing.

SECTION 16. EFFECTIVE DATE:

This Ordinance shall take effect immediately from its passage and publication of the caption as the law in such cases provides.

PASSED AND APPROVED this 1ST Day of FEBRUARY, 2010.

ACTION TAKEN: NITA WATKINS MADE A MOTION TO ADOPT ORDINANCE NO. 222-2-2010 AN ORDINANCE OF THE TOWN OF SHADY SHORES, TEXAS ESTABLISHING FENCING REQUIREMENTS; PROVIDING REGULATIONS FOR FENCING IN OR NEAR DRAINAGE EASEMENTS OR WATERWAYS; REQUIRING PERMITS AND INSPECTIONS PROVIDING A PENALTY OF A FINE NOT TO EXCEED \$500.00 FOR THE VIOLATIONS OF THIS

ORDINANCE; PROVIDING A SAVINGS CLASUE, AN EFFECTIVE DATE, AND A PENALTY CLAUSE. SECONDED BY POLLY CARTER.

FOR: UNANIMOUS THE MOTION CARRIED 5-0

- 6. Discussion and take appropriate action to appoint a committee to establish criteria for nominations for a Citizen of the Year Award.**

ACTION TAKEN: NITA WATKINS MADE A MOTION TO BRING IN A RECOMMENDATION WE MAY ONLY HAVE THREE RECOMMENDATIONS TO COME UP WITH CRITERIA FOR CITIZEN OF THE YEAR. SECONDED BY CHARLES GRIMES

FOR: UNANIMOUS THE MOTION CARRIED 5-0

- 7. Discussion and take appropriate action regarding the rebuilding of the Gazebo.**

ACTION TAKEN: BETTY BROWN MADE A MOTION THAT WE GET HIGH BEHIND REBUILDING THE GAZABO IN ITS PRESENT AREA IN A LIGHTER REFLECTIVE COLOR. SECONDED BY CHARLES GRIMES.

**FOR: BETTY BROWN, CHARLES GRIMES, JERRY WILLIAMS AND NITA WATKINS.
OPPOSED: POLLY CARTER
MOTION CARRIED 4-1**

- 8. Discussion and take appropriate action to approve an interlocal Cooperation Contract between Denton County and the Town of Shady Shores regarding the May 8, 2010 General Election.**

ACTION TAKEN: JERRY WILLIAMS MADE A MOTION TO APPROVE AN INTERLOCAL COOPERATION CONTRACT BETWEEN DENTON COUNTY AND THE TOWN OF SHADY SHORES REGARDING THE MAY 8, 2010 ELECTION FOR A JOINT ELECTION. SECONDED BY NITA WATKINS.

FOR: UNANIMOUS THE MOTION CARRIED 5-0

- 9. Discussion and take appropriate action to adopt an Ordinance ordering and providing notice of a General election to be held on May 8, 2010**

TOWN OF SHADY SHORES

ORDINANCE NO. 223-2-2010

(Ordering & Providing Notice of a General Election)

AN ORDINANCE OF THE TOWN OF SHADY SHORES APPROVING AN ELECTION SERVICES AGREEMENT WITH DENTON COUNTY ELECTIONS FOR PROVISIONS OF ELECTION SERVICES FOR THE TOWN'S GENERAL ELECTION TO BE HELD ON MAY 8TH 2010, IF NECESSARY, A RUNOFF ELECTION TO BE HELD IN ACCORDANCE WITH STATE LAW, AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT ON BEHALF OF THE TOWN AND DECLARING AN EFFECTIVE DATE.

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

ELECTION 1. ELECTION ORDER AND NOTICE OF ELECTION

That there is hereby called a General election to be participated in by the qualified voters of the Town of Shady Shores, Texas, to be held on the first Saturday in May, being the 8th day of May, 2010, between the hours of 7:00 a.m. and 7:00 p.m. for the purpose of electing Council members for Place 1, Place 4 and Place 5 for two-year terms..

SECTION 2. That the candidates receiving the highest number of votes in each place shall be elected for two (2) year terms

SECTION 3. That the ballot positions of the names of the candidates for each place shall be determined by lot in an open meeting. The Town Secretary shall notify each candidate of the time of the meeting to draw lots and shall preside at the drawing .

SECTION 4. That the polling places for the election shall be at the Shady Shores Community Center, 101 South Shady Shores Road, Shady Shores, Denton County, Texas. The polls shall be open from 7:00 a.m. to 7:00 p.m.

SECTION 5. That Early Voting by personal appearance shall be conducted as determined by the early voting clerk.. Early Voting by personal appearance shall be available to the registered voters of the Town of Shady Shores, Texas as determined by the early voting clerk.

SECTION 6. That the voting method to be used during Early Voting by personal appearance will be by electronic voting system as provided by Denton County and the voting method to be used on Election Day will be by paper ballot and electronic voting system as provided by Denton County. In addition to the paper ballot method, Section 61.012 of the Texas Election Code requires that the Town of Shady Shores must provide at least one accessible voting system in each polling place used in a Texas election on or after January 1, 2006. This system must comply with state and federal laws setting the requirements for voting systems that permit voters with physical disabilities to cast a secret ballot.

The Office of the Texas Secretary of State has certified that the eSlate voting system is an accessible voting system that may legally be used in Texas elections.

Sections 123.032 and 123.035 of the Texas Election Code authorize the acquisition of voting systems by local political subdivisions and further mandate certain minimum requirements for contracts relating to the acquisition of such voting systems.

THEREFORE: The chief elections officer of the Town of Shady Shores shall provide at least one eSlate in each polling place in every polling location used to conduct any election ordered on or after January 1, 2006. The voting system may be acquired by any legal means available to the Town of Shady Shores including, but not limited to, lease or rental from the county of Denton or from any other legal source, as authorized or required by Sections 123.032 and 123.035, Texas Election Code.

SECTION 7. That notice of said election shall be published once in the official Newspaper of the Town not earlier than April 8, 2010, the 30th day before the election, and not later than April 28, 2010, the 10th day before the election. Such notice shall also be posted on the bulletin board used to publish notices of the Town Council meetings not later than April 19, 2010, the 19th day before Election Day.

SECTION 8. That a copy of the published notice that contains the name of the Newspaper and the date of publication shall be retained as a record of such notice, and the person posting the notice shall make a record at the time of posting, stating the date and place of posting and deliver a copy of each notice posted to the Mayor after the last posting is made.

SECTION 9. The presiding election judge and alternate judge who shall serve at the polling place shall be appointed by the early voting clerk..

SECTION 10. An early voting ballot board is hereby created pursuant to Section 87.001 of the Texas Election Code. The early voting ballot board shall be made up of members appointed in the manner established by statute and the presiding judge and alternate judge of the early voting ballot board shall be election officials.

SECTION 11. That Frank Phillips, Denton County Elections Administrator is appointed early voting clerk in compliance with Section 83.005 of the Texas Election Code. Other deputy early voting clerks may be

appointed as needed to process early voting mail and to conduct early voting at the proper locations. Early voting shall be conducted at the early voting locations as decided by the early voting clerk. Early voting by personal appearance will be conducted on the dates and hours set forth in Section 5 above. Any qualified voter for the election may vote early by personal appearance at any early voting location.

EARLY VOTING BY MAIL:

Early Voting Clerk
Frank Phillips
Denton County Election Administrator
401 West Hickory Street
Denton County, Texas 76201
(940) 349-3206
(940) 349-5295 (fax)

The Town Secretary shall present the election returns to the Town Council for the canvassing of said election. The canvass of said election returns shall be conducted by the Town Council not earlier than the 3rd day nor later than the 6th day after the election.

SECTION 12. That the fact that the present Ordinances of the Town are inadequate to protect the health, safety and welfare of the inhabitants of the Town creates an urgency and emergency and requires that this Ordinance take effect from and after its passage as the law in such cases provides.

DULY ADOPTED AND APPROVED this the 1st day of February, 2010.

ACTION TAKEN: NITA WATKINS MADE A MOTION TO ADOPT ORDINANCE NO 223-2-2010 AN ORDINANCE OF THE TOWN OF SHADY SHORES APPROVING AND PROVIDING NOTICE OF AN GENERAL ELECTION AND AGREEMENT WITH DENTON COUNTY ELECTIONS FOR PROVISIONS OF ELECTION SERVICES FOR THE TOWN'S GENERAL ELECTION TO BE HELD ON MAY 8TH 2010, IF NECESSARY, A RUNOFF ELECTION TO BE HELD IN ACCORDANCE WITH STATE LAW, AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT ON BEHALF OF THE TOWN AND DECLARING AN EFFECTIVE DATE. SECONDED BY JERRY WILLIAMS.

FOR: UNANIMOUS THE MOTION CARRIED 5-0

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

Mayor Olive Stephens-Budget, Finance, ATV report

Mayor Pro tem Betty Brown—Water Well report,

Councilmember Nita Watkins, Financials, Roads Funding

Councilmember Polly Carter- Special projects, Corps Committee, roads

Easter Parade--- will put a committee together in February---make plans to have it the last week in March. Because Easter is the First week in April. Majority of gravel went to Frantz Circle.

Councilmember Charles Grimes-Corps Committee, Police Department (Most recent police report)

Councilmember Jerry Williams---tree watering report, roads

11 CITIZENS COMMENTS

No citizens comments.

12. Approval of Minutes

(a) JANUARY 4, 2010 REGULAR MEETING

ACTION TAKEN: JERRY WILLIAMS MADE A MOTION TO APPROVE THE MINUTES OF JANUARY 4, 2010 REGULAR MEETING AS WRITTEN. SECONDED BY POLLY CARTER.

FOR: UNANIMOUS THE MOTION CARRIED 5-0

(b) JANUARY 20, 2010 SPECIAL MEETING

ACTION TAKEN: JERRY WILLIAMS MADE A MOTION TO APPROVE THE MINUTES OF THE JANUARY 20, 2010 SPECIAL MEETING AS WRITTEN. SECONDED BY NITA WATKINS.

FOR: UNANIMOUS THE MOTION CARRIED 5-0

13. Discussion and take appropriate action to consider future agenda items.

1. Traffic study at the Gazebo
2. Traffic light study
3. Committee for Citizen of the year
4. Survey of Meadowview Estates and Arbor Shores Estates
5. Waste Management discount for Senior Citizens

14. Adjourn

ACTION TAKEN: BETTY BROWN MADE A MOTION TO ADJOURN.

SECONDED BY POLLY CARTER.

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