

**Minutes of the Regular Meeting of the Board of Alderman
For the City of Valley View, Texas 07/02/20**

Call meeting to order – Mayor Pro Tem Fortenberry called the meeting to order at 5:07pm

Pledge of Allegiance & Invocation Mayor Pro Tem Fortenberry led the pledge and prayer.

Mayor Comments

Mayor Pro Tem Fortenberry stated the City was working on lists of improvements needed and costs associated with them, as well as the options available for funding the improvements.

EXECUTIVE SESSION Called under Section §551.071 – Consultation with the City Attorney regarding on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Texas Open Meetings Act;

Entered into Executive Session at 5:10 pm.

RECONVENE INTO OPEN SESSION - In accordance with Texas Government Code, Chapter 551, Subchapter D, the Board of Aldermen will reconvene into Regular Session to consider action, if any, on matters deliberated in Executive Session.

Exit Executive Session at 6:26 pm.

Item 4 Public Comments

None.

Item 5 Update, discuss, review, and consider Pecan Creek Crossing Project, possible action.

Mayor Pro Tem Fortenberry stated he had had individual meetings with both George Belcheff, Belcheff & Associates, and Nathan Olson, Olson Engineering – engineer for Ken Minhinnett at Pecan Creek Crossing, for status updates from each on the project and what their concerns were, as well as what action the City can take to move the project along. Mayor Pro Tem Fortenberry said there were specific problems expressed by Mr. Belcheff to the developers and that the response for those concerns had not been received. Mayor Pro Tem Fortenberry stated he feels it's important to get those responses and quickly. He stated one of the problems he sees is communication between all parties, but that everyone is in agreement that the project needs to go forward.

Alderman Scoggin asked if Mr. Belcheff had sent the developers a list of things that needed to be corrected and that there was a list of things already addressed with him from the developer. Mr. Olson said a list of comments had been received and addressed and resubmitted to the City. Mayor Pro Tem Fortenberry asked for the date of that. Mr. Olson stated the comments were for the conditional approval. Mr. Olson said some of the issues were that Mr. Belcheff was interpreting the City Ordinances and the City Attorney was not, and that is evident in the letters. He went on to add that there is no way to address issues such as “the developer pays \$70,000 towards water” when the developer has already determined by various studies, that there is already enough water, while the City

engineer is saying there is not enough water to that site based on nothing, no studies conducted or presentation to the City as to why. Mr. Olson reiterated that this is an ongoing issue that they have had with Mr. Belcheff. He stated the comments were addressed and sent in. He added that they ran into a wall on issues that should have been handled by the Board, when they were instead handled by Mr. Belcheff. Mr. Olson questioned how a developer can be expected to handle a list from the City engineer when it is not valid. He stated the Engineer (Mr. Belcheff) made a decision for the City and then expressed that it would take the City two years to match funds, although that was against all other agreements made.

Mayor Pro Tem Fortenberry said that right now, there is nothing to compare right now. He stated there is one letter stating what needed to be done, but if there was a response letter saying that it couldn't be done or that it was done, they could understand. Mr. Olson said that some of the comments are verbal, including that the City doesn't have the money to pay things. Alderman Bewley asked for clarification as to what portion Mr. Olson was stating that Mr. Belcheff said the City can't pay. Mr. Olson said it was referenced at \$50,000 for the streets, which is a completely different figure than was agreed upon at the zoning change, which was \$34,000 from the City and \$34,000 from the developer and Mr. Belcheff later said "There's no way we can make this improvement for \$68,000. I think it's more like \$100,000 which means the City is going to have to raise \$50,000 which turns it into Public Improvement Project". Mr. Olson added that Mr. Belcheff was looking to have that project bid out to HUBs (Historically Underutilized Businesses).

Mr. Olson asked when things are done outside of process, how are they supposed to respond. He said they have presented their issues before to the Board and either not gotten a response or are directed back to the City engineer. Alderman Bewley asked for clarification as to who isn't responding. Mr. Olson said it's been a long path with Mr. Belcheff of documents being submitted to the City and three weeks later they are still sitting there, but they walk in again for meeting with Mr. Belcheff regarding another project and he takes those submitted plans and completes the review in fifteen minutes. Mr. Olson said he's never heard of that and that he gets conflicting reviews from the same map, but reviewing something in fifteen minutes leads to that. Mr. Minhinnett has his total paid in fees and in comparison to work in other towns, the fees from Mr. Belcheff are markedly higher. Mr. Olson stated that Mr. Belcheff said in the last meeting that Mr. Minhinnett "has barely scratched the surface of his bills yet" Mr. Olson asked Mr. Minhinnett was the comment from Mr. Belcheff was. Mr. Minhinnett replied "He keeps on working on and hasn't submitted any of the bills that were due for the additional work that he has completed so far." Alderman Scoggin asked Mr. Minhinnett for clarification if that meant the developers hadn't turned everything in. Mr. Olson clarified that it meant Mr. Belcheff hadn't submitted all invoices to the City. Mr. Minhinnett added that Mr. Belcheff stopped him before he left the last meeting and said "He has done a whole lot of work on this project that he has not submitted any additional bills for". Alderman Scoggin summarized that Mr. Belcheff was stating he had completed work, but that the developer hadn't seen any proof, in the form of billing, that it had been done. Mr. Minhinnett stated that Mr. Belcheff said that "he's done a bunch of work, but hasn't submitted them to the City" and that the City then sends them to him for payment. Mr. Minhinnett said he didn't know if that meant Mr. Belcheff was waiting to send invoices or if he was saying he wasn't going to invoice for that work.

Mr. Minhinnett asked where everyone was at as for getting the project moving forward. Mayor Pro Tem Fortenberry said that he thinks there needs to be documentation in writing as to what has been requested and what has been done. He said what the Board wants to do, based on the information that they currently have, is to come to an agreement of the direction the Board wants to move, but that they information isn't there. Mr. Minhinnett stated that is the point of the City finding another reviewing

engineer. He added "The reviewing engineer will look at the plans and take it from there and move forward. The new reviewing engineer clears up every single question that the City council could have, or that anybody could have on the project, because the new reviewing engineer will look at the plans, review everything there, go out and look at the site, see everything that is done, ask for documentation to what's been completed. He will look at that and all those plans and then he comes up with the list." Mr. Minhinnett said at that point, the development works off that list and moves forward. He said that the City had sent him a list of things to do right away and the items had been completed. Mayor Pro Tem Fortenberry said the list couldn't be found. Mr. Olson said that Ms. Hillis had the list and Mr. Minhinnett said they had several copies of it available. Alderman Bewley asked for clarification that a list of "defaults", as found by Mr. Belcheff, was provided to the developer and that those items were done. Jack Medcalf, Olson Engineering, said the items on the list were reviewed and approved and any modifications would be changed in the field and shown on the "As-Builts" certified prints of the finished product. Mr. Medcalf stated there were three major issues – the road (Pecan Creek Trail), is there adequate sewer capacity, and that he can certify that there is, as a certified engineer. He added that there were things done on site that made room for future growth in areas to the north for the subdivision. He stated the third thing was if adequate water was available. Mr. Medcalf stated that from the beginning of the project, Mr. Belcheff had not accepted that Mr. Greg Adcock, former City Administrator, had said that there was a 6" line already installed to the end of the apartments, ready to be added on for the subdivision. He stated the developer did tests and found that pipe and there is adequate supply for normal demand and about 212 gallons a minute for fire suppression. Alderman Scoggin clarified that Mr. McKinney found the 6" water line at the apartments. Mr. Medcalf confirmed that it was found. He said that means the issue of water went away, the issue of sewer was never there, and the issue on the roads is that the plan was to build something that cost \$68,000 with each party spending \$34,000. Mr. Olson added that there is a lot of detail, but that's not what the issue is. He said the issue is a sour relationship with the engineer. Mr. Olson said Mr. Belcheff is not attentive enough, but there needs to be a serious approach to this, as the developer has spent a lot and they have followed a defined, signed off on process from the City. He said that it seems the Board is asking the developer to respond to a list after they had already been approved to go forward with the construction.

Mr. Olson asked Alderman Bewley if he had ever leased land from the Olson Estate as it's his family estate. Alderman Bewley said he didn't lease that place. Mr. Olson said he wrote the annual checks and that Alderman Bewley no longer leases it because he terminated the lease with Alderman Bewley. He added that the issues he's had on that lease has led to animosity on this project and that he has seen it as well from Mr. Belcheff. Mr. Olson said he's never had an engineer on any project treat them in such a manner. Mr. Olson stated that if there's a financial arrangement between an alderman, and the issue with keeping cattle on the property, the issues with the neighbors next door, the confrontations on the property, a terminated lease and still having issues-that could become criminal issues due to missing property, and that because he is controlling that land, that is a conflict of interest that he feels needs to be addressed with the City Attorney. Alderman Bewley said he would love to entertain the details of that. Mr. Olson added that he has seen the acrimony from Alderman Bewley and it has happened the entire process. He said that Mr. Belcheff has come after him and that Alderman Bewley has had conversations with Mr. Belcheff, but when they call him, they do not get a response. Mr. Olson asked if that was obstruction. He said if it's a situation of the City not wanting the development there, then Mr. Belcheff is the type of engineer you put in place and that Alderman Bewley is the type of alderman you allow to speak to the other aldermen about how terrible everything is going. Mr. Olson said that he doesn't know how to proceed, since the development has proceeded as it was approved by the City. Mr. Olson said it's ok to be antidevelopment, but not in the middle of a development project.

Mr. Olson said the development has faced numerous issues because Mr. Belcheff, as an engineer, has tried to act as an attorney. He said all the submittals are there, all the paperwork is there. Mr. Olson added the developer is following the process and the inspector can verify that, as he is out there twice a day. He said the project is being built above and beyond the specifications, so he knows the problems are not coming from that. Mr. Olson said that stopping a project like this, from the source it came from, is what is being questioned. He said the developer would like to get back to work, but he has no confidence in Mr. Belcheff. Mr. Olson said the most damaging thing has been the time and kicking the contractors off the project. He questioned if anyone came in and looked at the signed documents from the City, has anyone called the inspector, and what process is being followed. He said, instead of a damaging action being taken, by stopping the developer. Mr. Olson added the developer complied though, willing to do what was needed. Mr. Olson said that he received the full list, as submitted by Mr. Belcheff, from Mayor Brinkley, but it was not the list the City sent him. He questioned why an engineer would even have some of the line items in that list, as they are not engineer concerns. He said there is technical information that should be reviewed, not demanding payment for different items or other issues the City Attorney should be involved in. Mr. Olson said that Mr. Belcheff is getting the City into a situation for some reason, whether it's personal benefit or not. He said the only way the developers see this moving forward is to get an engineer that responds. He asked that Mr. Belcheff be removed from the project. Mr. Olson said they do not care if Mr. Belcheff sends all his documentation to the next engineer, as they welcome the review of another engineer.

Mr. Medcalf stated that Mr. Belcheff is supposed to be performing technical review, not designing, as he is the one responsible, not Mr. Belcheff. Mr. Olson added that Mr. Belcheff and his firm were indemnified from any responsibility.

Mayor Pro Tem Fortenberry interjected that there are new Board members and they need information. He said that instead of the "he said, they said", the Board would like a starting point to not drag things out, but to come to a conclusion that would get the things going. Mayor Pro Tem Fortenberry said the list needs to be created by the developers as a response to what the City sent. Mr. Olson said that any changes are completed on the field plans, but that they would not submit those if it's going to be Belcheff & Associates reviewing them. Mr. Olson said that at this point, the process is such a mess that it can't proceed without a change. Mr. Medcalf stated that a field meeting would be a good idea for the new Board to see things on site and as changed as the project has progressed. He added that all changes have been improvements that go above and beyond what's been called for.

Mr. Olson said that since a process has been being followed, it needs to continue, because things such as the bond are tied to that process. He said that what is being asked of them is complicated the process, but financial requests should be reviewed by the attorney. Mr. Olson said that he would like a review of where they are as far as the agreements and plans. He said he understands that Mr. Belcheff would be recommended possible new engineers. Mayor Pro Tem Fortenberry said he had not, but it was on its way. Mr. Olson added that he heard Mr. Belcheff state that he would like to talk to the new engineer, but Mr. Olson doesn't want Mr. Belcheff to skew anyone's viewpoint of the project because of his opinions of the project. He expressed this is the first time they have ever ran into these kinds of issues and this was their first encounter with Mr. Belcheff. Mr. Olson everything was paid and there's been a good process, but that there may be misinformation of them, including checks. Mr. Medcalf added the checks were here, but not cashed, and asked if the Board new those checks were here.

Mr. Minhinnett said he feels the Board thinks there is a lack of communication. He asked to look at the whole process, which included complying with everything that has been asked of them to date.


Mr. Minhinnett said he has slowed down or not worked, because the City has not had a process they are sticking to. He said the Board voted and gave Mayor Brinkley authority to carry this job forward and if there was an issue, he would bring it back. Mr. Minhinnett said that he has stayed on course to that program one hundred percent. He said that if the City didn't receive the communications as has been had with Mayor Brinkley, then he should not be receiving the brunt of that. Mr. Minhinnett said they are not moving forward because internally the Board should have carried forward what was already in place. He said if something as simple as the list is missing, that is unbelievable. He is asking for understanding from his perspective for this change, which he is paying for and will be of no expense to the City. He said they have had communication with the City from day one and that if Mayor Brinkley was here, there would have already been a vote for a new engineering firm. Mr. Olson asked Mayor Pro Tem Fortenberry if he has the ability to continue on with what Mayor Brinkley had been doing. He added that besides the missing information, he feels there is conflicting information that will go nowhere. He asked for someone that doesn't have bias and will take project where it is now, but that there is no untangling of the mess that's been created. Mr. Olson said this is just a reviewing engineer that will review the project as it is, the documents as they are, and will see the project through to the end.

Alderman Holder made a motion to find a new engineer to review to date and move forward with the engineering on behalf of the City of Valley View for the Pecan Creek Crossing project. Alderman Spears seconded the motion and the motion carried 3-0, with Alderman Bewley abstaining..

Adjourn.

Mayor Pro Tem Fortenberry adjourned the meeting at 7:15pm.

Minutes of the Board of Aldermen were approved this 23rd day of July 2020.



John Fortenberry, Mayor Pro Tem