



**CITY OF HEDWIG VILLAGE, TEXAS  
SPECIAL CITY COUNCIL MEETING  
DECEMBER 14, 2021  
6:30 P.M. - 955 PINEY POINT ROAD**

**MINUTES**

**1. CALL TO ORDER**

Mayor Jinks called the meeting to order at 6:33 p.m.

Present: Mayor Tom Jinks

Councilmember Scott Davis  
Councilmember Harry J. Folloder  
Councilmember Dane Johnson  
Councilmember Shirley Rouse

David Gott, Police Chief  
Lisa Modisette, Asst. City Secretary  
Alan Petrov, City Attorney  
Kevin Taylor, Building Official  
Evan DuVall, Asst. Building Official

Absent: Councilmember Matt Woodruff

Kelly Johnson, City Admin./Secr.-  
Treas.

**2. PLEDGE OF ALLEGIANCE**

Mayor Jinks led the Councilmembers, City staff, and visitors in the Pledge of Allegiance.

**3. CITIZEN/VISITOR COMMENTS**

Memorial High School students Bennett Kretschmer, Carson Zahn, Reed Anderson, Hunt Ferguson, Thomas Dickinson, Omar Cochinhal, Will Brookby, Wyatt Behan, Joy Ding, Zoya Mirajwala, Merry Ding, Rob Morris, Naim Kim, Elizabeth Ma, Ahmed Hadid, Zach Witte, Bear Elliott, Ila Iarin, Christopher Salha, Jonah Lieu, Ellen Soek spoke in favor of preserving the tree, the history of the tree, and the benefit and value the tree brings to the community and to the environment.

Harry Craig, 839 Merridel, spoke in favor of preserving the tree. He stated the owner has another option – to sell the property.

Pat Murphy, 11510 Echo Hollow, spoke in favor of preserving the tree. He also spoke in favor of long-term planning for the City. He stated the redevelopment of the City is part of the cause of the tree issue. He stated the tree adds to the character of the City.

Dawn Mueller, 11753 Skene Way, spoke in favor of preserving the tree. She stated the neighborhood is rapidly losing its character and healthy trees are being removed. The tree ordinance should be rewritten to be more restrictive to the removal of trees for new construction.

Olga Osechkina, 11774 Duart Drive, stated the tree ordinance should be more restrictive for developers to remove trees. She also stated the proposed drainage project may damage trees.

DuVall Dickey, 710 Magdalene Drive, stated the size of the proposed house and the driveway at 902 Constance will be more than the allowable forty percent lot coverage. He stated it is possible to redesign or re-configure the house to possibly save the tree.

Andrea Hermann, 930 Karos Lane, encouraged residents to participate in the government process. She stated the City has tried to protect the trees. She stated the City could reconsider changing the zoning code to reduce the amount of allowable lot coverage.

Anne Retzler, 913 Magdalene Drive, stated developers have an option to reduce the size of the structures on a property in order to preserve trees. She stated removing the trees damages the community and the environment.

Jonathan Travis, 842 Merridel, stated no application has been filed and no permits issued for the tree or lot under discussion. Texas law does allow for a tree mitigation fee but the City of Hedwig Village does not have the mitigation fee in its tree ordinance. The mitigation fee might discourage developers from removing trees. He stated City Council should consider a possible moratorium on tree removal.

Connie Gustafson, 11718 Spriggs Way, expressed a strong love for trees and an equally strong belief in property rights. She stated the property owner has options to save the tree.

Saad Masrur, 1864 Spinney Lane, developer of 902 Constance, thanked the City staff for their guidance. He asked again for the harassment to stop. He thanked the resident for cleaning up the animal feces that had been left on the property. He stated the City forester is doing her job. The owners have stated they would sell the property for \$2.5 million but would negotiate the selling price.

Summer Qadduni, 212 West 25<sup>th</sup> Street, stated the tree under discussion is a sixty inch caliper tree – a mega tree. The root system for this tree is massive and could damage the surrounding infrastructure, such as sidewalks. She stated an investigation should be conducted into possible damage to area infrastructure.

Dwayne Mallard, 11610 N. Lou Al, stated an arborist said the tree under consideration is possibly one hundred seventy five to two hundred years old. He stated the house could be redesigned to save the tree.

Mayor Jinks suggested a break at 7:35 p.m. The meeting resumed at 7:42 p.m.

#### **4. DISCUSSION OF TREE ORDINANCE**

Kevin Taylor, Building Official, stated the Tree Ordinance was updated in November 2019 to better reflect the restrictions placed on municipalities by a legislative action signed into law by Governor Abbott in 2017. The updated Tree Ordinance created the position of City Forester. The City contracts Cary Moran for this position. The City Forester reviews all tree disposition plans to ensure the ordinance is complied with. The state law regulates how much the City can restrict a property owner from removing trees from their property. State law states any tree less than ten inches in diameter at breast height, any tree that is diseased, or an imminent threat to persons or property can be removed without penalty. The updated ordinance does require replacement trees of a certain size and provides a list of approved replacement trees.

State law only allows the City to require a certain number of replacement trees or the City could charge a fee to remove a tree.

Kevin Taylor discussed the process for submitting plans for construction within the City. A tree disposition plan is submitted by an urban forester or arborist and will be reviewed by the City Forester. A tree disposition plan is a survey of all trees on a property, listing the circumference of each tree, all trees to be removed, and a reason for removal. Any trees that are diseased, an imminent threat to others or property, or in the footprint of the structure must be removed. A tree that is close to the structure footprint could be damaged by the construction or could cause damage to the structure after the build can be removed after further review and approval by the City forester.

Councilmember Folloder stated the ordinance was changed to be more restrictive. The City could deter removal of trees with a tree mitigation fee. A tree mitigation fee is currently not part of the ordinance.

Kevin Taylor clarified the tree disposition plan is not created by, but is reviewed and approved by, the City forester. A tree mitigation fee can be created in a tier structure to possibly protect larger older trees.

Councilmember Rouse stated the tree at 902 Constance is unique and the City should consider having some form of protection for other unique trees.

Councilmember Davis stated he is possibly in favor of a tree mitigation fee tier structure. Older trees are exceptions and should be protected.

Councilmember Johnson questioned if the root system of the tree on 902 Constance is intertwined with a similar tree across the street. He questioned who will pay for damages to the second tree if there are any damages. He stated he is concerned with property rights but a property owner or a developer should know and abide by the rules and requirements to build in Hedwig Village. The property owner needs a reasonable price for the property to discuss selling to the area resident.

Councilmember Davis asked if the ordinance considers how trees affect drainage.

Councilmember Rouse discussed how the tree at 902 Constance aids in drainage. She stated this tree under consideration is at the headwater of Soldier's Creek. This tree retains water that does not flow into Soldier's Creek and avoids storm water runoff. This tree aids in the drainage of the area.

Alan Petrov, City Attorney, stated that if a building application and plans are submitted to the City for 902 Constance, the ordinances in effect at the time of submittal would need to be followed. A drainage plan for the property would also need to be submitted and approved.

Councilmember Johnson stated the City does have drainage requirements and those requirements must be followed.

Councilmember Folloder asked how soon the City Council could look at amending the tree ordinance and possibly adding a tree mitigation fee.

Kevin Taylor stated that City Council could review possible amendments, including adding a tree mitigation fee, at the January City Council meeting.

Mayor Jinks clarified that the proposed moratorium would apply to any new applications. City Council would have time to review any possible changes to the ordinance.

Alan Petrov stated the City could institute a tree removal moratorium for up to ninety days. The moratorium could be extended after that time but the City could be viewed as prohibiting development.

Councilmember Johnson suggested a tree removal moratorium of no more than sixty days. City Council needs to act quickly on this topic.

Councilmember Folloder stated City Council could rescind the moratorium at any time.

Kevin Taylor stated the moratorium could be viewed as stopping all development since a tree disposition plan is the first item that needs to be submitted for review and approval.

#### **5. DISCUSSION AND POSSIBLE ACTION ON A MORATORIUM ON THE TREE ORDINANCE (PERMITTING OF TREE REMOVAL)**

Alan Petrov, City Attorney, stated the City could have a moratorium on tree removal for a limited time. The moratorium would apply to any construction application that is submitted after the moratorium went into effect. The moratorium could be approved with language that would clearly state that any tree removal application would not be accepted during the moratorium until after any possible changes to the tree ordinance were made.

Kevin Taylor stated the tree disposition plan for 902 Constance was submitted in May 2021. The moratorium would not apply to this address.

Motion was made by Councilmember Folloder and seconded by Councilmember Johnson to approve a moratorium on the acceptance of new tree disposition plans and any issued tree permits until February 11, 2022. Motion carried 4-0.

#### **MOTION CARRIED UNANIMOUSLY**

#### **6. DISCUSSION OF 902 CONSTANCE**

Councilmember Rouse discussed the tree at 902 Constance earlier in the meeting during agenda item #4. She requested further discussions with the City Engineer about the effect of this tree and its impact on Soldier's Creek.

Mayor Jinks stated the City cannot stop the property owner from removing the tree. State law limits the City in regulating the removal of trees. He stated the owner has reasonable solutions to consider, including the area residents offering to purchase the property and an architect has offered to redesign the house to try to save the tree.

#### **7. ADJOURN**

Motion was made by Councilmember Johnson and seconded by Councilmember Rouse to adjourn the meeting at 8:50 p.m. Motion carried 4-0.

**MOTION CARRIED UNANIMOUSLY**

Approved and accepted on January 11, 2022.



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Tom Jinks, Mayor

ATTEST:



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Lisa Modisette, Asst. City Secretary