

NOTICE OF SPECIAL COUNCIL MEETING

JUNE 19TH, 2013 7:00 PM

SHADY SHORES COMMUNITY CENTER

101 S. SHADY SHORES ROAD

SHADY SHORES, TX 76208

AGENDA

- 1. CALL TO ORDER:** [The meeting was called to order at 7:00 PM.](#)

MEMBERS PRESENT

Cindy Spencer, Mayor
Cindy Aughinbaugh, Mayor Pro-Tem
Paula Woolworth
Patty Durkin
Charles Grimes

MEMBERS ABSENT

Also Present: Sarah Swanson, Town Secretary
Jim Shepherd, Town Attorney

- 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.)

- 3. INTERVIEW FOR COUNCIL PLACE 1:** Interview applicants to serve the remainder of the term for Alderman Place 1.

[The applicants both gave an introduction.](#)

Matthew Haines

[Mr. Haines said that he and his wife have lived in Hidden Valley for about 17 years now, but first and foremost, he is a citizen of Shady Shores. For the perspective of growth on the town, when he first moved here he was paying a voluntary \\$70 a month for a meter and that was the entire tax base. We are now paying about \\$858, so it's been a substantial increase in the community. The community as a whole voted that in, and it's the Mayor and Council's responsibility to try and squeeze every dollar out of that to provide the services necessary for the community. One of the questions he has been asked quite often is - what he thinks those](#)

are. To him, the primary focus of the council is to focus on essential services, and by essential services he means the security and safety of our community as well as the infrastructure that we need to make available so that the community can continue to grow and thrive. From a business perspective, he has managed multimillion dollar budgets in a global work environment, conducted productivity workshops in numerous countries, including the U.S. He was also formally trained in conflict resolution at Harvard. Additionally, his wife and he own and manage a property management company, which they have had for seventeen years, in which they have seen go through two substantial ups and downs in the Texas market. Inclusion of all members of the community is critical to the success of the community. A large number of the ideas that ultimately are undertaken come from the individuals who take responsibility and get involved. For the past fifteen years, he was unable to do much of that because he was out of the country for about 75% of the time on business. He is thankful now that he is in a position to offer his time, experience and knowledge to the Town. It is likely there will be some people who are disappointed on who the council appoints and he ask of the community that regardless of the decision, they give the person who is appointed the opportunity to serve both the town and the individuals for the remainder of the term.

Paul Brown

Mr. Brown said that the decision made tonight should be clear. If they are looking for a proven leader, one with proven courage, integrity and tenacity, then the choice is him. His years of experience and training in his field of work has resulted in him being focused on resolutions and bringing unity. If you take the Denton ISD's draining deficiencies, Paul Brown stepped up and provided leadership for a challenge. Today, these deficiencies have been corrected. He wants to propose a Town Hall meeting, maybe every month, on a Saturday where the citizens can come and voice the concerns they have with the council present. Many times on a council meeting night, time is restricted so it is difficult for a dialogue. This would be one of his focuses. There are also tough decisions to be made about the middle school campus. Safety and traffic are concerns. He has already developed a dialogue with the drainage situation with those responsible for the problems, and because this dialogue is already created, he will be an asset to the Town and the Council. He lastly wanted to say that for the past months, he committed to playing by the rules. He signed up to run, met the timelines, went door to door, put in financial resources. He wants the council to remember how their decision appears to citizens.

Next, the council each asked the applicants a series of four questions.

Questions (one)

Charles Grimes

If you were to be put into this position and you could only have one thing put onto the agenda, what do you think is the most important change the town needs to make?

Paul Brown

Mr. Brown said transparency and for the citizens to have a minimum amount of executive sessions. Executive sessions are, by law, set up to discuss litigation situations which are

understandable, but there have been numerous executive sessions where they weren't discussing this. Also for transparency, he would like to see town hall meetings where the citizens actually feel comfortable coming to vent and voice what is going on. He has learned a lot when canvassing, as it's amazing the number of needs out there that haven't been addressed.

Matthew Haines

Mr. Haines has real concerns about the traffic and safety situation that's going to be created down where the new school is. He realizes after looking at the budget and sitting through some meetings that it's a real balancing act. He knows that Patty had talked about possibly even going to other agencies to try and find resources to find for the area. This area needs more attention of the council over the next year. He also agrees that transparency is critical. For the last year from coming to the meetings, transparency has been pretty good but can always be better.

Cindy Aughinbaugh

Ms. Aughinbaugh asked a general question regarding transparency and more specific question for Mr. Brown. For Mr. Haines, what is your attitude and thoughts on what executive sessions are for. For Mr. Brown, she asked the same thing but added that during the last executive session, he presented a piece of paper to the attorney and to Charles Grimes, and she would like to know what the piece of paper was and what was the purpose was.

Matthew Haines

His understanding is that executive sessions have two purposes. One is to discuss personnel issues and the other is for litigation purposes.

Paul Brown

Executive session is to handle sensitive information that is a private nature or personnel and also litigation. The piece of paper he handed them was a copy of the open acts restriction for attorneys giving council. There are only two reasons for an attorney to attend an executive session which are for litigation and payment type of issues. Of the three executive sessions that were held last time, one was for the placement of the Alderman and the second the choice for Mayor Pro-Tem. He provided the paper so he would be aware of this.

Paula Woolworth

Please describe how you would proceed in the following scenario. A Shady Shores subdivision has several homes with concerns about a natural gas pipeline running behind their house. They want to know if the Town of Shady Shores has a disaster management plan for a remote threat of a natural gas pipeline rupture.

Paul Brown

He would first like to educate himself on where the line is and who is the responsible party for the line. He believes there is some information in the records about that. There should be some disaster plan in place for this.

Matthew Haines

He would hope there is already some semblance of a disaster policy in place, if not at the city level, then the county level. It is important to understand the specifics of the situation, but

with something like this, it is relatively easy to come to a conclusion to what it should look like.

Patty Durkin

Ms. Durkin would like to hear each of their views on interlocal agreements for providing services to the town.

Matthew Haines

Mr. Haines thinks there is a lot of benefit for doing this. It is important to constantly review to ensure we are maximizing the return of the dollar that the citizens are paying out to cover those agreements.

Paul Brown

The only thing Mr. Brown would suggest is to seriously look at the renewal process, which needs to be on a regular basis.

Questions (two)

Cindy Aughinbaugh

Please describe activities you have performed that demonstrate your experience with budgeting and financial tracking for business organizations, nonprofit organizations or your own company finances. Please include how you would develop the budget.

Paul Brown

Mr. Brown has been doing budget stuff for about 35 years. What he has done in the past is get the historical cost. To set the budget up, you have so consider the variables that are moving, whether it's taxes or utilities. He has been awarded top honors because he delivered budgets ahead of schedule and under budget.

Matthew Haines

Matthew Haines worked with Cisco systems for 13 years and during this time, he did global sales operations. They were responsible for developing systems, tools and processes that allowed roughly 20 billion worth of business to flow through a system that gave visibility to everybody. One of the things that was paramount to doing this was making sure you are planning three to five years out. The other critical thing is understanding that while that budget is fluid, there are opportunities all over the place to find that tin cup. They delivered a system that was entirely focused on the needs of the consumer. He has also been running his business for the past 17 years and been profitable every year.

Paula Woolworth

Please describe how you would proceed in the following scenario. A homeowner in Shady Shores old town suffers a house fire that destroys greater than 50% of their property. Knowing that there is a minimum lot size requirement for residential structures in Shady Shores, how would you perceive that this homeowner's recovery process should proceed? Do you believe there is a need for any special consideration in Planning and Zoning regulations for old town?

Matthew Haines

Mr. Haines said that hopefully they would come to the council and have that discussion– they would really have to. There does need to be special consideration because at some point you have to look at situation and use common sense. If you always go entirely by what we've written then we don't allow ourselves as a community the flexibility to say that while maybe we got this 99% right, now that we're faced with the situation, it doesn't really apply and we have to take that into consideration if we are going to say that we're looking out for the best interest of our citizens.

Paul Brown

Mr. Brown thinks this is a unique situation and we have a lot of facets of buildings here. He would try to be open-minded with the situation and put himself in that person's shoes and address it to where the property owner doesn't lose everything he has. It also depends on where it's located, but you should try to be resolution focused, while coming together for the benefit of the town as well as the property owner. You can accommodate even though we have some tighter restriction.

Patty Durkin

At the August 6th meeting, DISD made a presentation and said that Mr. Brown had received letters from Mr. Brown's attorney and that his statements were inaccurate. Ms. Durkin said that Mr. Brown alluded to having a good relationship with DISD in the beginning but that is not the impression she got from listening to past tapes. She asked Mr. Brown to clarify this.

Paul Brown

Mr. Brown said that since the meeting in August and the letters between his attorney and the DISD attorney, what has developed is the dialogue to come together for the resolution you see today. The facts that he had were correct, which is what brought them to the table. They met here in the Town Hall, the school campus and walked their property and from that point on they acknowledged that Mr. Brown has facts that were correct and that they needed to do more. From that time on, Mr. Brown developed the relationship that he has now with DISD. He thinks they know he was just dealing with the facts and trying to get issues resolved. He feels very good about what happened, because before he stepped up, nobody was. If he feels like it's right, he will stand tall. He still also believes that the planning for the traffic that was done was not done properly.

Matthew Haines

Mr. Haines said that he always operated on the acronym BATNA: Best Alternative To Negotiated Agreement. Any time you are working with other entities that have input, you have to start with that. If you don't know what the best alternative to an agreement with them is, you're going to do one of two things, and most likely giving up more than you should. When you are dealing with organizations or individuals it is very important to also understand what their best alternative is. If you can work with those two, in most cases, you will come to a good conclusion for both parties.

Charles Grimes

What long-term goals would you like to set as a councilperson for Shady Shores?

Matthew Haines

Mr. Haines is interested in building a long-term plan and a long-term budget so over time we spend less time chasing issues as they come up and more time on the unexpected ones. We have grown to where the tax base is large enough that we should be planning differently and looking at how the choices benefit the community members.

Paul Brown

Mr. Brown said his top goal is the hydrology study so we know what our drainage issues are. We can then get a plan worked out and plan in phases and stages of the most critical.

Questions (three)

Paula Woolworth

Please describe how you would proceed in the following scenario. An HOA organized neighborhood has concerns that the streets and properties are being flooded by another HOA organized neighborhood at approximate higher elevation than theirs. They have asked you as an alderman to help them maintain their properties free from storm flooding.

Paul Brown

Mr. Brown said he would have to find out what has been established for that particular HOA as far as rules, regulations and processes. He believes she is referring to the Orchards and the Lakes of Shady Shores, because he heard this when he was going campaigning. This has been addressed in past council meetings and believes that Mr. Shepherd has volunteered that is the responsibility of the HOA. However, in the Town of Shady Shores, we should address what we can assist with, even if we can't do everything. We could maybe have the Town Engineer offer a plan to help with the drainage. He believes you can always be there for the citizens. While he does know that the HOA may restrict the town from doing certain things, they are still citizens of Shady Shores, so you should respond in a way that's respectful and also proactive.

Matthew Haines

One thing that has always amazed him over the past few years is how when a neighbor has an issue with another neighbor, they tend to go to someone else to have them get the other neighbor to do something. This can be more comfortable for people who do not like to be in the line of conflict but it seems that most neighbors would not want to flood a neighborhood next to them and would be sensitive to that. So, one of the first things that has to happen is getting them communicating with each other directly on what the solution may look like. Ultimately, the council can play the role of moderator to try and help them be friendly with one another and come to that conclusion but it also has their responsibility to make sure that what is done is done in the best interest of the community.

Patty Durkin

What is your motivation for applying?

Matthew Haines

This is something that he has always wanted to do, but for the past 15 years, it just hasn't been a possibility. He cares very deeply for this town and his wife and he have every intention on staying here. Now that he does have the time, he thinks it's important to get involved and help shape and move forward the community.

Paul Brown

Mr. Brown wants to serve, whether it be the citizens, the Council, or the Mayor. He also wants to serve because he can bring the business side along with the tenacity to take a stand where you need to.

Charles Grimes

What would be your position if in the future commercial or multifamily zoning was brought up for Shady Shores?

Paul Brown

Mr. Brown feels there is no room for commercial or multifamily in Shady Shores. This is the uniqueness of the community and he wants to continue this. We have a close enough commercial access so there really is no reason. The only handicap is major revenue but our resources and financial stability is strong so we don't have to have commercial.

Matthew Haines

Fundamentally he is opposed to both and doesn't believe that commercial is the right way for our community to go. There is no harm to looking and listening to a multifamily proposal if someone wants to bring it to the council, but his initial reaction is that it would have to be very impressive to think that is something the community should do.

Cindy Aughinbaugh

Ms. Aughinbaugh asked their approach to those employed by the Town. More specifically to Mr. Brown, in one of the council sessions, he told the Council that he knew he couldn't sue the Town, but he could sue the engineer and attorney. If you are appointed, how would you go about repairing a relationship with our subject matter experts?

Matthew Haines

His approach to engaging with them is the more the better and having as much information as possible.

Paul Brown

Mr. Brown said that he would make sure that he develops a relationship with each and every one of them and that they understand what the expectations are from the Town as far as their services. He believes that if you are looking at particulars, like attorneys, that good attorneys keep you away from litigation, where a bad attorney, attracts it. He would encourage our legal counsel to protect us, not try to encourage litigation. As far as the code enforcement officer, he would try to be in his shoes, but also have a measureable timetable. Mr. Brown has developed teams over the years where there are dozens of different personalities. He would also work with Sarah who has a huge responsibility and as a councilmember, it's important to find out about what's going on in her world.

Questions (four)

Patty Durkin

A lot of things the Council handles is conflict resolution. When going through the tapes, there were a couple of things she found that were disturbing, and she is going to give Mr. Brown the chance to address them. In the June meeting, Mr. Brown stated that "I'm going to pursue

whether it's the engineer that I file the lawsuit against... or the attorney that advised it was okay.." and also said "I will pursue whatever means I personally can because I've investigated and city municipalities are protected by lawsuits but individuals and businesses that give professional advise are not, so I just wanted you to know that". At the July meeting, you made the comment that state law says you are liable as town and government for your decisions. Ms. Durkin also inquired further about his petition to the town and the letter from his attorney. She said that she sees a theme that every time he addressed the council, it was like "I'm going to sue you if you don't do what I think you need to do". From day one, the Town has asked you for an engineering report. In the April meeting, Mayor Williams asked for the report. In the June meeting, Mr. Brown had hired an attorney, yet there was still no engineer report. Ms. Durkin wants facts as a councilmember.

Paul Brown

Mr. Brown says that normally conflict happens when communication stops from one side. What transpired was that from April, nothing was communicated back or addressed through June. Sometimes people have to be pushed to be moved forward and that's exactly what transpired all the way through October, so they took the steps they had to. There was never a threat, just that the Town was liable for the safety. For example of what transpired, a former councilman told him that "this is a DISD issue, not a Town issue". If he was a councilmember at this time, he would have made a point to get representatives of DISD down here to meet and resolve it, right then in April. The conflict would have been stopped right then and there. When a citizen brings a concern to you, you have to address it.

Matthew Haines

Mr. Haines has been through conflict resolution training at Harvard and thinks that the hardest part is that both sides tend to get emotional in most situations when they don't feel like the other is hearing your side. When he looks at this year's budget, we spend \$32,924 on legal expenses. This is a cost that could have been spent on the infrastructure of for the community. Sometimes citizens feel they are not being heard like they should be, and this is one of the reasons we have elections. Legal action is a last possible option, as it is a detriment to the community.

Paula Woolworth

What is your position on a written agreement with the Corp of Engineers for the police department policing the shoreline?

Matthew Haines

He thinks that with any agreement, there is expiration on it so that we can renew, review and make adjustments as we go along. There are always opportunities to build agreements that work in the best of both of our interest.

Paul Brown

Any type of contract should have stipulations. The last meeting he heard, the police stated that they were restricted to enforce on federal lands. This is where the contract with the Corp would come into play – trying to mesh it with the contract with Corinth.

Tom Spencer

Mr. Spencer says that we had an election on May 11 where five good citizens stepped up in front of the voters, spent their time and money campaigning. Both gentlemen tonight are well spoken and concerned about the community. As he listened to these questions, he sees what has turned into a one-sided inquisition. Mr. Brown and four other individuals hired an attorney to represent them when they were not being heard by the Town. Mr. Spencer said he has done the same thing when the Town would not listen to flooding problems on his property, for plans the Town approved. All Mr. Brown was doing was trying to get someone's attention for the problem. Here we are condemning a man who stood up for himself, his property and five other people's property. Because he did so, they did something to better the situation.

He is tired of the Hidden Valley Airpark's bad blood affecting everything this Town does and we having to pay Mr. Shepherd to deal with it. The homeowner's associations need to do their own business and not involve the Town. It is wasting our time and money on other things it should be going to.

Mr. Haines is also a nice man, well prepared and has the support of the Hidden Valley Airpark. He picked up a packet to run for office when Mr. Perry came and picked up two packets but when Mr. Perry did not file, Mr. Haines did not file. The highest number of votes we have ever had, happened in this last election – 672. 469 were cast for the two winning candidates, 203 were for those who didn't win, so 30% of the voters were for someone beside the two winning candidates and 50% of that 30% voted for Mr. Brown – 101 votes. This election had such a high turn out because of a flyer that someone in Hidden Valley sent out to everyone in Hidden Valley, which is false. How can 101 votes for Mr. Brown not be considered when Mr. Grimes, Ms. Spencer and Ms. Aughinbaugh were elected with 93, 98 and 94 votes apiece? You cannot disregard the voters to appoint someone, especially in this spectacle.

Bill Krueger

The voters in the Town of Shady Shores, Texas had their vote in who fills the Place One Alderman position and so the person appointment should be who had the most votes in the election. A council vote for someone of their choosing does not show democratic system existing in Shady Shores. It is not the council's responsibly to say who is the best qualified – it is the voter's responsibility to say who is the best qualified to serve them. He asked that Paul Brown, with the next highest vote, be appointed for the remainder of the time in Place One. He campaigned, spent time talking to the voters. While Mr. Krueger is impressed with Mr. Haines, he reminded him that we have an election every year. So if his interest goes past this term, he can run for Alderman there. This will give him time to get to know the people of the Town more and let the people see that he is really concerned with serving the Town.

4. DELIBERATION AND APPROPRIATE ACTION ON AN APPOINTMENT TO FILL THE VACANCY IN PLACE 1 OF THE BOARD OF ALDERMEN. An executive session may be called on this subject.

The Council deliberated on the candidates. Paula Woolworth made a motion to move to executive session at 8:42 to complete the deliberations. Cindy Aughinbaugh seconded. Motion carried.

Cindy Aughinbaugh made a motion to reconvene into regular session at 9:25. Paula Woolworth seconded. Motion carried.

Mayor Spencer said that the Council has deliberated and taken action to appoint a replacement for Place 1. Patty Durkin made a motion to appoint Matthew Haines to Place 1. Paula Woolworth seconded. Charles Grimes opposed. Motion carried.

5. OATH OF OFFICE: Swearing in for Alderman Place 1

Mayor Spencer swore in Matthew Haines for Alderman Place 1.

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 town attorney on any agenda item listed herein.

Pursuant to the provisions of Chapter 551, Texas Government Code, Vernon's Texas Codes Annotated the Town Council may hold a closed meeting during the proceedings.

6. RECESS TO CLOSED EXECUTIVE SESSION IN ACCORDANCE WITH THE AUTHORITY CONTAINED IN:

Cindy Aughinbaugh made a motion to move into executive session at 9:30. Patty Durkin seconded. Motion carried.

- A. GOVT. CODE 551.074 - DELIBERATE THE APPOINTMENT TO FILL THE VACANCY IN PLACE 1.
- B. GOVT. CODE 551.071---DELIBERATE PENDING OR THREATENED LITIGATION RELATED TO;
 1. GARZA ROAD CONSTRUCTION
 2. THE LAWSUIT FILED BY RALPH HABER, KEITH PERRY AND JEFF POHLMAN AGAINST THE TOWN.
- C. GOVT. CODE 551.071 - CONFIDENTIAL LEGAL ADVICE REGARDING THE ITEMS ABOVE.

7. RECONVENE REGULAR MEETING.

Patty Durkin made a motion to reconvene into regular meeting at 10:40. Cindy Aughinbaugh seconded. Motion carried.

8. ANY APPROPRIATE DELIBERATION AND/OR ACTION ON ANY OF THE EXECUTIVE SESSION SUBJECTS LISTED ABOVE.

9. ADJOURN.

Patty Durkin made a motion to adjourn. Paula Woolworth seconded. Motion carried.

PASSED AND APPROVED THIS _____ DAY OF _____, 2013

_____ CINDY SPENCER, MAYOR

ATTEST:

_____ SARAH SWANSON, TOWN SECRETARY