



City of Oak Ridge North

City Council

Meeting Minutes – Last updated November 19th, 2009

October 26th, 2009 - *Consider and, if determined appropriate, appoint a committee to coordinate and negotiate Interlocal Agreement on developing Water Well #6 and sale of processing water to the City by Southern Montgomery County MUD. (Agenda item 7)*

Upon a motion to appoint made by Council member Walton and seconded by Council member Gray, discussion followed. Council member Walton asked Council members Nett and Gray if they would work on this, with Council member Holcomb to serve as alternate.

The Council members voted and the motion carried unanimously.

City Manager Department Report

Paul Mendes reported on his meeting with the Southern Montgomery County MUD with Council members Walton, Tucker and Nett regarding water well #6 and that they offered the City a proposal on the purchase of water or buying into the water well. City Engineer Ed Shackelford, P.E. is going to review it.

October 12th, 2009 - *Presentation by Rick Moffatt regarding access and vegetation project and consideration of any modifications to Southern Montgomery County MUD's Water Well #3. (Agenda item 4)*

Mr. Moffatt was not present. Discussion followed regarding a proposed plan, the lease agreement, and several other issues and concerns. Council member Nett requested that a letter be addressed to SMCMUD asking for a presentation or written proposal outlining prior requests and concerns, information detailing intent, costs, expenses, time lines, etc.

Consider and, if determined appropriate, authorize access plan to SMCMUD's Water Well #3. (Agenda item 5)

Died for lack of a motion.

September 28th, 2009 - *Presentation by Rick Moffatt regarding access and vegetation project and consideration of any modifications to Southern Montgomery County MUD's Water Well #3. (Agenda item 4)*

Mr. Moffatt was not present.

September 14th, 2009 - *Presentation by Rick Moffatt regarding access and vegetation project and consideration of any modifications to Southern Montgomery County MUD's Water Well #3. (Agenda item 5)*

Mr. Moffatt was absent. Council member Nett expressed concern with the project, the cost of the bridge versus the cost of the paved road, and stated he still has unanswered questions and concerns.

Council member Tucker expressed concern with Council member Nett voting on this particular item because of conflict of interest.

Council member Holcomb stated that he wanted to see some financial numbers regarding the re-vegetation efforts.

Council member Gray stated that she wanted to see a specific plan with vegetation, road, numbers, list of materials, and a copy of the plat lay out.

Consider and, if determined appropriate, authorize access plan to SMCMUD's Water Well #3. (Agenda item 6)

Upon a motion to table made by Council member Gray and seconded by Council member Tucker, the Council members voted and the motion carried unanimously.

Jim Kuykendall requested that City Council consider a plan to create a linear park throughout the City and felt that good things could come out of it if everyone works together.

August 24th, 2009 – *Not on the agenda*

August 10th, 2009 - *Consider and, if determined appropriate, authorize Mayor to execute and City Secretary to attest an inter-local agreement between Southern Montgomery County MUD (SMCMUD) and the City of Oak Ridge North, for the City's participation in access route to SMCMUD's water plant #3.*

Options:

- a. Park & walking trail concept
- b. Access bridge off Oakhurst Drive

(Agenda item 16)

Upon a motion to authorize made by Council member Walton and seconded by Council member Tucker, discussion followed regarding the practicality of a possible park and trail concept presented by Jim Kuykendall and Jonathan McMillian from the Long Range Planning Board which could be developed and perhaps use EDC money if agreed upon. The other option would be an access bridge coming off OakHurst Drive. Residents both in and out of the City have voiced an opposition to an access bridge coming off of OakHurst Drive, and comments were expressed about the concept. Mr. Chuck Campbell, a resident on OakHurst Drive, presented Council with a petition with 76 signatures opposing the bridge. Linda Maddox, a 42 year resident of OakHurst Drive, asked Council to approve Option A. Council members Walton and Tucker felt Option A would serve a dual purpose and would be more cosmetically acceptable to the tanks. Council member Gray commented she was always in favor of parks rather than building a bridge. Bill Walter commented that he felt the park and trail concept was the best plan. Council member Nett commented that he felt the residents of Oak Ridge Grove have been raped and pillaged, property values have been destroyed, he will not vote for a park, he is outraged that Oak Ridge Grove is supposed to carry every ounce of that water plant being built and no one is willing to share the load. Council member Tucker strongly suggested that Council member Nett recuse himself from voting. Council member Holcomb stated he is not in favor of a bridge or a park and just wants the trees put back. More discussion followed.

Upon a motion to table made by Council member Nett and seconded by Council member Gray, the Council members voted and the motion carried unanimously.

July 27th, 2009 - *Consider and, if determined appropriate, authorize Mayor to execute and City Secretary to attest an inter-local agreement between Southern Montgomery County MUD and the City of Oak Ridge North, for the City's participation in the construction of alternate access and bridge for water plant #3 project in an amount to be determined. (agenda item 13)*

Died for lack of a motion.

July 13th, 2009 - *Presentation by Long Range Planning Board Chairman Jim Kuykendall and Board member Jonathan McMillian of concept plan for SMCMUD water well #3 site. (agenda item 5)*

Mr. Kuykendall explained why the conceptualized design was developed and stated that he thought that we have some good talent on the Long Range Planning Board - Jonathan McMillian, who is a landscape architect, and Jim Beal, who is a construction engineer. He thought they would pull together some of their resources and look at a solution.

Jonathan McMillian presented his conceptual plan for consideration, with aesthetic opportunity elements and concepts in an attempt to mitigate the view and lessen the impact of the water plant site and to develop a park with walking trails, pavilion, parking, benches, tables, and horseshoe pits to enhance the site. Mr. McMillian also discussed the reforestation opportunities, methods, and installation, using different sizes and species of

material. He estimated the plan could be done for under \$225,000, and provided pictures he took of sample reforestation projects done in The Woodlands.

Mr. Kuykendall stated that he sees the plan as possibly being something from a long range development stage, and the concept was being offered as an alternative and as a park, that EDC monies are available to be spent for parks. He stated that they see this as being a value added feature to Oak Ridge North, to the residents in that area and for all the residents. Discussion followed.

Council member Gray commented that grant opportunities could be explored.

John Webb commented that he did not think that spending the money for a park that he does not think anybody would use would be beneficial.

Council member Nett stated that there a bunch of apartment complexes down in the MUD district that would love to use the subdivision for that purpose.

Jim Kuykendall stated that he has been questioned by several residents who wanted to know that if special considerations were going to be given for this well site, what is going to be done at the well site on Robinson Road because there is no visual barriers behind the tanks and their houses back right up to them. He stated that was why the park angle could feasibly work for everybody and be a basis and that if the residents in Oak Ridge Grove just wanted trees to be put back there then that is something just for the residents in Oak Ridge Grove and why should the taxpayers pay for something like that when the taxpayers didn't do this. He stated that if the residents in Oak Ridge Grove want special considerations then the residents in Oak Ridge Grove should pay for it, but if they want something for all the City to benefit from, then let's all get together and do something that would be beneficial for everybody. He stated that we have a great police department to keep those residents out down there.

Council member Nett stated that was not the purpose of a park is to keep anybody out there and that if we make a park, to say that we are to maybe check the color of their skin and see whether they are allowed to be there or not. Mr. Nett stated he appreciated the work that they have done and that this was a much better proposal than what the MUD district has come up with but that there were a couple things about the plan that are not quite correct. Along the drainage ditch, there is a path and it is his understanding that path is required for maintenance purposes for the drainage channel. A lot of the trees on the ditch side of that plan will never be there. The driveway is moved into the forest so where the driveway goes now, it would actually take away some trees. He does not want any more trees cut down, does not want a pavilion, does not want Economic Development Corporation (EDC) funds to be used on this project, and that EDC needs to focus its activities on economic development activities along the I-45 corridor. He further stated that he feels that the Oakhurst residents should compromise for the placement of the tank and carry part of the load so as not to have the Village of Oak Ridge Grove carry every single ounce of the burden of this project. He felt that a park would be unlikely to be used. He further stated he wanted the MUD and Oak Ridge

North to share the cost to keep the complexity of this case very low. Also, he is very much in favor of a walking path along the drainage ditch and that a walking trail is something that should be ½ to 1 mile long that you can exercise rather than just walking in a circle.

Mayor O'Connor commented to Council that Council should give direction to Long Range Planning – do we want them to move forward with further discussions with Southern Montgomery County MUD because Jonathan McMillian took a schematic without really having all of the information that was available to him at the time to do it, but did a very good job based on what he had.

Jim Kuykendall suggested that with Council's permission, he would like to ask Jonathon to go forward with this to work with the engineers and the MUD district.

Council member Gray stated that she was fine with that and commented that the main thing was she wants the water plant hid.

Council member Walton agreed with Council member Gray and that it was something that we needed to go ahead and proceed with and stated he liked the plan with the gazebo or pavilion. The residents do not want to be able to drive up and see the water plant and the road configuration eliminated that. He thinks that the reforestation is something that is definitely required and is what everyone is wanting and that they should go ahead and proceed with it and see what we can come up with.

Council member Holcomb took a poll of those Oak Ridge Grove residents who were in favor of the plan and those who weren't, and those who favored a bridge off of Oakhurst, and those who don't favor a bridge.

Council member Tucker commented that we are trying to cover visual blight and unfortunately there is many opinions to try and solve this and everyone wants their's to be right. All the Council can do as a group is to try and sift those opinions and all opinions are appreciated but this may not be the final. He thinks this is a step in one of the directions that might be more satisfactory to all the residents, particularly from the basis that it may take three years to get the canopy up to whereby it removes the problem but he is for pursuing this as it is.

Council member Gray asked the residents what it was about the plan they didn't like. Comments were made that money should not be spent on a gazebo, the parking spaces, walking paths, picnic tables, etc. and doesn't think it is something that would be utilized. Put the vegetation back, leave the driveway angled like it is.

Mayor O'Connor stated that Jonathan McMillian should move forward with Southern Montgomery County MUD and pull out certain elements so that there is another alternative. Mayor O'Connor stated he does not like having only one alternative, Jonathan McMillian knows his business, he can do a good job for us, and we should take

advantage of it and let him put together a program with a lot more detail, and then the residents of Oak Ridge Grove can decide what they want.

Jim Kuykendall commented that economic development funds were the means that they were looking at to fund this instead of taxpayer dollars.

Mayor O'Connor stated that Marilyn Edgar Park was built with EDC funds and in all of our parks, the City has spent approximately over \$225,000 and most of it came out of EDC funds, so funds are available for parks. What Long Range Planning was doing was trying to ease the financial burden and at the same time, come up with a creative program.

[...]

Consider and, if determined appropriate, authorize Mayor to execute and City Secretary to attest an inter-local agreement between Southern Montgomery County MUD and the City of Oak Ridge North, for the City's participation in the construction of alternate access and bridge for water plant #3 project in an amount to be determined. (agenda item 14)

Upon a motion to TABLE made by Council member Nett and seconded by Council member Gray, the Council members voted and the motion carried unanimously.

Chuck Campbell handed out photographs of what the access would be coming from Oakhurst as opposed to what is proposed going through Oak Ridge Grove and stated that not a single home in Oak Ridge Grove is disturbed. He stated that from his back yard, he will be able to see the tank and is asking that Council not take away the view of the woods. He stated that he has presented a petition to SMCMUD and that every single resident on Oakhurst opposes the bridge and every resident they spoke to in Spring Oaks subdivision oppose the bridge, as well as Oak Ridge North residents.

Jill Campbell, a resident on Oakhurst for 16 years, made an emotional statement about making an access road from Oakhurst and asked that Council not support it.

July 6th, 2009 - *Consider and, if determined appropriate, authorize city engineer to approve construction plans for water well #3 plant site. (agenda item 5)*

Upon a motion to authorize made by Council member Walton and seconded by Council member Gray, the Council members voted and the motion carried unanimously.

June 22nd, 2009 - *Consider and, if determined appropriate, authorize Mayor to execute and City Secretary to attest an inter-local agreement between Southern Montgomery County MUD and the City of Oak Ridge North, for the City's participation in the construction of alternate access and bridge for water plant 3 project in an amount to be determined. (agenda item 9)*

Upon a motion made by Council member Gray and seconded by Council member Holcomb, discussion followed. Council member Tucker stated he had a problem in that there is no clear wording as to exactly what they are proposed and the information Council has is almost like a legal statement and is not clear.

Council member Nett gave an overview summary of the discussions with Southern Montgomery County MUD regarding alternative access to the water well site, and discussed various proposals. He indicated he was in favor of the bridge to be constructed because the Village of Oak Ridge Grove has been impacted very heavily through the CISD bus barn constructed on the north side of that property. The homeowners there have lost substantial money in terms of property values pretty much along the whole fence and now it is very sad to see that the water plant is going up in that area in the front part of the subdivision. So the homeowners that were in the front part now have what was deemed as a restricted reserve cleared and now have a 50 ft. wide 32 ft. tall water tank in their back yard. As a mitigating solution, they decided that we would not want to have a second water tank on that property and the MUD also negotiated that a retention pond would not have to be on that property and they were able to move the water plant within the property on the back of Oak Ridge Grove. They were able to create a little more of a buffer between Oak Grove and the water plant so that they protect the residents that bought properties in that area at premium prices. The MUD also prefers to construct at a slightly higher cost a glass fused tank which considerably reduces the maintenance requirements. MUD is proposing a 10 ft. high wood fence and they have asked Darling Homes to participate in the visual barrier. A list of native trees has been submitted to SMCMUD for replanting of the property and President Kerry Masson assured them that will go around the whole property, back and front. The lights will be pointed away from the residences and all of the construction is taking place through Village of Oak Ridge Grove. Only when the construction is done, will there be an access road through Oakhurst and the traffic that Oakhurst residents will be subjected to is very minimal. SMCMUD has assured them that only once a day, there will be a truck pulling in with a service technician to take a look at the plant, take readings, and check safety.

Cheryl Turner, counsel for Darling Homes, stated that they have agreed to be part of the solution in terms of mitigating the impact of the plant by contributing to a screening wall directly in front of the plant. Ms. Turner stated that there is now about a 300 ft. setback between the roadway entering Oak Ridge Grove and the actual beginning of the wall that will separate the plant. The visual impact of something closer to the road will be much greater and will create a much more attractive solution than a wall 300 ft. back that will eventually be covered in trees as that area is reforested.

Linda Maddox commented that she has lived in Spring Oaks Subdivision on Oakhurst Drive for the past 42 years and read about this issue in the Courier on June 3rd. She read aloud a prepared letter addressed to Council expressing her concerns regarding an access road and proposed bridge, as well as the spending of \$250,000 of taxpayer money for this unnecessary option and requested Council not approve this option, and that Council not forget their neighbors in Spring Oaks.

Linda Morrison commented that the original drawing submitted to Council had the entrance off of Oakhurst and has been on the plan since 2005. They did not ask for the entrance to be moved and that she can certainly appreciate where the residents of Oakhurst are coming from but that this was not in her plans either. They are all simply trying to come up with the best situation. She stated the residents of Oak Ridge Grove are concerned about safety with having only one way in and out of their subdivision if there is any problem and that is why they have fought this entrance coming in off of Oak Ridge Grove Drive.

Council member Tucker commented that he was sure SMCMUD will satisfy Oak Ridge Grove in all respects in regards to the tower and the fences, etc., but that they are forgetting about the other 1100 homes. The City gave up the property, we gave up the tank – now he wants to see a clear understanding from Rick and Kerry as to the circumstances under which we can get water at our cost from them because in the past before he got on Council, he heard nothing but bickering between the City Council and SMCMUD. Discussion followed.

Council member Nett stated he thought it made sense for Council to consider this proposal to share in the cost of that bridge.

Council member Gray stated that she wants to see an outline of everything before she votes on this.

Council member Walton stated that he would like to see something in writing, a time table, a drawing showing what it would possibly look like, etc., and recommended that SMCMUD prepare something in writing.

Council member Nett stated that he agreed that SMCMUD needed to put it in a slightly different format so that it's got more of a legal flavor to it.

The Council members voted as follows: Peter Nett – aye; Don Tucker, Steve Holcomb and Leah Gray – nay. The motion failed.

Council members Holcomb and Nett requested that this item be placed on the next agenda. Rick Moffatt stated that the SMCMUD board would need to authorize their attorney to prepare a contract so they could bring it at the next meeting.

June 8th, 2009 - *Report on Southern Montgomery County MUD water well #3 project workshop meeting by Council member James Walton. (agenda item 10)*

Council member Walton reported on the meeting that was held with Southern Montgomery County MUD, Darling Homes and Village of Oak Ridge Grove residents. He felt it was a cooperative and productive meeting, was well presented by SMCMUD and they discussed line item by line item. He reported that they had a long discussion about the plant layout and SMCMUD agreed to move the tank away from the homes and will have more area to plant vegetation. They also discussed the color of the tank and the

color the residents felt most comfortable with was green. They also discussed fencing options and they agreed that a 10' fence would be adequate. They further addressed the entrance, the bridge, a proposed bend in the entrance road, landscaping, Darling Homes wanting to consider contributing to the fencing and also possibly the vegetation, security lighting, the construction time lines, and noise.

Council member Holcomb requested a five minute recess at 8:56 p.m.

The meeting was reconvened at 9:05 p.m.

May 26th, 2009 – *Presentation and discussion with Southern Montgomery County MUD directors regarding SMCMUD's request for equal cost participation in Water Well #3 project. (agenda item 9)*

Rick Moffatt corrected the agenda item to clarify the cost participation for the entrance modification only. He gave a background of committee meetings held regarding discussion of the proposed plant construction, what the plant would look like, etc. They anticipate that construction would start within the next 30-45 days. They also discussed various things like how they were going to hide the plant, water tank, tree plantings, fencing, construction schedule, aesthetics, etc. The main emphasis was on the entrance to the plant which is currently off of Oak Ridge Grove Drive, but they have looked at a cost to bring the entrance in off Oakhurst Drive which is to the south of the plant. To do this, they will have to build a bridge to cross the channel and the estimated cost of this is \$225,000. The SMCMUD Board of Directors met after the meeting with the VORG residents and made a motion to relocate the entrance subject to participation by Oak Ridge North and the developer of VORG. Kerry Mason and Bruce Harrison were also present.

Mayor O'Connor commented that from speaking with council members, the thing that they would like most importantly to do is to tie down all of the aspects that go with this. Many meetings have been held with the residents, meetings with SMCMUD, residents have been at SMCMUD board meetings, and so we have a lot of facts that are out there, some are confusing and some are not facts and from Council's standpoint, they still have questions and their questions basically regard if there's going to be this joint participation, what are all of the elements going to be that go into this participation. He would like to come up with some form of agreement with SMCMUD to identify what all aspects are before proceeding and get them all on the table and then Council has something to vote on and the residents understand what they are signing off for.

Council member Walton inquired about the tank and that it seemed to be one of the focal points one of the residents had, and asked about painting the tank, and also expressed concerns about the negotiations for the alternative entrance and the alternative site for the tank. He stated that he would like to see the \$125,000 they are willing to spend be used to move the tank.

Rick Moffatt addressed the painting of the tank and other options.

Kerry Masson stated that their intention is to choose a neutral color yet to be determined to blend with the environment. Discussion followed.

Council member Nett commented that there was one major flaw in this scenario and expressed concerns with the construction timeline and that it doesn't leave a lot of leeway for figuring out what the options really are. [Council member Nett commented that the MUD's 45-day construction schedule does not leave much room for the resident of Village of Oak Ridge Grove to seek an injunction if negotiations should fail](#)

Council member Tucker asked if this site was the optimum site, asked what the site cost SMCMUD, and stated that the City contributed the site in good will for \$1 per year for 99 years and that since the City provided the site, that contribution is enough. He further stated that he thought SMCMUD would bend towards the 3 acres to the southwest that would have eliminated the problem with the visibility of the tanks. He further commented that he feels that all of the details need to be ironed out for all concerned parties.

Mayor O'Connor nominated Council member Nett, Council member Walton, and City Manager Paul Mendes to coordinate and go forward with a program to meet with SMCMUD and work out the details.

Council member Nett expressed concerns about changes made to Appendix A. Discussion followed.

Council member Holcomb stated that he would certainly hope that the developer would be willing to participate in the sharing of this seeing how the developer, in his opinion, mislead the homeowners in the Village of Oak Ridge Grove significantly by telling the homeowners that was a restricted area knowing good and well it was not a restricted area because he had been in contact with both the City and SMCMUD.

Cheryl Turner, attorney for Darling Homes, expressed concerns regarding what she described as a fundamental misconception because the lease agreement references a different plant and a different entrance and references 1.5 acres not 3 acres, and major damage has been done to the property by deforesting. Now SMCMUD has shifted back to the original plan in 2005 and they are now asking Darling Homes, the homeowners and the City to monetarily compensate SMCMUD for a unilateral shift back to the original plan. She urged the City to not participate. More discussion followed.

May 18th, 2009 – *Water well facility was not discussed according to the minutes.*

May 11th, 2009 - *Update of proposed water well facility in Village of Oak Ridge Grove by Council member Steve Holcomb. (agenda item 12)*

Mayor O'Connor presented an update on the proposed water well facility project from meetings that were conducted with Southern Montgomery County MUD on numerous occasions, discussed the number of ORN connections, the number of SMCMUD connections, concerns, the change in access, and discussed alternative situations and suggestions that were discussed at these meetings.

Peter Nett commented that he would ask the residents to consider the new plans but that the “carrot and stick” approach that was being presented here is very distasteful and is severely angered that SMCMUD would threaten to countersue if they seek due process. He stated that he would not accept something presented from Mayor O’Connor instead of SMCMUD, that there is not a whole lot of trust in Oak Ridge Grove to accept anything that is being said here tonight and will have discussions with his neighbors. He stated he was not thrilled and felt he cannot agree with the proposal.

Mayor O’Connor suggested that they have one or two Oak Ridge Grove representatives hold a private meeting and discussion with SMCMUD so that SMCMUD could make statements to the residents directly. Discussion followed. Council member Holcomb suggested a public meeting with the residents and SMCMUD. Al Newton, Director of SMCMUD, was present and stated that he would be amenable to a meeting if it would produce something what would work but that if they get together and have nothing but animosity towards SMCMUD, nothing would get accomplished.

April 27th, 2009 - *Update of proposed water well facility in Village of Oak Ridge Grove by Council member Steve Holcomb. (agenda item 13)*

Mayor Pro Tem Walton reported that he and Council member Holcomb attended a meeting with Southern Montgomery County MUD and that on the City’s behalf, he offered in good faith to give them a piece of property adjacent to the well site for them to consider moving their storage tanks over to that area but we have not heard anything back from them.

Peter Nett stated that the residents of Oak Ridge Grove are in the process of evaluating their legal options, have conferred with an attorney and they are going to explore their legal options.

Darling Homes attorney Cheryl Turner commented that she believes that Southern Montgomery County MUD is in violation of the lease agreement because they unilaterally increased their land area and urged the City to deny a building permit as she believes there are problems with their plan, setback requirements, safety concerns, zoning requirements, etc. Discussion followed.

April 13th, 2009 - *Update of proposed water well facility in Village of Oak Ridge Grove by Council member Steve Holcomb. (agenda item 8)*

Council member Holcomb deferred to City Manager Paul Mendes.

Paul Mendes stated that a visit was made to Southern Montgomery County MUD to discuss possible alternative modifications to the proposed water well site; however, due to time and permitting constraints, it is SMCMUD’s position that they cannot change the plans. They are being driven by requirements by TCEQ to get that water well on line and operational. They understand the concerns of the residents and are willing to work with

us to make the site as unobtrusive as possible. The Mayor has asked him to draft up a letter to our residents basically explaining the situation at this phase of the game. We had hoped for changes that we are not going to see happen and the next fall back position is to work with SMCUD to camouflage and put a good deal of effort into landscaping.

Jeff Boothe expressed concerns with time lines, due process, and other concerns.

Alan Veach expressed concerns with the proposed water well site, the removal of trees on the site and on the CISD property, and stated that his property values are down right now and that they cannot recover. He expressed concern with the tank going in behind his back yard.

Peter Nett commented on paperwork submitted to TCEQ, timelines, terms of the lease agreement and asked if there were grounds to break it.

Much discussion followed.

March 23rd, 2009 - *Update of proposed water well facility in Village of Oak Ridge Grove by Council member Steve Holcomb. (agenda item 11)*

Council member Holcomb deferred the update to City Manager Paul Mendes and Peter Nett. Peter Nett conveyed the recent progress and indicated that he had put together a list of recommended native vegetation. Paul Mendes added that a letter was addressed to Bobby Burns with CISD with a plat showing the line between the Village of Oak Ridge Grove subdivision and the CISD property as well as showing the gaps that need to be filled in along the northern side of the facility.

March 9th, 2009 - *agenda item 4: Citizen comments*

Randy DeMars read a prepared statement regarding his request for a standing agenda item to discuss the proposed water well sites and requested that the subject be placed on the next agenda.

Gene Barclay commented on the proposed water well site and questioned if there was a need for the project.

Cheryl Turner, V.P. of Customer Relations and counsel for Darling Homes, expressed concerns regarding the proposed water well site project, the request for a standing agenda item, commented on the residents' due process rights and questioned the recorded exhibit and the need for the water well site.

February 23rd, 2009 - *agenda item 3: Citizen comments*

Randy DeMars expressed concern regarding the lease agreement and stated he was very suspicious as to how everything was planned, organized and executed in 28 days. He read part of a letter from Darling Homes addressed to the Mayor and City Council, and

part of the City's Code of Ordinances regarding restricted reserves. He requested Council consider putting an agenda item on the next agenda to discuss the water well facility and the CISD property.

February 9th, 2009 - *Discuss the Southern Montgomery County Municipal District water tower construction. (agenda item 6)*

Rick Moffatt, SMCMUD Engineer, and Kerry Masson, President of SMCMUD, gave an overview of the necessity for the well due to the water table falling in the aquifer and diminishing resources at 85% capacity, how and why the site was selected, described what will be on the site and clarified what equipment will be there. He said that they have plans to install a 9-foot wooden privacy fence around the site, paint the tanks a natural color to blend in with the existing foliage, anticipate that construction time will be approximately 15 months and will start construction in 3 to 4 months. He indicated that all plans and applications have been submitted to the appropriate entities, according to the engineer for the project. Discussion followed.

Kathleen and Jeff Booth inquired as to the transfer of the property and how it became a well site.

Bill Dalton, developer of Darling Homes, commented on the recreational reserves that were platted and stated that was the only representation made to prospective buyers.

David Olson, Attorney, Olson & Olson, stated that when you are talking about a restrictive covenant, the City, as a governmental entity, does reserve the right to exercise the authority of eminent domain to remove restrictive covenant, as well as does the MUD district, and has the powers as a governmental entity by statute to circumvent what would be a private restriction. More discussion followed.

Rebecca Dalby expressed concerns regarding how decisions are made and feels the City isn't protecting its residents.

Peter Nett expressed concerns about getting clear information and feels mislead and used.

Andy Walters expressed concerns with the size of the proposed water facilities, and in doing some checking, was informed by TCEQ representative that they did not have a building plan of the project, and challenged information provided by the engineer as to approvals. He further stated he talked to the pipeline companies who indicated that they do not intend to give SMCMUD permission.

Patricia Ikles asked for definition of a restricted reserve, inquired as to how the future conversion to surface water is going to affect the facilities, expressed concern with the safety of the pipelines and deforestation. Discussion followed regarding the deforestation.

Randy DeMars expressed concerns with miscommunication, is unclear as to the exact legal requirements on the plat, and asked about the anticipated level of noise from the

pump. He further asked that if this was to go forward, that Council make sure that the proper beautification efforts are made. Discussion followed.