

THE VILLAGE OF SAN LEANNA
AGENDA
Regular Board of Aldermen Public Meeting
Thursday, November 16, 2023
7:00 pm – Community Center – 11906 Sleepy Hollow Rd

A. MEETING CALLED TO ORDER

Roll call
Approval of minutes: Regular B of A Meeting..... October 19, 2023

B. CITIZENS' COMMUNICATION

1. Arborist, Cahir Doherty
2. Citizen communication

C. ITEMS SCHEDULED FOR ACTION

1. Consideration of proposed Village of San Leanna Short-Term Rental Ordinance.
2. Consideration to approve Hazard Mitigation Action Plan Update by Resolution 23-006.
3. Consideration to place speed bump(s) on Hunting Creek Ln.
4. Consideration of mowing in right-of-way areas, including potential consideration to draft ordinances pertaining to mowing of right-of-way areas.
5. Consideration to cancel December 2023 Board of Aldermen meeting.
6. Review and approve financial report for October 2023.

D. ITEMS FOR DISCUSSION

E. REPORTS AND INFORMATION

1. **Mayor's Report**..... Updates re: meetings/symposiums,
2. **Zoning Report**..... Certificates of Use:
Active Building permits:
3. **Administrative Report**... surveys/reports, complaints, admin updates
4. **Roads**..... Current road maintenance needs, road improv. projects, street signs, speed humps
5. **Public Affairs**..... newsletter, Community events
6. **Public Safety**..... Neighborhood Watch, public safety information, street lights
7. **Water**..... Water system info, drought status, Burn Ban info, drainage info, flood prevention
8. **Environmental**..... Tree Care Program, mowing/trimming, trash/recycling, burn piles

F. ADJOURNMENT

**** ALL ITEMS SPECIFICALLY MENTIONED SEPARATE FROM EXECUTIVE SESSION
MAY HAVE ACTION TAKEN ****

The Board of Aldermen of the Village of San Leanna reserves the right to adjourn into executive session at any time to discuss any of the matters listed above, as authorized by Texas Government Code Sections 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices), and 551.086 (Economic Development).

Posted _____ November 13, 2023

Rebecca Howe, City Administrator

**THE VILLAGE OF SAN LEANNA
MINUTES**

Regular Board of Aldermen Public Meeting
Thursday, October 19, 2023
7:00 p.m. – Community Center – 11906 Sleepy Hollow

A. MEETING CALLED TO ORDER

Present: Molly Quirk, Danny Villarreal, Helen Rockenbaugh, Christa Gregg, Marcos Campos, Mary Wright

Danny Villarreal moved to approve minutes of Regular B of A Meeting on September 21, 2023 as written; Christa Gregg seconded; motion carried with a vote of 5 in favor – 0 opposed.

B. CITIZENS' COMMUNICATION

1. Arborist, Cahir Doherty, reported on the state of the trees in the Village, particularly focusing on dead and dying oaks throughout the Village.

C. ITEMS SCHEDULED FOR ACTION

1. Council discussed the proposed Short-Term Rental Ordinance at length, including setting the maximum occupancy for a rental, limiting the number of permits issued to 5% of residences, and enforcement measures. Danny Villarreal moved to approve the Short-Term Rental Ordinance draft as discussed to be sent to legal counsel for review; Christa Gregg seconded; motion carried with a vote of 5 in favor – 0 opposed.
2. Helen Rockenbaugh moved to set the Short-Term Rental application fee at \$250 for the initial application and \$150 for annual permit renewals; Danny Villarreal seconded; motion carried with a vote of 5 in favor – 0 opposed.
3. Council reviewed the Village of San Leanna Noise Ordinance. Marcos Campos moved to update the Village of San Leanna Noise ordinance to include a maximum decibel reading of 65 decibels between 10 pm and 6 am and send to legal counsel for review; Danny Villarreal seconded; motion carried with a vote of 5 in favor – 0 opposed.
4. Council discussed the Village of San Leanna Nuisance Ordinance, noting that legal counsel advised that the ordinance was outdated and lacked enough clarity to comply with State requirements for municipal ordinances. Danny Villarreal moved to repeal the Village of San Leanna Nuisance Ordinance; Helen Rockenbaugh seconded; motion carried with a vote of 5 in favor – 0 opposed.
5. Council discussed minor wording updates needed to the Village of San Leanna Tree Ordinance in order to qualify as a Tree City with Tree City USA. Danny Villarreal moved to adopt amendments to the Village of San Leanna Tree Ordinance as presented; Christa Gregg seconded; motion carried with a vote of 5 in favor – 0 opposed.
6. Council discussed the proposed Video Surveillance Policy, noting that the policy would be helpful to have in place, but more information related to cost and benefit would be needed before placing any cameras. Danny Villarreal moved to adopt the proposed Village of San

Leanna Video Surveillance Policy; Marcos Campos seconded; motion carried with a vote of 5 in favor – 0 opposed.

7. Danny Villarreal moved to table discussion of the placement of any security cameras throughout the Village; Christa Gregg seconded; motion carried with a vote of 5 in favor – 0 opposed.
8. No further action was taken on installation of security cameras.
9. Council discussed proposed community sponsored events at the San Leanna Community Center. Danny Villarreal moved to approve having Trunk-or-Treat, a Winter Light Tour gathering, and Bingo at the Community Center; Helen Rockenbaugh seconded; motion carried with a vote of 5 in favor – 0 opposed.
10. Danny Villarreal moved, by Resolution 23-005, to adopt the Hays Free Press as the Village's official newspaper for publication of public notices; Marcos Campos seconded; motion carried with a vote of 5 in favor – 0 opposed.
11. Helen Rockenbaugh moved to approve amended budget for FY 2023-2024, by Resolution 23-006, adding \$24 to TML Insurance; Danny Villarreal seconded; motion carried with a vote of 5 in favor – 0 opposed.
12. Danny Villarreal moved to approve financial report for September 2023; Marcos Campos seconded; motion carried with a vote of 5 in favor – 0 opposed.

D. ITEMS FOR DISCUSSION

E. REPORTS AND INFORMATION

1. Mayor's Report: Mayor Quirk reported on a busy month, as well as Homeland Security concerns around the upcoming total eclipse in April 2024.

Linda Barrett was not present. Rebecca Howe reported on the report received from Mrs. Barrett, noting one new permit for an electrical panel update on Chapel.
2. Administrative: Rebecca Howe reported on the brush pick up with Waste Connections, as well as updates on grants and the Hazard Mitigation Action Plan Update with Travis County.
3. Roads: Danny Villarreal reported on pothole filling and speedbump maintenance.
4. Public Affairs: Mary Wright reported on plans for a rock painting gathering in January 2024.
5. Public Safety: Christa Gregg reported on a successful National Night Out event.
6. Water: Marcos Campos reported on the drought status and the status of the water system. The Aquifer District had declared Stage 3 Critical Drought Status with a mandatory 30% conservation period. The City of Austin was in Stage 1 Drought. Marcos Campos reported that the water system was running smoothly and that well levels had risen 2.5 ft. since the previous month, to a level of 148.5 ft. The burn ban was in effect.

7. Environmental: Helen Rockenbaugh reported on the upcoming Arbor Day event as well as landscape maintenance throughout the Village.

F. ADJOURNMENT

Danny Villarreal moved to adjourn the meeting; Christa Gregg seconded; meeting adjourned at 8:58 pm.

Maintenance of City Easements

Generally, a city receives easements, or rights to the use of others' property for limited purposes, from property owners and developers for streets, sidewalks, utilities, and other public rights-of-way. *See, e.g., City of Corpus Christi v. Unitarian Church of Christ of Corpus Christi*, 436 S.W.2d 923, 930 (Tex. Civ. App.—Corpus Christi 1968, writ ref'd n.r.e.). With streets and other dedications, the city does not usually gain ownership of the property itself, but only easements to use the property. The underlying property ownership is usually retained by the property owner who offers the dedication and easement, and the property owner retains a private easement that includes a right of access. *Dykes v. City of Houston*, 406 S.W.2d 176 (Tex. 1966); *State v. Meyer*, 403 S.W.2d 366, 370 (Tex. 1966).

Every city has broad nuisance authority as well as specific weedy lot authority, and many cities regulate the maintenance of city easements on private property, including the abatement of nuisance and weeds, to protect the safe use of the easement by the public. A city's authority to require maintenance of a property owner's land that is subject to an easement includes the ability to abate the nuisance, require abatement by the property owner, charge fines, and charge the property owner for abating the nuisance, such as cutting the grass. TEX. LOC. GOV'T CODE §§ 217.002; 217.022; 217.042; TEX. HEALTH & SAFETY CODE § 342.004.

If a city has an easement, the city has authority to maintain the easement in a way that protects the city's property rights while still allowing some use by the property owner. The easement holder also has the duty to maintain the easement. *Roberts v. Friendswood Dev. Co.*, 886 S.W.2d 363, 365 (Tex. App.—Houston [1 Dist.] 1994). Cities, even with their duty to maintain the easement, can require the landowner to maintain the easement because the landowner has a duty to keep his property free from nuisance and in a reasonably safe condition. *See, e.g., TEX. LOC. GOV'T CODE ch. 217; TEX. HEALTH & SAFETY CODE § 3442.004; State v. Meyer*, 403 S.W.2d 366 (Tex. 1966). Also, courts have held that the landowner also has his own easement as part of a right of way, which would give the landowner similar obligations to maintain the easement as the city. *See Meyer*, 403 S.W.2d 366. The city can enforce city and state nuisance law and require maintenance on the landowner's property regardless of the presence of a city easement. Also, a general law city can require a landowner to keep "weeds, unclean matter, or trash from the street, sidewalk, or gutter in front of the person's premises." TEX. TRANSP. CODE § 311.003. A city can also require the landowner to keep the sidewalk itself in good repair. *Id.*

In most cases, the city does not perform an unconstitutional taking of the landowner's property by requiring this maintenance. Abating, or requiring the abatement, of a nuisance does not necessarily constitute a taking even if some action is taken and property value could be viewed as diminished. *See Sheffield Dev. Co., Inc. v. City of Glenn Heights*, 140 S.W.3d 660, 670, 672 (Tex. 2004). First, the use of police power, such as nuisance abatement, must follow substantive due process principles and cannot be arbitrary and unreasonable. *City of San Antonio v. TPLP Office Park Prop.*, 218

S.W.3d 60, 64-65 (Tex. 2007). A city's ordinance requiring maintenance will be upheld if there is evidence that the ordinance is reasonably related to a legitimate government interest. *Id.* at 65. In the case of easement maintenance, the ordinance may require mowing of an owner's property, an action which is clearly related to the legitimate public interest of protecting the public's health and welfare. Because requiring the maintenance of a right of way easement is: (1) a reasonable use of police power; (2) does not require the use of property for a public purpose; and (3) does not diminish the value of the property, requiring a landowner to maintain his property is generally not considered a taking.

Occasionally, cities will receive the entire property interest in a street or other right of way as opposed to only receiving an easement, but the city still desires to require the abutting landowner to maintain the right of way. No authority exists under the Health and Safety Code or the Local Government Code for a city to require a property owner to maintain property that does not belong to the person, i.e. city property that is a right-of-way in which the landowner has no property interest. In the Transportation Code, cities are given some authority to charge the cost of streets and sidewalks to the property owners, but requiring property owners to put in sidewalks or streets occurs when the underlying property is still owned by the property owner. *See* TEX. TRANSP. CODE ch. 313. Requiring maintenance of city property may also be hampered by the city's nondelegable duty to maintain streets and by the possibility of unconstitutional takings. *See* TEX. TRANSP. CODE ch. 311; *Weaver v. City of Waco*, 575 S.W.2d 426, 429-30 (Tex. Civ. App.—Waco 1978); *see, e.g., DeSoto Wildwood Dev., Inc. v. City of Lewisville*, 184 S.W.3d 814 (Tex. App.—Fort Worth 2006); *Dolan v. City of Tigard*. 512 U.S. 374 (U.S. 1994).

**VILLAGE OF SAN LEANNA
GENERAL FUND REPORT
10-1-2023 -- 10-31-2023**

REVENUES:

<u>ACCOUNT</u>	<u>ACCOUNT NAME</u>	<u>CURRENT MONTH</u>	<u>YTD. BEG. CURRENT MO</u>	<u>YTD. END OF CURRENT MO</u>	<u>DIFFERENCE</u>	<u>BUDGET</u>
101	PROPERTY TAXES	\$93.91	\$0.00	\$93.91	\$264,906.09	\$265,000.00
102	FRANCHISE TAXES	\$42.44	\$0.00	\$42.44	\$14,957.56	\$15,000.00
103	INTEREST	\$762.32	\$0.00	\$762.32	\$4,237.68	\$5,000.00
104	BUILDING PERMITS	\$0.00	\$0.00	\$0.00	\$5,000.00	\$5,000.00
106	MISCELLANEOUS	\$0.00	\$0.00	\$0.00	\$100.00	\$100.00
107	TRANSFER FROM RESERVE	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
108	REAL PROPERTY	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<u>TOTALS:</u>		\$898.67	\$0.00	\$898.67	\$289,201.33	\$290,100.00

EXPENSES:

<u>ACCOUNT</u>	<u>ACCOUNT NAME</u>	<u>CURRENT MONTH</u>	<u>YTD. BEG. CURRENT MO</u>	<u>YTD. END OF CURRENT MO</u>	<u>DIFFERENCE</u>	<u>BUDGET</u>
112	ROAD MAINTENANCE	\$154.62	\$0.00	\$154.62	\$25,845.38	\$26,000.00
113	CITY ADMINISTRATOR	\$3,548.66	\$0.00	\$3,548.66	\$39,698.67	\$43,247.33
114	TML INSURANCE	\$5,423.32	\$0.00	\$5,423.32	\$0.68	\$5,424.00
115	LEGAL	\$0.00	\$0.00	\$0.00	\$5,000.00	\$5,000.00
116	TAXES	\$485.88	\$0.00	\$485.88	\$6,086.12	\$6,572.00
117	ENVIRONMENTAL MAINTENANCE	\$87.43	\$0.00	\$87.43	\$24,912.57	\$25,000.00
118	PUBLIC INFORMATION	\$90.02	\$0.00	\$90.02	\$709.98	\$800.00
119	AUDIT	\$0.00	\$0.00	\$0.00	\$6,000.00	\$6,000.00
120	SECURITY LIGHTS	\$247.83	\$0.00	\$247.83	\$2,952.17	\$3,200.00
121	OFFICE EXPENSES	\$2,756.71	\$0.00	\$2,756.71	\$4,243.29	\$7,000.00
122	ORG. MEMBERSHIP DUES	\$683.50	\$0.00	\$683.50	\$316.50	\$1,000.00
123	APPRAISALS	\$0.00	\$0.00	\$0.00	\$1,200.00	\$1,200.00
124	BUILDING INSPECTIONS	\$755.00	\$0.00	\$755.00	\$4,245.00	\$5,000.00
125	MISCELLANEOUS	\$0.00	\$0.00	\$0.00	\$1,500.00	\$1,500.00
126	ARBORIST	\$660.00	\$0.00	\$660.00	\$13,120.00	\$13,780.00
128	COUNCIL EXPENSES	\$0.00	\$0.00	\$0.00	\$100.00	\$100.00
129	PUBLIC AFFAIRS	\$100.01	\$0.00	\$100.01	\$2,899.99	\$3,000.00
130	COMMUNITY CENTER	\$327.92	\$0.00	\$327.92	\$2,672.08	\$3,000.00
131	ENGINEER	\$95.00	\$0.00	\$95.00	\$1,405.00	\$1,500.00
132	FLOOD PREVENTION	\$900.00	\$0.00	\$900.00	\$9,100.00	\$10,000.00
133	EMPLOYEE REIMBURSEMENT	\$570.69	\$0.00	\$570.69	(\$370.69)	\$200.00
134	HEALTH DEPT. CONTRACT	\$0.00	\$0.00	\$0.00	\$1,500.00	\$1,500.00
135	PUBLIC SAFETY	\$0.00	\$0.00	\$0.00	\$1,500.00	\$1,500.00
136	ADVISOR	\$1,027.71	\$0.00	\$1,027.71	\$11,332.29	\$12,360.00
137	EMPLOYEE BENEFIT STIPEND	\$250.00	\$0.00	\$250.00	\$2,750.00	\$3,000.00
<u>TOTALS:</u>		\$18,164.30	\$0.00	\$18,164.30	\$168,719.03	\$186,883.33

**VILLAGE OF SAN LEANNA
WATER FUND REPORT
10-1-2023 -- 10-31-2023**

REVENUES:

<u>ACCOUNT</u>	<u>ACCOUNT NAME</u>	<u>CURRENT MONTH</u>	<u>YTD. BEG. CURRENT MO</u>	<u>YTD. END OF CURRENT MO</u>	<u>DIFFERENCE</u>	<u>BUDGET</u>
201	WATER BILLING	\$30,874.13	\$0.00	\$30,874.13	\$94,125.87	\$125,000.00
202	WATER TAP FEES	\$0.00	\$0.00	\$0.00	\$9,600.00	\$9,600.00
203	METER DEP/CONNECT FEES	\$150.00	\$0.00	\$150.00	\$850.00	\$1,000.00
204	MISCELLANEOUS	\$0.00	\$0.00	\$0.00	\$100.00	\$100.00
205	TRANSFER FROM RESERVE	\$0.00	\$0.00	\$0.00	\$0.00	\$3,648.67
<u>TOTALS:</u>		\$31,024.13	\$0.00	\$31,024.13	\$104,675.87	\$139,348.67

EXPENSES:

<u>ACCOUNT</u>	<u>ACCOUNT NAME</u>	<u>CURRENT MONTH</u>	<u>YTD. BEG. CURRENT MO</u>	<u>YTD. END OF CURRENT MO</u>	<u>DIFFERENCE</u>	<u>BUDGET</u>
210	WATER OPERATOR	\$2,860.00	\$0.00	\$2,860.00	\$31,460.00	\$34,320.00
211	DISTRICT FEES	\$0.00	\$0.00	\$0.00	\$6,200.00	\$6,200.00
212	MAINTENANCE/REPAIR	\$729.97	\$0.00	\$729.97	\$29,270.03	\$30,000.00
213	ELECTRICITY	\$891.49	\$0.00	\$891.49	\$8,108.51	\$9,000.00
214	BOOKKEEPER	\$1,774.33	\$0.00	\$1,774.33	\$19,854.34	\$21,628.67
215	BILLING SUPPLIES	\$152.80	\$0.00	\$152.80	\$1,747.20	\$1,900.00
216	METER READER	\$0.00	\$0.00	\$0.00	\$2,000.00	\$2,000.00
217	METER REFUNDS	\$0.00	\$0.00	\$0.00	\$1,000.00	\$1,000.00
218	MISCELLANEOUS	\$0.00	\$0.00	\$0.00	\$100.00	\$100.00
220	CITY OF AUSTIN CONTRACT	\$0.00	\$0.00	\$0.00	\$5,200.00	\$5,200.00
221	CITY OF AUSTIN WATER	\$2,004.87	\$0.00	\$2,004.87	\$22,995.13	\$25,000.00
222	ASSISTANT WATER OPERATOR	\$250.00	\$0.00	\$250.00	\$2,750.00	\$3,000.00
<u>TOTALS:</u>		\$8,663.46	\$0.00	\$8,663.46	\$130,685.21	\$139,348.67

CHECKING ACCOUNT BALANCE:

BEGINNING BALANCE	\$5,404.90	\$47,327.70
TOTAL REVENUES	\$31,922.80	
TRANSFER-TEXPOOL	\$10,000.00	
TOTAL EXPENSES	\$26,827.76	
TRANSFER-TEXPOOL	\$0.00	
INTEREST RET-TEXPOOL	\$762.32	\$27,590.08
ENDING BALANCE		\$19,737.62

CHECKBOOK BALANCE

\$19,737.64

TEXPOOL BALANCE:

BEGINNING BALANCE	\$169,431.92
DEPOSITS	\$0.00
INTEREST	\$762.32
TOTAL	\$170,194.24
WITHDRAWALS	\$10,000.00

ENDING BALANCE

\$160,194.24

**VILLAGE OF SAN LEANNA
FINANCIAL REPORT
10-1-2023 -- 10-31-2023**

ROAD IMPROVEMENT FUND 2022

REVENUES

BUDGET 22-23

301	CAPITAL METRO - BTC FUNDING 2022	\$0.00	\$0.00	\$23,000.00	\$23,000.00
302	TRANSFER - CAPITAL METRO - RESERVED FUNDS	\$0.00	\$0.00	\$0.00	\$0.00
303	CAPMETRO - BTC - PROJECT REIMBURSEMENT 2022	\$0.00	\$0.00	\$0.00	\$0.00
304	TRANSFER - ROAD PROJECT RESERVED FUNDS	\$0.00	\$0.00	\$0.00	\$0.00
	<u>TOTALS:</u>	\$0.00	\$0.00	\$23,000.00	\$23,000.00

EXPENSES

310	ROAD IMPROVEMENT - TBD	\$0.00	\$0.00	\$0.00	\$0.00
311	<u>MISC</u>	\$0.00	\$0.00	\$0.00	\$0.00
	<u>TOTALS:</u>	\$0.00	\$0.00	\$0.00	\$0.00

CORONAVIRUS LOCAL FISCAL RECOVERY FUNDING (CLFRF) - ARPA

REVENUES:

CURRENT YTD TOTAL DIFFERENCE BUDGET 22-23

MONTH

501	CORONAVIRUS LOCAL FISCAL RECOVERY FUNDING	\$0.00	\$0.00	\$0.00	\$0.00
502	CLFRF RESERVE FUNDING	\$0.00	\$0.00	\$0.00	\$28,091.28
	<u>TOTALS:</u>	\$0.00	\$0.00	\$0.00	\$28,091.28

EXPENSES:

510	WATER SYSTEM IMPROVEMENTS - NORTH WELL	\$0.00	\$0.00	\$28,091.28	\$28,091.28
511	WATER SYSTEM IMPROVEMENTS - SOUTH WELL	\$0.00	\$0.00	\$0.00	\$0.00
	<u>TOTALS:</u>	\$0.00	\$0.00	\$28,091.28	\$28,091.28

RESERVED FUND BALANCES

<u>WATER FUND CONTINGENCY</u>	\$10,000	\$10,000
<u>ROAD FUND:</u>		
RESTRICTED CAPITAL METRO	\$46,779	\$46,779
RESERVE FOR PROJECTS	<u>\$0</u>	<u>\$0</u>
TOTAL ROAD RESERVE	\$46,779	\$46,779
<u>GENERAL FUND CONTINGENCY</u>	\$10,000	\$10,000
<u>CLFRF - ARPA FUND RESERVE</u>	\$28,091	\$0
CURRENT BUDGET RESERVE	<u>\$0</u>	<u>\$85,062</u>
<u>TOTAL ALL RESERVED FUNDS</u>	\$94,870	\$151,841
TOTAL TEXPOOL AND CHECKBOOK	\$174,837	\$179,932
LESS TOTAL RESERVED	<u>\$94,870</u>	<u>\$151,841</u>
<u>UNALLOCATED AVAILABLE FUNDS</u>	\$79,967	\$28,091