

**MINUTES OF THE MEETING OF THE
VILLAGE OF BEAR CREEK COMMISSIONERS
May 18, 2015**

1) Call to Order

The meeting was called to order 7:03 pm.

2) Roll Call

Mayor Upham, Commissioner Bohm and Commissioner Brushwood are present.

3) Citizens Comments will be taken from the audience on Non-Agenda related topics. No action may be taken by the City during Citizens Comments.

None.

4) Approval of Minutes from April 20, 2015 Commissioners Meeting.

Commissioner Bohm notes that Old Business # 7.C isn't complete. Minutes are tabled to next month.

5) Discussion and possible action in regards to reviewing 2014 – 2015 budget and actual expenditures.

Budget vs Actual reviewed. No changes necessary.

6) Consent Agenda – the following may be acted upon in one motion. A Commissioner, Mayor or a Citizen may request items be pulled for separate discussion and/or action.

A. Approve reimbursement to Allen Brushwood \$30.29 for wood to protect road.

B. Approve payment to Victor O. Schinnerer & Co. \$50.00 for Allen Brushwood bond renewal. Invoice dated 3/31/15.

Commissioner Bohm makes motion to approve the consent agenda as read. Mayor Upham seconds. Motion is approved with 2 Yea 0 Nea and 1 abstention – Commissioner Brushwood.

7) New Business

A. Discussion and possible action to review and approve the preliminary plat submitted to subdivide Lot 11, Section 2, Bear Creek Oaks. Property owner and Aubrey Homes request to subdivide 5.189 acre lot into two lots; 2.36 acres each. Each lot to be serviced by private water well and on

site wastewater system, other than a conventional septic system.

Mayor Upham explains the applicants paid a fee for variance, however did not request a variance for private well under 3 acres per tract. The applicants point out the verbiage in the Subdivision Ordinance does not specify that a public well is not permitted less than 3 acre tracts with an unconventional septic system. (ie: anaerobic system). Subdivision Ordinance #070416.001 Section 10. General Requirements 2.A, "If a lot is to receive water service by a private well and also to have wastewater treatment using a conventional septic system, the minimum lot size is one hundred thirty thousand six hundred either (130,680) square feet or three (3) acres"

Many of the neighbors who own lots with in 200' of Lot 11, Section 2 are in attendance or wrote letters to council. Rowland Williams: Shares that when he was on council it was understood the intent of the subdivision ordinance was to increase the minimum lot size from 1 acre to 2 acres and that you had to have 3 acres for a private well; anything smaller required rain water or public water. He is not in favor of the proposed subdivision as it would allow 2 tracts less than 3 acres, each tract to have a private well Over the years many wells in the neighborhood have gone dry, he is concerned this subdivision will increase his risk of going dry.

Joel Despain, reads a letter written by Tracy Sharples "I understand that every property owner has the right to sell his/her land. I believe, however, that with this tract of land, the subdivision will allow for several new homes in our neighborhood. I know that we all treasure the concept of still being out in the country. With the build up around us over the past several years, this feels as if this subdivision furthers the depletion of our aquifer and the integrity of a lager land subdivision/city. "

Karen Mackie wrote a letter stating she "strongly object to the subdivision of this lot into 2.36 acre lots. Please do not grant this variance"

Patrick & Elizabeth Mackie wrote a letter stating "To subdivide this lot would be a detriment to the character of this neighborhood and set an unwanted precedent. There are a number of reasons that we would implore the board not to approve this subdivision. 1) Although this 5.189 acre lot is a nice size, the shape of this lot will be provide challenges based on the setbacks required from the street, side and rear yards. Additional setbacks required for on the site water treatment will prove to be very difficult to meet. 2) Ordinance No 070416.01 was written to maintain the integrity of the Village lot sizes that were originally developed. If we are to grant a variance for this property to allow 2.36 acre lots to have a well and waste water system installed, then we are setting

a precedent for future development that will change the character of our neighborhood. " Mayor Upham explains Hays County Environmental Services will review the topography of the lot and approve the unconventional septic system for the site and size of home. Commissioner Brushwood recently upgraded his septic and per Hays County he was required to drill 5 test holes identifying percolation. Hays County is very specific to what they permit. Darcy Baylis, Aubrey Homes (homebuilder) and daughter of property owners of Lot 11, Sec 2, explains she has 15 yrs homebuilding experience. She will build green energy homes. They want to proceed soon. And due to heath of her parents they want to subdivide and build. They looked into bringing in public water from Appaloosa Run – found it cost prohibitive. She wants private wells and not rain water. Her research found rain water won't sell well. Council and neighbors do not agree with that statement but can't convince her otherwise.

Council continues discussion on the Preliminary Plat Subdivide request. Council agrees to request a private well on less than 3 acres, a variance is required. Outside of that the preliminary plat is in order. Mayor Upham makes motion to approve the preliminary plat, Lot 11, Section 2, Bear Creek Oaks with the conditions that 1) Applicant applies for variance for a private well on each proposed lot. 2) Change verbiage that the approving body to require structure to be built is Bear Creek Oaks Property Owners Association. Commissioner Bohm seconds. Vote passes 2 Yea. 1 Nea (Commissioner Bohm)

***** Mayor requests Old Buisness item # 8.A be discussed at this time.**

8) A. Discussion and possible action on improvements to the low water crossing. Including but not limited to: Right of Entry Agreement and approval of bid for work. (Upham)

Mayor Upham reviews the proposed bid from Gruber Equipment Contractors. Duncan McCulley asks what is different about the proposed structure compared to the existing low water crossing. Eleanor McCulley reads a letter they provided from Architect, Philip Hendren. The McCulley's paid Hendren to assess the structural integrity. Philip Hendren's opinion is that the low water crossing "structural integrity appears to be completely sound with no sign of any pending failure. At this point only periodic inspection and maintenance is required. The Maintenance needed now is the repair of asphalt lifting at the transition from asphalt to concrete on the corners of the low water

crossing and minimal concrete on the downstream side. These repairs should be addressed in a timely matter but are not urgent and have no effect on the structural integrity of the bridge at this time". Council doesn't want to discredit Hendren but, he is not a licensed engineer with vast knowledge of in low water crossings. For years council has been considering making improvements to the low water crossing in an effort to increase it's water flow and upgrade the materials of construction. The structure was built 40+ years ago when there wasn't the vast development upstream, this development has changed the amount of run off and water flow. McCulleys and the Sharples express sentiment that the city shouldn't spend money fixing something that isn't broken; that money could be spent elsewhere. The council is investigating improvements to the low water crossing as preventive measure. They prefer to be proactive rather than reactive. To work on the low water crossing the contractor has requested access to property owners right of way. The Village of Bear Creek Right of Entry Agreement has been executed by the property owners, Segalotto/Rosenbluth who own the north side of the creek. The McCulley's, who own the south side of the creek will not execute the Village of Bear Creek Right of Entry Agreement. This will not prohibit the contractor from completing the job, but will increase the cost and be more cumbersome. The Mayor will contact Gruber Equipment Contractors for an updated bid. Commissioner Bohm will research water flow minimum standards, etc.

Mayor resumes to the council agenda.

B. Discussion and possible action to replace signs at entrance to the Village. (Upham)

Mayor Upham expressed interest in updating the "Entering Village of Bear Creek" signs at the entrances. No one is opposed to that. He will get a price and draft up signs for council approval.

C. Discussion regarding TDS/VOBC Annual Trash Day held April 25, 2015.

Another successful trash day. Collection locations Madrone Cr and Niles Cove had a constant stream of trash delivered during hours of operation (9AM – 1PM). Niles Cove roll off was full within an hour of opening and replaced with a second roll off. Once again

people dropped trash off before the sights are manned by TDS at 9 AM. This is a reoccurring issue which council discourages.

8) Old Business

- A. Discussion and possible action on improvements to the low water crossing. Including but not limited to: Right of Entry Agreement and approval of bid for work. (Upham)**

Discussed earlier in the meeting.

- B. Discussion and possible action regarding an automated digital speed limit detection and warning sign. (Bohm)**

Commissioner Bohm reports no update. Table item.

- C. Discussion and possible action regarding the VOBC Subdivision Ordinance requirements 3 acre or smaller tract with well water and Aerobic septic system. (Bohm)**

In regards to proposed changes to Subdivision Ordinance, Commissioner Bohm has changed the conventional septic verbiage with onsite sewage facilities or "OSSF". And included "OSSF" in the definition section. Council suggests clearly defining what you can and can't do on a 2 acre lot; including specify well water systems allowed on minimum 3 acre lot, define private well, and possibly eliminate any reference to wastewater.

- D. Discussion and possible action regarding Village of Bear Creek Right-of-Way; including but not limited to ditch work.**

Commissioner Brushwood said there is no new information on proposed ditch work. Commissioner Brushwood makes motion that we contact vendors for bids to clear the Right of Way according to VOBC specifications. Commissioner Bohm seconds. Motion is approved unanimously. Commissioner Brushwood will work on getting bids for Right of Way clearing. City Secretary to provide him contact information for vendors VOBC has used previously and the VOBC Right of Way clearing specifications.

Commissioner Bohm makes motion VOBC approving mowing the Right of Way and edging around mailboxes for an amount not to exceed \$1,000.00. Work should start no earlier than 3 weeks from today. Mayor Upham seconds. Motion is approved

9) Announcements

**A. Next VOBC Commissioners Meeting is scheduled for Monday, June 15,
2015 7:00 PM**

10) Adjournment

The meeting adjourned at 9:50 PM

Submitted on July 12, 2015 by Kathryn Rosenbluth.

Approved on July 13, 2015

By Kathryn Rosenbluth, City Secretary Kathryn Rosenbluth