

**MINUTES OF THE MEETING OF THE
VILLAGE OF BEAR CREEK COMMISSIONERS
July 13, 2015**

1) Call to Order

The meeting was called to order 7:05 pm.

2) Roll Call

Mayor Upham and Commissioner Brushwood are present. Commissioner Bohm is absent.

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 May 18, 2015 Commissioners Meeting.

Commissioner Brushwood makes motion to approve the May 18, 2015 minutes as submitted. Mayor Upham seconds. Motion approved is approved unanimously.

5) Approval of Minutes from June 15, 2105 Commissioner Meeting.

Minutes are not available. Item tabled.

6) Approval of Minutes from June 19, 2105 Commissioner Meeting.

Commissioner Brushwood makes motion to approve the June 19, 2015 minutes as submitted. Mayor Upham seconds. Motion approved is approved unanimously.

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

Budget vs Actual reviewed. No changes necessary.

8) 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 payment to The News Dispatch \$53.54 for public posting: Final Plat Lot 11, Sec 2, and Subdivision Ordinance #2015019.001. Invoice dated 6/25/15.

B. Approve payment to Knight & Partners \$585.00 for May 2015 attorney services.

C. Approve payment to Bruce Upham \$140.97 reimbursement for 2 VOBC entrance signs.

Commissioner Brushwood makes motion to approve the consent agenda as submitted.

Mayor Upham seconds. Motion approved is approved unanimously.

9) New Business

A. PUBLIC HEARING

Discussion and possible action to review and approve final 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 makes it known that the Final Plat has been amended and resubmitted adding to the final plat, a requirement that each lot be serviced by rain water collection with a minimum tank size of 5,000 gallons. Aubrey Homes confirmed their intention is for the rain water system to be in addition to private well. At this time the builder doesn't know if the rain water systems will be installed for gardening use, household use or both and if the systems will have more than the required 5,000 storage tank. It is their intention to build with roofing and guttering for rain water systems. It is their hope this will ease residents' concern that the sole water source will be from private wells.

Mayor Upham states for the record that all letters written to council on this subdivide request whether for the Preliminary Plat or Final Plat are retained in the city records. Over the past few months Council has paid heed to citizens input (letters, verbal communication, email's etc) in addition to input from the VOBC legal counsel.

Public Hearing: summary of comments and dialog with council

Patrick Mackie: It is known the VOBC public notification of the preliminary plat wasn't followed and Robert Rules of Order. Feels the VOBC council should start the whole process over with property owner submitting a preliminary plat, posting correctly and voted on. Homeowners could evoke an injunction on the city sighting that the process wasn't followed in accordance to the preliminary plat as sated subdivision ordinance.

Mayor Upham: Not accurately public posting the preliminary plat is the fault of the city. Letters to all (but one, the owner of the lot being subdivided) of the land owners within 200' were notified in writing. The neighbors have done an excellent job in communicating to others and the council. There is no perfect solution for this

situation. If the council takes no action on the Final Plat tonight it will be approved by default.

Steve Cranford: What is the street address of the lots to be subdivided?

Rowland Williams: Directly across from 8401 N Madrone Trl. Lots have an "Aubrey Homes sign" on them.

Lee Otten: How does a 5.189 acre tract subdivide into 2 equal 2.36 acre tracts?

Mayor Upham: Due to the subdivision ordinance requirement that 25' road frontage be dedicated the VOBC Right of Way.

Joel Despain: Representing Tracy Sharples. Sharples objects to subdivide less than 3 acres.

Joel Despain: Think when you approved the preliminary plat, it could now be considered void or voidable, due to lack of public posting in the newspaper. However, I understand to stay within the time frame we are here tonight, and I think that's okay.

Mayor Upham: Preliminary Plat was approved with conditions, one of which was they apply for a variance for a private well on less than 3 acre tracts.

Lacey Aylers – Attorney representing the lot owners: The owners have met the VOBC subdivision ordinance requirements, thus no need to apply for a variance.

Mayor Upham: The subdivision ordinance wasn't worded as clearly as the original founders intended. Through this process we have found flaws in the ordinance, referring to Subdivision Ordinance #070416.001 Section 10 #2. Kathryn Rosenbluth reads this section to those in attendance. Council has remedied this with future subdivisions by amending the ordinance. However, the request to subdivide Lot 11, Section 2, BCO falls under the rules of Subdivision Ordinance #070416.001.

Patrick Mackie: Can you approve the Final Plat without the variance, since you required a variance as a condition of the Preliminary Plat approval?

Darcy Baylis w/ Aubrey Homes – reads a letter from her parents, property owners, Loris Henderson. When her parents purchased the property, 1979, they could have subdivided to 5 one acre tracts. However, they always wanted larger lots and have always intended to subdivide the tract into 2 tracts. They had hoped to build their 'dream' home on one of the tracts and retire. Due to decline in her father's health that is no longer an option, they are forced to abandon their dream, subdivide and sell. We feel we are within the law of the VOBC Subdivision Ordinance and in our right to subdivide. My research shows in previous years VOBC council has approved subdivisions less than 3 acres with private well's. Some subdivisions state that a rain

water system is encouraged. We now intend to use private wells in addition to rain water collection.

Mayor Upham: Adding rain water to each plat will reduce the water draw of private well.

The property owner has added this requirement voluntarily and in good faith.

Commissioner Brushwood: In regards to the law, he is not optimistic VOBC's 'interpretation' Subdivision Ordinance #070416.001 would prevail in a legal proceedings. Your standing must be clear, in black and white. The Subdivision Ordinance #070416.001 does not state a private well is not permitted on lots smaller than 3 acres.

Mayor Upham states that council is fully aware the majority of citizens in attendance are against this subdivide as proposed. Action must be taken and they will not please everyone. Council has had input from legal counsel and will do what they feel is best for the village. If property owners want to sue VOBC council they will and if council member resign over this issue, so be it. Council is in charge of citizens money and to make decisions for the entire community.

Mayor Upham makes motion to approve the Final Plat to subdivide Lot 11, Section 2, Bear Creek Oaks as submitted. Lot would be subdivided into two equal lots of 2.36 acres each, each lot to be serviced by private water well and rain water collection, minimum 5000 gal tank. Commissioner Brushwood Seconds.

Discussion: Neighbors; Rowland Williams, Elizabeth Schaefer, Patrick Mackie, Joel Despain voice objection. #1. New private well's will jeopardize existing wells. Both council members share their experiences, as their private wells went dry and they now have rain water collection. This subdivide will have rain water collection in addition to private wells. #2 Feel it is worse for council to approve the Final Plat rather than reject it and require the property owner start over with submitting a new Preliminary Plat and the VOBC follow the procedures, as stated in the Subdivision Ordinance.

VOTE: Motion approved is approved unanimously. 2 - Yea 0 - Nea

10) Old Business

A. Discussion and possible action on improvements to the low water Crossing. (Upham)

Mayor Upham states no new activity from last month. Item tabled.

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

Commissioner Brushwood states the automated digital speed limit detection and warning sign has been relocated from N Madrone Trl to S Madrone Trl. It's been re programmed to stop at 40 mph and flash a white light at 40 mph. If over 40 mph it will not notify the driver, but is keeping record of the actual speed recorded.

C. Discussion and possible action regarding Village of Bear Creek Right-of-Way; including but not limited to ditch work. (Upham)

Mayor Upham states the new "Welcome to The Village of Bear Creek" are installed at the entrances.

Commissioner Brushwood is in the process of contacting companies to bid on the Right of Way work.

10) Announcements

A. Next VOBC Commissioners Meeting is scheduled for Monday, August 17, 2015 7:00 PM

11) Adjournment

The meeting adjourned at 9:20 PM

Submitted on August 9, 2015 by Kathryn Rosenbluth.

Approved on Sept 21, 2015

By Kathryn Rosenbluth, City Secretary Kathryn Rosenbluth