

**MINUTES OF THE MEETING OF THE
VILLAGE OF BEAR CREEK COMMISSIONERS
May 18,2020**

1) Call to Order

The meeting was called to order 7:05 pm.

2) Roll Call

Mayor Upham, Commissioner Brushwood and Commissioner Burns are in attendance.

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 13, 2020 Commissioners Meeting.

Commissioner Brushwood makes motion to approve April 13, 2020 minutes as submitted.
Commissioner Burns seconds. Motion is approved unanimously.

5) Approval of Minutes from April 20, 2020 Commissioners Meeting.

Commissioner Burns makes motion to approve April 20, 2020 minutes as submitted.
Commissioner Brushwood seconds. Motion is approved unanimously.

6) Discussion and possible action in regard to reviewing 2019- 2020 budget and actual expenditures.

No changes required.

7) New Business

A. Discussion and possible action to approve Final Plat to subdivide 9000 N Madrone Trl – Lot 2, Section 3, Bear Creek Oaks; 5.76- acre tract into 2 lots: 2A -2.08 acres and 2B -3.56 acres. Jim Bellevue representing owner Elena Lipkowski.

Jim Bellevue in attendance representing owner, Elena Lipkowski. Jim acknowledges submitting final plat within 6 months of obtaining Preliminary Plat approval with conditions. Stated he's been unable to communicate with the civil engineer on what on what the Mayor emailed him about late Friday afternoon, but does have a number of items he wants to discuss. Before he does Mayor asked if there are any comments from property owners. Julia Barnett-Tracy, immediate neighbor to the west states they are in support of Elena Lipkowski's subdivide request. Mark Bohm, immediate neighbor to the

east, said Jim Bellevue gave him a copy of the civil engineer report showing that the intermittent drainage way outer boundary. The boundary farthest from the road at our common fence line was approximately 212 feet from pin when we were doing those quick measurements on Friday evening. I noticed and I think Jim Bellevue noticed as well. There was some debris left from the previous high water mark on the ground at the 212 foot line and goes +/- 3 feet beyond it. At the time I didn't think too much about it as I was reviewing the preliminary plat and the preliminary plat didn't notate the flood line. I don't recall that the big rains we had in May 2019 were ever classified as 100 yr flood. My research could not find anything measured. Because the debris left goes +/- 3 feet beyond; does give me concern that the flood line is not identified on the final plat. I want to make sure we don't end up with an onsite sewer system installed in an area where it could be prone to frequent flooding. Want to make sure we have all the numbers right and know we wouldn't have an issue moving forward and my primary concern. I've emailed the City Secretary with my written comments and request they be included in meeting minutes.

From **Mark Bohm** markbohm42@gmail.com

To **Kathryn Rosenbluth** kbluth@aol.com

My name is Mark Bohm and I live at 8904 North Madrone Trail, which is adjacent to and downstream of Lot 2, Bear Creek Oaks Section III (a.k.a 9000 North Madrone Trail). The recently updated survey for the proposed resubdivision indicates that the boundary of the intermittent drainage way is 187' from the 25' easement (which is 212' from the survey pin in the street).

When the fence line is viewed at that 212' boundary (as measured by myself using an Empire 300' fiberglass measuring tape) there are leaf and other natural debris that were likely floating on floodwater and left on the fence mesh as a visual indication of the high water mark of the 2019 rain event that occurred on or around May 3rd, 2019. In my opinion that debris continues to be visible at the 213', 214' and 215' measurement points and is not present at the 216' measurement point.

The Prossner and Associates, Inc. Report dated April 7, 2020 states the following "It is our opinion that the 100 year floodplain will be contained within the drainage easement shown on the proposed resubdivision under the current site conditions. "

I have scoured the internet looking for any reference to the May 3rd, 2019 floods as a 100 year or greater event and was not able to find any such reference. I also do not recall hearing any local reports indicating that the May 3rd floods were of a historic level. With this in mind I am of the opinion that the calculations and or model being used by Prossner and Associates may need to be correlated to site observations such as those detailed above, along with reporting on the government categorization of the May 3rd floods to ensure that the floodplain designation stated by the engineer is as accurate as possible since it will be used for future homesite as well as onsite septic installation placement.

Regards
Mark Bohm

Mayor Upham commented that there's a high water mark outside of the proposed drainage easement. Mark Bohm said yes, I measured with a 300 foot tape measure and can see it at the 212 foot mark. 213 to 214 foot mark, the debris is visible but begins to thin to the 215 foot mark. By 216 its clearly not there. Again these are my measurements; I'm not a civil engineer. I live downstream from 9000 N Madrone Trl. Heavy rain will travel through 9000 N Madrone Trl then under the fence to my property. I measured at the fence line, debris caught in the fence. So the debris is actually not on my property, its there physically at the boundary on the other side of the fence from me. Jim Bellevue states he is the attorney for the applicant. Explained in January the Preliminary Plat was approved by Council with two conditions. Define the area of the drainage easement and be signed and stamped by a Civil Engineer. Final Plat submitted includes those items. We did receive a follow up series of questions from the Mayor. Questions for the Surveyor and questions for the Civil Engineer. I believe we have resolved Surveyor question. My understanding the Mayor's question about Civil Engineering was regarding the effects on this property. All should have received copy of the Civil Engineer letter stating the water flow that's currently reaching this location is not the same water flow from all upstream properties. Drainage easement on the Final Plat is accurate and sufficient to handle current conditions and large enough to allow for modification within the easement in the event of future improvements upstream. Late Friday I received additional email communication from the Mayor asking for additional information from the Civil Engineer. Pointed out this lot is not in the 100 Yr flood plain. Jim said VOBC has approved 2 other Final Plats with drainage easements that didn't have 25yr to 100 Yr flood plain noted nor Civil Engineer certification. Mayor Upham disputes this claim. Said approved Final Plats with drainage easements contain identification of the 25 yr and 100 yr flood plain with either Civil Engineer certification and/or identification of the 25 yr and 100 yr flood plain on the plat. yr flood plain. Points out your client was notified in letter dated 12/21/2019 the Preliminary Plat was deficient due to three items including: Subdivision Ordinance #180820.002 Section 6.b #14 "The one-hundred year and twenty-five year flood elevations and flood plain and floodway boundaries. Drainage easement to cover the limits of the 25 year Flood Plain and all waterways draining fifty acres or more.". When you submitted the second Preliminary Plat we again made it known this item was lacking and would need to be on the Final Plat. You said you'd fix it on the final and there was no reason for us to hold you up. Commissioner Brushwood recalled that Jim Bellevue assured us that all the

information we requested would be on the Final Plat. Mayor Upham said all this could have been cleared up with a phone call from the Civil Engineer. The Mayor contacted the Civil Engineer numerous times, with no response. Discussion continues between Mayor Upham and Jim Bellevue. Jim Bellevue feels he and his client are being singled out. VOBC Council is resolute Final Plat is lacking Subdivision Ordinance requirement a Civil Engineer addressing "The one-hundred year and twenty-five year flood elevations and flood plain and floodway boundaries. Drainage easement to cover the limits of the 25 year Flood Plain and all waterways draining fifty acres or more." After lengthy discussion Commissioner Brushwood makes motion to table this issue for future meeting discussions. No second. Commissioner Brushwood makes motion the VOBC Council finds the Final Plat presented is not in compliance and denies approval. Mayor Upham seconds. Lengthy discussion and Jim Bellevue informs council of Texas Legislature changes effective 9/1/2019 states municipalities have 15 days to accept or reject revised application of the application is approved by operation of law. Cities can't impose timeline or time limit. Mayor Upham amends the motion to include an invitation without limit for Mr Bellevue's client to make another good faith effort to address the concerns we've expressed tonight. Deny the ability to subdivide this lot with this Final Plat. Want to make sure the drainage easement is sufficient and labeled with the 100 yr and 25 yr flood plain with Engineers stamp. Lengthy discussion occurs. Mayor Upham goes on record as saying Jim Bellevue has been responsive in letting him know that he's received his question , but his answers haven't answered his questions nor has his representatives answered his questions. Wants simple answer and simple lines on the Final Plat. Mayor Upham rescinds his amendment to the Motion since he didn't make the motion. Commissioner Brushwood amends motion Final Plat denied because it doesn't meet the requirements in the Subdivision Ordinance. Motion is approved unanimously. City Secretary to notify applicant via email as soon as possible.

B. Discussion and possible action to update Subdivision Ordinance #180820.002. Include but not limited to modifying Section 10 General Requirements g.5 changing Driveway Ordinance #060821.002 to Driveway Ordinance #190218.001.

Mayor Upham informs council the Subdivision Ordinance #060821.002 need to be updated to reference the most recent Driveway Ordinance #190218.001. This would also be a good opportunity to update the Subdivision Ordinance for possible amendments due to 2019 Texas legislative changes that James Bellevue brought to our

attention. The goal would be to have a better well written, easy to understand Ordinance so we can reduce confusion. Any changes to the Subdivision Ordinance wouldn't affect subdivision requests already in works; including 9000 N Madrone Trl.. - Mayor Upham makes motion the City Secretary send our request to our City Attorney and get him started reviewing it. Commissioner Brushwood seconds. Motion is approved unanimously.

C. Discussion and possible action regarding Covid-19 Hays County Disaster Order and VOBC.

Mayor Upham notes the Texas Governor is opening things up and encouraging us to continue to maintain an awareness of those around us and respect for those that we come in contact. Encourages following Hays County's directives with social distancing, wearing masks and hand washing.

8) Old Business

A. Discussion and possible action regarding Village of Bear Creek roads and Right of Way.

Mayor Upham is to follow up with Johnny with Texas Road Repair and Patches on road work approved month ago but not done. Typical council has the Right of Way mowed prior to July 4th. Mayor Upham contacted Jeff Raffaele, he's back in the area and mowing neighbor's properties. He provided a quote to mow the Right of Way 5' from the road on both sides of roadways and weed eating all mailboxes and street culverts at cost of \$1,200.00. Mayor Upham makes motion that we engage with Jeff Raffaele to mow the Village Right of Way with 5' standard and weed eat mail boxes and culverts at a cost not to exceed \$1,200.00. Job to be done between June 15, 2020 and July 1, 2020. Commissioner Brushwood seconds. Motion is approved unanimously. Commissioner Brushwood has identified Right of Way trimming/clearing work and got a quote from Cathey's Lawn Care of \$1,500.00 per day to trim/clear identified areas after June 1, 2020. \$1,500.00 per day includes 5 workers, all the equipment, will cut and chip debris and leave cuttings in the ditches. They charge extra to haul anything away. Mayor Upham suggests hiring them for a 3 day period. Wants some of the trees that are within 5' of the road down in ditches cut off and leave the stump. All work to meet our Right of Way clearing specifications. Preferred work is done after Jeff Raffaele mows. Commissioner Brushwood agreed to take the lead on Right of Way clearing. Commissioner Brushwood makes motion to higher Cathey's Lawn Care for 3 days of

work at \$1,500.00 per day. Mayor Upham seconds. Motion is approved unanimously. Commissioner Brushwood will coordinate with City Secretary in regards to notifying property owners of Village is doing Right of Way trimming and clearing.

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

Commissioner Brushwood wants to move the automated digital sign to S Madrone Trl. Moving it is a two-person job. Waiting for Covid-19 to allow him to have somebody to help. When at its new location council agrees doesn't matter if its recording inbound or outbound.

C. Discussion and possible action regarding VOBC plaque or another symbol to memorialize first mayor, Erin Foster.

Council reviews quote and two designs prepared by Innovative Signs. Lead time is estimated at 4 to 6 weeks. The plaque would be attached to concrete on the downstream side of the low water crossing. Prefer attaching it with concealed studs. Once we have the plaque in hand, we can approve a vendor to install. Once the plaque approved Kathryn Rosenbluth will reach out to Erin Fosters family and see if they would like to donate to the cause. Innovate Signs presented two designs. 1) 10 inch x 13 inch x .125 inch, Etched Zink, in cursive font. 2) 12 inch x 16 inch, Cast Aluminum, in block capital letters. Council agrees the cursive font is preferred over the block capital letters. Last sentence reads "The Village of Bear Creek was made better by her life". Kathryn suggested they change 'life' to 'efforts'. Council agrees "The Village of Bear Creek was made better by her efforts". Council has open discussion regarding size and material of the two designs. Mayor Upham makes a motion to approve an expenditure not to exceed \$650.00 for the 12 inch x 16 inch, Cast Aluminum, modifying the script to the cursive font. Commissioner Burns seconds. Motion is approved unanimously.

D. Discussion and possible action regarding Village of Bear Creek web site maintenance.

Table.

9) Announcements

A. Next VOBC Commissioners Meeting is scheduled for Monday,

June 15, 2020 7:00 PM. Possible Zoom Meeting or Location To Be Determined.

B. Next VOBC/TDS Annual Trash Clean Up Day is Saturday, September 19, 2020.

10) Adjournment

The meeting adjourned at 8:59 PM

Submitted on June 21, 2020 by Kathryn Rosenbluth.

Approved on 7/20/2020

By *Kathryn Rosenbluth*
Kathryn Rosenbluth, City Secretary