

**MINUTES OF THE MEETING OF THE
VILLAGE OF BEAR CREEK COMMISSIONERS
June 15, 2020**

1) Call to Order

The meeting was called to order 7:01 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 May 18, 2020 Commissioners Meeting.

May 18, 2020 minutes are not available. Table to next month.

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

Commissioner Brushwood asks for clarification: Does Subdivision Plat Review income have an associated expense. Answer is Yes, the Recording Fee expense. Asks if we should add a separate line item for Capital Improvement expense under Roads. Answer is Yes, when the time comes that road improvement funds spend are considered "Capital Improvement". Regular road maintenance isn't a "Capital Improvement".

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. New Business

- A. Approve payment to Hays Central Appraisal District \$103.10 for 3rd Quarter 2020. Invoice dated 6/1/2020.**
- B. Approve payment to Knight Law Firm \$75.00 for March 2020 attorney services. Invoice dated 5/18/2020.**
- C. Approve reimbursement to Kathryn Rosenbluth \$307.38 to file 2 Final Plats with Hays County (Tax Receipts \$33.00, Shipping \$26.33 & Recording \$248.05)**
- D. Approve payment to Texas Road Repair, Inc \$5,400.00 for road repair of shoulders and alligatored areas. Invoice dated 6/5/2020.**

Commissioner Brushwood makes a motion to approve the Consent Agenda as submitted. Commissioner Burns seconds. Motion is approved unanimously.

7) New Business

A. Discussion and possible action regarding gunfire rules and regulations.

Recent complaints of gun fire activity at 12710 FM 1826, Lot 26, Sec 2, BCO. (Burns)

Many citizens are in attendance for this agenda item. Mayor Upham requests for the purposes of getting as much information as possible requests citizen limit comments to 3 minutes. Commissioner Burns opens the floor for citizens comments.

Michelle Hernandez: Feels it's important we have a collaborative discussion of what our concerns are; from their proposals for solutions. Shares a few concerns of which first and foremost is safety. We're not in what was once a rural community. We have a lot of neighborhoods not only around us, but our lot size can go down to 2 acres. We don't know where the gunshots are coming from and what kind of precautions the shooter is taking to ensure bullets stay on their property. We also don't know what state of mind the shooter is in; are they drunk or sober? Are they shooting safely toward a berm or wildly? Second is noise. When someone is mowing; I recognize the sound and know no risk to my welfare. But when I hear gunfire and its frequent, recurring and long lasting. It's concerning and I feel my family and pets are at risk. Third are environmental considerations. We have Bear Creek running behind us; don't know if the discharge is going into the creek.

Jackie St Pierre: We live on Niles Cove. My grandparents bought this property in 1988. We never had this issue growing up. My family are hunters and we believed there were laws to prohibit shooting guns in the neighborhood. Our property shares a property line with the FM1826 address that's been shooting. We get it first hand; my grandmother's afraid to walk outside due to the noise and we don't know what direction they're shooting. We hear lots of drinking, lots of teenagers, lots of screaming, semi-automatic gunfire and cussing all hours of the night – and even in a heavy thunderstorm. Started June/July 2019 when the purchased the property. They cleared out a bunch of trees between the property line. Created a track for four wheelers and Polaris. They go for hours and hours, when it's dark the vehicle lights shine into my office window and porch windows. When shooting we can't pinpoint where the on the property the shooting is

coming from or direction it's going. It's gotten to the point where we were literally scared to walk outside when the shooting starts.

Kathryn Rosenbluth: I'm quite a distance from the FM 1826 property. Maybe because of where the FM 1826 property is located, direction of shooting, or because our house is on the creek. The semi-automatic gunfire is so loud it sounds like it's coming from next door. It's incredibly disturbing and frightening.

Heidi Turpin: What's going on at the FM 1826 property is relatively new to the neighborhood, but the shooting itself in the neighborhood isn't new. Guns, shooting and target practice have all been an issue for a number of years here. I reached out to the city council and attended meetings in 2013 and 2014 with really no resolution. From where we live; there are total of 32 properties within 500 yards in the neighborhood that is close to North and South Madrone. 500 yards if you do a circumference out from the center of that property. Bullets can go as far as I think 2000 yards in distance. If your shooting into a berm; there are safety requirements. Berm should be a minimum 12 to 15 feet high and be able to shoot 50 foot distance. Berm should be constructed with a material that will stop a bullet and not ricochet. There should be a roof firing point with 360 degree walls to prevent shots from going outside, up or behind from a misfire. There is also the noise issue. 357 Magnum is like 165 decibels with is louder than a rock concert that is usually 145 decibels. I'm in favor of banning shooting in the neighborhood for safety issues. At minimum if shooting is to be allowed the City should require safety precautions.

Mark Bohm: For the people who have already spoken, I'm curious when the shooting is occurring if they've reported it to Hays County Sheriff's Dept. If yes, and Hays Co Sheriff responded did they get back to you with their findings and if they feel there are possibilities of projectiles going over property lines or if it appears to be contained.

Jackie St Pierre: I've called numerous times and they never get back to me. They ask if I want a follow up call or for an officer to come and talk to me, I always say yes. In the last couple months I've recorded the shooting for almost two hours; called Hays County Sheriff and no report back. Once Hays County Sheriff said they were on other high

importance calls and would get to it when they could; by that point gunfire activity could have ceased.

Heidi Turpin: Same, I've contacted Hays County Sheriff more than one, and have never received a reply back. They just say they will investigate it.

Ellen Zimmerman: We live on Bear Creek Dr for 20 yrs and hear the gunshots now and again. I'm here in support of all our neighbors who are fed up with it and think it's easy to say no more gunshots in the VOBC and pass an Ordinance.

It's too risky for me and my friends, neighbors, and animals. Gun shooting isn't necessary. They can go practice target shooting at target shooting posts, not in our neighborhood.

Ashley Mitchell: We lived here 7 years and live close to where the shooting happens on FM 1826 and have the opposite opinion. We were brought up in the country and feel if we want to target practice, we should be able to do so. We're gun owners and know how to shoot safely. Mind you we are opposed to shooting when its late at night and on board with restricting hours of shooting. If your target practicing within 7:00 AM and 10:00 PM and it is within the Deed Restrictions to do so; we support that.

Cathleen Coyle: We are gun owners and I think reinforcing the Noise Ordinance would alleviate some of the issue.

Michelle Hernandez: How do we as a neighborhood know where the gunfire is coming from and what safety precautions the shooter's taken? Very concerning if the gun owners are shooting in the middle of the night while you can hear them partying. The concern becomes the balance of pragmatics with the ability to define and enforce safety. And part of it is just knowing where the gunfire source is.

General Discussion regarding the difficulty of pinpointing the actual property owner/lot where shooting is taking place.

Mayor Upham shares it's against state law to fire a weapon and have the bullets leave your property. If you shoot or someone shoots across a fence line or a property line and your aware of it. It's your duty to call Hays County Sherriff. If the bullet hits something,

you have a case. We've had cases where people weren't being safety minded; it was addressed and solved really easily. A simple conversation can remind the property owner not to shoot in dark and remind them in a nice way of their liability by shooting. Commissioner Brushwood states Bear Creek Oaks Deed Restrictions #15 states firearms will not be discharged into or through joining tracks or abused in any manner dangerous to persons not on the owners track. Hopefully were a community that can work together to solve issues rather than move into litigation. Commissioner Burns states that a lot of us moved out here not to be overly regulated. I grew up around guns and feel comfortable hearing gunfire. I agree that there are times and places for gunfire and safety is imperative. Suggests we start with communicating with the FM 1826 property owners and achieve some accommodation or at least see what they're shooting into. It's my understanding that they did build a berm and use it as a sport range.

Michelle Hernandez: Some questions to explore. We have a question of education level, experience with guns and comfort level. All our tracks used to be 5 acres minimum. We're not "in the country" anymore some lots are < 2 acres. What is the minimum amount of acreage we're comfortable having shooting on? Where is the cutoff line for comfort, do we wait until someone is shot?

Heidi Turpin: Mayor Upham you brought up liability. Does the village feel any risk of liability if someone was injured by gunfire?

Mayor Upham: Council has tried to address these issues in a way that makes the most sense that gets the most cooperation. You can't keep people from doing things that are stupid. It's against the law to shoot somebody, unless in self-defense. The gunfire issue is on the agenda because there is recent interest. I'd hoped somebody had talked to FM 1826 property owner and we knew what they're shooting into and the conditions.

General Discussion regarding concerns with FM 1826 property: 1) shooting after 10pm, 2) long duration of shooting (1 to 2 hrs) 3) lack of adult supervision 4) shooting and partying 5) confirm what they're shooting (berm?)

Commissioner Burns will approach and talk to the property owner. If not available will reach out in writing.

Michelle Hernandez: Thanks council for putting this on the agenda and everyone who showed up to discuss. Hope this is a start to finding a good solution together.

B. Discussion and possible action to compensate city staff for time and expenses regarding open record request and legal expenses outside normal bookkeeping and secretarial work.

Mayor Upham thinks we need to think about the positions that each of us have on council and that they're volunteer positions. Kathryn Rosenbluth, City Secretary/Bookkeeper gets a very modest payment for her services. I can foresee an occasion where we were talking maybe 100 hours of work for nothing she's ever done before and if that's the case. I fear we may lose her, then the burden would fall on us. I've asked her to keep track of her hours and would like you to think about this issue. Important were a good employer as well as proper stewards of the city's money and of our budget.

C. Discussion and Possible action regarding November 3, 2020 Election Law Calendar.

Kathryn Rosenbluth informs council the November 3, 2020 Election Law Calendar is posted. All three seats (Mayor and 2 Commissioner) are up for election. She's posted in posting boxes and on VOBC web site the Deadline to File Applications for Place on the Ballot and the Application for Place on the Ballot. Copies of the Application for Place on the Ballot are in the posting boxes. Applications for Place on the Ballot can be made 7/18/2020 thru 8/17/2020 6pm or postmarked by 8/17/2020.

D. Discussion and Possible action regarding having an independent surveyor and/or engineer on retainer to review subdivide requests. (Prelim and/or Final Plats) (Brushwood)

Commissioner Brushwood said think we admit we do not have all the expertise at our fingertips, recommends we have a certified engineer that would routinely be a part of the process to review and advise subdivides, culverts, driveways, water flow etc. Council agrees. Mayor Upham said in the past we had a city engineer and the problem was we didn't use them very often and he wanted a minimum fee per year; if he recalls correctly. City Secretary recommends contacting City of Wood Creek, Dripping Springs, Wimberley, or other communities around us and find out who they use and/or recommendations. Commissioner Burns said maybe we could find a retired engineer or someone looking extra work on the side.

E. Discussion and Possible action on how to address non-permitted driveways. (Upham)

Mayor Upham came across two driveways (9000 N Madrone Trl & 12700 S Madrone Trl) both were gravel and now resurfaced with white rock. Mayor confirmed with City Secretary and Glen Ragan, Driveway Administrator, neither location obtained a permit to resurface. Being that the same material was used; it's possible a company with extra material went door to door and these two property owners took advantage of their offer. Permitting procedure is important to evaluate adequate drainage and culverts. They put the cart in front of the horse; question is what action to we take. Commissioner Brushwood said we should send them a letter notifying them they are not in compliance with the city Driveway-Culvert Ordinance and permit procedure. Council agrees; important to notify property owner of non-permitted driveway and educate them on our Driveway-Culvert Ordinance and permitting procedure. Mayor Upham asks City Secretary to get with Glen Ragan and run draft letter by council before sending.

8) Old Business

A. Discussion and possible action regarding updating the 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.

Council agrees Subdivision Ordinance needs to be updated to reflect the current Driveway Ordinance number. If taking the effort to update the Ordinance we should update other areas such as how Texas Legislative changes effected city subdivision rules; specifically the timing of Preliminary Plats. 9/2019 Texas Legislature ruled once city deems Preliminary Plat complete; city has 15 days to take action. Causes an undue burden on small cities like ours. To meet that time frame; we should look at changing our newspaper from The News Dispatch weekly publication to The American Statesman's daily publication. Need to investigate American Statements rates; and increasing Subdivision Fees.

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

Council has general discussion of Covid-19 activity in Hays County. Hays County emails daily reports; spike in cases since our last meeting.

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

Commissioner Brushwood confirmed Cathey's Tree Trimming are set to do Right of Way clearing work July 15 thru July 17. City Secretary will be sending Right of Way work letters to all property owners this week. Mayor Upham spoke to Johnny with Texas Road Repair and Patches who recommends we crack seal where roads are alligatoring and coming loose. Johnny feels crack sealing is the better way to go product wise. Most he can do a day is 900 lbs of material. Mayor Upham makes a motion to approve crack seal at cost not to exceed \$2700.00. Commissioner Burns seconds. Motion is approved unanimously.

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

Nothing new to report. Item tabled.

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

Dola Price went back to Innovative Signs with what Council approved: 12-inch x 16 inch, Cast Aluminum plaque in cursive font not to exceed \$650.00. And was told they can't do that size plaque in cursive font; it would have to be block lettering. For cursive font cast aluminum, it would need to be at least 18-inch x 24 inch and the cost increases to \$1295.00. Council has an open discussion reviewing different options Innovative Signs presented (size, material, font etc). Determine there are 4 viable options (#1 thru #4); though at higher cost. Mayor Upham makes a motion to change the \$650.00 expenditure to not to exceed \$700.00. Commissioner Burns seconds. Motion is approved unanimously. Council recommends Dola Price review all options within \$700.00 budget with Innovative Signs make a decision and move forward.

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

Table.

9) Announcements

- A. Next VOBC Commissioners Meeting is scheduled for Monday, July 20, 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 8:50 PM

Submitted on September 20, 2020 by Kathryn Rosenbluth.

Approved on __9/21/2020_____

By *Kathryn Rosenbluth*
Kathryn Rosenbluth, City Secretary