

# MINUTES OF THE MEETING OF THE VILLAGE OF BEAR CREEK COMMISSIONERS November 21, 2023

## 1) Call to Order

The meeting was called to order at 7:04 PM

## 2) Roll Call

Mayor Bohm, Commissioner Brushwood, and Commissioner Brackenridge 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) Convene into executive session pursuant to Section 551.071, Texas Government Code and Section 1.05, Texas Disciplinary Rules of Professional Conduct to consult with legal counsel regarding Cause No. 23-1625, Lipkowski v Village of Bear Creek, et al, In the 428<sup>th</sup> Judicial District Court, Hays County, Texas

Executive Session opened 7:06 pm

Executive Session closed 7:39 pm

## 5) Reconvene into open session to take action as determined appropriate in the City Council's discretion regarding Cause No. 23-1625 Lipkowski v Village of Bear Creek et al, in the 428<sup>th</sup> Judicial District Court Hays County, Texas.

Table. Council has no items to review, discuss or vote on.

**Mayor Bohm requests moving up New Business # 10.C at this time.**

### **10.C Discussion and possible action regarding VOBC/Texas Disposal Services Contract expiring February 29, 2024. Frankie Bates, TDS Representative to address council, regarding TDS certified letter dated 10/30/2023.**

VOBC 5-year contract with TDS comes up for renewal in early 2024. Frankie Bates, TDS Representative, is in attendance. Current VOBC/TDS contract states #7.3 "The initial term of the Contract shall automatically be extended for successive additional 5 year terms unless the either party notifies the other party in writing, not less than 120 days prior to the expiration of the initial term or of any successive renewal term of its intentions to terminate this Contract". VOBC acknowledges receipt of TDS certified letter dated 10/30/2023 notifying VOBC that our current contract will non-renew under the current terms effective 2/29/2024. Frankie Bates talks about the increase in operation costs, explains that TDS has a new methodology in the way they are pricing contracts moving forward. With the uncertainty of the economy and inflation, they are attempting to make rates better reflect real world costs for both parties. Annual rates will be based on these 5 indices: Core CPI 8%, Diesel Fuel 6%, Repair and Maintenance 33%, Labor Costs 38%, Vehicle and Equipment 15%. In an effort to reduce consumer costs; he asks Council if they'd consider abandoning the TDS Annual Trash Collection Day. In its place adopt a residential bulk trash pick-up. Free to residents, except for mattress & box springs. Eash household calls and schedules an individual bulk item pick

up. Household is responsible for leaving the items roadside by 6:00 am on the appointed day for pick up. Pick up is limited to 3 cubic yards (approximately the size of 3 washing machines) of acceptable household items. In the contract VOBC would establish the number of bulk pick-ups each household would have in a calendar year. (ie: 4 pickups or 6 pickups) If we move to a bulk trash pick-up Frankie said the consumer could see a \$2 to \$3 monthly reduction in their bill. The council has a general discussion about Bulk Pick Up versus Annual Trash Collection Day. Mayor Bohm commented that if TDS contract auto renewed, we wouldn't have to seek three competitive bids. Now that we've received notification TDS won't auto renew the contract expiring 2024, that puts us in a position of going putting trash/recycling service out to bid. Frankie assured the council that it was not TDS's intention. TDS legal required they provide the notice; they're now requesting our feedback to work up a contract that better fits the services and options to do a better job for VOBC. The council agrees he should work up numbers with individual bulk item pick- up and numbers with annual trash collection day.

**Mayor Bohm returns to items in order of Agenda.**

**6) Approval of Minutes from April 19, 2022 Commissioners Meeting**

Table, minutes are not complete.

**7) Approval of Minutes from October 17, 2023 Commissioners Meeting.**

Table, minutes are not complete.

**8) Discussion and possible action in regard to reviewing 2023-2024 budget and actual expenditures.**

No action.

**9) 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 Friendship Creekside Fellowship \$50.00 for**

**11/21/ 2023 VOBC Commissioners meeting in the Annex.**

**b. Approve payment to Garcia's Tree Trimming \$5,500.00 for 2.5 days of work in the Right of Way. Invoice #6234 dated 9/26/2023.**

**c. Approve payment to Gilpin Engineering Co \$4,050.00 for City Engineering Services January 2023 to October 20, 2023. Invoice dated October 2023.**

Mayor Bohm makes a motion to approve the Consent Agenda as read. Commissioner Brushwood seconds. Open for discussion. Commissioner Brushwood makes a motion to amend the \$5,000.00 amount council previously approved to Garcia Tree Trimming for Right of Way work to \$5,500.00. Increase is to cover additional time worked to complete the job. Mayor Bohm seconds. Motion is approved unanimously. Consent Agenda motion is approved unanimously.

## **10)New Business**

### **A) PUBLIC HEARING on an Ordinance amending the VOBC Subdivision Ordinance 220419.001 to comply with 2023 legislature mandates and amendments to Chapter 212, Texas Local Government Code.**

Public Hearing is opened. Mayor Bohm said legal counsel advised of the Subdivision Ordinance changes required due to 2023 legislative changes. He highlights adding specific language dealing with traffic studies and requiring a check list in addition to subdivision calendar. The Ordinance states the checklist must be approved within 30 days of approving the Subdivision Ordinance. Mayor will have the checklist ready for review and approval at next month's Commissioners meeting. Public Hearing closed.

### **B) Discussion and possible action regarding an Ordinance amending the VOBC Subdivision Ordinance to comply with 2023 legislature mandates and amendments to Chapter 212, Texas Local Government Code.**

Commissioner Brushwood makes a motion to approve the ordinance amending the VOBC subdivision ordinance to comply with legislative mandates and amendments to Chapter 212 of the Texas Local Government Code. Mayor Bohm seconds. Subdivision Ordinance #231121.001 is approved unanimously.

### **C) Discussion and possible action regarding VOBC/Texas Disposal Services Contract expiring February 29, 2024. Frankie Bates, TDS Representative to address council, regarding TDS certified letter dated 10/30/2023.**

Frankie Bates is no longer in attendance. Commissioner Brackenridge shares his concerns with timing of TDS Contract expiration and going out to bid. What are the RFP notification requirements for municipalities? Also said he's not a fan of going into a five-year contract, not knowing that the rates are going to be each year. Suggests we consider a

1-year or 3-year contract. Mayor Bohm said if the contract is for a shorter period, the state might not require three competitive bids. Mayor Bohm will reach out to legal counsel on this issue. If we need to pursue a bid package, he'll work on it and let the City Secretary know if a special meeting is necessary.

**D) Discussion and possible action regarding Prosperity Bank \$374,000.00**

**CD maturity date 12/2/2023.**

City Secretary reached out to Prosperity Bank; they said it was too soon to know what the proposed renewal rate is until date of expiration. We have 12 days from 12/2/2023 to make any changes. If no action, the CD auto renews to 7-month CD at the going rate. Does the council want to auto renew the full amount? Or take some cash out and renew the balance? The council has a general discussion. Commissioner Brackenridge makes a motion authorizing City Secretary to renew the current CD at a duration not to exceed 7 months at an interest rate that must exceed 5%. And an additional requirement that the early withdrawal penalty is no more than 2 months interest. Mayor Bohm seconds. Motion is approved unanimously.

**11) Old Business**

**A) Discussion and possible action regarding the Coronavirus Local Fiscal Recovery Fund (CLFRF) program and VOBC use of allocated funds. (Including but not limited to Broadband and Water)**

Mayor Bohm mentions the November Texas election had a number of measures on the ballot, some constitutional amendments etc. One of which was about rural water, and it got approved. State of Texas will be incentivizing reimbursement for water upgrades to communities less than 100,000. It would appear that this could be a potential funding source. Commissioner Brackenridge is wondering if we could use the CLFRF money for water infrastructure upgrades as intended. And also have it available for matching grants, use it as a financial mechanism for residents to obtain grant money to extend their water lines. Council has general discussion and agrees that's an idea to explore further. Suggest Commissioner Brackenridge reach out to Texas Municipal League legal team.

**B) Discussion and possible action regarding West Travis County Public Utility Agency (WTCPUA) water expansion model/study for VOBC, including but not limited to discussion of VOBC City Engineer cost estimates for implementation as well as various possible approaches to fund the project.**

Table.

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

Commissioner Brackenridge noticed some road edges on his side of the Village are cracking and failing. He intends to identify the problem areas with spray paint. City Secretary shares that the new owner of 8050 N Madrone Trl parked his air stream trailer in the Right of Way. She sent him a letter informing him of the VOBC Right of Way Ordinance and 30 day notice to remove the air stream camper. He responded promptly that he wasn't aware of parking in the Right of Way was an issue and moved it with 4 days.

**D) Discussion and possible action regarding improving traffic safety at the two VOBC intersections FM1826 at N Madrone Trl and Bear Creek Dr and FM1826 and 45 W. Including but not limited to 1826 Neighborhood Coalition. (Commissioner Brushwood)**

Commissioner Brushwood confirms he'll represent VOBC in the TX Dot second stakeholder working group meeting for the FM 1826 Feasibility Study Meeting on December 5, 2023.

**E) Discussion and possible action regarding Hays County Multi-Jurisdictional Hazard Mitigation Plan. (Commissioner Brushwood)**

Commissioner Brushwood turned in the VOBC response to the Hays County Mitigation Plan. Now we wait for them to formalize and updated county wide plan. For the time being, he recommends we remove this item from future agendas.

**F) Discussion and possible action regarding Covid-19 Hays County Disaster Order, the Governors Orders and VOBC.**

This has been a non-action item for many months, Mayor Bohm recommends we drop this item from the agenda. The council agrees.

**G) Discussion and possible action regarding VOBC records and fire recovery.  
(Mayor Bohm)**

Table.

**H) Discussion and possible action regarding Village of Bear Creek web site maintenance.**

Table.

**12) Announcements**

**A) Next VOBC Commissioners Meeting is Tuesday, December 19, 2023 7:00 PM at Friendship Creekside Fellowship, 14455 FM 1826, Austin, TX 78737.**

**13) Adjournment**

The meeting adjourned at 8:59 PM

Submitted on December 18, 2023 by Kathryn Rosenbluth

Approved on 12/19/2023

By *Kathryn Rosenbluth*

Kathryn Rosenbluth, City Secretary