

COPY
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**MINUTES OF THE SPECIAL MEETING OF THE CITY COUNCIL
OF THE CITY OF COTTONWOOD SHORES, TEXAS
4111 COTTONWOOD DRIVE – CIVIC CENTER
TUESDAY, SEPTEMBER 30, 2003 AT 6:00 P.M.**

1. **CALL TO ORDER AND ROLL CALL.** Mayor Pickens called the special meeting to order at 6:04 PM with Council Members Pfeiffer and Hildebrand present; a quorum was present.

Mayor Pickens introduced the assistant city attorney, Sheila Jalufka of Barney Knight and Associates.

2. **CONSENT AGENDA:**

- A. **MINUTES OF REGULAR MEETINGS ON AUGUST 21, 2003 AND SEPTEMBER 18, 2003.**

Mayor Pickens stated that September 18, 2003, minutes would be tabled.

Commissioner Hildebrand made a motion to accept the minutes of August 21, 2003. Commissioner Pfeiffer seconded the motion and was passed.

3. **CONSIDER AND POSSIBLY TAKE ACTION ON A REQUEST BY MR. LEROY FERRILL FOR A VARIANCE TO THE FIVE FOOT UTILITY EASEMENT AND SETBACK REQUIREMENT AS RECORDED IN VOLUME 141, PAGE 434, BURNET COUNTY DEED RECORDS ON LOTS 280 AND 281, YELLOWSTONE SECTION, COTTONWOOD SHORES, TEXAS AS RECORDED IN VOLUME 1, PAGE 188, BURNET COUNTY PLAT RECORDS TO ALLOW FOR THE CONSTRUCTION OF A NEW HOME OVER AND UPON SAID UTILITY EASEMENT.**

Commissioner Pfeiffer made the motion to approve the request by Mr. Leroy Ferrill for a variance to the five foot utility easement and setback requirement as recorded in Volume 141, page 434, Burnet County deed records on Lots 280 and 281, Yellowstone section, Cottonwood Shores, Texas, as recorded in Volume 1, Page 188, Burnet County plat records to allow for the construction of a new home over and upon said utility easement. Commissioner Hildebrand seconded the motion and was passed.

4. **CONSIDER AND POSSIBLY TAKE ACTION ON A REQUEST BY MR. LEROY FERRILL FOR A VARIANCE TO THE FIVE FOOT UTILITY EASEMENT AND SETBACK REQUIREMENT AS RECORDED IN VOLUME 141, PAGE 434, BURNET COUNTY DEED RECORDS ON LOTS 282 AND 283, YELLOWSTONE SECTION, COTTONWOOD SHORES, TEXAS AS RECORDED IN VOLUME 1, PAGE 188, BURNET COUNTY PLAT RECORDS TO ALLOW FOR THE CONSTRUCTION OF A NEW HOME OVER AND UPON SAID UTILITY EASEMENT.**

Commissioner Hildebrand made the motion to approve the request by Mr. Leroy Ferrill for a variance to the five foot utility easement and setback requirement as recorded in Volume 141, Page 434, Burnet County deed records on Lots 282 and 283, Yellowstone Section, Cottonwood Shores, Texas, as recorded in Volume 1, Page 188, Burnet County plat records to allow for the construction of a new home over and upon said utility easement. Commissioner Pfeiffer seconded and was passed.

5. **CONSIDER AND POSSIBLY TAKE ACTION ON A REQUEST BY MR. LEROY FERRILL FOR A VARIANCE TO THE FIVE FOOT UTILITY EASEMENT AND SETBACK REQUIREMENT AS RECORDED IN VOLUME 141, PAGE 434, BURNET COUNTY DEED RECORDS ON LOTS 284 AND 285, YELLOWSTONE SECTION, COTTONWOOD SHORES, TEXAS AS RECORDED IN VOLUME 1, PAGE 188, BURNET COUNTY PLAT RECORDS TO ALLOW FOR THE CONSTRUCTION OF A NEW HOME OVER AND UPON SAID UTILITY EASEMENT.**

Commissioner Pfeiffer reported that the water line runs across the property and that Mr. Ferrill had stated that he would pay for moving of the line.

Commission Hildebrand made a motion to approve the request by Mr. Leroy Ferrill for a variance to the five foot utility easement and setback requirement as recorded in Volume 141, Page 434, Burnet County deed records on Lots 282 and 283, Yellowstone Section, Cottonwood Shores, Texas, as recorded in Volume 1, Page 188, Burnet County plat records to allow for the construction of a new home over and upon said utility easement. Mayor Pfeiffer seconded the motion and was passed.

6. CONSIDER AND POSSIBLY TAKE ACTION ON A TEMPORARY OCCUPANCY AGREEMENT WITH MR. AND MRS. WAYNE MAYNARD FOR LOTS 7 AND 8, DRIFTWOOD SECTION, COTTONWOOD SHORES, BURNET COUNTY, TEXAS KNOWN AS 714 DRIFTWOOD LANE, COTTONWOOD SHORES, TEXAS.

Mr. Warner stated that he was given the ordinance and cost him about \$30 or \$40 thousand more by following the ordinance and was against allowing the mobile home at 714 Driftwood Lane. Mr. Warner further stated that everyone should follow the same ordinance.

Mrs. Maynard stated that was all that they could afford and that when she came into get the permit she was not told of any square footage requirement nor was she given any ordinances.

Commission Hildebrand stated that if she was not told then it was not her fault and Commissioner Pfeifer agreed.

Judge Austin stated that ignorance of the law is no defense in Texas.

Mrs. Maynard stated that the axle had been taken off so that it would be classified as a permanent structure rather than a mobile home.

Assistant City Attorney Sheila Jalufka gave a legal opinion and stated that there is truth that ignorance of the law is no defense but there is a balancing act of waiver. When it is authorized somebody to do something against the ordinances and person relies on that and do it and they are damaged and even though they are in violation and you can make them correct it, you may have to pay them to correct it. Ms. Jalufka reports that it is replacing something that is falling down and it is a governmental purpose in replacing things that dilapidated for something new and in better condition. Ms. Jalufka reported that the council could make them remove the mobile home but still is a question of the law and the council could be the interpreter of your law, but there is a second interpreter which is the court of Burnet County. The Court of Burnet County could interpret it as ceasing to be a mobile home when she installed as a home site and it is in a zoning district that would allow her to have a residential house. Your district court says that it is more like a house than a mobile home and you have to let them, just like if someone comes in and wants to build a 1200 square foot home, and the first 1,000 square feet is built and they come and ask for temporary occupancy, you don't have to give it to them but you cannot tell them to remove the 1,000 square feet already built. Ms. Jalufka reported that there are a lot of issues that go and ultimately I recommended that this come to the Council and that the council must interpret the ordinance, but that the enforcement of the ordinance begins here but how the ordinance impacts others may end in Burnet County Court.

Mayor Pickens stated that he had been informed that a trailer was being moved in that did not meet the requirements and that he went to the property and the movers of the trailer still had the trailer attached and he told them that the trailer did not meet the requirements and to get it out of the city. The movers stated that they would need a permit to move it and Mayor Pickens told them to get one and have it out by Monday. Mr. and Mrs. Maynard came into the office on Monday and tried to talk to the city about solving the problem.

Commissioner Pfeifer made a motion change the agreement on a temporary occupancy agreement with Mr. and Mrs. Wayne Maynard for Lots 7 and 8, Driftwood Section, Cottonwood Shores, Burnet County, Texas, known as 714 Driftwood Lane, Cottonwood Shores, Texas, for 60 days until they figure out what they are going to do with the trailer. Commission Hildebrand seconded and was passed.

Ms. Sheila Jalufka suggested that Mr. and Mrs. Maynard contact the state attorney's office who would represent them.

Commissioner Hildebrand and Mayor Pickens stated that the city would help them any way that they could with getting the telephone numbers of parties.

7. CONSIDER AND POSSIBLY TAKE ACTION ON MEETING AND AGENDA ITEM PROTOCOL AND COMPOSITION OF THE GOVERNING BODY OF COTTONWOOD SHORES, TEXAS.

Commissioner Pfeifer asked who had placed this on the agenda. Assistant City Attorney Sheila Jalufka stated that it was because of conversations with Mayor Pickens and Commissioner Hildebrand which prompted coming up with language to talk to everyone about some individual concerns. As a general law city, the city is not a strong manager form of government, you do not have a manager who runs the city day-to-day, it is a mayor form of government so you have the mayor conducting the day-to-day business and unless prohibited council members should contact our office. Setting up your own procedures is not uncommon for how things will be done so that you will not have any questions about proper procedures being followed and how things gets put on the agenda. Ms. Sheila Jalufka stated that the

city should pass an ordinance to declare the council to Type A powers and further stated that there should be two more council members and with staggered terms.

Mayor Pickens asked that the item of establishing adding two more council members be placed on the next regular council meeting next month.

8. CONSIDER AND POSSIBLY TAKE ACTION ON DIRECTING THE CHIEF OF POLICE WITH REGARDS TO PATROL POLICIES AND PROCEDURES.

Commissioner Hildebrand stated that at the last meeting several ordinances were brought up by citizens regarding Junk cars, junkyards, and over growth in yards and that there are ordinances for each one of those items that are not enforced. Commissioner Hildebrand stated that since there is no code enforcer it does fall on the police department.

Chief Reeh stated that if the police were notified, they would issue the citation. Judge Austin stated that the citation should state the violation or complaint on the citation rather than violation of the ordinance number because there are numerous items on an ordinance.

Assistant City Attorney Sheila Jalufka suggested that the city have a compliance committee that would look at ordinances, look at the properties that are in violation, take pictures and then present to the council and city to follow up with the letters and citations.

Commissioner Hildebrand stated that another problem was the speeding. Mayor Pickens suggested that the city invest in a radar gun.


9. CITIZEN COMMENTS.

Claudi Rains stated that she had put out an extra garbage can and they only picked up the blue container.

10. ADJOURNMENT. Mayor Pickens adjourned at 8:25 PM.

ATTEST:

TENA COLLIER, CITY SECRETARY


Laurel Kant, City Secretary

Replaces Original Minutes
Dec 21, 2005

CITY OF COTTONWOOD SHORES

3808 COTTONWOOD DRIVE

COTTONWOOD SHORES, TX 78654

(830) 693-3830 FAX: (830) 693-6436



ATTENDANCE RECORD
CITY COMMISSIONERS MEETING
CITY OF COTTONWOOD SHORES, TEXAS

DATE: 9-30-03

PLEASE SIGN IN:

Ollie "Teenie" Beyers

Donna Pfeifer

William Phumkey

Mrs Wanda Maynard

Ed Warner

Debbie Stapp

Anne Austin

Claudia Shurt

Marjorie Phipps

Evelyn Phipps

St. W.

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7. CONSIDER AND POSSIBLY TAKE ACTION ON MEETING AND AGENDA ITEM PROTOCOL AND COMPOSITION OF THE GOVERNING BODY OF COTTONWOOD SHORES, TEXAS.
8. CONSIDER AND POSSIBLY TAKE ACTION ON DIRECTING THE CHIEF OF POLICE WITH REGARDS TO PATROL POLICIES AND PROCEDURES.
9. CITIZEN COMMENTS.
10. ADJOURNMENT.

I CERTIFY THAT THE ABOVE NOTICE WAS POSTED AT CITY HALL, 3808 COTTONWOOD DRIVE, COTTONWOOD SHORES, TEXAS ON THIS 26TH DAY OF SEPTEMBER, 2003 AT 5:00 P.M.


TENA COLLIER, CITY SECRETARY

