

**MINUTES OF A SPECIAL MEETING OF THE CITY COUNCIL
OF THE CITY OF COTTONWOOD SHORES, TEXAS
4111 COTTONWOOD DRIVE – CIVIC CENTER
WEDNESDAY, NOVEMBER 17, 2004 at 7:00 PM**

1. **CALL TO ORDER AND ROLL CALL:** Mayor Pfeifer called this Special Meeting to Order at 7:01 p.m. with Council Members Logan, Carusi, Hildebrand, and Plumley in attendance a Quorum was present. Councilwoman Beyer was absent.

2. **PRESENTATION FROM MRS. DOROTHY BUTLER REGARDING COTTONWOOD SHORES' CHRISTMAS IS FOR KIDS TO BE HELD ON DECEMBER 18, 2004:** Mrs. Dorothy Butler addressed those in attendance and asked for support for the up coming Christmas for Kids. She explained that about twenty people had come up with the idea to have a Christmas party for the kids in the community. She added something positive for the kids. She noted that they had to rent a Santa suit and they wanted gifts for Santa to give. She asked for donations to purchase gift sacks for the children. She stated that the fire department was going to have a hayride, the ladies auxiliary was going to serve cookies and hot chocolate, and the church was providing cookies.

3. **FIRST READING OF AN ORDINANCE ANNEXING LOT 1, WINDCHIME SUBDIVISION, A SUBDIVISION IN BURNET COUNTY, TEXAS, AS SHOWN ON THE PALT RECORD IN CABINET 3, SLIDES 136 C & D, PLAT RECORDS OF BURNET COUNTY, TEXAS BEING 10.31 ACRES, MORE OR LESS, LOCATED ON THE EAST SIDE OF THANKSGIVING MOUNTAIN, WEST OF THE CURRENT CITY LIMITS, AND SOUTH OF RR 2147, INCLUDING THE ABUTTING STREETS, RIGHTS-OF-WAY AND ROADS:** Mr. Marley Porter stated that he had been asked by the City to run through the presentation explaining what the intended project for this area included. He then gave an eight-minute slide show presentation of the proposed development project by Mara Villa Commercial, Bella Vista. He showed the location of the proposed condo units, the restaurant, spa and hotel, and the apartment complex locations according to the topography of the hillside. He explained that this entire area was being considered in the three agenda items tonight. Mayor Pfeifer then read the annexation ordinance. Councilman Plumley made a motion to accept Ordinance No. 111804, Councilman Carusi seconded his motion, which carried by unanimous vote.

- 4. FIRST READING OF AN ORDINANCE ANNEXING 11.55 ACRES, MORE OR LESS, SITUATED IN BURNET COUNTY, TEXAS, LOCATED ON THE EAST SIDE OF THANKSGIVING MOUNTAIN, WEST OF THE CURRENT CITY LIMITS, AND EAST OF HI-RIDGE ROAD, AND ABUTTING THE SOUTHERN AND WESTERN BOUNDARIES OF LOT 1, WINDCHIME SUBDIVISION INCLUDING THE ABUTTING STREETS, RIGHTS-OF-WAY AND ROADS:** Mayor Pfeifer read the annexation ordinance. Councilman Carusi made a motion to approve Ordinance No. 111804-A. Councilman Plumley seconded his motion, which carried by unanimous vote.
- 5. FIRST READING OF AN ORDINANCE ANNEXING 3.54 ACRES, MORE OR LESS, SITUATED IN BURNET COUNTY, TEXAS, LOCATED ON THE EAST SIDE OF THANKSGIVING MOUNTAIN, WEST OF THE CURRENT CITY LIMITS, AND EAST OF HI-RIDGE ROAD, AND ABUTTING THE WESTERN RIGHT-OF-WAY, AND ABUTTING THE WESTERN RIGHT-OF-WAY OF KNIGHT'S ROW INCLUDING THE ABUTTING STREETS, RIGHTS-OF-WAY AND ROADS:** Mayor Pfeifer read the annexation ordinance. Councilman Carusi made a motion to approve Ordinance No. 111804-B. Councilman Plumley seconded his motion, which carried by unanimous vote.
- 6. CITIZEN COMMENTS:** Mr. Phil Davidson asked how they we going to provide sewage and water to these facilities. Mayor Pfeifer explained that there were sewer lines and water lines to the property. Mr. Davidson questioned whether the City had enough capacity left on the sewer. Mayor Pfeifer stated that the capacity was 96,000 gallons. Mr. Davidson asked what happened after 96. Mayor Pfeifer stated we would renegotiate the contract. Mr. Davidson Mr. Chris Atwell stated that he represented some of the people in the room tonight. He stated he had not seen any detailed engineering studies and asked what studies had been done. Mayor Pfeifer stated that the engineer was working on different studies and he could not tell him the exact amount. Mr. Atwell asked if Mayor Pfeifer was relying on representation of the developer. Mayor Pfeifer and several Council Members replied that it was the City Engineer. Mr. Paul Pedersen with Mara Villa Commercial explained that they were working with the City's engineer and he had calculated the project to have 236 LUE (Living Unit Equivalents), which did not reach the ninety-percent (90%) range. He added there were other studies being done, and we should have those results shortly. Mr. Atwell asked what the sewer usage would be from this development. Mr. Pedersen stated that he could not at this time, but it would be in the final engineer study. Mrs. Jean Anderson questioned why the Council would vote at tomorrow nights meeting without the final studies. She thought that was not a good decision, and worried about bankrupting citizens. Mr. Atwell

asked why there was such a rush to act on the petition. He said three months seemed like a short time to consider such changes to the community. Councilman Plumley stated that we had been talking about the area for three years. Mr. Pedersen explained that they were in the process of purchasing the property from the Hurst. Mr. Porter again showed slides to show parking and other areas in question. He had several which showed "pro's and con's" to project.

7. **ADJOURNMENT:** Councilman Hildebrand made a motion to adjourn at 7:55. Councilman Carusi seconded his motion, which carried by unanimous vote.

ATTEST:


TENA COLLIER, CITY SECRETARY



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OF THE CITY OF COTTONWOOD SHORES, TEXAS
4111 COTTONWOOD DRIVE – CIVIC CENTER
WEDNESDAY, NOVEMBER 17, 2004 at 7:00 PM**

AGENDA

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6. CITIZEN COMMENTS.
7. ADJOURNMENT.

I CERTIFY THAT THE ABOVE NOTICE WAS POSTED AT CITY HALL, 3808 COTTONWOOD DRIVE, COTTONWOOD SHORES, TEXAS ON THIS 14TH DAY OF NOVEMBER, 2004 AT 6:30 P.M.

ATTEST:



TENA COLLIER, CITY SECRETARY



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Charles K. Eldred

Date: November 16, 2004

Client # 011.00

TELECOPIER COVER SHEET

Telecopier Number: (830) 693-6436
TO: Tena Collier
Firm/Company: City of Cottonwood Shores
Telephone Number: (830) 693-3830
FROM: Paige H. Saenz, Attorney at law

Total pages including cover sheet: 3

 Original will follow via U.S. Mail.
X Original will not follow.

Message

BARNEY KNIGHT & ASSOCIATES FAX CONFIDENTIALITY NOTICE

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MEMORANDUM

TO: Council Members
FROM: Paige H. Saenz *Paige*
DATE: November 15, 2004
RE: Proposed PUD Zoning of the Hurst properties

Via Facsimile

Paul Pederson and I have been corresponding by email regarding the zoning of the Hurst properties, and I have copied the City Hall email on our correspondence. On November 10th, Mr. Pederson sent me a couple of proposed revisions to the language creating the PUD. My response was to recommend that the original PUD language, or substantially similar language, be used. This memo is to clarify the reasons for my recommendation.

The original PUD language provided for the City Council to approve the condominium ("condo") declarations – which are the rules and regulations that govern the condo community – before the declarations are filed in the county property records. The proposed changes remove the Council's ability to approve the condo declarations prior to the declarations being filed in the property records, and instead state that the "declarations shall be permitted by the City provided that such development adheres to the terms and conditions herein contained, or the current zoning regulations for the PUD, as applicable." The issues that I saw with the proposed revisions were: 1) the City's zoning ordinance currently does not have regulations governing condo communities, nor was there an intent to permit such use without revising the zoning ordinance; 2) the property owners would not be required to bring the condo declarations before Council for consideration before implementing the declarations; and 3) the City currently has insufficient information to determine if the condo use is compatible without revising the zoning ordinance or controlling the declarations.

The condo is a new use that is being created in the PUD. For this reason, I recommend that the PUD ordinance require the City Council to review the condo declarations prior to the declarations being filed in the county property records. The purpose of Council reviewing the documents is to allow Council to retain sufficient control of the manner in which the land is used and to ensure that the condo uses are consistent with the original intent in zoning the property for condo use. To address any concerns that Council may unreasonably withhold approval, I recommend the City consider adding a provision that the City Council will not unreasonably withhold approval. Remember, the landowner/developer is not sure what will be done, but they

are proposing a unique mixture of land uses that cannot be articulated sufficiently at this time to permit the PUD ordinance to detail the condo use.

The original PUD language also provided for tracts to be replatted if the buildings are to be constructed across lot lines, which complies with the City's subdivision ordinance and state law. The proposed revisions could be interpreted to allow building across lot lines without replatting the lot lines. A PUD ordinance does not waive a subdivision ordinance. The language needs to be strong enough to ensure that the City is not apparently waiving its subdivision ordinance, and that the current PUD does not follow lot lines but will upon replatting.

Paul and I spoke on the phone yesterday regarding the revisions and the issues I have raised in this memo, and I expect that he will send proposed new language today, based on our conversation. Should you have any questions, please do not hesitate to contact me.

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: 11.17.04

PLEASE SIGN IN:

MARLEY [Signature]

Georgia Turner Rapstine

Paula [Signature]

Wally Butler

[Signature]

Ken G. Martin

James Taylor

Margie Phisom

Euel [Signature]

J.Z. [Signature]

Nancy [Signature]

Lynn Porter

Niki Lawby

Mike Butler

Angie Breen

Bill Skutt

Soledad Skutt

FRAN Offutt

[Signature]

Bill + Louis [Signature]

TONY!

Blond Blanton

Tommy [Signature]

Tom Francis

Felia Ann Francis

KEN ANDERSON

JEAN ANDERSON

RON [Signature]

B. BELLIS

[Signature]

[Signature]

Lynne [Signature]

Jane Mitchell

Mary [Signature]

[Signature]

[Signature]

[Signature]

Wayne + Elean Skutt

Octavia [Signature]

[Signature]

Betty Gillis

Marian [Signature]