

**CITY OF COPPERAS COVE
CITY COUNCIL REGULAR MEETING MINUTES
OCTOBER 21, 2003 - 7:00 P.M.**

A. CALL TO ORDER

Mayor Rodney G. Nauert called the regular meeting of the City Council of the City of Copperas Cove, Texas to order at 7:00 p.m.

B. INVOCATION AND PLEDGE OF ALLEGIANCE

Council Member Smith gave the Invocation, and led the Pledge of Allegiance.

C. ROLL CALL

Bradi D. Diaz
Ray Don Clayton
John F. Gallen
Charlotte Heinze
Fred Harris
Bud Owsley
Annabelle Smith

ALSO PRESENT

Steven J. Alexander, City Manager
Pamela J. Russell, City Secretary
James R. Thompson, City Attorney

D. ANNOUNCEMENTS

Council Member Smith

- Thank you to everyone who attended the Ogletree Festival this past weekend.
- Thank you to Darrell Eshelman for running a fantastic golf course, and the great Exchange Club tournament that was held there a couple of weeks ago.

Council Member Owsley

- Thank you to Gray Star Construction - they gave \$1,000 to each fire department that assisted with the fire at the Cove Meadows Apartment Complex.

Council Member Clayton

- Thanks to the Hills of Cove Golf Course, the Altrusa organization raised \$4,000 at the golf tournament.

Mayor Nauert

- You may have noticed that the City Council is now using lap top computers for the council meetings. The City of Copperas Cove has implemented a "paperless agenda" procedure. All of the documents for the City Council Agendas are compiled on the computer, e-mailed to the City Council, and posted to the City web site. Thanks to Greg Mitchell, Information Systems Manager for putting this program together.

E. PUBLIC RECOGNITION

1. Proclamation – Veteran’s Day. **Mayor Rodney G. Nauert**

Mayor Nauert read and presented the Proclamation to Hubert Brast, Post Commander and Roger “Odie” O’Dwyer, Post Adjundant of Post 8577. Commander Brast stated that the VFW will frame and hang the Proclamation in the post home.

2. Recognition - senior athletes (from Cove) that participated in the Texas State Senior Games in Temple. **Darrell Eshelman, Head Golf Professional**

Mayor Nauert introduced Darrell Eshelman, Golf Professional. Darrell Eshelman stated that the “Texas Senior Games” is a non-profit organization, and gave recognition to the following competitors that received awards in the games: Carolyn Hulls, Carrol Bizzell, Glenn Carlson, Janetta Carlson, Wilford “ Billy Bob” Elmore, Jeanette Jones and Janice Murphy. Darrell Eshelman gave thanks to all participants in this year Senior Games.

3. Recognition -Tom Camacho, Compost Supervisor. **Fred Harris, Council Member**

Council Member Fred Harris introduced Tom Camacho, Compost Supervisor. Council Member Harris stated: “ This past week Tom has again proved his value as an employee of the City of Copperas Cove by turning over a bank money bag that he found while mowing grass in the front of the Copperas Cove Compost Facility. The lost bank bag contained approximately \$1,760.00 in checks and coins. The bag has been returned to its rightful owner. As a Council Member of the City of Copperas Cove I would like to commend you for your honesty and applaud the example you set for the community. Thank you”.

- F. CITIZEN'S FORUM** citizens are allowed to speak on any matter other than personnel matters, matters under litigation, or matters on the regular agenda, for a length of time not to exceed five minutes per person. Thirty minutes total has been allotted for this section.

Roger “Odie” O’Dwyer – 1703 Highland Drive, Copperas Cove. Mr. O’Dwyer stated he thought the lap top computers were a good thing for the City Council, but questioned if using the computers was violating the open meetings act. Mr. O’Dwyer suggested that the vacant Wal-Mart building be rented out as a temporary storage facility.

G. CONSENT ITEMS

1. Consideration and action on authorizing the City Manager to execute a contract with River City Engineering for the development of a Water System Model for the City of Copperas Cove water distribution system. **Robert M. McKinnon, Director of Water/Wastewater**

2. Consideration and action on Resolution No. 2003-27 authorizing the City Manager to apply for, reject, alter or terminate a grant from the Federal Emergency Management Agency, Texas Association of Regional Councils, for a

Community Emergency Response Team (CERT) grant in the amount of \$34,273.
Jeri Denniston, Grants Administrator/Budget Analyst

Council Member Owsley requested that Consent Item G-1 be removed from the consent agenda, to allow for discussion.

Council Member Smith made a motion to approve consent item G-2. Council Member Diaz seconded the motion, and with a unanimous vote, motion carried.

The Resolution caption reads as follows:

RESOLUTION NO. 2003-27

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS, AUTHORIZING THE CITY MANAGER TO APPLY FOR, ACCEPT, REJECT, ALTER OR TERMINATE A GRANT FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY, FOR ENHANCEMENT OF COMMUNITY EMERGENCY RESPONSE TEAMS (CERTs) THAT PROMOTE COMMUNITY PREPAREDNESS AND FAMILY SAFETY AND ENGAGE CITIZENS IN HOMELAND SECURITY ACTIVITIES.

1. Consideration and action on authorizing the City Manager to execute a contract with River City Engineering for the development of a Water System Model for the City of Copperas Cove water distribution system. **Robert M. McKinnon, Director of Water/Wastewater**

Council Member Owsley made a motion to pull consent agenda item G-1 from the agenda. Council Member Harris seconded the motion, with a unanimous vote, motion carried. Consent Agenda Item G-1 was pulled from the agenda.

H. PUBLIC HEARINGS/ACTION

1a. Public Hearing on Ordinance No. 2003-33 for a change in the zoning designation on Lot 24A, Block 2, House Creek North Subdivision Phase One, from R-1 Single-Family Residential to B-4 Business for the purpose of creating a business district within the subdivision. **David Lilley, City Planner/Chief Building Official**

David Lilley, City Planner/Chief Building Official stated: "The City Council has three options concerning this request. The first is to deny the request as the Planning and Zoning Commission recommends. The second is to approve the request as submitted. The third option is for the City Council to approve the zoning change with a more restrictive zoning designation (i.e. B-3 or B-2). Either of the latter two options will require, at a minimum, a 6 to 1 vote (i.e. 75% approval) in order to pass.

Mayor Nauert opened the public hearing.

Speaking For: Mike Emmons – Lago Vista, Belton.

Speaking Against: Robin Durham, 548 Woodland Drive, Coryell County

Karin Stevens, 545 Woodland Drive, Coryell County
Roger "Odie" O'Dwyer, 1703 Highland Drive, Copperas Cove
Bill Littlejohn, 519 Woodland Drive, Coryell County
Kathy Boyd, 533 Summers Road, Coryell County

Mayor Nauert closed the public hearing.

1b. Consideration and action on Ordinance No. 2003-33 for a change in the zoning designation on Lot 24A, Block 2, House Creek North Subdivision Phase One, from R-1 Single-Family Residential to B-4 Business for the purpose of creating a business district within the subdivision. **David Lilley, City Planner/Chief Building Official**

Mayor Pro Tem Diaz made a motion to approve Ordinance No. 2003-33. Council Member Smith seconded the motion.

Ray Gatewood, Planning and Zoning Commissioner stated: The Planning and Zoning Commission were there to do a job, and cited Section 22(4) of the Zoning Ordinance and Section 22-9 (2) of the Zoning Ordinance. Commissioner Gatewood also stated that the developer had given the City Council a different presentation than the one he gave to the Planning and Zoning Commission, and also stated that the Planning and Zoning Commissioners had listened to the citizens affected in this area.

Council Member Clayton stated: That no one had purchase homes in the subdivision being discussed, and stated that the City does not have any control over homes located outside of the City limits, and that no one in the City limits is affected at this time.

Ray Gatewood, Planning and Zoning Commissioner stated: I understood that people who purchased homes in this area knew that the area was zoned as R-1. The Planning and Zoning Commission considered the problems with noise and high traffic if the zoning was changed.

Mayor Pro Tem Diaz stated: The subdivision we are considering - no one lives there as yet. The adjacent subdivision with residents is outside the City limits.

Council Member Harris stated: That if the Planning and Zoning Commission had of asked the developer the right questions, they would have been provided with more information.

Council Member Owsley: Read the following prepared statement: Mr. Mayor, I would like to take a few moments to comment on Ordinance No. 2003-33 changing Lot 24A, Block 2, House Creek North Subdivision Phase One, from R-1 Single Family Residential to B-4 Business.

First, let me remind all present that the City of Copperas Cove has spent over two million dollars in tax payers money to upgrade the infrastructure at House Creek and Grimes Crossing Road. The purpose of this upgrade was for the development and growth of the northern section of Copperas Cove.

Second, at present the only area for growth that will benefit the City of Copperas Cove as well as the Copperas Cove Independent School District must come from the north

side of Coryell County. Any area annexed outside of Coryell County will not benefit CCISD.

Third, the Copperas Cove Zoning Ordinance, as with the Texas Local Government Code in the enabling section, refers to the health, safety and welfare of the public as a basis for zoning. Granting the requested B-4 zoning, in my opinion will not jeopardize the health, safety or welfare of anyone living in that area of Copperas Cove.

Fourth, of special note is the fact that all citizens of Copperas Cove are governed by zoning ordinances. No citizen can install a fence or replace a hot water heater without a permit. On the other hand a person living outside the City limits can build any type of business on their property and the City could do nothing about it. For example, a person in the adjacent subdivision to House Creek North could build a convenience store, board animals, start a small engine repair shop, put in an adult movie, along Lutheran Church Road, across from Woodland Drive and nothing could be done to stop it.

In closing, I understand and respect the rights of residents in the area of House Creek North, but as a council member elected by the citizens of our City I must not let friendship interfere with the oath I took to uphold the laws of local government. Local government cannot afford to allow citizens outside the boundaries of our cities to hamper growth and prosperity for the citizens we represent. Thank you.

Mr. Roger "Odie" O'Dwyer stated: This country was born out of revolution when the government did not listen to the people. A man's home is his castle. I remind you that B-4 Zoning entitles the landowner to put in just about anything.

Mayor Pro Tem Diaz stated: B-5 is the most unrestrictive zoning.

Council Member Harris stated: I applaud Mr. Gatewood for his comments and input tonight. I have been bombarded with citizens wanting industry for this City. It seems that some of the people wanting industry are those that are opposed to this issue. I vote for what is best for the City after I have done my research. I want a City "Building" for Family Living. Mr. Emmons owns this land and has the same right, if not more of a right to ask for how this land should be zoned.

Steven Alexander, City Manager asked David Lilley, City Planner/Chief Building Official what the zoning requirements were for land outside of the City limits.

David Lilley, City Planner/Chief Building Official stated: The City of Copperas Cove's ETJ is two miles. By State law we do not have control over the size of building, number of buildings, inspection of building, or use of buildings as we do not have authority to zone in our ETJ, this is expressly prohibited in the Local Government Code.

Paul Boyer, P.E., City Engineer stated: After infrastructure requirements are in place in the ETJ, we have no control over use.

Mayor Pro Tem Diaz stated: The City Council has been remiss in training the Planning and Zoning Commission. This City Council has been working hard towards capital improvement programs and spurring growth. The Planning and Zoning Commission was not included in these planning sessions, and we failed to provide them with the information. It is imperative to hold a workshop with the Planning and Zoning Commission.

Council Member Heinze stated: The point we need to ponder is the City needs to grow in this direction.

Council Member Harris stated: After talking with the Director of the Economic Development Corporation, it is clear that anything that brings tax into our City is considered industry.

With a unanimous vote, motion carried.

The Ordinance caption reads as follows:

ORDINANCE NO. 2003-33

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS, APPROVING A ZONING CHANGE BY REZONING LOT 24A, BLOCK 2, HOUSE CREEK NORTH SUBDIVISION PHASE ONE, TO B-4 BUSINESS FROM R-1 SINGLE FAMILY RESIDENTIAL.

2a. Public hearing on Ordinance No. 2003-34 for a change in the zoning designation on Lot 24, Block 6, Highland Park Third Addition from B-4 Business to R-1 Single-Family Residential for the purpose of constructing a single family dwelling on the site. **David Lilley, City Planner/Chief Building Official**

David Lilley, City Planner/Chief Building Official gave an overview of Ordinance No. 2003-33, and stated that the Planning and Zoning commission had forwarded a recommendation to approve this item.

Mayor Nauert opened the public hearing.

Speaking For: David Harman, 10900 FM 116, Gatesville, TX 76528

Speaking Against: Roger "Odie" O'Dwyer, 1703 Highland Drive, Copperas Cove

Mayor Nauert closed the public hearing.

2b. Consideration and action on Ordinance No. 2003-34 for a change in the zoning designation on Lot 24, Block 6, Highland Park Third Addition from B-4 Business to R-1 Single-Family Residential for the purpose of constructing a single family dwelling on the site. **David Lilley, City Planner/Chief Building Official**

Council Member Owsley made a motion to approve Ordinance No. 2003-34. Council Member Clayton seconded the motion and with a unanimous vote, motion carried.

The Ordinance caption reads as follows:

ORDINANCE NO. 2003-34

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS, APPROVING A ZONING CHANGE BY REZONING LOT 24, BLOCK 6,

HIGHLAND PARK THIRD ADDITION, FROM B-4 BUSINESS TO R-1 SINGLE FAMILY RESIDENTIAL.

I. ACTION ITEMS

1. Consideration and action on approval of Ordinance No. 2003-32 amending Chapter 2, Article VI, Section 2-134 of the City's Code of Ordinances. **Amy Anderson, Executive Director**

Mayor Pro Tem Diaz made a motion to approve Ordinance No. 2003-32. Council Member Heinze seconded the motion. Amy Anderson, Executive Director of Keep Copperas Cove Beautiful Commission gave an overview of Ordinance No. 2003-32. With a unanimous vote, motion carried.

The Ordinance caption reads as follows:

ORDINANCE NO. 2003-32

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS AMENDING CHAPTER 2, ARTICLE VI, SECTION 2-134; RULES AND REGULATIONS; MEETINGS; COMPENSATION; PROVIDING A SAVINGS CLAUSE; AND DECLARING AN EFFECTIVE DATE.

2. Consideration and action on a revision to the bylaws for the Keep Copperas Cove Beautiful Commission. **Amy Anderson, Executive Director**

Council Member Heinze made a motion to approve agenda item I-2. Council Member Gallen seconded the motion. Amy Anderson, Executive Director of Keep Copperas Cove Beautiful Commission gave an overview of agenda item I-2. With a unanimous vote, motion carried.

3. Consideration and action on authorizing the City Manager to enter into a contract with Kempner Water Supply Corporation to obtain water service rights (CCN) for approximately 879 acres in the Skyline Valley area. **Paul M. Boyer, P.E., City Engineer**

Council Member Gallen made a motion to approve agenda item I-3. Council Member Smith seconded the motion. Paul Boyer, P.E., City Engineer gave an overview of agenda item I-3. With a unanimous vote, motion carried.

4. Consideration and action on authorizing the City Manager to enter into a contract with Bellpas, Inc. to reimburse the City for water service rights (CCN) for approximately 467 acres in Skyline Valley. **Paul M. Boyer, P.E., City Engineer**

Mayor Pro Tem Diaz made a motion to approve agenda item I-4. Council Member Harris seconded the motion. Paul Boyer, P.E., City Engineer gave an overview of agenda item I-4. With a unanimous vote, motion carried.

5. Consideration and action on authorizing the City Manager to enter into a contract with Dolph Moten to reimburse the City for water service rights (CCN) for approximately 412 acres in Skyline Valley. **Paul M. Boyer, P.E., City Engineer**

Council Member Gallen made a motion to approve agenda item I-5. Council Member Owsley seconded the motion. Paul Boyer, P.E., City Engineer gave an overview of agenda item I-5. With a unanimous vote, motion carried.

6. Consideration and action on nominations for board members to serve on the Coryell County Appraisal District. **Steven J. Alexander, City Manager**

Council Member Harris made a motion to nominate Council Member Smith and Council Member Owsley to the Coryell County Appraisal District. Council Member Clayton seconded the motion, and with a unanimous vote, motion carried.

J. STAFF REPORTS

1. Financial Report for the months ended July 31, 2003, and August 31, 2003. **Robert Camareno, Assistant City Manager/Director of Finance**

Robert Camareno, Assistant City Manager/Director of Finance gave the financial report for the months ended July 31, 2003 and August 31, 2003 via a power point presentation.

2. EDC Financial Report for the month ended August 31, 2003. **Carol Mills, Economic Development Corporation Executive Director**

Carol Mills, Economic Development Corporation Executive Director gave the financial report for the month ended August 31, 2003.

K. REPORTS OF ADVISORY COMMITTEES AND BOARDS – None.

L. ITEMS FOR FUTURE AGENDAS

Council Member Smith – Requested a workshop with the Planning and Zoning Commission. A consensus was given by the City Council.

Council Member Owsley – Requested the Water Model agenda item, be placed on the Workshop Agenda for a second time.

Council Member Harris – Requested the City of Killeen, Director of Aviation be contacted to request he update the City Council in a workshop session on the Joint Use Airport facility.

M. EXECUTIVE SESSION

1. Pursuant to §551.074 of the Open Meetings Act. *Tex. Gov't Code*, Council will meet in Executive Session to discuss the evaluation of the City Manager.

Mayor Nauert closed the regular session of the meeting to adjourn into Executive Session at 9:10 p.m.

N. RECONVENE INTO OPEN SESSION FOR POSSIBLE ACTION RESULTING FROM ANY ITEMS POSTED AND LEGALLY DISCUSSED IN EXECUTIVE SESSION

Mayor Nauert re-opened the regular session of the meeting at 10:31 p.m. Mayor Nauert announced that Executive Session item M-1 was for information purposes only, and no action would be taken.

O. ADJOURNMENT

There being no further business, the meeting was adjourned at 10:32 p.m.

Rodney G. Nauert, Mayor

ATTEST:

Pamela J. Russell, TRMC, City Secretary