

**CITY OF COPPERAS COVE  
CITY COUNCIL REGULAR MEETING MINUTES  
JUNE 5, 2007 – 8:00 P.M.**

**A. CALL TO ORDER**

Mayor, Roger P. O'Dwyer called the regular meeting of the City Council of the City of Copperas Cove Texas to order at 8:02 p.m. Mayor O'Dwyer requested that everyone observe a moment of silence in recognition of Judge Riley J. Simpson, who served on many community boards and committees, and also served this City as City Attorney for 27 years.

**B. INVOCATION AND PLEDGE OF ALLEGIANCE**

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

**C. ROLL CALL**

Bob Reeves  
Larry D. Sheppard  
John Gallen  
James Stockman  
R. Ray Gatewood  
Fred Harris  
Frank D. Somera, Jr.

**ALSO PRESENT**

Steven J. Alexander, City Manager  
James R. Thompson, City Attorney  
Jane Lees, City Secretary

**D. ANNOUNCEMENTS**

Steve Alexander said that the City would like to express appreciation to the Mt. Hiram Masonic Lodge No. 595 for their donation of \$1,000 to help the City improve the Camp Live Oak Boy Scout Area at City Park.

Mayor O'Dwyer said that there is a bike event this coming weekend in Copperas Cove and that Marty Smith needs volunteers. Please contact her at the Chamber of Commerce.

**E. PUBLIC RECOGNITION**

1. Presentation and recognition of service to the City of Copperas Cove to James Stockman, Mayor Pro Tem and Council Member Position Four. **Mayor Roger P. O'Dwyer**

Mayor O'Dwyer presented Council Member James Stockman with a Key to the City paperweight and a City Flag and thanked him for his three years of service to the City of Copperas Cove. Mayor O'Dwyer said that Mr. Stockman served as the Mayor Pro Tem for the past year and assisted him greatly by attending important events as the City's representative in his absence. He said that Mr. Stockman also worked closely with the police and the Civilian Emergency Response Team, and the Cove Country Opry. Although he is a quiet guy, he gets things done when asked.

Council Member James Stockman said that he would keep his comments short and that the Mayor is correct, he doesn't talk much. He thanked everybody who supported and

voted for him. He thanked the citizens of Copperas Cove for allowing him to represent them on the Council for the past three years.

2. Presentation and recognition of service to the City of Copperas Cove to R. Ray Gatewood, Council Member Position Five. **Mayor Roger P. O'Dwyer**

Mayor O'Dwyer presented Council Member Gatewood with a Key to the City paperweight and a City Flag and thanked him for his three years of service to the City of Copperas Cove. Mayor O'Dwyer said that Mr. Gatewood was his sounding board often over the past year. He also represented the City of Copperas Cove at the Central Texas Council of Governments and kept the communications tower project from falling through the cracks because he knew who to contact to keep the project going. He worked on the City's Emergency Operations Plan as well.

Council Member Gatewood thanked the Mayor and said that he was a little different than James; he is a little more verbose. He thanked the citizens of Copperas Cove for allowing him to serve them for three years. He congratulated Ray Don Clayton and Charlotte Heinze for winning their seats on the Council. He said that his term has been rewarding working with this Council because this Council has accomplished a whole lot of things for the City. He thanked the Downtown Association, Chamber of Commerce Staff and Ambassadors, Economic Development Corporation Board and Staff, Police Chief Tim Molnes and Fire Chief Dennis Haas and their first-class Staff, and all the City Staff for being hard-working, industrious, and diligent people for the City of Copperas Cove on a daily basis. He said that the City Staff of Copperas Cove is second to none. He said that Andrea Gardner, Assistant City Manager/Finance Director, has made important contributions to the City ever since the day she came on board. Her knowledge, experience and ability to work well with other people is first class. He said to the City Council that the City has advanced tremendously under them. Don't listen to the nay-sayers who say you have not done a good job. You have done a good job. He thanked the Council for what they have done and for teaching him. He said he has the utmost respect for everyone sitting on the dais. Those who call the Council divided don't get it. If they would look at the issues and decisions that we had to make they would see we have been together. Because we have differed on a couple of things, does not qualify for the adjective, "divided Council." The record speaks for itself. We found agreement on a majority of things we faced. He thanked the Mayor and said to him to do his job. Help put a public face on Copperas Cove, assist the Council in being one voice and saying that the Mayor must set the tone. He thanked Mayor O'Dwyer for being a friend to him. He said that the City could look across this nation but not be able to find a better City Manager than Steve Alexander. His leadership characterization exceeds good—he is a great leader and a great man. He is smart, articulate, hard-working—sometimes too hard. Sometimes we need to get him out of here. He asked the Council to remember that and don't allow him to stay here late at night. We can't begin to repay Steve for the work that he does and the long hours he spends on the job. He said that Copperas Cove is blessed to have him and it would be a tragedy if we were to lose him. We should not judge people based on an incident. We should judge them upon the totality of their service. He told Steve to stay focused and out of the political discussion. Continue to lead the Staff. Copperas Cove is in good hands with you at the helm. He thanked him for being his friend. He thanked the citizens of Copperas Cove for allowing him three years to serve them.

3. Oath of Office – Charlotte Heinze, Council Member Position Four. **Jane Lees, City Secretary**

Jane Lees, City Secretary administered the Oath of Office to Charlotte Heinze and she took her place on the dais.

4. Oath of Office – Ray Don Clayton, Council Member Position Five. **Jane Lees, City Secretary**

Jane Lees, City Secretary, administered the Oath of Office to Ray Don Clayton and he took his place on the dais.

5. Presentation to participants in the Bell County Local Emergency Planning Committee's (LEPC) Governor's Division of Emergency Management Texas Public Officials Workshop. **Roger P. O'Dwyer, Mayor**

Mayor O'Dwyer presented Frank Somera, Phyllis Johnson and Carole O'Dwyer with certificates for completing the LEPC workshop.

**F. CITIZENS' 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.

Bethany Archuletta, Creek Street. Ms. Archuletta said that she was concerned about the lack of equipment in our city parks, especially infant and handicap swings. She said that she inspected all seven parks today and concluded that the equipment has not been planned out very well and some of the equipment needed replacing. She asked the Council to consider purchasing more equipment.

Mike Blount, representing the Noon Exchange Club. Mr. Blount presented Steve Alexander with a plaque as a token of appreciation from them for being an outstanding City employee for the City of Copperas Cove this year.

Dan Corbin, Attorney, 603 North 8<sup>th</sup> Street, Killeen, representing Bill Thomas, a citizen of Copperas Cove. He urged the Council to consider placing an item on one of their future agendas to discuss agenda item I-7 from the May 15, 2007 meeting. He said that at the May 15, 2007 meeting, the Mayor referred to agenda item I-7 as "my trial." He said that it was a unique trial, a trial where no witnesses were sworn, where no evidence was produced, where the Mayor served as the spokesman and presented his defense without there being any other side to the trial. It lacked any element of fairness or due process. He said that the Mayor read some emails and denied that he had broken any state laws and talked about his reimbursements to the City of funds, none of which had previously been discussed by the County Attorney. He said that the Mayor stated that the County Attorney said the matter would not be pursued, because the Mayor had broken no state laws. Mr. Corbin said that the City Charter was adopted by the citizens and that the Charter is to the City of Copperas Cove as the Constitution is to the United States of America. It provides the basic rules for city government and the citizens must approve any changes to it. Mr. Corbin read the following from the City Charter, Section 2.07, Vacancies, forfeitures, filling of vacancies, "A council member or the mayor shall forfeit his/her office if he/she: [(b)(2)] violates any express prohibition of this charter." In Section 2.08 under subsection (c) Interference with administration, he read "Neither the

council nor its members, including the mayor, shall give any orders to any officer or employee who is subject to the direction and supervision of the city manager, either publicly or privately.”

Mr. Corbin continued by stating that on May 1, 2007, the County Attorney reported to the Council, based upon his request, that he had conducted an investigation. He reported to the Council that the Mayor had violated the Charter. Mr. Corbin said that he reviewed all the documents that the County Attorney had reviewed. He said that that public information showed that on July 23, 2006, the Mayor promulgated ‘talking points’ that provided direction to all City employees. On July 24, 2006, the Mayor forwarded those ‘talking points’ by email to the City Manager, Police Chief and Fire Chief. According to the City Manager’s memorandum to the Mayor, dated July 31, 2006, the ‘Talking Points’ memo clearly sets out guidelines and directives for the City Manager and other City employees to follow during the Mayor’s terms through 2012. The City Manager’s memorandum also enclosed Section 2 of the City Charter, pertaining to prohibitions and forfeiture, which he read previously, which placed the Mayor on notice that he forfeited his office.

On January 25, 2007, the Mayor directed the City Attorney to refrain from preparing and circulating the report of the Impact Fee Committee, because the Mayor had a lot of other things he wanted in the report. The Mayor stated in the May 15, 2007 meeting, “It’s over as far as I’m concerned.” Mr. Corbin assured the Council that it is not over. He said that the actions taken by the Council on May 15, 2007 do not prohibit this Council from placing an item on the agenda to consider action to declare the Office of Mayor vacant, because the Mayor has forfeited his position. He said that this Council should be offended that the Mayor previously placed this item on the agenda three days after the election, so that two lame duck Council Members could provide the deciding votes in his favor. Mr. Corbin asked the Council and urged them on behalf of Mr. Thomas, to place this item on the agenda and give it fair consideration.

Mayor O’Dwyer said that he would like to correct one of Mr. Corbin’s statements. Mayor O’Dwyer said that the County Attorney said that “in my opinion.” Mayor O’Dwyer said that there was no trial there. Mayor O’Dwyer asked what prosecutor does not say, “This man is guilty.” Mr. Corbin said that Mayor O’Dwyer was the one who quoted the County Attorney on the things that he wanted quoted. Mayor O’Dwyer said that the County Attorney stood at the dais and said, “In my opinion.” Mr. Corbin said he would be happy to continue to discuss the matter. Mayor O’Dwyer said no, he just wanted to bring out the facts.

Shawn Perry, 1002 Rhonda Lee. He thanked the members of the Council who allowed the citizens to recently vote on a tax freeze. He said that we need more items like this brought forward for citizens to vote on. He commented on a letter to the editor in the newspaper which states that the City should concentrate on working together and put mistakes behind them and move on. Mr. Perry said that any move to remove our Mayor without the vote of our citizens will continue to tarnish the image of our City. If the Mayor made a mistake, he said that we should learn to live with it. He said that Mr. Thomas does not represent all the citizens of this City and should find something else to do besides trying to divide the City.

Bob McFarland, Copperas Cove. A proclamation was presented on May 18 at Bulldawg Stadium to some outstanding people in this community. He thanked everyone, including the Mayor and his wife for being there.

Clarence Arrington, 1402 Chisolm Trail. He said that there are flooding problems in the Ogletree Gap area and asked if there is a plan for drainage there.

Steve Alexander explained some of the problems that the community has seen from the rains. He explained how the drainage fund works. He said there is a workshop being planned with the Council to assess how we handled the storms and what projects need to be done and how to get there. Some projects can be done this summer; however, larger projects will need to have some kind of funding mechanism.

Virgil Porter, 1127 Rhonda Lee. This City was the city built for family living back in 1960 when he moved here. He asked the Council to put past to rest and move on.

Marv Tucker, 2407 Indian Camp Trail. He said that drainage is a problem in Walker Place. The problem has been there since the subdivision was built. He said that no one will accept responsibility for the waterfalls and rivers coming through their yards.

Ed Klouts. He wanted to know how can one citizen hire an attorney and force the Mayor to lose his job when the Mayor was elected by all the citizens.

#### **G. CONSENT ITEMS**

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| 1. Consideration and action on approval of minutes from May 15, 2007.<br><i>Jane Lees, CMC City Secretary</i> |
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Council Member Gallen made a motion to approve consent item G-1. Council Member Somera seconded the motion, and with a unanimous vote, motion carried.

#### **H. PUBLIC HEARINGS/ACTION**

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| 1. Public Hearing, consideration and possible action on Ordinance 2007-17, approving a zoning change by rezoning a 27.3 acre tract out of the W.P. Hardeman Survey, Abstract No. 454 located west of the proposed extension of Constitution Drive (see Exhibit A attached), from B-4 Business District to R-3 Multi-Family Residential District; amending the 2007 Future Land Use Plan by changing the land use designation of this tract from "Special Planning Area" to "High Density Residential"; providing a severance clause and effective date.<br><i>John Adel, City Planner</i> |
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John Adel, City Planner gave an overview of agenda item H-1.

Mayor O'Dwyer opened the public hearing.

Speaking for:

Fred Chavez, 1705 Joan Drive, representing the Economic Development Corporation and speaking for himself because he lives right near the proposed zone change. This zone change is important to consider and the EDC has worked very closely with City Staff to bring this to fruition. He said that the area is not viable as commercial property because of the elevation changes and it also is not the best place to, behind a hill abutting residential, for a business. Providing a buffer seemed to be the best choice for this property. This is probably the best use for this property.

Speaking against: None.

Mayor O'Dwyer closed the public hearing.

Council Member Reeves made a motion to approve agenda item H-1. Council Member Gallen seconded the motion, and with a unanimous vote, motion carried.

The Ordinance caption reads as follows:

**ORDINANCE NO. 2007-17**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS, APPROVING A ZONING CHANGE BY REZONING A 27.3 ACRE TRACT OUT OF THE W.P. HARDEMAN SURVEY, ABSTRACT NO. 454 LOCATED WEST OF THE PROPOSED EXTENSION OF CONSTITUTION DRIVE (SEE EXHIBIT A ATTACHED), FROM B-4 BUSINESS DISTRICT TO R-3 MULTI-FAMILY RESIDENTIAL DISTRICT; AMENDING THE 2007 FUTURE LAND USE PLAN BY CHANGING THE LAND USE DESIGNATION OF THIS TRACT FROM "SPECIAL PLANNING AREA" TO "HIGH DENSITY RESIDENTIAL"; PROVIDING A SEVERANCE CLAUSE AND EFFECTIVE DATE.**

**I. ACTION ITEMS**

1. Consideration and action on Resolution No. 2007-31, declaring support for the proposed 50 units of affordable rental housing, Cove Village Apartments, 1102 Golf Course Road, Copperas Cove, Texas, as detailed in Development No. 07431, a housing tax credit program application through the Texas Department of Housing and Community Affairs. *Mayor Roger P. O'Dwyer*

Mayor O'Dwyer gave an overview of agenda item I-1.

Council Member Gallen made a motion to approve agenda item I-1 and add to resolution 'the proposed renovation of 50 units.' Council Member Reeves seconded the motion, and with a unanimous vote, motion carried.

The Resolution caption reads as follows:

**RESOLUTION NO. 2007-31**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS, DECLARING SUPPORT FOR THE PROPOSED 50 UNITS OF AFFORDABLE RENTAL HOUSING, COVE VILLAGE APARTMENTS, 1102 GOLF COURSE ROAD, COPPERAS COVE, TEXAS, AS DETAILED IN THE DEVELOPMENT NO. 07431, A HOUSING TAX CREDIT PROGRAM APPLICATION THROUGH THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS.**

2. Consideration and action on the request for the final plat approval of Skyline Flats Phase Two. *John C. Adel, AICP, City Planner*

John C. Adel, AICP, City Planner gave an overview of agenda item I-2.

Council Member Somera made a motion to approve agenda item I-2. Council Member Gallen seconded the motion, and with a unanimous vote, motion carried.

**J. STAFF REPORTS**

1. Financial Report for the Month ended April 30, 2007. **Andrea Gardner, Asst. City Mgr./Director of Finance**

Andrea Gardner, Asst. City Mgr./Director of Finance gave the financial report for the month ended April 30, 2007.

**K. REPORTS OF ADVISORY COMMITTEES AND BOARDS – None.**

**L. ITEMS FOR FUTURE AGENDAS**

Council Member Somera requested that an item be placed on the June 19 agenda to move the July 3, 2007 Council meeting to July 5, 2007. Council Members Reeves and Heinze concurred.

**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 duties and responsibilities of the City Manager.

The Council went into Executive Session at 9:25 p.m. to discuss item M-1.

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

The Council reconvened the open meeting at 9:54 p.m. Mayor O'Dwyer stated that there was no action to be taken on the discussion from Executive Session.

**O. ADJOURNMENT**

There being no further business, Mayor O'Dwyer adjourned the meeting at 9:55 p.m.

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Roger P. O'Dwyer, Mayor

ATTEST:

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Jane Lees, City Secretary