

**City of Woodcreek City Council Meeting**  
**August 12, 2009, 6:30 p.m.**

**Minutes**

**1.) Call to Order.**

**2.) Invocation.**

**3.) Pledge.**

**4.) Roll Call. Present:** Councilmember Brent Pulley, Councilmember Melinda Gumbert, Councilmember Jeff Rasco, Mayor Eric Eskelund, Mayor Pro-Tem Sally Caldwell, City Financial Coordinator Amy Bell, Public Works Director Frank Wood, City Attorney Roger Gordon

**Absent:** Councilmember Kay Henderson

**5.) Public Comments.** Mr. A.C. Sternthal expressed his concern that the City begin planning as soon as possible for the future of the city with regard to the City's contract with Aqua Texas expiring in 2011. Sybil Patterson requested information on the status of street repairs being made adjacent to her home, feeling that this area did not require repairs. Public Works Director Wood responded that he would address Mrs. Patterson's concerns in his report to City Council tonight.

**6.) Report Items.**

**A.)** Public Works Director Wood reported to the City Council on the issue of utility line cuts, with emphasis on the depth of the cut as well as how the city processes utility line permits. He also stressed the need to update City ordinances to better specify how utility companies make utility cuts and presented a set of photographs of examples of problem cuts. Mr. Wood stated that, in October, he plans to contact utility companies that were responsible for incorrectly done utility cuts in order to start getting them repaired. In response to Ms. Patterson's inquiry, the street work had been delayed due to the need for several utilities to lower their lines in Augusta Drive and the paving company had moved on to another job in the mean time until the lines were lowered in the street. The paving company will return to finish the work on a later schedule.

**B.)** City Administrator Pieter Sybesma reported that the fence at 56 Canyon Creek Drive is now a pedestrian gate, and the property can no longer be accessed by vehicles. He also reported that the car at 5 Woodview Court has been moved, and the high grass at 60 Augusta Drive has now been cut.

**C.)** Mayor Eric Eskelund reported on the new Community Emergency Response Team (CERT) effort, stating that CERT is supported by the Department of Homeland Security. It was decided to form a CERT team to provide the city with a team of people who could coordinate actions to be taken in the event of an emergency.

**D.)** Mayor Eskelund reported that the CERT team in Hays County is considered one of the nation's best, and that the CERT team serves mainly as local support for first-responders in emergency situations. Further, he stated that CERT is currently seeking volunteers, and that attendance at a FEMA course is required to be one.

**E.)** City Attorney Roger Gordon reported that the mental culpability ordinance establishes the required mental state for the commission of certain criminal misdemeanor

offenses and further stated that the technology and security fund ordinances are intended to cover the administrative and upkeep costs of the court. Judge Ross Fischer said that he believed these ordinances would give a sound basis for the court to operate on.

**F.)** City Administrator Pieter Sybesma and City Financial Coordinator Amy Bell reported jointly on the recommended budget amendments to the 2008-2009 operating budget, which are being made in response to revenue increases in certain areas, such as building permit fees.

## **7.) Discussion and Action Items.**

**A.)** Mr. Don Ferguson, City Administrator for the City of Wimberley, reported to the Council that Wimberley is planning to pass an ordinance designating Winter Mills Parkway as a Through Truck Route. The City of Wimberley is also working with the Texas Department of Transportation for a state designation of a Truck Route and is here seeking support from the City of Woodcreek in this matter. Due to concerns that trucks might begin using Woodcreek Drive more often to access Highway 2325 and questions of enforceability, Mayor Eskelund stated that no action would be taken on this item. Mr. Ferguson said he would return with more information.

**B.)** Mayor Eskelund reported that all Councilmembers have been assigned their respective responsibilities, and that these designations will be posted on the city website.

**C.)** Mayor Pro-Tem Caldwell moved to appoint Mr. Eugene Golembiewski as Woodcreek City Treasurer with the motion being seconded by Councilmember Pulley. The motion was approved by a vote of 4-0 with Councilmember Henderson being absent.

**D.)** Councilmember Jeff Rasco moved to appoint all ten of the given applicants to the Citizen's Committee to review the 2020 Vision-Master Plan for the City of Woodcreek with the motion being seconded by Mayor Pro-Tem Caldwell. The motion was approved with a vote of 4-0 with Councilmember Henderson being absent. Those appointed are: Aurora LeBrun, Acting Chairperson, Michael Steinert, Dan Williams, Philip Lebkuecher, Tom Gillespie, Monica Rasco, Nadine Cook, Sybil Patterson, Moe Othman and Linnea Bailey

**E.)** No action was taken on the issue of appointing a member to the Planning and Zoning Commission.

**F.)** Mayor Pro-Tem Caldwell moved to adopt the Ordinance Establishing the Required Mental State for Commission of Certain Criminal Misdemeanor Offenses with the motion being seconded by Councilmember Rasco. The motion was approved with a vote of 4-0 with Councilmember Henderson being absent.

**G.)** Mayor Pro-Tem Caldwell moved to adopt the Ordinance Establishing Regulations for the Issuance of Citations Stemming from Alleged Criminal Violations of Ordinances with the motion being seconded by Councilmember Rasco. The motion was approved with a vote of 4-0 with Councilmember Henderson being absent

**H.)** Councilmember Rasco moved to adopt the Ordinance Establishing a Municipal Court Technology Fund and providing for the Assessment and Collection of a Municipal Court Technology Fee which was seconded by Councilmember Gumbert. The motion was approved with a vote of 4-0 with Councilmember Henderson being absent.

**I.)** Councilmember Gumbert moved to adopt the Ordinance Establishing a Municipal Court Building Security Fund and providing for the Assessment and Collection of a Municipal Court Building Security Fee which was seconded by Mayor Pro-Tem

Caldwell. The motion was approved with a vote of 4-0 with Councilmember Henderson being absent.

**J.)** City Administrator Sybesma reported that this budget amendment would reflect an approximately \$7,000 dollar increase overall, with City Financial Coordinator Bell adding that this amendment will likely be the last one needed until the end of the fiscal year. Mayor Pro-Tem Caldwell moved to approve the budget amendment with Councilmember Gumbert seconding. The motion was approved with a vote of 4-0 with Councilmember Henderson absent.

**8.) Public Hearing.** Councilmember Gumbert recused herself.

**A.) Subdivision Final Plat:** A request by Ten Robles, Inc., Harry E. Gumbert, Jr. & Dorothy M. Gumbert to approve a final plat for the development of 10.48 acres located within the City of Woodcreek pursuant to a Development Agreement.

**B.)** City Administrator Sybesma reported that the Planning and Zoning Commission recommended approving the final plat by a vote of 5-0 at their August 11, 2009 meeting.

**C.)** The applicant stated his agreement with the Planning and Zoning Commission's recommendation to approve.

**D.)** No public comment was made.

**E.)** Mayor Pro-Tem Caldwell moved to approve the final plat for the development upon condition of receipt of TCEQ documents with Councilmember Pulley seconding. The motion was approved with a vote of 3-0, with Councilmember Henderson and Councilmember Gumbert absent.

**9.) Consent Items.**

**A.)** Councilmember Pulley moved to approve the minutes of the regular Woodcreek City Council Meeting of July 8, 2009 with Mayor Pro-Tem Caldwell seconding. The motion was approved with a vote of 4-0 with Councilmember Henderson being absent.

Councilmember Pulley moved to approve the minutes of the Special Council Meeting of July 29, 2009 with Mayor Pro-Tem Caldwell seconding. The motion was approved with a vote of 4-0 with Councilmember Henderson being absent.

**B.)** Mayor Pro-Tem Caldwell moved to approve the Warrants with Councilmember Gumbert seconding. The motion was approved with a vote of 4-0 with Councilmember Henderson being absent.

**10.) Executive Session As Authorized by Sections 551.071, Related to Consultation with Attorney, and 551.074, Texas Government Code, Related to Personnel Matters.**

**A.)** The Council went into Executive Session at 7:55 p.m. and returned from Executive Session at 8:05 p.m.

**11.) Executive Session As Authorized by Sections 551.071, Related to Consultation with Attorney.**

**12.) Reconvene in Open Session.** The Council returned from Executive Session at 9:49 p.m.

A.) Discussion and possible action on Cause No. 08-1889, Roger Hopkins, Inc. v. City of Woodcreek, in the 207th Judicial District Court of Hays County, Texas. No action was taken.

B.) Discussion and possible action regarding "*Aqua Utilities, Inc., and Aqua Development, Inc., d/b/a Aqua Texas, Inc. v. Mark R. Vickery, Executive Director of the Texas Commission on Environmental Quality, The Texas Commission on Environmental Quality ("TCEQ"), and Its Commissioners Buddy Garcia, Larry Soward and Bryan Shaw, Defendants,*" filed July 2, 2009 in the District Court of Travis County, Texas, appealing the TCEQ final order in the matter of State Office of Administrative Hearings Docket No. 582-06-1366, TCEQ Docket No. 2006-0072-UCR ("*The Woodcreek Ratepayers Coalition's Petition to Appeal the City of Woodcreek's Decision to Establish Water and Sewer Rates Charged by Aqua Utilities, Inc., d/b/a Aqua Texas Inc., and Aqua Development Inc.*"). Motion by Mayor Pro-tem Caldwell and seconded by Councilmember Rasco that Mayor Eskelund and Councilmember Pulley are designated to take action on behalf of the City of Woodcreek in response to District Court filings and the City's Attorney is authorized to take action as discussed in Executive Session. The motion was approved by a vote of 4-0 with Councilmember Henderson being absent.

C.) Discussion and possible action on Cause No. A08CA851JN; Westridge Joint Venture v. City of Woodcreek; in the United States District Court; Western District of Texas; Austin Division. Motion by Mayor Pro-tem Caldwell and seconded by Councilmember Rasco that the City's Attorney is authorized to take action as discussed in Executive Session. The motion was approved by a vote of 4-0 with Councilmember Henderson being absent.

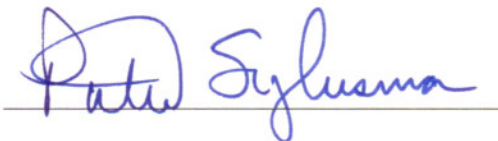
D.) Discussion and possible action on Cause No. 07-1588; City of Woodcreek v. Aqua Texas & MMMDK 1205 LTD; in the 207<sup>th</sup> Judicial District Court of Hays County, Texas. No action was taken.

### **13. Adjourn**

Councilmember Gumbert made a motion to adjourn the meeting with Mayor Pro-tem Caldwell seconding the motion. The motion carried with a vote of 4-0. The meeting was adjourned at 9:52 p.m.



Eric C. Eskelund, Mayor



Pieter Sybesma, City Administrator