

CITY OF COOPER
CITY COUNCIL MEETING – REGULAR
DECEMBER 10, 2018 – 5:00 PM

COUNCIL MEMBERS PRESENT: DARREN BRADY; MAYOR, E. J. CATES, ALLEN FOSTER, DONNA THOMASON, AND WILLIE “BEAR” WILKINS

CITY ATTORNEY: JAY GARRETT

OTHERS PRESENT: EMILY HOWSE, KAREN ATKINS, SUSAN RAZOR AMANDA L’ESPERANCE, CARMEN CHESSHER, TREY OATS, LONE OATS, RICKY D. SMITH, KIM COX, AND CHARLES EDWARDS

ABSENT: DAVID PHILLIPS

AGENDA ITEM#1

Mayor Darren Brady called the meeting to order and Darren also voiced the prayer.

AGENDA ITEM #2

Donna Thomason made the motion to approve the November 13, 2018 minutes as written. Allen Foster seconded. Vote unanimous.

AGENDA ITEM #3

Charles Edwards, with Resource Management and Consulting, was present to present resolution # 01-12-18 authorizing the submission of an application to the Texas Department of Agriculture (TDA) for a 2019/2020 TXCDBG Program Grant. This grant consists of \$275,000.00 for repairs at the Water Treatment Plant with a 10% match for the City of Cooper. E. J. Cates made the motion to read resolution #01-12-18 by caption. Donna Thomason seconded. Vote unanimous.

City Attorney Jay Garrett read:

RESOLUTION #01-12-18

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COOPER, TEXAS, AUTHORIZING THE SUBMISSION OF A TEXAS COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM APPLICATION TO THE TEXAS DEPARTMENT OF AGRICULTURE FOR THE COMMUNITY DEVELOPMENT FUND; AND AUTHORIZING THE CITY MAYOR TO ACT AS THE CITY’S EXECUTIVE OFFICER AND AUTHORIZED REPRESENTATIVE IN ALL MATTERS PERTAINING TO THE CITY’S PARTICIPATION IN THE TEXAS COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM.

Willie “Bear” Wilkins made the motion to approve resolution #01-12-18 authorizing the submission of an application to the TDA for the 2019/2020 TXCDBG Program Grant. Allen Foster seconded. Vote unanimous.

AGENDA ITEM #4

Trey Oats thanked the council for allowing him to speak. He appeared before the council again to discuss the issue of his house which he inadvertently placed of city property. Previously the council requested a survey be done to verify this determination. Trey presented his survey which William V Perry, with CGB Surveying, Texas LLC, Firm Certificate #10168801 performed. Trey stated that the survey which he presented was not officially signed, awaiting city approval of the findings. Below is the document that Trey presented stating his suggestion for a resolution on this matter

**10 December 2018 – Summary Discussion to Mayor Braddy and the Cooper City Council
By Trey Oats, Delta County Resident (210.701.0061 / tdoats@gmail.com)**

Background

- Previously presented to this body on 09 July 2018.
- Ask by Cooper City Council was to have a professional survey completed.
- Location, north side of Big Creek Lake, north of Cooper approximately 5 miles on FM128.

Actions Taken

- 29 July, Hired CGB Surveying LLC of Sulphur Springs Texas
- 24 August, CGB performed first survey
- 25 September, CGB provided draft copy of said survey (Final after City Council Reviews)
- 09 October, Draft Survey dropped off to Mayor
- 13 November, Met with Mayor Braddy and Jay Garrett to review survey
- 03 December, Survey provided to Kim Gregory at the Delta County Appraisal District.

Findings

- Survey "Confirmed" Oats Home is on City Property.
 - Actual location is 166 feet from nearest Oats property corner.
 - Finished Frame (FF) of home is 464.88 feet above sea level as noted on survey.
 - City Flowage Easement is only on "Second Tract" as noted on survey.
- Survey "Revealed City Liability"
 - City is exposed without "Flowage Easement" on Oats property beneath max flood zone of 461.5 feet above sea level in 3 places as noted on the survey.
 - Largest property is .406 acres, in the center of the survey "Third Tract" per deed.

Desired Objective

- Find a resolution.

Suggestion

- Negotiation with neighboring body, City of Cooper, to achieve a 'win-win' perhaps...
- In laymen's terms, a 'Trade' to Eliminate the city's liability and exposure on land you do not have easement on, for ownership of the land down to the 458 elevation which includes the land that my house sits upon.
- In legal 'meets and bounds' terms, following precedent set by the City of Cooper in 2001 as noted on the next page.
- Trade Oats Owned "Flowage Easement" on "First Tract" and "Third Tract" along with adjustment on "Second Tract" to the City of Cooper (approximately .65 Acres)
- In return, for "Ownership" of the property out to 458 feet above sea level (6.889 Acres)

Precedent - Easement of adjoining property

- To the West: 2001 – City of Cooper granted...
- "All land lying above the 458 mean sea level which is part of 88.211 tract of land conveyed by Lone Oats and wife, Mae Oats to the City of Cooper by deed dated January 21, 1986 of record in Volume 182, page 575 Deed Records of Delta County Texas."
- "SAVE AND EXCEPT there is hereby reserved to the Grantor it's successors and assigns a flood easement on said land between 458 mean sea level contour line and up to 461.5' mean sea level contour line for the purposes of inundating said land with the waters and overflow of Big Creek Reservoir." 2001

the Ask... deed adjustment

1) "All land lying above the 458 mean sea level which is part of 85.78 tract of land conveyed by ELDON M. BOND, SR. and wife, HELEN E. BOND to the City of Cooper by deed dated 16th day of September 1985 in Vol 181, page 577 Deed Records of Delta County Texas." is hereby conveyed to Trey Oats

2) Add Proposition for the CITY OF COOPER for flood easement:

"SAVE AND EXCEPT there is hereby reserved to the Grantor it's successors and assigns a flood easement on said land between 458 mean seal level contour line and up to 461.5 mean seal level contour line for the purposes of inundating said land with the waters and overflow of Big Creek Reservoir." conveyed to the CITY OF COOPER for BIG CREEK LAKE RESERVOIR

Trey stated that the city carried a liability due to lack of flowage easement on part of his property. His proposal of trading flow easement for property ownership would benefit both

parties. City Attorney Jay Garrett stated that the city had no liability worries due the fact that it was a very low percentage of a chance that those areas would flood and even so the city had liability insurance for such events. After much discussion on this matter it was the consensus of the council to table this matter until further research could be done.

AGENDA ITEM #5

Carmen Chessher thanked the council for allowing her to speak. Carmen presented to the council that the Cooper Clean-up Crew had completed many projects. She commended the volunteers for their time and effort. Carmen stated that several of the volunteers had equipment that was available for use but was not always available. She asked the council if city equipment could be used when the others were not available. City Attorney Jay Garrett stated that the city could not go onto private property unless the property was legally condemned after legal attempts to contact the owner of such property had been made. It was the consensus of the council to allow city employees, which were volunteering their time, to use city equipment in cases that were deemed legal to do so. Donna Thomason made the motion to allow city equipment to be used to aid the volunteers of the Cooper Clean-Up Crew only with city employees which were volunteering to operate such equipment. Allen Foster seconded. Vote unanimous.

AGENDA ITEM #6

Ordinance #01-12-18 was on the table for approval. The details of this ordinance were previously discussed in the November 13, 2018 meeting to allow a set back variance for 1308 S.W. 10th. E. J. Cates made the motion to read ordinance #01-12-18 by caption. Donna Thomason seconded. Vote unanimous.

City Attorney Jay Garrett read:

ORDINANCE NO. 01-12-18

AN ORDINANCE GRANTING VARIANCE FOR PROPERTY LOCATED AT 1308 S.W. 10th STREET FROM CERTAIN ENCROACHMENT OF THE HOUSE AND COVERED PORCH IN THE REGULATIONS PRESCRIBED BY THE CITY CODE FOR AN EXISTING STRUCTURE SET BACKS AND PROVIDING AN EXPIRATION FOR THE VARIANCE. BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COOPER:

E. J. Cates made the motion to approve ordinance #01-12-18 as read by caption. Allen Foster seconded. Vote unanimous.

AGENDA ITEM #7

Sheriff Ricky D. Smith was present to give an update on the firing range that was located behind the Big Creek Dam at the Water Treatment Plant. Sheriff relayed his gratitude to the council for allowing the Sheriff's Department to build the firearm qualifying facility. He stated that it was a great value to his department. He stated that the state requires annual qualification but due to the near location, he would like for his deputies to qualify bi-annually. Sheriff stated that there was more work that needed to be done to allow better access but he was very grateful and appreciative of what was done so far.

AGENDA ITEM #8

Mayor Darren Braddy gave updates on current maintenance projects.

AGENDA ITEM #9

Monthly budget reports were reviewed.

AGENDA ITEM #10

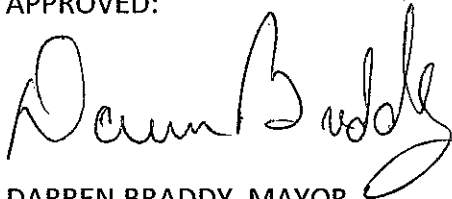
Donna Thomason made the motion to approve accounts payable. E. J. Cates seconded. Vote unanimous.

AGENDA ITEM #11

Allen Foster made the motion to adjourn. Willie "Bear" Wilkins seconded. Vote unanimous.

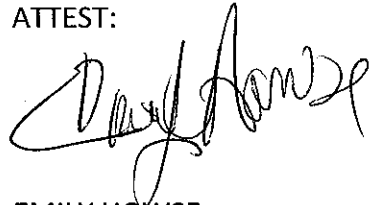
TIME: 5:55 PM

APPROVED:



DARREN BRADDY, MAYOR
CITY OF COOPER

ATTEST:



EMILY HOWSE
CITY SECRETARY