

**TOWN OF RANSOM CANYON
CITY COUNCIL MEETING, SEPTEMBER 9, 1997
MINUTES**

This regular meeting of the City Council of the Town of Ransom Canyon was held at the Ransom Canyon Fire Station, 1 Ridge Road, Ransom Canyon. Mayor Lee Kitchens brought the meeting to order at 7:00 P.M. All council members were present: Charley McQueen, David Peterson, Inez Speed, Ken Williams and Erika Hoeve.

MINUTES: After the customary moment of silence, the council considered the minutes of two August meetings. Ken Williams moved to approve, Erika Hoeve seconded, all approved.

FINANCIAL REPORT: David Peterson questioned the status of the police telephone system. Police Chief Wayne Rawls stated that the old recording equipment is still not operational, the answering service system is working exceptionally well It is immediately responsive to callers, it immediately contacts the Chief via pager, no matter where he is, calls are documented via fax each morning, the service provides needed telephone relief for the city secretary, it provides confidentiality for house watch request messages, and because two budgeted items, a pager and a mobile phone, have been canceled, the budget can stand the expense. For all of these reasons he requested that the answering system be continued. Inez Speed said that as long as we only have one policeman, and we can afford the expense, the service should be continued.

Erika Hoeve moved to approve the Financial Report and pay the Claims and Demands, Inez Speed seconded and all approved. Inez did question why the library book expense was not immediately attributed to the increased grant revenue. Melissa answered that the accounting system did not provide for anything but a clear delineation of revenue and expense.

AUDITOR: Inez Speed moved to confirm the appointment of Mason Warner for this year's audit. Erika Hoeve seconded, all approved.

RELEASE CASH BALANCES: Resolution # 59 releasing designated cash balances was unanimously approved on a motion from Inez Speed, second from Ken Williams.

CAPITAL IMPROVEMENT ORDINANCE: Ordinance # 143 establishing the Capital Improvement Program for this budget year was unanimously approved on a motion from Ken Williams, second from David Peterson.

RESERVE FUND: Resolution # 60 providing for the Reserve Fund for this budget year was unanimously approved on a motion from Erika Hoeve, second from Inez Speed.

BUDGET: Ordinance # 144 adopting the Budget for 1997-98 was unanimously adopted on a motion from David Peterson, second from Ken Williams.

TAX RATE: Ordinance # 145 adopting a 59 cent tax rate was unanimously adopted on a motion from Erika Hoeve, second from Ken Williams and Inez Speed.

DEED TRANSFERS: Item # 8. City Attorney John Sims explained that there were locations in the city where LRC Inc. wished to deed property to the City, and the City had agreed to accept the property and dedicate the property to public use. The street known as Yucca Lane would become the property of the city as it is now paved, all adjoining property owners had given their consent, and the city will dedicate the street to the public. John Sims recommended that the council accept the Deeds from Harold Chapman, and dedicate the deeded property to public use. Inez Speed so moved, Erika Hoeve seconded, all approved.

APPROVE REPLAT OF BLOCK 4 AND BLOCK 4, TRACT A- In conjunction with this, Harold Chapman wished for the city to approve a replat of B 4 L 6, an unimproved lot that would have a street address of 17 Foothill Drive. Erika Hoeve moved to approve the replat, Inez Speed seconded, all approved.

BLOCK 20 TRACT A- Agenda item 10. Tract A is a common area surrounded by Garden Homes. Lee Kitchens asked Melissa to brief the council on the situation at hand.

Melissa stated that Richard Webb had submitted plans for a building permit for B 20 L 99. Plans appeared to be normal and routine, nothing unusual. Set backs were checked and complied with the requirements of the Deed Restriction. The plans were approved by the Architecture Committee July 14, and the permit was issued in August. After persistent questioning about the rear set back from the adjoining lot owner, Melissa examined the plans again, and discovered that the submitted plan had been based on a re-surveyed, changed version of Lot 99, a version that was not in line with the plat that had been approved by the city council. The resurveyed lot extended 10 feet South into what had been Tract A, and the rear set-back of the house was in compliance only due to the 10 foot extension. Because Wayne Gentry and Lee Kitchens were unavailable when this discovery had been made, Melissa had called Richard Webb and explained to him that because the building permit had been issued on an altered site plan, the permit was invalid and construction must cease immediately. Mr. Webb said he would have a letter to city hall the next day. No letter has been received.

Melissa explained that checking surveyed lot lines for accuracy or for alteration has not heretofore been part of the routine building permit examination. Even so, the method for guaranteeing accuracy was imperfect with the tools at hand, namely an ancient wall map. She also explained that in the resulting investigation, a vehicular access easement on Tract A had been located by the city engineer. City Hall did not have a copy of this easement, and was unaware that one existed. No easement had been discussed in city council meeting, approved or considered by city council, and therefore was non-existent in any city records. She recommended that the permit be rescinded based on the fact that it was issued on a site plan that was altered.

Mr. Berwyn Tisdell, owner of lot 100, briefed the council on his objection to Mr. Webb's activities and to the planned house. He explained his investment in Lot I 00, the negative effect that the construction would have on his planned house, and demonstrated the point with a three house "footprint" illustration, and photographs. He stated that when he bought the property he had been assured that Tract A would never be developed. He had several requests of the city council. 1. Enforcement of the original set back location, a maximum 113 foot depth. 2. Removal of the caliche fill behind both lot 99 and lot 100, and restoration of the ravine to the original topography and natural landscaping, including all of the mesquites, yuccas and buffalo grass. 3. No construction be allowed on the 10 feet. 4. A clearly drafted document between Tract A and the Garden Home Owners. 5. Clarification of the vehicular access easement to allow rear entry..

Richard Webb explained that he had not meant to be devious, that he was trying to satisfy a customer in a sales transaction. He explained that he knew Garden Home Planning, that he had been the one with the expertise in planning the garden homes, that garden home customers can't expect to have a panoramic view in the first place, and the problem that Mr. Tisdell was describing was inherent in garden home living with or without the ten foot problem. He stated that he talked to Wayne Gentry, Hugo Reed surveyed the property and issued new Metes and Bounds including the 10 feet. Jerry Baker had placed the house on the lot based on the revised Metes & Bounds.

Lee Kitchens read the vehicular access easement document # 32960 recorded by Lubbock County in vol. 4698 Page 335 October 4, 1994. This easement was placed on Tract A by Harold Chapman and stated that all of the Garden Home lot owners were granted unobstructed vehicular access over and across Tract A. It stated that nothing or no person could impede this access to any of the surrounding lots. This easement in effect prevented any structural improvement be placed on Tract A. It also has the effect that Tract A cannot be subdivided.

Erika Hoeve had another. easement document, filed with Lubbock County Vol. 4449 p 262. This document states that no structures or fences shall be constructed or placed on Tract A. No noxious or offensive facilities shall be carried on upon Tract A. Nothing shall be carried on that is an annoyance to the neighborhood. Nothing is allowed that is not in harmony with single family development. Nothing shall limit the ability of the declarant, (LRC, Inc.) to grant easement to specific property owners with lots around Tract A, or to third parties as long as the conveyance or grant is in harmony with residential development. Erika stated that this document precedes the 1994 Document, and further serves to restrict the use of Tract A.

Lee Kitchens stated to Mr. Tisdell that the encroachment was unfortunate, oversights were unfortunate, but John Sims stated Tract A has never been subdivided, and that now, with the knowledge that easements are attached, any subdivision would require a new plat. A new plat would require 100% of all of the garden home lot owners. Total ownership can go intact without council approval, but subdivision (because of the

easement deed restrictions of which we are now aware), cannot be achieved without a new plat, which would require 100% approval of the affected property owners.

Allen Butler offered to give every lot owner 10 feet of Tract A.

Jack Shropshire, owner of a Garden Home on lot 102 agreed with Mr. Tisdell that the planned house would be disruptive to the neighborhood. His understanding had been that Tract A would never be developed. The 10 feet to new builders would not help him.

Norman Brown, owner of a Garden Home on lot 101 stated that he doesn't want ten feet, he doesn't have \$400 to pay for the survey and he agreed with Mr. Tisdell that the pen-nit for lot 99 should be rescinded. He stated that he also had been assured that Tract A would never be developed.

Mr. Tisdell emphasized the importance of removal of the fill dirt that has been put on Tract A behind lots 99 and 100.

Barbara Wisby, owner of Garden Home lots 113 and 114 echoed the sentiments of the other Garden Home Lot owners, and stated that they, also, had been assured that Tract A would never be developed.

John Sims explained that if the city believes the dirt impedes drainage, vehicular access or any other problem, then the city can ask for the dirt to be removed.

Inez Speed moved to rescind the building permit and refund Mr. Webb's permit fee. Erika Hoeve seconded. David Peterson asked John that the comment had been made that all of this had been done with Wayne Gentry's knowledge and permission. Can an individual supersede legal records. John answered no. The vote on the motion to rescind the building permit for Lot 99 was unanimous.

Lee Kitchens directed the city supervisor and engineer to research whether or not a drainage problem had been created by the fill dirt that had been placed on Lot 99 and 100. He assured Mr. Tisdell that if the city could do anything it would.

ARCHITECT CONTROL COMMITTEE: Michael Dertien had requested a front set-back variance for a house to be built on B 4 Lots 9 and 10. The planned house would extend into the front set back by 2 feet on one corner and six feet on the other corner. The architecture committee recommended that a variance not be issued because this home was on a curved road, traffic sight lines would be obstructed. In addition, the next door neighbor had been required to comply with the 35 foot set back. Mr. Dertien withdrew his request stating that he would redo the plans.

UNMARKED POLICE CARS; Resolution # 58 allowing unmarked police vehicles was approved unanimously on a motion from Ken Williams and a second from Inez Speed.

MUNICIPAL JUDGE: The position of municipal judge was filled after much discussion about procedure for nomination and appointment. Many thanks were given to the individuals who had expressed willingness to serve in this capacity. David Peterson moved to appoint Candace Fletcher by acclamation. The vote was four to one to approve this motion. Wayne Gentry asked if this action were legal since the motion had been to appoint by acclamation. John Sims stated it did not really matter since the outcome of the council's wishes was clear. Nevertheless, David Peterson nominated Candace Fletcher for the job and the motion was seconded by Inez Speed. Before a vote was taken, Charles McQueen nominated James Durham. Erika Hoeve requested clarification on procedure. With a motion on the floor, should not discussion and a vote be taken before another motion can be considered.

Lee Kitchens stated that Erika was correct. David Peterson withdrew his nomination and Inez Speed withdrew her second. Lee stated nominations would be accepted for Judge. David Peterson again nominated Candace Fletcher. Charley McQueen nominated James Durham. No other nominations. Lee asked for a show of hands for Candace Fletcher, Hoeve, Williams, Peterson and Speed voted for Fletcher. Lee asked for a show of hands for James Durham. McQueen voted for Durham. Lee stated that Candace Fletcher would be appointed to the position of municipal judge.

STATUS OF CITY HALL: Lee Kitchens had done much work to draw floor plans for the city hall. He asked the council for \$2500 to pay for engineering and drafting of the floor plans that he had drawn. The council expressed that a work session was in order. Inez Speed stated that the employees needed privacy to conduct their work and that there were no windows and that the office would be a dungeon. Michael Dertien volunteered to assist in this process since he stated that there were many design flaws in the floor plan under consideration.

OCTOBER MEETING DATE CHANGE: The council agreed at this point to move the October meeting back to October 21 st. This on a motion from Ken Williams, second from Erika Hoeve, all approved. Erika stated that she would be traveling, and that she would request to be excused in the event that she could not get back in time for this meeting.

The work session for city hall planning was set for Tuesday, September 16th.

POA: Karen Bornick represented the POA asking for the lake to be lowered, but asked that this item be placed on next month's agenda, pending the fishing club report to the POA.

Five minute recess was granted.

JOB DESCRIPTIONS: The job description for the policeman will be rewritten by Chief Rawls. The council discussed if we were required to advertise this position. Wayne Gentry stated we were not required to advertise. Wayne Rawls stated that because we were a department of under 50 we were not subject to EEOC rules and regulations.

David Peterson stated that the description should have ADA requirements even so. Lee Kitchens asked Wayne Rawls if TCLEOSE certification requirements would cover ADA requirements. Wayne replied that a basic physical, psychological and drug screening was required, but no specifics such as lifting, bending, etc. were specified. Lee suggested this item be added to the work session.

The utilities operator job was discussed. Inez Speed suggested that because we were not going to hire someone for six months, why not pay Ray Short a \$100 per month retainer to maintain his license and be on call for emergencies. Wayne Gentry asked what Ray would do for us. He explained that the second certified license was a TNRCC requirement, but that TNRCC would work with the city in this situation where an individual has resigned. Gentry stated we didn't need to retain Ray Short just so that we would keep a license. Erika Hoeve clarified that we have a grace period. David Peterson was concerned about what would happen if Wayne is gone from the Canyon. Wayne explained that in every day business, Bennie and L.D. can perform any needed function.

BOOSTER PUMP: WATER DEPARTMENT: Bernie Gradel advised the council of the Booster Pump cost estimates that had been garnered, and that the pump had been ordered. Wayne Gentry advised the council that our problem had been cured for the day, at least, when a major leak had been discovered in the water line at Buffalo. They were losing 190 gallons per minute, and after the leak was repaired, we gained water at the rate of 1 foot per 35 minutes. At the time of the council meeting we had a record 19 feet of water in the tank, and Wayne hoped to maintain this level.

The city council briefly talked about considering a long-term plan to address the city's water issues.

FIRE DEPARTMENT: Rand McPherson announced that the fire department had elected him Chief, and James water Asst. Chief. Ken Williams moved to approve the appointment, Inez Speed seconded, all approved.

SUBDIVISION REGULATION CONSIDERATION: Charley McQueen accepted the chair from Lee Kitchens during a discussion of a letter that had been received from Stan Weaver that discussed the effects of a new law governing and expanding city council authority to require replatting in the event of development that involved subdivision of platted land within city limits. Bemie Gradel suggested that this new law, and the problems that the city had been dealing with recently in home site development, might suggest to the council that they need to take a good look at subdivision regulation. The council has the authority to require a replat. The only time the city would know of a subdivision of property resulting from a sale or deed transfer, would be when a building permit is applied for. Heretofore, no replat has been required. Bernie suggested that the new law now requires a replat. John Sims had left the meeting so his input was not available.

Melissa stated that she was observing numerous property sales in the canyon, many involving unplatted land, and many building improvements would be based on these changed lots. It was Melissa's opinion that the situation just observed with Tract A would likely repeat itself if the city doesn't take steps to govern subdivision of land within the city. Sales of land cannot be bridled, but subdivision for the purpose of development can be governed, and according to Stan Weaver's letter, the city is now legally required to govern. No action was taken.

Charley McQueen returned the gavel to Lee Kitchens, Inez Speed moved to adjourn, David Peterson seconded, all approved and the meeting adjourned at 10:00 P.M.

Melissa Verett
City Secretary