

MINUTES OF CITY COUNCIL PUBLIC HEARINGS AND REGULAR MEETING
CITY OF WEST LAKE HILLS, TEXAS
Wednesday, February 10, 2016
7:05 p.m.

Present: Mayor Linda Anthony, Mayor Pro Tem Stan Graham, Councilmembers Jim O'Connor, Brian Plunkett, Beth South, and Darin Walker.

Absent: None.

- 1. Called to Order by Mayor Linda Anthony at 7:38 PM suspended at 7:40 PM, reconvened at 8:11 PM.**
- 2. Citizens Communications: The City Council welcomes public comments at this point on any issue. If the issue is listed on the agenda, the speaker may choose to comment during the Citizens Communication agenda item or when the specific agenda item is taken up by the Council later in the meeting. The Council cannot respond to matters not listed on the agenda until a future meeting. Speakers must sign up with the City Secretary before speaking. Speakers shall limit their comments to five (5) minutes each.**

Dwight Thompson shared his comments regarding item #11, since he will not be at the meeting when Council will get to item #11. We are all worried about oak wilt. It has been a concern since he has lived there, since 1993. We all have to be diligent and responsible regarding the trees and affect it has on the neighbors. He voiced his own reservation as a citizen about the expenditure of city resources outside of the corporate city limits. Specifically, he said that the people who live, in the donut hole, the affected area we are talking about. They have made a choice to live outside the city. There have been opportunities for them to come in. They do not want to be bound by the city's rules, structures, police protection, and the things that the city has to offer. They have rejected that for a very nominal amount of money. If you have a \$300,000 house, the taxes would amount to \$150 per year. For \$150 a year, they have completely rejected the benefits of living in the City of West Lake Hills. For us to make an expenditure outside of the corporate city limits, his opinion is that it does not serve the citizens of West Lake Hills. Here again, it doesn't mean it can't be overcome, strike an agreement for annexation in exchange for services, and he would not be opposed to this. He wanted to voice his own reservations and concerns with taking action to aid or mitigate a situation that is technically outside the city limits. He understands it affects other people's trees. The trees are private property and that is between property owners. Some things just have to be settled that way. It is ok for you to broker things between citizens that is kind of what the function of the city is. The people that are not in the city, he thinks to come degree are going to have to accept the responsibility for the lot they have chosen, where they live and how they live. He thanked Council for their service.

Tim Nutt spoke to about the ongoing litigation with the Peace family. He has made some comments, that he is sure Council is aware of. In the interest of the 5-minute

limit, he will try to keep it brief. To those that are not aware, the city has lost on two of the claims brought against them by the Peace's in summary judgement. What that means is that the city was basically found to have no evidence that they could possibly defend against those claims. Now in the past people have accused him of various reasons for continuing to bring this issue in front of Council and he has always been consistent in that the reasons are that he feels that the city should respect the rights of its citizens and that the city should act as a fiduciary of tax payer's dollars. In the past when this has come up people have not only impugned his motives but also supposed that he has already reached judgment on the merits of this particular mitigation, which he never did. He carefully hedged all of his requests on the basis that we did not know that the outcome would be, that it was to be determined, and that the city should investigate and attempt to minimize any expenses that would be incurred on resident's behalf. Now there has been a judgement. There was a meeting last May 13, where he feels that to an individual every person behind that bench spoke to those in the audience as if the judgement would necessarily be determined in their favor. They were confident enough to make a lot of statements that presupposed that outcome. That judgment has gone against the city. If you look at the minutes that have been posted on the city's website, they are quite brief about what was said at that time. He has an audio recording that is happy to share it with anyone. He does not know if the city has an audio recording of that meeting but shared some of the statements that were said at that time. He then asked Council if any complaints that were brought would be investigated in due time if it was required. Does Council consider a judgment of the county court to be credible evidence of official misconduct? He reminded Council that to an individual, everyone on Council expressed various levels of disdain at himself, the Peace's, and several other people that have spoken on their behalf. Mostly, that disdain was based on what he would say was some level of personal insult. He thinks that mostly, one was that the word criminal was used, and it probably should not have been, but second that Council are all volunteers. He has made the point, repeatedly, not everyone who is named in the ethics complaint is a volunteer. Several individuals who are paid with tax dollars were named in the complaints. In the interest of time he will not read every single comment made by Taylor Holcomb, he is not here anymore, but he went through and recited basically the cities reasons why, the meeting that was held, was not in violation of the Texas Open Meetings Act. Mr. Nutt then quoted a statement made by Taylor Holcomb summarizing his concluding statement. Taylor Holcomb was speaking freely and possibly did not mean it this way but to Mr. Nutt it spoke to tremendous arrogance. That the city explained it to the Peace's and that they should accept that explanation and move on. A judge did not agree. He then quoted a statement from Councilmember Walker. Mr. Nutt then asked Council if we did agree that all of the problems started with the sale of the property, do we still believe all of the problems ended there and number two, has the Council really done everything that they could have done. He does not know that. He is not coming to any conclusion on that. We do not know yet. The damages will be decided at trial but he assumes there will be some amount of money that gets paid. It may or may not be a lot of money but it will

be paid with resident's money, it will not be the Council's money on the line. He then quoted a statement from Mayor Anthony. There is an election coming up this time too. As far as he is aware, no one is opposing anyone. He is not here for any political reasons or arguing for any other candidate. He thinks that the timing is interesting that the city council took zero action on these matters, which the Travis County Court has determined were extremely unfavorable for the city, but the city was able to forestall any damniment of the complaints to well after all of Council was elected. He would question the timing of this. He also spoke on behalf of taxpayers, not in the capacity to pay taxes, but Council's capacity to impose other costs on residents. He continued by quoting Mayor Anthony. He does not know her financial situation but if he was the Peace's, he would have not been able to afford to do what they have done. He does not have any idea what their financial situation is but for him it would be completely financially impossible for him to pursue the protection of this constitutional rights in county court. It would have been prohibitive. He concluded with the comments made by Councilmember O'Connor. You would have had to have been there to believe the enmity in his tone. Mr. Nutt was shocked. He felt like Councilmember O'Connor's comments were shameful and did not become Mr. O'Connor or the Council. Further, now that it has been shown, the particular matter, which was jumped to the conclusion on has been decided against what was believed to be the case. Mr. Nutt thanked Council for entertaining him. He knows he went over the time and thanked them for their leniency.

Dave Claunch stated that he is really glad that Mr. Nutt has not drawn any conclusions yet, though it seems that Mr. Nutt is anxious to conclude something from this lawsuit. It was premature to draw any conclusions, much less the ones that Mr. Nutt is drawing. Mr. Claunch took real issue what Mr. Nutt posted on Nextdoor. He felt that it was another example of this manufactured outrage that we have seen time and time again at the city, but particularly about the Peace lawsuit. Council's hands are tied about what they can say, publicly or even privately about this case. He is sure that their Counsel is advising them that they should wait until the legal process has fully unfolded before publicly commenting. He also feels an obligation to limit his comments about the details of the case, at least the issues that are not resolved yet. He is likely to be called as a witness and asked to testify. The Peace's have held the keys to the door to fix this problem, ever since about a week before they hired their attorney. They have refused at multiple turns to simply put the key in the door to open it, and remedy the things that they complain about. He has his own theories about what their motives are for why they have chosen this very litigious process. Let's walk through that for a little bit, Mr. Nutt seems very fixated on this judgment made by Judge Crump. It was neglected that the Peace's sued Mr. Claunch in his personal capacity. Great, nine years of service to this community and people down the street want to take his personal assets, kid's college funds, house, and other stuff if they can. They sued Alan, Robert, and alleged that they are part of a criminal conspiracy to defraud them of their property rights. It has been sort of baffling because no one can figure out what right that was that they were entitled to that they somehow took from them. That is a matter for the court to

decide. After a year of frustration, being sued in his personal capacity, hiring his own attorney, sweat whether or not the court would buy this crazy argument that criminal conspiracy to hurt these people, Judge Crump threw it out with prejudice. Completely dismissed all of this out of hand, in less than a week. He felt really vindicated about this. That civil rights claim that they had against him, Robert, and Alan was really the basis for this whole ethics complaint. If you think that the ethics complaint was not another way for them to apply pressure against the city to get some positive outcome for your lawsuit than you are a fool. That is exactly what it was all about. They were trying to put pressure on this group of people and the city to pay them off. To cash them out and make them whole. When they could have fixed the problem with their two lots at any time, by accepting any of the city's multiple offers to revacate their plat. That happened in December and felt great. In January, there was another ruling. It has been zoned in, very carefully on the fact, that there was a TOMA violation and a takings claim. The Judge threw out all of the Peace's civil rights allegations against the city. The due process claim and all the other stuff. That is the very foundation of the Peace's suit. Their attorney was putting all of his eggs in this civil rights violation claim. Section 1983 claims against the city and the judge threw them out. If you look at the ethics complaints, with a few minor questions aside, most of what they are alleging in the ethics complaints are all about violating their civil rights. So his opinion, the Council never has to revisit the ethics complaints because they were resolved when the judge threw that stuff out. So let's talk about what the judge ruled against the city on. A TOMA complaint, the Peace's alleged two things. One is that the Texas Open Meetings Act was violated by having a meeting where the Peace's property was discussed without sufficient notice. The second allegation was that while meeting in executive session, there was some sort of secret vote. Where some sort of action was taken that resulted in their property being damaged. The judge threw that out. She said no the city did not take action during executive session but she believes that the agenda was not worded properly. So when it was posted that the city council was going to meet in Executive Session to discuss Bee Cave right of way, she believes that it should have also said, "and to talk about the Peace property". He disagrees with that. He can point to a number of cities that use identical language to talk about right of way acquisition matters. She is the judge, he is not the judge, and he did not make the ruling. He thinks that the city should appeal that ruling and he recommends that when the time comes, it should be given serious consideration. That same agenda language is on about 50 agendas, so a potential can of worms could be opened for other property owners who feel aggrieved about a right of way issue and claim that the city talked about their property during executive session without proper notice. Respectively, he thinks the judge got it wrong. The judge also ruled that whatever happened at some point to the Peace's property when it reverted back to one lot, constituted a takings. He has been all through the law on this issue and he is no attorney. This ruling as well baffles him. It is inconsistent with her rulings in other areas. She has yet to claim when the takings occurred and what was it that was taken. He hopes that it will be clarified in the next week or two. It makes a big difference, especially when the only thing the jury will be talking about is what if

any damages occurred when that took place. We have the Peace's that say, they want two lots but the city did something and now they have one lot. What happened was the 120-day window, that the ordinance says, expired? Since Amy Hovis had not donated the right of way and the donation was the condition upon which the plat vacation was granted, she did not donate the right of way so the plat vacation was not valid. The judge disagrees with that and he respects it. It is fine but it is also something that the city should appeal too. If those are, the two things that Mr. Nutt feel are such an egregious, smack down of the city, to trigger some exhaustive ethics evaluation of him and everybody else, then so be it. It is his opinion that it is too premature to have any discussion about that. This lawsuit is still going and it is not going to be over on Friday, next Friday or the week of the trial. It is probably going to go to appeal one way or the other. This Council should not do anything until the legal process has sorted itself all the way out. Frankly, he and Mr. Nutt should stop arguing about it until it ends. He thanked Council for their time.

3. **CONSENT AGENDA:** The following items are anticipated to require little or no individualized discussion due to their nature being clerical, ministerial, mundane or routine. In an effort to enhance the efficiency of City Council Meetings, it is intended that these items will be acted upon by the City Council with a single motion because no public hearing or determination is necessary. However, a City Council Member or Citizen may request separate deliberation for a specific item, in which event those items will be removed from the consent agenda prior to the City Council voting on the consent agenda as a collective, singular item. Citizens requesting items be removed from the consent agenda must submit a written Speaker Card to the City Secretary before the meeting begins. Prior to voting on the consent agenda, the City Council may add additional items that are listed elsewhere on the same agenda.
 - a. Approval of the January 27, 2016 Regular Meeting Minutes. City Secretary Lacie Hale.
 - b. **Street Use:** Approve Street Use Permit for Life is Good in the Wood 5K to be held on Friday, April 22, 2016 from 6:00 p.m. to 7:00 p.m. The street closures in West Lake Hills will be on Brady Lane, Gentry Drive, and Ridgewood Road. Applicant Roseann Ferraro.
 - c. **Street Use:** Approve Street Use Permit for Eanes Elementary School PTO Fundraiser to be held on Friday, April 2, 2016 from 5:00 p.m. to 10:00 p.m. The street closure in West Lake Hills will be on the South end of Las Brisas in the Cul de Sac. Applicant Jody Chapman.
 - d. **Finance:** Approval of Quarterly Investment Reports for quarters ended 9/30/2015, and 12/31/15. City Administrator Robert Wood.

**COUNCILMEMBER WALKER MOTIONED TO APPROVE THE
CONSENT AGENDA WITH THE ADDITION OF AGENDA ITEM #9 FOR
APPROVAL. COUNCILMEMBER O'CONNOR SECONDED THE
MOTION AND IT PASSED BY 5-0 VOTE.**

4. Administration and Personnel: Discussion/decision on Ordinances 427, ordinances of the City of West Lake Hills calling a General and Special Election, establishing the procedure for the Elections for City Officers to be held on May 7, 2016 in the City of West Lake Hills, Texas, and providing matters relating to the election.

(Administración y Personal : Discusión / decisión sobre Ordenanzas 427, las ordenanzas de la Ciudad de West Lake Hills llamar a una Elección General y Especial , se establece el procedimiento para las elecciones de funcionarios de la ciudad que se celebrarán el 7 de mayo de 2016 en el City de West Lake Hills , Texas , y proporcionando asuntos relacionados con las elecciones.)

- a. Staff Briefing. City Administrator Robert Wood gave briefing that this ordinance is to call the General and Special Election. Both will take place on May 7, 2016 to elect the open Council positions. It is another step in the process that the state requires.
- b. Public Hearing: No one spoke.
- c. Deliberation and action.

COUNCILMEMBER PLUNKETT MOTIONED TO APPROVE THE ORDINANCE. COUNCILMEMBER O'CONNOR SECONDED THE MOTION AND IT PASSED BY 5-0 VOTE.

5. Land Use: Multiple variances (retaining wall in side building setback, cut/fill over 18" in side setback and 4 trees over 14") for a new residence at 1113 Westlake Drive. (Sections 22.03.175(1), 22.03.276 and 22.03.170(f) of the West Lake Hills Code.) Applicant Kim Power.

- a. Staff Briefing.
- b. Presentation by applicant.
- c. Public Hearing: No one spoke.
- d. Deliberation and action.

(Note: This item requires dual action. BOA action on the retaining wall in side building setback, and cut/fill over 18" in side setback variances. Council action on the tree variance.)

Item was discussed during the February 10, 2016 Board of Adjustment meeting.

COUNCILMEMBER WALKER MOTIONED TO APPROVE THE REMOVAL OF TREE 142 AND 392. MAYOR PRO TEM GRAHAM SECONDED THE MOTION AND IT PASSED BY 5-0 VOTE.

6. Land Use: Final Plat of a 3.45 acre tract located off of Ledgeway and Cedar Oak to be known as the Amended Plat of Part of Site C, Block W, of Stonehedge Estates at 305 Cedar Oak Drive and 404 Ledgeway. Applicant Mike Macari. (Chapter 36 of the West Lake Hills Code.)

- a. **Staff Briefing.** Mayor Anthony gave briefing that the applicant has been asked to go back and speak the neighbors about drainage. City Planner Ashby Grundman added that this is the final step for the applicant. There were issues with the drainage and the applicant has received approval from the city engineer regarding the water flow. There has been a request from the neighbors to include a plat note regarding the drainage.
- b. **Presentation by applicant.** Applicant Mike Macari went through his application to reconfigure the two lots. He also explained that he is continuing to collaborate with his neighbors regarding the drainage.
- c. **Public Hearing:**
Gordon Stevenson of 302 Cedar Oak Drive agreed with Mr. Macari that they have progressed on some discussions on the drainage but he would like his presentation to be in the Council records. Mr. Stevenson then when through the packet that he handed out to Council explaining the drainage and a proposed solution. He expressed that he did not want to hold the project up.

Toni Schmidt stated that she was one of the first residents out there. In 1985, it was built and lacked the correct drainage. They are paying for it now and working on it together. They are helping a neighbor with swales. City Planner Ashby Grundman and City Building Inspector David Brasich were out there last fall and walked the whole place. They saw that there are some minor things that can be done to help everyone. That is the good news. She gave some background on where her frustration comes from. Cedar Oak Drive is a short street off Redbud and ends in the cul-de-sac. Her lot hugs the low side of the cul-de-sac. All the water that comes down, she gets. When she built her house, Danny Sims made her put in a curb, berm, and swale. She has had her challenges and feels that she knows water really well. Martha, neighbor, got a variance for a steep driveway and the water comes down in sheets. It is caught in her curb and comes down her driveway. She has dealt with this for 24 years. All of the neighbors on the street are beside themselves with the Moran property uphill. It is a nightmare and she does not even get the worst of it. The answer they were always given was that is passed all of the requirements for the permitting. She asks how does this happen or is permitted. She is skeptical about the permitting process that would have allowed this to happen and Martha's driveway 24 years ago. When they are told that, nothing can be done in this meeting, and understands that this is not about approval of future improvements, but the answer is wait until the permitting. That is when it will be addressed. At that point, she has no say and it is done from whatever the engineer says. Also, the fact that she does have water and when she gets the water from cul-de-sac and Martha, it has always gone to the north side of her driveway. They have done a lot of landscaping to catch the water and send it over to the drainage easement in Redbud Subdivision. This is where it should go. Then in 2011, gravel started showing up and it changed the topography enough that water is coming down into the cul-de-sac into the south side of her driveway. This is when she

lost it and was warned to be careful about the driveway and house. Then also the Moran situation. It sounds like they are moving in a good direction. The drainage easement that is there is waiting for the water.

d. Deliberation and action.

Mayor Anthony thanked the neighbors for working together. Drainage is an issue that is a great concern and we will be watchful for it. She also explained that no one wants to hold this project up and the neighbors wanted to make it a public record that they want to continue a dialogue discussion with their engineer and the city engineer regarding the drainage.

COUNCILMEMBER WALKER MOTIONED TO APPROVE THE REPLAT. MAYOR PRO TEM GRAHAM SECONDED THE MOTION AND IT PASSED BY 5-0 VOTE.

7. Land Use: Variance to remove a tree greater than 14 inches in trunk diameter at 14 North Peak Road. (Section 22.03.304 of the West Lake Hills Code.) Applicant Mark Lakins.

a. Staff Briefing. None was given.

b. Presentation by applicant. Applicant Mark Lakins gave a brief explanation that he is requesting the removal of this tree because it is in the proposed building footprint for their new house.

c. Public Hearing: No one spoke.

d. Deliberation and action.

Council shared that they had no issue with removing the tree and noted that topography of the lot was the hardship.

MAYOR PRO TEM GRAHAM MOTIONED TO APPROVE THE VARIANCE FOR THE TREE REMOVAL. COUNCILMEMBER O'CONNOR SECONDED THE MOTION AND IT PASSED BY 5-0 VOTE.

8. Land Use: Discussion/decision on the remaining vegetation replacement plan for Juniper Ridge Subdivision. Applicant Mitch Johnson.

a. Staff Briefing. None was given. Applicant Mitch Johnson gave a presentation of the remaining vegetation replacement plan. He pointed out the common areas of where he can plant and the proposed type of vegetation. He also inquired about liability and the possible impact that the Water District #10 project may have.

b. Public Hearing: No one spoke.

c. Deliberation and action.

Council discussed the plan and shared their concerns regarding possible future plans for the homeowners. They also discussed the irrigation options. They also appreciate the effort that the applicant has put into the project.

COUNCILMEMBER WALKER MOTIONED TO APPROVE THE REMAINING VEGETATION REPLACEMENT PLAN. COUNCILMEMBER O'CONNOR SECONDED THE MOTION AND IT PASSED BY 5-0 VOTE.

9. Land Use: Commercial Building Permit and site amendment for a parking lot and Pastor Rectory at 5455 Bee Cave Road for St. John Neumann Catholic Church. Applicant Bob Galloway. (Sections 22.02.005 and 22.03.249 of the West Lake Hills Code.)
 - a. Staff Briefing.
 - b. Presentation by applicant.
 - c. Public Hearing: All persons wishing to speak for or against shall be heard.
 - d. Deliberation and action.

Item was moved to consent agenda for approval.

10. Land Use: Update from the short-term committee to discuss the rental of single-family homes. Mayor Pro Tem Stan Graham and Councilmember Darin Walker.
 - a. Staff Briefing. **Mayor Anthony gave a brief background that this came to the Council late last summer/early fall. When it was presented the only people that spoke were those that had short-term rentals and those that were in favor of them. The issue then was tabled and then it resurfaced when an individual owning a short-term rental rented their house to a TV production. It increased the nuisance factor so people came back to the house. Meanwhile several other neighborhood had issues with party house. At that meeting in October, Council appointed a subcommittee with three citizens to review the issue and possible solutions.**

Mayor Pro Tem Graham gave an update of the committee's progress. They have a draft ordinance for Council to review. Their approach places more emphasis on the property owner to resolve issues. There are possible punitive actions against the renters but also the owners that would be associated with any disruption that might occur that their property. Another idea that will be instituted is if there is a disturbance and the police are called out, the police will be able to look on their computers to see if the property is a short-term rental. In the ordinance, it is also being proposed that there must be a local representative. The philosophy of the subcommittee is to make this as simple as possible for the city to administrate, they are not trying to discourage people from short-term rentals, and the emphasis for some of the control is on the owners. Since we are a small community, they did not feel the need to differentiate between type 1 (owner's homestead) and type 2 (someone owns a second home, and not the owners homestead) rentals. They are not concerned if the owner may or may not live in the house. He then went through the highlights of the proposed ordinance regarding the procedures and requirements.

- b. Public Hearing:
Charlie Kreitler of 8 North Peak Road stated he has lived in the neighborhood since 1974. His kids grew up here. His wife and served at the library. Mr. Kreitler has also volunteered for many boards and committees. His family has a vested interested in the community. He has an issue but does not know how it relates to short-term rentals and the discussion here. His

neighbor at 6 North Peak has used her house as a bed and breakfast for the last three years. Superficially, it is an Airbnb and everything is on the website. It started as a relatively small operation. She and her husband travelled internationally and had students live there. It grew into a commercial B and B operation. He has now done a car count. He is interested in the extent of the business because there were always cars there. The neighbors would say that they would have 9 to 10 cars parked in her front yard. She graveled a section of her front yard so she would get more traction and her clients would not get stuck in the mud. At one point, she moved a 1970's aluminum trailer in on his property line. She built an electrified Lincoln log cabin in the back. This was all rental space. You can see on her website page that people are saying they had a great time there. He made an initial estimate that they were getting 1,000 people a year using her facility. He passed out his car count to Council along with a few of the reviews from the webpage. Between January 7 and February 9, they counted 109 cars. He thinks that they are looking at far more than 1300 transients coming into the neighborhood on a yearly basis. He does not use transient in a negative term. These are people coming in and out. Some of them stay for longer than a couple of days. Most are just in for a day, rent cars from the airport. There is a shuttle from the airport. Some walk up from the bus stop with their luggage. They are renting rooms at approximately \$39 a room. I think you are getting the impression that it is just one room for rent but when you see eight or nine cars out there, it is a bigger operation than making purse change. He is concerned. You get concerned. When he is doing his evening count after the evening news and an uber type vehicle comes up the road with its lights off, stops, opens the door someone gets out, the driver drives off; the passenger goes into the house using a keypad. Then the car is yards down the road, turn their lights on and go. He locks his doors now. They have had people looking in their windows. His wife is in the back working on garden and they want to know what she is doing. They have had cars pull up at 2 am wanting to know if it is the right house or not, then they ask if they can leave their car there, since the place they want to be is across the road. He responds no, it is a very residential neighborhood. They are now looking at a situation where there are obvious violations of variances on putting things in. There is 1,000 to 1,500 people coming in and they have no idea who they are. Presumably, they do not stay long enough to create a problem but we are still bringing in all of these people into the neighborhood. Unbeknownst to the neighbors. This is an under the radar type operation. He reads the regulations and they are illegal in R1 zoned areas. He does not object to the concept of a bed and breakfast, or short-term rental if it is done on a limited basis. It is fine if a home business, as we have defined in our ordinances. Mayor Pro Tem Graham is referring to party houses. They had a house across the street that was a party house for an event. They were drag racing up and down the street. They complained to them and they responded that it was none of their business. He is concerned and hopefully if there is an

ordinance that deals with short-term rentals it would really take into account the local people that live there. Hopefully, we will not have an issue here. He did file a formal complaint on this in January. He has also gone to all the neighbors and they all have said, no this needs to stop. Also, he requested that the public look at the ordinance as it is created.

Berph Kreitler stated that she no longer feels safe in her neighborhood.

Tom Cable of 902 Live Oak Ridge resigned with everything Mr. Kreitler said. In the fall, Mr. Cable came and spoke without any experience or facts, but a number of people spoke. The tone and concerns of what was heard was more along the lines of Mr. Krietler than seemed to be reflected in the proposed ordinance. Mr. Cable thanked everyone who worked on the ordinance. From what he heard in the fall, he was expecting something different. He thinks the discussion began with Rollingwood saying they have banned short-term rentals. It seems to him that it was a good idea. We have a residential neighborhood. Most people that spoke could not see the point of installing hotels in the residential neighborhood. He thanked everyone for the work put into the ordinance and the work that has been done but as far as he can tell, it is adjusting complaints and setting up procedures for calling the police. This is not what people were concerned about in the fall. The traffic and transformation of the rural residential neighborhood. He hopes that as the ordinance is refined, maybe basic questions can be asked. Why not be like Rollingwood and ban it all together. Several people requested that last time. That is all that he wanted to register from his recollection of the last meeting.

Peter Leonard of 950 Live Oak Circle stated he has lived there for 31 years. He asked what it means to say R1 zoning. Does it mean to say we live in a single-family residential neighborhood? When we say we do not need to talk about type 2 rentals, someone buys a house in a neighborhood and turns it into a motel. Then are we supposed to say this is fine and need to put regulations. Why is this not a business and allowed in a residential neighborhood to begin with? He does not understand why the zoning does not take care of this. He also does not understand why someone could rent out a house to a television company to make a television show. Rent it out to a commercial organization that takes over an entire street. Not only does it take over then entire street but also the City of West Lake Hills provides two police officers dressed in police uniforms, with a police badge, carrying their pistols and sometimes in a police car. They sit there all day, as far as he can see to protect the welfare and make sure that none of the residents in that neighborhood is interfering with this commercial operation. He does not see how this is something that can be allowed in a residential neighborhood. It seems wrong to him. He votes very strongly for taking an action similar to what Rollingwood did. He certainly does not think it should be allowed for

anybody to rent out their home to a business that would not be allowed in the first place. He agrees with what has been said and should be said loudly. Just making an ordinance that requires the neighbors to take action when something goes wrong is the wrong approach. He thinks we should ban it period.

David Costano of 941 Roadrunner Road stated that he is totally amazed with seeing the good and the ugly. In terms of how the neighbors and the city get along with people. You have things that end up in litigation for many years on the other hand you have a gentleman trying to work out a drainage issue. Totally, cooperation, it is an amazing thing to see. We all live in this neighborhood together. He is in favor of short-term rentals. The proposal from the short-term committee that he has heard tonight, he thinks is spot on. He is in favor of it but concerned about those that spoke against short term rentals. He would not want to have a hotel next to him, a TV production crew out front or a bed and breakfast with multiple people coming in and out. He understands that and would not want it to happen next to him. The proposed ordinances would be able to help with that problem but most of all; he believes that we should be able to work these things out together. That is part of living in the community. People have different views and ideas but we are trying to get people to work together to make it work for everybody. He appreciates the committee and Councils time working on this. Also the people that have taken the time to come out to protect their neighborhood. This is what makes this community such a wonderful place to live.

Robyn Hammond of North Peak Road stated that Mr. Kreitler is correct in that there is a lot of traffic on that road. She is at the start of the street so everyone goes past her. She also has had people show up at 1 am in the morning knocking on her door, asking if that is the place for them to be and if they can leave their car there. She is blown away by the fact that they would ask that. She wants to think that there is a differentiation between short-term rentals and the Airbnb that she is experiencing. That owner is there when she rents out her rooms and lives there. It is a little bit different category than what has been discussed. She thinks that maybe there should be some discussion added to the short-term rental about limiting what takes place in those environments. She does not want to say she is against it because she may want to rent out a room in her house someday and she does not want to knock out the opportunity to do that. She is not going to take it to the extreme and rent out every room in the house. That is where this house differentiates itself. It rents out four bedrooms, the shack in the back, and the silver stream. It has gotten out of control. In the beginning when the students were there it was quiet and manageable but now, it has gotten out of control. It is bringing an element of not being safe in the many years that they have been there. She asked that Council keep an open mind and keep them safe.

Brian Plunkett of 1 Hidden Cove stated that it is a small street with three houses. They own the house next door and have it as a short-term rental. They decided to do a short-term rental because the owner next door had started a remodel, they lost their energy and the house sat abandoned for about four years. It fell apart. The owner was about to sell it and make it into a party house. They were the owners. It was not going to be a short-term rental. It was going to be used for parties. It got Mr. Plunkett motivated to buy it and renovate it. Once they fixed it up, they needed to decide what to do with it. They realized that if they rented it long term, you did not have much control over it. They decided to try short-term rentals because it gave them more control over the use of the house. He is in big favor of lots of restrictions. He agrees with all of the proposed restrictions but does not think that they go far enough in most cases. For instance, one of the things that have in ours is that they do not want people walking around at 4 in the morning. They have a notice that they are not allowed to go outside after 11 pm at night. They have had some bad reviews but then people that want to walk around outside at night wont rent the place. He thinks that it is good to address the problem houses that are having parties and after the one-year period, it will not be renewed if they have had three complaints. Mr. Plunkett proposed that after three complaints it is revoked immediately. If they have three complaints in the first week, you do not want it to go on for another 51 weeks. We should make this a possibility so neighbors will not have to deal with it for an entire year. The occupancy limit of two adults per bedroom, when he got into short-term rentals the most important thing for them was that there would not be a lot of noise from the house next door. His wife researched people's experience from renting houses and found that the most correlated part is that the thing that would most likely cause noise was large groups. So they put an absolute number, seven adults max. They believe anything over that, and then they are there to party. They did not want to deal with that. If you happen to live next to a four-bedroom house, the ordinance would limit it to eight but if you live next to a six-bedroom house then it would be 12. He does not understand why there should be a difference in the number of people that can be in the house. He urges Council to limit it to eight adults or less. The one thing that does not correlate to any of the issues is the 90 to 120 days per year of using it. He thinks that all of the other restrictions have to do with trying to minimize the amount of noise, traffic, and disruption to the neighborhood. The 90 days seems like an arbitrary number. It can be every weekend in the year. He recommends that there is no number because it would be kind of arbitrary. He does not see how you would arrive at a number that would be meaningful. He encouraged Council to keep doing what they are doing but restrict it in the appropriate ways.

Trey Wattinger of 1004 Live Oak Ridge Road thanked Mayor Anthony for saying this is going to take a long time because you can see how passionate people are about this. How sad is that a woman, who has lived here for 30

and years does not feel safe anymore. Has to lock their door because people are coming out at all hours of the morning. It is unbelievable to him that we are even dealing with this. He spoke last time and was on the fence at that time but not anymore. This is wrong. There is something blatantly wrong with this. He gets to live right across the street from the ABC movie. It is also a hotel. The owner talks about how he rents it out a few nights out of the year to some grandparents who want to show their kids UT. Come live in Mr. Wattinger's house. He told the former Mayor that all you need to do is get on the website and see how many nights are on there. It is a blatant lie. He has been told that this particular house rents from anywhere to \$1,000 to \$3,000 a night. Do the math. Even at 90 days, this is a lucrative business. It is not some side mom and pop income. He really appreciates the time it takes for the Councilmembers and the citizens to do that. He has done that and knows what it takes, so thank you. He believes that we need to have along study, advertise and listen to every bodies' benefit. He believes that we would see that a majority of the people are against this. Some people are going to scream property rights. He is all for property rights but there is also right of the individual, single family home. That is what he thought he was moving into. His kids went to school here, and they like the rural feel so decided to stay in the area. Councilmember Plunkett is in a difficult situation. He wished that this came up before Councilmember Plunkett purchased a house to enjoy his rights. It is sad to go to that extreme to enjoy his home. He likes some of the ideas that the committee has come up with but sees some holes as well. For example, the no notification. He believes that within a certain prescribed distance the neighbors need to be notified if a Bed and Breakfast or a rental is coming up. So they can at least know what is coming up. The type 1 and type 2, are you kidding him? That has to be considered if we are going to talk about this. What is being encouraged is speculative folks coming in here buying homes strictly to make money off of them. Some of these homes can go for quite a bit of money. For 90 days, if you are making that kind of money \$270,000 a year, maybe he needs to change occupations. The police that was pointed out by Mr. Leonard, it is not the income that officers are getting on the side, he is all for that. He believes that we have the finest police force in the area. It is nice to call and have them there within minutes. It is more of the image than the practice. The average person does not understand that it is a rental and that the city is reimbursed. One night, he assumed it was a police officer that slept in the car the entire night. What do you do? You ask. He sympathized with residents on North Peak, with people walking up their driveway and asking if they can park their car. That is unbelievable. If we let this travesty occur, we need to have very strict penalties. The strictest penalties is where it counts the most and that is the pocket book. He listens to part of a guy that was cut 15 feet out of his backyard but \$2,000 for that. Its pocket change for some of these homes. If the penalties are not strict enough, if we happen to pass this. He can go on and on. When attorneys use the word reasonable it is subjective. It will need

to be defined. It is also unbelievable to him that the owners get to enforce things. As a native Austenite, his greatest fear is that this place goes up in flames. He saw guys in the movie crew flick cigarettes out into the woods. There are a lot of things wrong with this and hopes that a bad situation does not occur before we take some type of action.

Mike Macari of 404 Ledgeway has the same type of investment that many other have. If he had a similar experience to some of the folks on North Peak and other places in the city, he would feel the same way. He suggested, from personal experience, that the management component is very important. His particular situation, he has a very hand on way of handling the screening of tenants. He has a very strict and objective rental agreement; it may be one thing to consider. Is some sort of promulgated form that would outline terms in a rental agreement that would be designed to prevent some of the things happening on North Peak? Including the prohibition of any noise outside the home or going out on the decks after 11 pm, whatever makes sense. His motivation where he is, he has very few neighbors, is that he is sensitive to the neighbor that he does have and the liability that he has. It is a tremendous personal liability that is involved when you have people coming in and out. There are a few issues that maybe considered that are related to management and screening. If we do not promulgate a rental agreement that has the outline of the points, then maybe some sort of guidance if we go down the path of doing an ordinance. He thinks also, that except from the Airbnb on North Peak, most of the time in the Airbnb scenarios, where you have the onsite owner, it is an easier thing to control. This does not sound like it, it sounds awful. If he were in the neighbors shoes, he would feel the same way. He is just sharing his experience. It is very important to control who comes in. A lot of times it is family reunions and get together, that is one thing. Then the parties are another. Rental agreements with tight provisions and certainly very sensitive around the neighborhood. They kind of stuff happening on North Peak really should not be tolerated at all. That is something to think through. He is happy to provide what he uses.

Gibbons Burke of 304 Yaupon Valley Road stated that looking at the Master Plan for this community. The number one item is to provide for the health safety and public welfare of our citizens, not visitors. It seems to him that part of this community and the reasons that we have zones is to establish usages. We have single-family residential usage zoning, it implies one thing. We have zones where commercial activity is allowed. They might be contiguous but not overlapping. There are homes were people can get a good night sleep but there is not commercial activity bothering them. Then you have commercial activity where commerce can operate. This seems to be an area of admixture. Were short term rentals is turning a residential zoning structure into a commercial enterprise. He does not think that this is right and it is not what he bought into when he bought into this city. He is against

having this admixture. If you want to allow hotels in the area, let them be built in commercial areas not residential neighborhoods. The house that was a movie studio should not be allowed in a residential neighborhood.

c. Deliberation and action.

Council deliberated and expressed that we cannot have a referendum for the public to vote on this issue. This issue is not something that will be dealt with tonight, next week or next year. It will take a long process. Council then shared their suggestions and critiques of the proposed ordinance. The comments will go back to the subcommittee for further review and then return to Council at a future meeting.

Councilmember Plunkett recused himself from the dais.

No Council action was taken.

11. Public Works: Discussion/decision regarding Oak Wilt in the City of West Lake Hills and its Extra Territorial Jurisdiction (near Westwood Terrace) including possible mitigation measures and possible amendment to Sections 22.03.058 and 24.04.011 of the West Lake Hills City Code. Councilmember Brian Plunkett.

a. Staff Briefing. Mayor Anthony gave a briefing that the city has created an Oak Wilt website with more information. Councilmember Plunkett further explained that the website would expand as more information is added. He continued by summarizing that at the last meeting there were discrepancies with the ordinances. City Administrator Robert Wood went into details of what the discrepancies were and the changes made.

b. Public Hearing: No one spoke.

c. Deliberation and action.

Councilmembers clarified the requirements and the need to include oak wilt for a private sewage facility permit. Mayor Anthony and City Administrator Robert Wood then gave a timeline update of the trench for Oak Wilt on Westwood Terrace.

COUNCILMEMBER SOUTH MOTIONED TO APPROVE THE OAK WILT ORDINANCE. COUNCILMEMBER WALKER SECONDED THE MOTION AND IT PASSED BY 5-0 VOTE.

12. Administration: Update on improvements to policies and procedures including plan review, building inspections, information in Council meeting packets, and financial information available on city website. Mayor Linda Anthony.

a. Staff Briefing. Mayor Linda Anthony gave briefing that this is something that she has been discussing with staff. It consists of new forms, weekly site inspections of new construction projects, and checklists that are generated once a week that inspectors will have when they go to worksites to eliminate issues. These new procedures will also create a more efficient and smooth process for staff and the property owners. It will also eliminate some of the problems we have had. She also explained that we would like to put more financial information on the website. We are going to start with monthly

financial reports and expand from there. City Administrator Robert Wood explained a program offered through the Texas Comptroller's office that the city is considering.

- b. Public Hearing: No one spoke.
- c. Deliberation and action.

Council discussed the impact this may have on staff, how many projects are ongoing at any given time, and if this is meant to be another set of inspections or just for monitoring projects. They also discussed a document that Councilmember Walker is working on for new homeowners.

No Council action was taken.

13. Administration: Update on City and other area infrastructure improvement projects including Bee Cave Road, drainage master plan, and Camp Craft Road. City Administrator Robert Wood.

- a. Staff Briefing. City Administrator Robert Wood gave an update on the Bee Cave Road Expansion Project. Texas Department of Transportation is waiting to approve the contract from their contractor. We do not have a start date for the project. The city has secured two website domains that we will use to provide updates from Texas Department of Transportation.
- b. Public Hearing: No one spoke.
- c. Deliberation and action.

No Council action was taken.

14. Administration/Personnel: Discussion/decision regarding policy regarding sick leave pool for city employees. City Administrator Robert Wood.

- a. Staff Briefing. City Administrator Robert Wood gave briefing that staff are in the process of updating the personnel manual that has not been updated in many moons. There are going to be a lot of recommendations coming forward from staff and this one is not covered in our current manual. The idea is that if an employee has a catastrophic type illness they can deplete all of their leave. It allows employees to donate their leave to help that employee out. For the most part, this does not have a fiscal impact on the city. The proposed policy is pretty basic.
- b. Public Hearing: No one spoke.
- c. Deliberation and action.

Councilmembers asked about how many days staff can accrue benefit leave and annual caps. They also discussed changing sick leave to personal leave, not having a cap on sick days, allowing staff to work at home if they were sick, and keeping employees from donating all of their benefit leave.

COUNCILMEMBER O'CONNOR MOTIONED TO APPROVE THE SUGGESTED POLICY. COUNCILMEMBER WALKER SECONDED THE MOTION AND IT PASSED BY 5-0 VOTE.

15. Public Works: Consider approving and authorizing execution of a Possession and Use Agreement with Inland American Westlake Limited Partnership a/k/a IA Westlake Limited Partnership, regarding those two certain tracts of land being 0.188 acre and 0.020 acre, located at 3700 Bee Cave Road and which are to be used in connection with the construction of the proposed RM2244/Bee Cave Road expansion project, and take other appropriate action. (Parcel 30).
- a. Executive Session per Texas Government Code, Section 551.072 Deliberation Regarding Real Property.
 - b. Public Hearing: **No one spoke.**
 - c. Deliberation and action.

COUNCIL HELD AN EXECUTIVE SESSION ON ITEM #16 FROM 11:50 PM TO 12:29 AM. NO COUNCIL ACTION TAKEN.

16. Public Works: Discussion/possible decision on update regarding Bee Cave Road Right-of-Way acquisition.
- a. Executive Session per Texas Government Code, Section 551.071 for Consultation with Attorney and 551.072 Deliberation Regarding Real Property.
 - b. Public Hearing: **No one spoke.**
Deliberation and action.

COUNCIL HELD AN EXECUTIVE SESSION ON ITEM #17 FROM 11:50 PM TO 12:29 AM. NO COUNCIL ACTION TAKEN.

17. Adjourned by Mayor Linda Anthony at 12:29 AM.

Certificate



LINDA ANTHONY, MAYOR

ATTEST:



LACIE HALE, CITY SECRETARY

