

CITY OF FAIRVIEW

BOARD OF COMMISSIONERS MEETING MINUTES

AUGUST 6, 2020

John Blade, Mayor
Debby Rainey, Vice Mayor
Derek K. Burks, Commissioner
Rod Dawson, Commissioner
Scott Lucas, Commissioner
Scott Collins, City Manager
Tim Potter, City Attorney
Brandy Johnson, City Recorder

Present: Blade, Burks, Dawson, Lucas, Rainey
Others Present: Collins, Johnson, Paisley, Potter

1. Roll Call – by Johnson

	Present	Absent
Commissioner Burks	x	___
Commissioner Dawson	x	___
Commissioner Lucas	x	___
Vice Mayor Rainey	x	___
Mayor Blade	x	___

2. Call to Order by Mayor Blade at 7:00 p.m.

3. Prayer and Pledge led by Mayor Blade

4. Approval of the Agenda and Executive Session Announcements -

Motion: Rainey – to remove item 11C and approve as amended

Second: Dawson

	YES	NO	ABSTAIN	RECUSE
Commissioner Burks	x	___	___	___
Commissioner Dawson	x	___	___	___
Commissioner Lucas	x	___	___	___
Vice Mayor Rainey	x	___	___	___
Mayor Blade	x	___	___	___

5. Public Hearing - NONE

6. Citizen Comments

- A. Christine Rohland of 7302 Stirrup Lane requests denial of the vacation of rights-of-way request for Stable Acres. Rohland opposes and didn't consent to assuming financial or legal responsibility. It is a public subdivision, public road and has been conferred by the final plat, developer Barry Sullivan, and multiple attorneys. She believes the gate was installed without city approval and that it simply adds a perception of prestige and safety but at what cost? She opposes a private subdivision and
- B. Devin Stover of 7310 Stirrup Lane, newly elected HOA president, recalls the issue being approached by the city approximately 6 months ago with two choices that would greatly change things for the residents either way. At the HOA annual meeting in June there was an inconclusive vote and

decided the new group of officers had 90 days to come to another vote. Developer Sullivan was granted another three-month extension on his bond. July 28 the HOA met again and you've seen the vote but then were told the decision had to be unanimous. Any decision made will drastically affect the residents of the subdivision and cause further division among them.

- C. Dustin Guarneri of 7201 Cutters Crossing Court read a letter from an attorney not representing the HOA but an overwhelming majority of the Stable Acres community regarding the neighborhood gate. On July 28, 2020, the HOA affirmatively voted to transfer ownership of the property at issue to the HOA. The group wants to keep the gate and go private. The gate has been in place for about 12 years and likely required the approval from the city. The owners have relied upon the fact that such approval was achieved as the gate has been in constant and open use and existence for about 12 years. The owners in the subdivision purchased their properties with justifiable reliance upon the property listing and advertisement representing the subdivision as gated. Consequently, it would be inequitable to demand removal of the gate. HOA bylaws don't provide for prohibition of access to owners refusing to pay HOA dues but have other ways to enforce payment. The HOA has spoken and voted to keep the gate. They are hopeful the board upholds the decision of this group and transfers the ownership as indicated so the affected homeowners can enjoy the amenity that has been in place and relied upon for many years.
- D. Melvin "Trey" Spain of 7307 Stirrup Lane states the overwhelming majority of residents voted to retain the gate as it offers protection from crime, solicitation and increased traffic in the subdivision. The gate serves as a deterrent to crime and the family and children of the neighborhood shouldn't be stripped of their right due to negligence of the city and developer of the community. The decision to remove the gate should be made by the community who lives there. The plats have been approved and amended three times since 2008 with no recognition of the gate by the city. Given the current financial climate, it is in the best interest of the city to allow the HOA to maintain their own community and use their property taxes on other city needs as the overwhelming majority of Stable Acres homeowners implore the board to take action to enable them to enjoy the amenity that has been in place and relied upon for over a decade.
- E. Jewel English of 7306 Stirrup Lane respectfully requests rejection of Stover's request to vacate the right-of-way for Stable Acres. The last three that spoke are on the HOA board and met with legal counsel who advised the vote must be unanimous. The letter sent to the city was sent against legal advice. English purchased her home in 2009 with her partner and then refinanced in 2014 with a VA loan. This loan requires private streets to be protected by permanent easements and governing documents. She has concern of elderly residents and the capability of emergency vehicles to enter through the gate. She does not want the additional financial and legal responsibilities of a private entrance.

7. Announcements, Awards, Recognitions – N/A

8. Staff Comments and Reports

- A. City Manager Report – Collins issues a reminder of a joint work session with the Planning Commission next Tuesday, August 11, starting at 5:30 p.m. We will consider residential and commercial zoning, land use and acceptance of certain documents for developments. The Board of Commissioners will have a work session on August 20 beginning at 5:30 p.m. to discuss end of fiscal year 2020 financials by a review of cash position, overall financial position, ending year budget and forecast for the remainder of the year.

9. Consent Agenda (Any Item May Be Removed for Individual Consideration)

- A. Minutes from the July 16, 2020, Board of Commissioners Meeting

Motion: Lucas

Second: Rainey

	YES	NO	ABSTAIN	RECUSE
Commissioner Burks	___	___	x	___
Commissioner Dawson	x	___	___	___
Commissioner Lucas	x	___	___	___
Vice Mayor Rainey	x	___	___	___
Mayor Blade	x	___	___	___

10. Old Business - none

11. New Business

A. Open Board Seats

C. Board of Zoning Appeals – one expiring seat

1. Sarah Busch new applicant

Motion: Burks to approve Sarah Busch

Second: Rainey

	YES	NO	ABSTAIN	RECUSE
Commissioner Burks	x	—	—	—
Commissioner Dawson	x	—	—	—
Commissioner Lucas	x	—	—	—
Vice Mayor Rainey	x	—	—	—
Mayor Blade	x	—	—	—

- B. Stable Acres Vacation of Rights-of-Way Request – Collins explains this discussion began with the need for a final asphalt layer scheduled for 75% completion of the development and the June 11 expiration of the letter of credit held by builder, Barry Sullivan. More recent discussions relate to whether the streets are public or private. After investigations and reviewing documentation relating to minutes, there is no reference to the subdivision being private and the plat doesn't indicate a gate or other structure on any of the drawings. Whether it is public or private has no bearing to city staff except in the issues of ownership and maintenance. If it is a public road no member has the right to close except the Board of Commissioners so the staff needs guidance. The road is scheduled for resurfacing so the last issue is the existence of a gate on public right-of-way. City Attorney Potter states there's little doubt it is a public road. The bond is in place with the end goal of accepting public infrastructure. Voting requirements for the HOA are not clear as in we are not sure if they have the authorization but that issue may not be relevant as there is nothing in the minutes or plats that reference or show the gate. It is clear from those who spoke tonight there is dissension within the group and it doesn't sound like there is an agreement in place on how to move forward even if the BOC voted to vacate the right-of way. The BOC has no obligation to vacate.

Motion: Dawson – to vacate the right-of-way to the Stable Acres homeowners association

Second: none – motion dies for lack of second

~~C. Ordinance 2020-17 Noise Ordinance~~ REMOVED FROM AGENDA

12. Communications from the Mayor and Commissioners

- A. Commissioner Burks notes that school starts tomorrow and there will be a lot of crying, upset people....and the kids may cry as well. Today was election day and I hope everyone did their patriotic duty to vote. Pork in the Park fundraiser originally scheduled for this fall will be moved to March. The playground committee will present a proposal at their next meeting. Sometimes our discussions get heated because we are passionate. Everyone won't be happy one way or the other.
- B. Commissioner Lucas thanked everyone for coming out. He makes decisions based on what he feels is in the best interest of everyone. Election numbers are up at the rec center and congratulations are in order for Gina Mangrum, court clerk, and Shannon Crutcher as judge. He thanked Busch for stepping up for the BOZA role.
- C. Commissioner Dawson thanked Sarah Busch for volunteering her time noting it is great to get involved with the city.
- D. Vice Mayor Rainey agrees with Burks and Lucas it is hard to make decisions that impact all of your lives. It is hard to make decisions that could impact a family's home. But we do listen to both sides.
- E. Mayor Blade thanked everyone for being at the meeting.

- 13. Adjournment** –Vice Mayor Rainey made a motion for adjournment with Commissioner Burks seconding and meeting was adjourned at 8:02 p.m.

Brandy Johnson
City Recorder