

## **LAKE RAY HUBBARD APPEALS BOARD MEETING MINUTES**

The Lake Ray Hubbard Appeals Board met on Thursday, September 2, 2010 at 3:00 p.m. in the City Council Work Session Room at City Hall.

### **BOARD MEMBERS PRESENT**

Dr. Ric Johnson  
David Ernest Royal  
Ken Smithhart  
Don Khieu  
Craig Sheils

### **STAFF PRESENT**

Thom Guillory	Engineering Administrator Development and Drainage, Engineering Department
Leo Signey	Graduate Engineer
Norma Campos	Recording Secretary

### **CALL TO ORDER**

Meeting was called to order by Chairman Dr. Ric Johnson.

### **MEETING MINUTES**

Staff presented the meeting minutes from the April 8, 2010 meeting. Chairman Dr. Ric Johnson asked for discussion, there being none, board member Sheils moved that the minutes be approved. Motion was second by board member Royal and passed unanimously.

Board member Sheils informed the Board that he would be resigning from the Board in the near future and this would probably be his last meeting.

Chairman Dr. Ric Johnson asked for discussion on the draft amendment to the Board Rules of Procedure, Section 5, page 4, pertaining to limiting continuous appeals to the Board on the same property. Discussions centered on whether to keep or lengthen the six month (6) waiting period

between the appeals by the same property owner. Board member Royal stated that as the rules are presently written if a sublease owner makes an investment in improvements, it is at a great risk during the initial 6 months following an appeal. Board member Royal, stated that once the Board renders a decision it should be final unless new major evidence or facts have been discovered that would justify a new appeal. It would be up to the Board to determine if the new facts and evidence merited a rehearing.

Board member Smithhart questioned whether an ownership change would allow a property owner to appeal the sublease lines. It was staff's opinion that a sublease follows the property regardless of the owner and an ownership change would not be cause for an appeal. Staff will review the sublease agreement and if necessary consult with the City Attorney's office for clarification.

The Board was unaware that the subleases could occur immediately after the Board renders its decision. Chairmen Johnson, requested staff to investigate the possibility of not executing sublease agreements with property owners impacted by a case heard by the Board for a period of six months.

Board member Smithhart moved to postpone approval of the amended Board Rules of Procedure until the next meeting. Motion was second by board member Royal and passed unanimously.

Third item of business was the consideration of Mrs. Nancy Johnson, 4418 Scenic Circle, parcel 11 request for an adjustment to the sublease line between parcels 10 and 12. Mrs. Johnson requested that the sublease line between parcels 10 and 11 be adjusted easterly to the end of the retaining wall she had constructed along the lake shore and to coincide with the area that she has maintained since acquiring the property in 1984. She also requested an adjustment to the sublease line between parcels 11 and 12 to more closely follow the projection of the access easement between the two adjoining properties. She presented an exhibit signed by her former neighbors indicating future sublease and maintenance boundaries. Photographs were also presented supporting her request.

Elvira Bernal, 2973 Las Campanas Drive, Farmers Branch, Texas, owner of 4525 Zion Road, parcel 10, testified in opposition to the request. Presently the property is vacant. The Bernal's plan on constructing a home on the property

along with building a boat dock and house on the lake in the near future. They do not want the sublease line between parcels 10 and 11 adjusted.

Staff informed the Board of the upcoming appeal request from James and Dorothy Thornhill of 4521 Zion Road, parcel 9. Granting parcels 9 and 11 sublease line request would significantly reduce the amount of lake shore frontage for lot 10. Given these facts, board member Sheils suggested that the Board consider delaying acting on Mrs. Johnson request until both request could be heard and acted on at the same time.

Bill Swisher, 4422 Scenic Circle, parcel 12, spoke in opposition to adjusting the lease line between parcels 11 and 12. If Mrs. Johnston request is granted parcel 12 lake frontage will increase by approximately 60 feet.

Mr. Swisher stated that he has executed a sublease agreement with the City and does not want the additional property added to his existing sublease. Board members discussed whether the Board could create another sublease parcels and / or increase the size of a parcel even if the owner of the sublease did not want the additional property. Staff will consult with the City Attorney office. Board member Smithhart also requested clarification on whether an adjacent owner can appeal the sublease boundaries after an adjoining sublease has been executed.

During Mrs. Johnson's rebuttal board member Sheils summarized Mrs. Johnson's intent i.e., to maintain her lake view and continue maintenance on the area she has maintained since acquire the adjoining property.

Mrs. Dorothy Thornhill, 4521 Zion Road, briefly described their upcoming appeal request.

Jim Hodges, 4426 Scenic Drive spoke in favor of the Johnson appeal request.

Motion was made to table the Johnson appeal request by Board member Royal and second by board member Sheils, motion pass unanimously.

## **ADJOURNMENT**

There being no further business before the board the meeting was adjourned at 5:30 p.m.