

RESOLUTION NO. 21- R-88

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE BERRY CREEK HOMEOWNERS ASSOCIATION FOR THE PURPOSE OF TRAFFIC CONTROL, AND OTHER MATTERS IN CONNECTION THEREWITH

WHEREAS Berry Creek is a private gated community in the City of Schertz, Guadalupe County, Texas, generally located at Berry Creek Drive, off FM 3009, between Ashley Oak Drive and Woodland Oaks Drive and containing a total of 120 residences: and

WHEREAS the Berry Creek Homeowners Association is the owner of the private streets in Berry Creek and is responsible for the maintenance thereof; and

WHEREAS Texas Transportation Code Section 542.008, (the "Statute") as amended, authorizes a municipality to extend certain road regulations to within certain private subdivisions; and

WHEREAS the Statute applies to a subdivision in which the roads are privately owned or maintained, and to a municipality with a population of three hundred (300) or more; and

WHEREAS, the Statute authorizes, on petition of twenty-five percent (25%) of the property owners residing in a subdivision, the governing body of the municipality to extend by ordinance any traffic rules that apply to a road owned by the municipality, or by the county in which the municipality is located, to the roads in the subdivision so that the roads of the subdivision are under the same traffic rules, if the governing body of the municipality finds the ordinance in the interest of the municipality generally; and

WHEREAS, pursuant to the Statute, at least twenty-five percent (25%) of the property owners residing in Berry Creek together with the governing body of the Association, have petitioned the City to enforce the traffic rules and laws related to the operation of motor vehicles on public thoroughfares of the City on the Private Streets and to obtain the patrol presence of the City Police Department for the health, safety, and welfare of the City's citizens residing in Berry Creek (the "Petition"), said Petition being attached hereto as Exhibit "A"; and

WHEREAS the Owners and the Association acknowledge and agree that enforcement of the requests set forth in the Petition are subject to the passage of an ordinance by the City Council of the City stating that the Private Streets are to be considered to be public streets for the purposes of the application and enforcement of specified traffic rules and is further subject to an agreement being executed between the City and the Association.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ:

1. That the Petition is hereby accepted by the City Council.
2. That the City Manager is hereby authorized to execute an agreement detailing the obligations of the Association regarding payment and liability for traffic enforcement.
3. That this resolution shall be in force and effect from and after its final passage, and is so resolved.

PASSED AND ADOPTED, THIS _____ DAY OF _____, 20_.

CITY OF SCHERTZ, TEXAS

Ralph Gutierrez, Mayor

ATTEST:

Brenda Dennis, City Secretary

(CITY SEAL)

Exhibit "A"

**[COPY OF HOA MEETING
MINUTES AUTHORIZING
TRAFFIC EXTENSION]**

Berry Creek HOA

Meeting Minutes

June 8, 2020

- I. Call to order 6:03 pm
- II. Board Members Present: Karla Ayala, Charles Kelm, Dana Elliot and Elmira Cortiella.
- III. Approval of the minutes from the last meeting - approved
- IV. Open issues:
 - a) Treasurer's report (as of 5/31/2020)
 - Union Bank Checking - \$4,139.67
 - Union Bank Money Market - \$100,883.15
 - RBFCU CD - \$160,549.16 (as of 3/31/2020)
 - Delinquency report - \$3,715.32
 - b) Owners to be heard:
 - None
 - c) Completed:
 - Power washer was purchased from Sam's Club: Sun Joe SPX 4600 Electric 3000 PSI \$259.98 + tax
 - Electrical at the main entrance was fixed by Mowery Lowery Electrical
 - 10 Homeowners are widening their driveways
 - Celebration for Graduates in marquee
 - 1st River City Produce Market Day was on Wed May 27th
 - Meeting with landscaper Scott to discuss the water bill on May 15; bushes in front of Berry Creek sign were replanted
 - Inside and outside safety loops repaired
 - d) Unfinished Business:
 - Designated Park Area/meeting with representatives of City of Schertz
 - Mission Asphalt need to provide new map for road repairs
 - Change schedule of trash collection/mail
 - Flyers for residents on road repairs
 - Traffic count – pending due to Covid-19

- Plant Pride of Barbados on Berry Way cul-de-sac – pending
- Rock or sod for islands – pending
- Painting of Lending Library – pending
- Paint front gate – Sunday June 7 at 9 am
- Power wash near front entrance – Thursday June 4
- Stop Signs – pending/collecting bids

e) New Business:

- Extend Motor Vehicle Code into Berry Creek Subdivision – approved 4 to 0
- New gate maintenance agreement with Gate Services – approved
- Street sealing on June 22
- Railroad ties around mailbox on Berry Creek Dr near Berry Patch- bid is pending for all three mailboxes from Signature Lawns
- Rock and Edge near main exit (Berry Creek Dr and FM 3009) – bid is pending from Signature Lawns.

f) Dates to remember:

- River City Market day: June 17 and July 14 from 10 am – 12 pm;
- Next meeting date: July 8, 2020
- Annual meeting: October 13 at 6:30 pm

Committee reports:

g) Welcome committee: Nothing to report

VI. Adjournment: 7:39 pm

Minutes submitted by: Elmira Cortiella, Secretary