

# CITY OF ROCKPORT

## MINUTES

### CITY COUNCIL REGULAR MEETING 6:30 p.m., Tuesday, June 9, 2015 Rockport City Hall, 622 East Market Street

On the 9<sup>th</sup> day of June 2015, the City Council of the City of Rockport, Aransas County, Texas, convened in Regular Session at 6:30 p.m., at the regular meeting place in City Hall, and notice of meeting giving time, place, date and subject was posted as described in V.T.C.A., Government Code § 551.041.

#### CITY COUNCIL MEMBERS PRESENT

Mayor Pro-Tem Pat Rios, Ward 3  
Council Member Rusty Day, Ward 1  
Council Member J. D. Villa, Ward 2  
Council Member Barbara Gurtner, Ward 4

#### CITY COUNCIL MEMBER(S) ABSENT

Mayor Charles J. Wax

#### PLANNING & ZONING COMMISSION MEMBERS PRESENT

Edward Bellion  
Graham Wilson  
Brian Olsen  
Frank Lynch  
Ruth Davis  
Diana Severino-Saxon

#### STAFF MEMBERS PRESENT

City Manager Kevin Carruth  
City Attorney Terry Baiamonte  
City Secretary Teresa Valdez  
Police Chief Tim Jayroe  
Public Works Director Mike Donoho  
Finance Director Patty Howard  
Information Technology Director Brian Jacobs  
Parks & Leisure Services Director Tom Staley

#### ELECTED OFFICIALS

Aransas County Navigation District Commissioner  
Precinct 3 Malcolm Dieckow

#### Opening Agenda

##### 1. Call to Order.

With a quorum of the Council Members present, the Regular Meeting of the Rockport City Council was called to order by Mayor Pro-Tem Rios at 6:31 p.m. on Tuesday, June 9, 2015, in the Council Chambers of the Rockport City Hall, 622 E. Market Street, Rockport, Texas.

## **2. Pledge of Allegiance.**

Council Member Gurtner led the Pledge of Allegiance.

## **3. Citizens to be heard.**

At this time comments will be taken from the audience on any subject matter that is not on the agenda. To address the Council, please sign the speaker's card located on the table outside the Council Chamber and deliver to the City Secretary before the meeting begins. Please limit comments to three (3) minutes. In accordance with the Open Meetings Act, Council may not discuss or take any action on any item that has not been posted on the agenda.

There were no citizen comments.

## **Consent Agenda**

All consent agenda items listed are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council Member so requests, in which event the item will be removed from the Consent Agenda and considered in its normal sequence on the agenda.

- 4. Deliberate and act on approval of City Council Regular Meeting Minutes of May 26, 2015, and Special Meeting Minutes of June 2, 2015.**
- 5. Deliberate and act on approval of request from American Fireworks to perform a fireworks display show at Little Bay on August 29, 2015.**
- 6. Deliberate and act on report from the Rockport Yacht Club for marketing expenditures made for 2015 Nautical Flea Market.**
- 7. Deliberate and act to appoint citizen to the YMCA Project Committee.**
- 8. Deliberate and act on the Texas Municipal League Intergovernmental Employee Benefits Pool Continuation of Coverage Administrative Agreement for the Fiscal Year 2015-2016.**
- 9. Deliberate and act on the Texas Municipal League MultiState Intergovernmental Employee Benefits Pool Rerate Notice for active employees and retired employees not eligible for Medicare.**

Mayor Pro-Tem Rios called for requests to remove any item from the Consent Agenda for separate discussion. There being no requests, Mayor Pro-Tem Rios called for a motion.

**MOTION:** Council Member Villa moved to adopt the Consent Agenda Items as presented. Council Member Gurtner seconded the motion. Motion carried unanimously.

## **Public Hearing**

- 10. Call to Order - Rockport Planning & Zoning Commission.**

With a quorum of the Rockport Planning & Zoning Commission present, the meeting of the Rockport Planning & Zoning Commission was called to order by Chairman Frank Lynch at 6:34 p.m. on Tuesday, June 9, 2015, in the Council Chambers of the Rockport City Hall, 622 E. Market Street, Rockport, Texas.

**11. Conduct and deliberate a Joint Public Hearing with the Planning & Zoning Commission to consider a request for rezoning from R-1 (1<sup>st</sup> Single-Family Dwelling District) to R-6 (Hotel/Motel District) on property located at 3404 Highway 35 South; also known as Lot 1 (18.733 acres), Bays of Rockport, Rockport, Aransas County, Texas.**

Mayor Pro-Tem Rios opened the Joint Public Hearing at 6:34 p.m.

Brad Coleman addressed the Council. Mr. Coleman stated he is the applicant requesting the rezoning because there have been a lot of requests for cottage type rentals from people who like to wade fish.

Council Member Day asked Mr. Coleman how many units he is planning to build and the square footage of the units.

Mr. Coleman said he plans to build a couple of units and see if there is a market for additional units. Mr. Coleman stated the units will be around 500 square feet.

Brief discussion was held among Council and Mr. Coleman.

Planning & Zoning Commission Chairman Frank Lynch stated the Planning & Zoning Commission will consider the rezoning request at the meeting on Monday, June 15, 2015 at 5:30 p.m.

Mayor Pro-Tem Rios closed the Joint Public Hearing at 6:37 p.m.

**12. Adjourn - Rockport Planning and Zoning Commission.**

At 6:37 p.m., the Rockport Planning & Zoning Commission adjourned.

**Regular Agenda**

**13. Tabled May 12, 2015 - Deliberate and act on first reading of an Ordinance amending the City of Rockport, Texas Code of Ordinances Chapter 54 "Health and Sanitation," by renaming Article I "In General" to Article I "Regulation of Single-Use Plastic (checkout) Bags"; setting definitions, prohibitions and requirements, scope and applicability, and exemptions; establishing implementation of a voluntary ban and setting date of mandatory compliance; and providing for an effective date, reading, publication and severance.**

**MOTION:** Council Member Villa moved to remove this item from the table. Council Member Gurtner seconded the motion. Motion carried unanimously.

Council Member Gurtner stated she had proposed the City adopt an ordinance regulating single-use plastic bags. Ms. Gurtner said she had reviewed the proposed Ordinance and had suggested some

changes regarding the use of the terms "checkout" and/or "carryout." Ms. Gurtner indicated that the terms were not consistent throughout the Ordinance. Ms. Gurtner added that she wanted to discuss the definition of the term "recyclable bag." Ms. Gurtner suggested "recyclable bag" be defined as: "Recyclable Bag means a checkout bag made of paper or other non-plastic material that is provided by a retail establishment to a customer at the point of sale for purposes of transporting groceries or other goods and is 100% recyclable."

Steven Lanoux, 207 Beachwalk Lane, Port Aransas, Texas, addressed the Council. Mr. Lanoux stated he is Mayor Pro-Tem for the City of Port Aransas and he supports the proposed Ordinance. Mr. Lanoux said he is unaware of any city or state that has suffered any economic downfall or business failure after adoption of an ordinance banning plastic bags. Mr. Lanoux added the City of Port Aransas has not received any complaints since the adoption of an ordinance banning plastic bags.

Neli Spurrell, 166 Heron Oaks, Rockport, Texas, addressed the Council. Ms. Spurrell stated she is a new citizen in Rockport, originally from Brazil. Ms. Spurrell said she has spent the last 15 years in environmental education. Ms. Spurrell expressed that she has seen the trash in the Gulf of Mexico and that is why she came to Rockport, to help the community be better. Ms. Spurrell said the plastic bag itself is not "bad," it is because of humans that there is a problem.

Richard Rock, 1635 S. Water Street, Rockport, Texas, addressed the Council. Mr. Rock stated he supports the proposed Ordinance banning single-use plastic bags. Mr. Rock added that we live in a very pristine area and he wants to keep it that way; we owe it to our grandchildren to save our bays.

Annette Hegen, 1105 Oak Avenue, Rockport, Texas, addressed the Council. Ms. Hegen said she was representing staff and volunteers from The Aquarium at Rockport Harbor. Ms. Hegen stated they have seen evidence of the harmful effects of plastic on birds, fish and other wildlife. Ms. Hegen expressed that they supported the ban on single-use plastic bags.

Pat Romero, 1905 Prairie Road, Rockport, Texas, addressed the Council. Ms. Romero said she agrees with everything that has previously been said and this is such a simple thing for people to do. Ms. Romero stated some people just need a little nudge and then there are those who will need a big nudge; give them a big nudge.

Savanna Smith, 1413 Dana Drive, Rockport, Texas, and Ellen Stacy, 1413 ChaChaLaca Street, Rockport, Texas, addressed the Council. Ms. Smith stated she and Ms. Stacy were graduates of Rockport-Fulton High School, that they had researched oxygen levels in watersheds and the oxygen levels were low; they do not know if that is from plastic bags, but the plastic bags are not helping. Ms. Stacy added that she is a bagger at HEB and she sees the number of plastic bags used, and the banning of use of single-use plastic bags would help reduce the amount taken to landfills.

Gayly Opem, 21 La Buena Vida, Rockport, Texas, addressed the Council. Ms. Opem said she had spoken at Council workshops support the banning of single-use plastic bags. Ms. Opem stated she had sent new information to the Council on Friday showing that plastic is not only affecting the oceans and bays, but also rivers. Ms. Opem expressed that it is time for the community to step up to

the plate and make rules to protect our environment. Ms. Opem added that she did not support exemptions for franchises or bait shops in the proposed Ordinance.

Virginia (Ginger) Easton-Smith, 1413 Dana Drive, Rockport, Texas, addressed the Council. Ms. Easton-Smith said she is the Agriculture Natural Resources Agent for Aransas County and she agrees with everything that has been said tonight. Ms. Easton-Smith stated that plastic is the number one contaminant to cotton and it damages cattle and wildlife. Ms. Easton-Smith expressed that the proposed Ordinance will not affect produce or bait sales but will control distribution of checkout bags. Ms. Easton-Smith stated she supported the proposed Ordinance.

Phil Wildfang, 1213 Enterprise Boulevard, Rockport, Texas, addressed the Council. Mr. Wildfang said there has been 3.5 years of public awareness regarding this issue, now we are on the verge of accomplishing something and the City has the authority to do this. Mr. Wildfang stated the adoption of this Ordinance will encourage residents and visitors to be more mindful. Mr. Wildfang encouraged the Council to provide the citizens with the leadership they need and adopt the proposed Ordinance.

Steven Reisinger, 101 Silver Oak Place, Rockport, Texas, addressed the Council. Mr. Reisinger informed the Council that he is a bird watcher and some months ago while he was at the beach, he witnessed the garbage trucks emptying the garbage containers. Mr. Reisinger stated the process is efficient except for the fact that the garbage lids blow open and the coastal winds blow the plastic and Styrofoam into the bay. Mr. Reisinger added that the plastic stuff is so light and ends up in the bay, the gulf and the cotton fields. Mr. Reisinger urged the Council to adopt the proposed Ordinance.

Ellen Reisinger, 101 Silver Oak Place, Rockport, Texas, addressed the Council. Ms. Reisinger stated she is a Master Gardener and Master Naturalist and has a daughter who lives in San Francisco which has banned use of plastic bags. Ms. Reisinger informed the Council that her daughter had told her that when San Francisco first banned the plastic bags, there had been whining and griping, but after two months everything was okay.

Carrie Meyer, 4401 Gulfbreeze, Corpus Christi, Texas, addressed the Council. Ms. Meyer informed the Council that she is President of the North Beach Association, and the Association thinks Rockport has done everything they would like to do at North Beach. Ms. Meyer stated she drives 30 miles to come to the beach in Rockport. Ms. Meyer added that even if the plastic bag ban does not solve the whole problem, it shows that you care.

Council Member Villa stated he is not a fan of "Skip the Plastic" because he feels that too many things are taken away from citizens. Mr. Villa added that he thinks that there is a litter problem and we should hold people accountable. Mr. Villa said he did not think this will work unless it goes county-wide and is also adopted by the Town of Fulton. Mr. Villa expressed he would like this to go to the voters for a decision.

Discussion was held among Council regarding the proposed Ordinance.

**MOTION:** Council Member Day moved to approve the first reading of an Ordinance amending the City of Rockport, Texas Code of Ordinances Chapter 54 "Health and Sanitation," by renaming

Article I "In General" to Article I "Regulation of Single-Use Plastic (checkout) Bags"; setting definitions, prohibitions and requirements, scope and applicability, and exemptions; establishing implementation of a voluntary ban and setting date of mandatory compliance; providing for an effective date, reading, publication and severance; Mayor Pro-Tem Rios seconded the motion.

Council Member Gurtner stated she did not support Section 54.5.(b), an exemption that Mayor Wax had added.

Discussion was held among Council regarding the Section 54.5 exemption: "Bags used by businesses that provide prepared food for consumption off premises to ensure safety and sanitary carriage of those items."

Norma Martinez asked the Council if this Ordinance would affect clothing stores, Castaways Thrift store and other like businesses.

Mayor Pro-Tem Rios stated the Ordinance would apply to clothing stores, Castaways and other like businesses.

Aransas County Navigation District Commissioner Malcolm Dieckow stated humans are adaptable and he does not see the proposed Ordinance being an extreme issue. Mr. Dieckow said we have to start somewhere and we cannot ignore this.

**AMENDED MOTION:** Council Member Day amended his motion to approve the first reading of an Ordinance amending the City of Rockport, Texas Code of Ordinances Chapter 54 "Health and Sanitation," by renaming Article I "In General" to Article I "Regulation of Single-Use Plastic (checkout) Bags"; setting definitions, prohibitions and requirements, scope and applicability, and exemptions; establishing implementation of a voluntary ban from July 1, 2015, through December 31, 2015, and setting date of January 1, 2015 for mandatory compliance; providing for an effective date, reading, publication and severance. Council Member Gurtner seconded the motion. Motion carried 3:1.

FOR MOTION: Council Member Day, Council Member Gurtner and Mayor Pro-Tem Rios.

AGAINST MOTION: Council Member Villa.

**14. Tabled May 26, 2015 - Deliberate and act on interlocal agreement with Aransas County for subdivision regulation within the extraterritorial jurisdiction of the City of Rockport.**

City Manager Kevin Carruth stated the Aransas County Commissioners Court had this item on its May 26, 2015 agenda to "discuss, approve, or disapprove guidance." Mr. Carruth added that he had requested information from the County Attorney in regard to the Commissioners Court decision on this item and he has not received a response.

Mayor Pro-Tem Rios said this item will remain tabled.

**15. Tabled May 26, 2015 - Deliberate and act on proposal from Aransas County for replacement of audio visual equipment in the emergency operations center.**

**MOTION:** Mayor Pro-Tem Rios moved to remove this item from the table. Council Member Villa seconded the motion. Motion carried unanimously.

Mayor Pro-Tem Rios said the Council had received information that the City has purchased and installed two projectors on the Sheriff's Office side of the Emergency Operations Center (similar to the ones that were broken) in order to get the Emergency Operations Center fully operational during the current hurricane season, at a cost of \$300. Mayor Pro-Tem Rios added that the County proposal of splitting the \$64,162.58 would be an unbudgeted cost in the City's Fiscal Year 2014-2015 budget.

**MOTION:** Mayor Pro-Tem Rios moved to dismiss without prejudice the proposal from Aransas County for replacement of audio visual equipment in the Emergency Operations Center. Council Member Villa seconded the motion. Motion carried unanimously.

**16. Deliberate and act on lease of building located at 901 E. Main Street and part of a building at 401 East Magnolia to Coastal Bend Troop Support and authorizing the Mayor to execute and negotiate all necessary documents.**

Carla Reed, Executive Director of Coastal Bend Troop Support, addressed the Council. Ms. Reed said Coastal Bend Troop Support had been in existence for 11 years. Ms. Reed called the Council's attention to several thank you notes from recipients of the packages prepared and sent by Coastal Bend Troop Support. Ms. Reed stated she would like to see the rent amount lower than that stated in the lease.

Beverly Jacobson addressed the Council and informed the Council she has a son who has served four tours. Ms. Jacobson said her son has received care packages from Coastal Bend Troop Support and he has told her that the care packages may be the only good thing that happened to an enlisted that day. Ms. Jacobson asked that the Council be as kind as they possibly can so that there will be no disruption in providing care packages.

City Manager Kevin Carruth informed the Council that a local realtor had been contacted and had provided the range of \$.70 to \$1.40 per square foot as a cost of renting the property. Mr. Carruth added that the \$900 rent amount includes the storage building which was not included in the price per square foot calculation.

Discussion was held among Council and Ms. Reed.

City Attorney Terry Baiamonte reminded Council that the Constitution does not allow a City to give away property and there are certain guidelines that have to be followed. Ms. Baiamonte added that it would be safer to follow staff's recommendation on the amount to be charged since it had been researched.

**MOTION:** Council Member Day moved to approve the lease of building located at 901 E. Main Street and part of a building at 401 Magnolia to Coastal Bend Troop Support and authorize the Mayor to execute and negotiate all necessary documents. Council Member Gurtner seconded the motion. Motion carried unanimously.

- 17. Deliberate and act on a resolution approving cooperation with the cities served by AEP Texas Central Company to review the AEP Texas Central Company's requested approval of an adjustment to its energy efficiency cost recovery factor and authorizing hiring legal and consulting services to negotiate with the company and direct any necessary litigation and appeals.**

City Manager Kevin Carruth stated this has been done multiple times over the years past and by law, the City's reasonable rate case expenses have to be reimbursed by American Electric Power (AEP) Texas Central Company (TCC).

**MOTION:** Council Member Villa moved to approve the resolution approving cooperation with the cities served by AEP Texas Central Company to review the AEP Texas Central Company's requested approval of an adjustment to its energy efficiency cost recovery factor and authorizing hiring legal and consulting services to negotiate with the company and direct any necessary litigation and appeals. Council Member Day seconded the motion. Motion carried unanimously.

### **18. Reports from Council.**

At this time, the City Council will report/update on all committee assignments, which may include the following: Aransas Pathways Steering Committee, Building and Standards Commission; Coastal Bend Bays and Estuaries Program; Coastal Bend Council of Government; Environmental Committee for Water Issues; Keep Rockport Beautiful Advisory Board; Parks & Leisure Services Advisory Board; Planning Zoning Commission; Rockport Heritage Board; Rockport-Fulton Chamber of Commerce; Aransas County Storm Water Management Advisory Committee; Swimming Pool Operations Advisory Committee; Tourism Development Council; Tree & Landscape Committee; YMCA Project Committee; Texas Maritime Museum; Fulton Mansion; Rockport Center for the Arts; Aransas County; Aransas County Independent School District; Aransas County Navigation District; Town of Fulton; and Texas Municipal League. No formal action can be taken on these items at this time.

Mayor Pro-Tem Rios stated the YMCA Project Committee is getting closer to presenting their information to Council.

Mayor Pro-Tem Rios announced that Ace Hardware has purchased the old Walmart property.

### **Executive Session**

**City Council will hold an executive session pursuant to the provisions of Chapter 551 of the Texas Government Code, in accordance with the authority contained in:**

- 19. Section 551.071(1)(A) and Section 551.071(2) Consultation with Attorney: Pending or contemplated litigation: 1) Templeton, 2) Petty, 3) Aumada, and 4) Bay Education Center.**
- 20. Section 551.087 Deliberation Regarding Economic Development Negotiations: Project Cardinal.**

At 8:06 p.m., Mayor Pro-Tem Rios convened the Rockport City Council into an executive session pursuant to the provisions of Chapter 551 of the Texas Government Code, in accordance with the

authority contained in Section 551.071(1)(A) and Section 551.071(2) Consultation with Attorney: Pending or contemplated litigation: 1) Templeton, 2) Petty, 3) Aumada, and 4) Bay Education Center; and Section 551.087 Deliberation Regarding Economic Development Negotiations: Project Cardinal.

**Open Session**

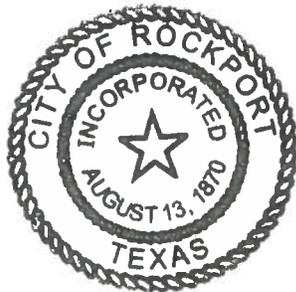
**21. City Council will reconvene into open session pursuant to the provisions of Chapter 551 of the Texas Government Code to take any actions necessary related to the executive sessions noted herein, or regular agenda items, noted above, and/or related items.**

At 8:42 p.m., Mayor Pro-Tem Rios reconvened the Rockport City Council into open session pursuant to the provisions of Chapter 551 of the Texas Government Code to take any actions necessary related to the executive sessions noted herein, or regular agenda items, noted above, and/or related items.

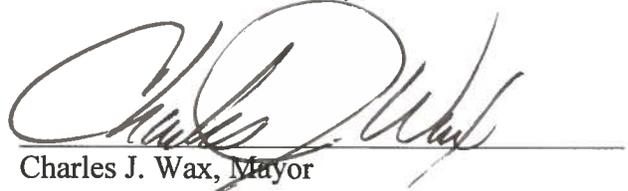
No action was taken.

**22. Adjournment**

At 8:43 p.m., Council Member Day moved to adjourn. Motion was seconded by Council Member Villa and carried unanimously.



**CITY OF ROCKPORT, TEXAS**

  
Charles J. Wax, Mayor

ATTEST:

  
Teresa Valdez, City Secretary