

CITY OF ROCKPORT

MINUTES

JOINT SPECIAL WORKSHOP MEETING

10:00 a.m., Tuesday, August 25, 2015

Bay Education Center, 121 Seabreeze Drive

On the 25th day of August 2015, the City Council of the City of Rockport and the Aransas County Commissioners' Court convened in Joint Special Workshop Session at 10:00 a.m., at the Bay Education Center, 121 Seabreeze Drive, Rockport, Texas, 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 Charles J. Wax

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 - *arrived at 10:30 a.m.*

ARANSAS COUNTY JUDGE & COMMISSIONERS PRESENT

County Judge C.H. "Burt" Mills, Jr.

County Commissioner Precinct 1-1A Jack Chaney

County Commissioner Precinct 2 Leslie "Bubba" Casterline

County Commissioner Precinct 3 Charles Smith

County Commissioner Precinct 4 Betty Stiles

STAFF MEMBERS PRESENT

City Manager Kevin Carruth

City Secretary Teresa Valdez

City Attorney Terry Baiamonte

Public Works Director Mike Donoho

Community Planner Kimberly Clark

ELECTED OFFICIALS

1. Call to Order - The Honorable Charles J. Wax, Mayor.

With a quorum of the Council Members present, the Joint Special Workshop Meeting of the Rockport City Council was called to order by Mayor Wax at 10:05 a.m. on Tuesday, August 25, 2015, at the Bay Education Center, 121 Seabreeze Drive, Rockport, Texas.

2. Call to Order - The Honorable C.H. "Burt" Mills, Jr., County Judge.

No action taken.

Regular Agenda

4. Hear and deliberate on subdivision regulation interlocal agreement.

Judge Mills stated that the County had sent a subdivision regulation interlocal agreement to the City and someone from the City had marked out lines 37-40 in the agreement and he wanted to know why.

Mayor Wax stated the City had received the agreement from the County without any backup documentation and the City had compared the agreement to the previous subdivision regulation interlocal agreement and noted that lines 37-40 were not in the previous agreement. Mayor Wax said the staff had discussed the agreement with the City engineers and did not see the reason for lines 37-40 so they were excised. Mayor Wax added that if the County wants to impose regulations in the unincorporated areas of the County, the City did not have any objection to that. Mayor Wax expressed that the City has the authority by state law to apply regulation standards in the extraterritorial jurisdiction.

Commissioner Smith stated the County's storm water and floodplain management standards are higher than the City's; County requires 18' and City requires 6'. Commissioner Smith said he was ready to listen to any additional information the City may have on storm water as it relates to the extraterritorial jurisdiction.

Mayor Wax stated that the words added to the interlocal agreement state "...to regulate all other development permits," and the word "all" is problematic. Mayor Wax said that the City has consulted the Texas Municipal League and they agree that the word "all" is problematic. Mayor Wax indicated that in Chapter 242 of the Texas Local Government Code states a municipality and a county may not both regulate subdivisions and approve related permits in the extraterritorial jurisdiction. Mayor Wax added that if the County and City want to negotiate and draw a line as to who regulates certain areas that would be acceptable.

Discussion was held among Commissioner Smith, Mayor Wax and City Engineer Jim Urban regarding the City's standard for storm water management.

Commissioner Stiles expressed concern that she has a constituent in her precinct who wants to subdivide a piece of property and cannot do that until the County and City reach an agreement regarding regulation standards in the extraterritorial jurisdiction.

County Drainage Engineer David Reid stated that a draft of the interlocal agreement was sent to the City Manager and the document found its way to the Council instead of back to him to work out the details at staff level. Mr. Reid added that he wanted to clarify that the extraterritorial jurisdiction is an unincorporated area and Chapter 242 of the Texas Local Government Code certainly gives rights to the City and the County, but also recognizes there is a problem with that and gives four different ways to solve it: 1) City have full authority in the extraterritorial jurisdiction; 2) County have full authority in the extraterritorial jurisdiction; 3) City and County split the authority in the extraterritorial jurisdiction; or 4) City and County jointly review plats. Mr. Reid expressed that those are the choices and if the City and County cannot come to an agreement, it goes to arbitration.

Mr. Reid added that the County in storm water management is looking at environmental and flood protection issues.

Mayor Wax recommended the drafts of the interlocal agreement be returned to staff level to be worked on and then returned to the County and the City for decision.

Mayor Wax asked Judge Mills to help him establish a date for the staff to return the agreement to the entities. Mayor Wax said the next City Council meeting is scheduled for September 8, 2015.

Judge Mills said the next Commissioners' Court meeting is scheduled for September 14, 2015.

Commissioner Chaney stated that after reading the added paragraph in the interlocal agreement, he can see that "all other development permits" is ambiguous. Commissioner Chaney expressed that there is nothing egregious if you understand what the County is trying to do. Commissioner Chaney said there are good points and bad points, and he could see regulating certain areas in the extraterritorial jurisdiction and limiting it to storm water. Commissioner Chaney added that when staff brings the interlocal agreement back to the City and County, it should be as a draft where it can be looked at like a developer would look at it.

Council Member Day asked if raising the building height to 18" would affect the City's storm water plan. Council Member Day stated his concern was if the build height is raised to 18", where does it push the water; it will negatively affect existing structures.

Commissioner Casterline stated that when you develop in the extraterritorial jurisdiction you are not necessarily using drainage ditches.

Mr. Urban stated that is the difference he was trying to explain. Mr. Urban said urbanized development uses underground storm sewer instead of letting it flow across the land.

Citizen Cindy Duck stated she would like everyone to consider that raising elevation of building sites causes water to runoff on neighboring property. Ms. Duck said if that is going to be done, then neighboring property owners should be educated about this.

Mayor Wax stated that this joint meeting was being held because of the addition of the one paragraph. Mayor Wax said the elevation issue should be handled at staff level.

Mayor Pro-Tem Rios said he completely agreed with Mayor Wax, but he had been told that there was no difference between the previous agreement and the agreement given to City Manager Kevin Carruth.

Mr. Carruth stated that for the record, the agreement did not go on a Council agenda until it came from the County and had been executed by the Judge.

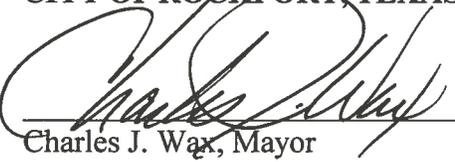
Mayor Wax stated that if the September 8, 2015, date cannot be met, then David Reid and Mike Donoho are to contact Mayor Wax and Judge Mills.

4. Adjournment

At 10:55 a.m., Council Member Villa moved to adjourn the Joint Special Workshop Meeting. Motion was seconded by Mayor Pro-Tem Rios and carried unanimously.



CITY OF ROCKPORT, TEXAS


Charles J. Wax, Mayor

ATTEST:


Teresa Valdez, City Secretary

ORIGINAL

MINUTES OF THE
COMMISSIONERS' COURT

JOINT SPECIAL WORKSHOP MEETING - AUGUST 25, 2015

On the 25th day of August, 2015, there was a Joint Special Workshop Meeting of the Commissioners' Court and the Rockport City Council at the Bay Education Center, 121 Seabreeze Drive, Rockport, Aransas County, Texas.

Commissioners' Court members present: **C. H. "Burt" Mills, Jr.**, County Judge; **Jack Chaney**, Commissioner, Precinct 1; **Leslie "Bubba" Casterline**, Commissioner, Precinct 2; **Charles Smith**, Commissioner, Precinct 3; **Betty Stiles**, Commissioner, Precinct 4; **Valerie K. Amason**, County Clerk.

City Council members present: **Charles J. Wax**, Mayor, **Rusty Day**, Ward 1 Council Member; **J. D. Villa**, Ward 2 Council Member; **Patrick Rios**, Ward 3 Council Member; **Barbara Gurtner**, Ward 4 Council Member; and **Teresa Valdez**, City Secretary.

Other City Employees and Distinguished Guests present were **David Reid**, Drainage and Storm Water Management Engineer; **Kevin Carruth**, City Manager; **Kimber Clark**, Community Planner; **Mike Donoho**, Public Works Director; **Brandi Karl**, Project Engineer - Urban Engineering; and **Jim Urban**, Senior Engineer & Partner - Urban Engineering.

The Meeting was convened at 10:05 a.m. at which time quorums were declared for both entities by Mayor Wax, WHEREUPON, the following proceedings were had and done to wit:

ITEM FOR DELIBERATION AND/OR ACTION:

Hear and deliberate on Subdivision Regulation Intergovernmental Cooperation Agreement.

Judge Mills: The Inter-local Agreement was sent to the City and someone in your entity marked out lines 37-40 and three words in 45 and he questioned, I'd like to know why? And then you passed it back to us that way.

Mayor Wax: We received a draft Inter-local with your signature and it came in to my desk. Without any backup information, we compared it to the prior year and there was a new paragraph that appeared was not present in the prior agreement. Not seeing a reason for the paragraph, I excised it and sent it back.

Judge Mills: We put it in there for storm water and flood plain management. The county building height standards are eighteen inches and the city requirement is six inches.

Commissioner Smith: We are here today to talk about the ETJ, that's negotiated in the situation there, to my understanding. I am here to listen to any additional information that we've received that relates to storm water management, which is the primary concern that I have.

Kevin Carruth: We are partially complete with the modeling of the City Limits and the ETJ. We have an improved master plan, but not all of the improvements in that plan have been solved. The difference between the city plan and what the county adopted is the county went with an existing condition that does not have a plan for future conditions. Both the main plan and the 2015 plan that the City has includes recommendations for resolving what the existing condition plain is as well as what the

anticipated future condition is. I wouldn't install things that are projected to be out 15 or 20 years in the future but as those become a problem we'd have a plan to help them.

Commissioner Smith: I think there might be a misunderstanding, either on my part or on somebody else's part, but our plan really calls for future development to not increase the rate of runoff. I think we did take that into account going forward out there. One of the other concerns I have is regulations on new construction, by using some of these old requirements I think you will be creating a problem down the road for the community and I think the biggest problem is elevation.

Jim Urban: There are several philosophies about how to manage drainage within your regulated areas. I think the question today, within the ETJ, is how we manage that.

Commissioner Smith: If we have adopted a plan out there in the unincorporated areas that is a little more stringent than what is currently in place in the City, don't you think that is a good thing?

Jim Urban: If I thought it was a good thing to do, I would have recommended it.

Mayor Wax: There is a difference in the properties that we are talking about, unincorporated areas and urban areas of the city. If I look at this paragraph, they added without any prior coordination with the city, I have to ask the question, what problem are we trying to solve?

Commissioner Smith: If you're talking about lines 37-40 of the agreement, I can only really relate to the storm water management portion of it, maybe some portion of the floodplain management, even the tree removal permits. But in every one of those instances it's my understanding that our requirements are

a little bit higher of new development and I'm concerned with new development.

Mayor Wax: That may be true and may not be relevant within the City.

Commissioner Smith: Well, but you're not in the city, we are talking about the ETJ.

Mayor Wax: And the authority of the City to exercise its jurisdiction within the ETJ.

Commissioner Smith: And we have the same authority.

Mayor Wax: Correct.

Commissioner Smith: So, we are here to try to work out the differences. If there are additional requirements out there that go above and beyond, that make sense, and we think they do make sense, why would we back off and take a step backwards, is my point.

Mayor Wax: It may make sense from a County perspective.

Commissioner Smith: Well, let's take the one we talked about then, the rate of flow off the property. That's pretty much a standard along coastal counties today, not increase the rate of flow. It works in almost every other location and I don't know why it can't work here. But, let's also address the elevation factor. I've gone to a number of sessions where they say "Well we're going to have rising sea levels here". Does it make sense to continue to let people build six inches above the street level? Because they are talking about now within the year "2070" that what occurs now, once every hundred years is going to occur every year. So, there's no time like the present to start building these structures at a higher level. I think that that's a good thing. That's why we are studying this.

Mayor Wax: I don't agree with you necessarily.

Commissioner Smith: Can you tell me why you disagree?

Mayor Wax: Because I think there's a difference in development within an urban area versus an unincorporated area.

Commissioner Smith: You're saying these aren't appropriate in an urban area, and why aren't they appropriate?

Mayor Wax: I'm saying we have a master plan being updated today which has a series of capital improvement projects in it which are significant improvements. Over the years we did not have the dollars to commit to all of the improvements. As they become a higher priority to the city, then the city will commit to them with applications or through ad valorem taxes.

In this one paragraph it says "regulating all other development permits, including, but not limited to" the word all is problematic because in Chapter 242 double permitting is not allowed in the ETJ. That's our problem. Now if we wish to negotiate, as we have in the past, a place where a line is drawn, where the City is completely responsible inside this line and the County is completely responsible outside that line, that's a valid argument to take, but not forcing any developer to go to two different entities, it's a violation of City law.

Commissioner Smith: I take a different interpretation of that particular Section and I've talked with your attorney about that. There are many instances where you go to two different entities. It's provided for in that section, but I want to go back to other issue. You're talking about delaying until the City develops, that poses a huge problem going forward out there. When you allow folks to continue to develop, putting more strain on the system, if you will, then that has to be mitigated and it's mitigated with tax payer dollars. If you were to upgrade the regulations on new development, that's done

at the developer expense, it doesn't come down on the tax payers. That's the huge difference that I see in terms of the delay. I know that over three years ago I sat in your office and you said we will have some updated regulations in within six months. It's not good for the community, the more delay we have on coming up with regulations on new development. We need to come to something that's good for the community on going forward. My question again is what's wrong with raising the standards today on new construction?

Jim Urban: The law is talking about subdivisions that straddle the ETJ line and the unincorporated areas of the city. It does not address subdivisions that are completely within the ETJ. What the Mayor has proposed is honoring the spirit of the law, not making the regulated public jump between disputing entities. You must come up with a plan that tells the people where they need to go.

Commissioner Smith: My issue is about taking care of new development, either in the county, in the ETJ, or in the city. Why not make sure that the stuff that's going into the city, even inside the city limits, does not increase the future load on tax payers going forward.

Jim Urban: You have made an assumption that raising structures by eighteen inches is better than six inches. The City within their area, the people who elected them, their constituents, have asked them to take care of and make plans for their city. If the city decides later to change something and make it greater or less, I don't know, that's up to the public officials. The rule you are looking at is not even talking about the area that you are discussing, it's talking about subdivisions that are mostly in the county or mostly in the ETJ

and to my knowledge we haven't had any of those. It's a great arguing point but it's really not an issue.

Commissioner Stiles: I have a constituent in my precinct who wants to subdivide her property and can't because we haven't got an inter-local and I believe Commissioner Chaney has one as well, so we've got to some kind of agreement.

Commissioner Casterline: It sounds to me like we're wasting our time, because from listening to you all and what Charles is talking about, he's wanting to put the expense of expansion of the subdivision on the sub divider and it seems to me like you want your city tax payers to pay for the improvements to drain their subdivision on down the row.

Mayor Wax: Commissioner, I don't agree with that at all. We already have in existence, subdivision control regulations that require things like retention in some places that minimizes runoff. We've had two or three, that looked at the property at Pearl and 35 on the north side, all who are fully aware of those requirements, all who deal with storm water and flood plain management, all who have retention ponds in there, full of water, and so forth and so on, all of that cost is on the developer to include attention to utilities, gas, water & sewer and so forth. What we're talking about here is a subdivision that straddles level lines of responsibility, that's all we're talking about. I have no trouble updating the inter-local that we had, which expired in 2006, where we had a clearly identifying line, however, I think there needs to be further discussion on the extraterritorial jurisdiction, because I do not accept "all other development permits". My interpretation of the law and my assistant attorneys and my Texas Municipal League attorneys who deal with this also, also agree that "that" makes

it problematic.

David Reid: I sent this document to Kevin as a draft and asked him to review it and come back to me with questions or comments so we could work this out before presenting it to the official's, that was my intent. Whether this wasn't a perfect document, I have no idea. This is my first shot at it. I do want to clarify some things, first the ETJ is unincorporated area and the law does give the city the right to regulate subdivision plats in the ETJ, but it also leaves that right with the county, so there is a double thing going on here. Chapter 242 recognizes that there is a problem here and the city and county have to come to an agreement. There are four options, the first is the city has all the authority, the second is the county has all the authority, the third is to split the ETJ in half, the way it was previously done, and fourth is to jointly review the plats with one point for submittals and comments. If you can't come to an agreement, you have to go to arbitration. I think the county, in their storm water management criteria were primarily looking at water quality and environmental protection issues and flood control issues. Now, we're asking that the city criteria be incorporated into the ETJ (unincorporated areas of the county) without those water quality requirements and that's a problem.

Mayor Wax: I recommend that we take the two drafts that are available to us plus Chapter 242 and Chapter 232 and return both to the staffs and have them work those issues out at staff level and bring them back to the decision making authorities.

Commissioner Chaney: It seems that what you all are having the most problems with is the term "all other development permits", I can see that it is a little ambiguous. There is nothing that is egregious in either one of the paragraphs if you understand

what it is that we're trying to do. We have a real good storm management program, a prime example during the last rain event where we got 6 to 8 inches of water, if we had been under the City Plan Anglers would have had 3 inches in the store, so there are good points and bad points. I can see regulating specific areas in the ETJ in its entirety. Those things are laid out, if it's black and white and you can go in and see them and there's nothing to manage, which I don't think there are in the storm water management and flood management or the street permitting and limit that to that.

Councilman Day: If the city now accepts 18 inch pipes for any future development that happens from today, will that affect our storm water plan moving forward?

Jim Urban: No. I guess my point is that's a decision that the council or future council can make at any time. I think the difference that the staff had with this, as proposed, is just "How do we manage the process of planning for the people coming in"? Right now there is quite a bit of uncertainty in the air not only in the county but in the city. We are interested as well in trying to service all of it. I think one thing that people need to realize is that cities have ETJ's for the specific purpose of planning outside the city limits and they plan so that things that occur in the ETJ, which are normally and systematically annexed, come in under a standard that is acceptable to the city. They can control development in that area so that when they process an annexation they are not creating a big expense for them to bring things up to the standards within the city. Grant it, same on drainage issues, it is normal and customary that the counties have different standards than the cities. There are just different kinds of

variables. Back to Councilman Day's question, yes and no, it's kind of a trick question, if the terrain had a big dip in it and it was three feet below the surrounding area and you raise a building by 18 inches and if it flooded, based on the projected plain, it would only flooded 18 inches deep, so was that the idea to systematically take 18 inches above the existing roadway? No, that's a foolish move. In a Master plan you normally project what the flood elevation is at some flood event and build above the existing road.

After more discussion and comments, consensus by Council members and Commissioners' Court was to have both staffs get together and work on another plan to return to officials by September 8, 2015, if that deadline cannot be met, David Reid and Mike Donohoe are to notify the Mayor and the Judge.

Meeting adjourned at 10:53 a.m.


C. H. "BURT" MILLS, JR., COUNTY JUDGE

