
CITY COUNCIL AGENDA

Notice is hereby given that the Rockport City Council will hold a regular meeting on Tuesday, March 8, 2016, at 6:30 p.m. The meeting will be held at Rockport City Hall, 622 E. Market, Rockport, Texas. The matters to be discussed and acted upon are as follows:

Opening Agenda

1. Call meeting to order.
2. 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 action on any item that has not been posted on the agenda.

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 February 23, 2016.
5. Deliberate and act on a Lease Agreement with the Rockport Center for the Arts for use of 402 Laurel to house the 2016 Summer ArtLink Program.
6. Deliberate and act on a Resolution to authorize the Rockport Police Department to apply for a Fiscal Year 2016 Local Border Security Program (Border Star) Grant administered by the Texas Department of Public Safety – Texas Rangers Division.
7. Deliberate and act to accept a Certification of Unopposed Candidates by the City Secretary for the May 7, 2016, General Election

Deliberar y actuar para aceptar una certificación de candidatos sin oposición, preparada por la secretaria municipal para las elecciones municipales generales del 7 de mayo de 2016.

8. Deliberate and act on Resolution declaring unopposed candidates in the May 7, 2016, City General Election, elected to office; cancelling the Saturday, May 7, 2016, Mayor, Ward 2 and Ward 4 Elections; and finding and declaring that the meeting at which this Resolution is adopted was open to the public, that the public notice of time, place and the subject matter of the public business to be considered was posted as required by law, including this Resolution.

Deliberar y actuar sobre una resolución declarando a candidatos sin oposición, en las elecciones municipales generales del 7 de mayo de 2016, elegido para un cargo público; anulando las elecciones del 7 de mayo, 2016 de alcalde, de barrio 2 y de barrio 4; averiguando y declarando que la reunión en que se adoptó esta resolución fue abierta al público, y el aviso al público de la hora, el lugar y el contenido de los negocios públicos en consideración fueron publicados como requiere la ley, incluyendo esta resolución.

Public Hearing

9. Conduct and deliberate a Public Hearing for the purpose of considering abolishing, continuance, or modification of the Juvenile Curfew Ordinance for the City of Rockport, Aransas County, Texas.

Regular Agenda

10. Deliberate and act on first reading of an Ordinance amending Article 4 of the City of Rockport Zoning Ordinance Number 1027 by changing the zoning of land located at 104 Woodland Drive; also known as Rockport Country Club Estates, Unit 2, .678 acres out of 1.51 acres at the northwest corner of FM 2165 & entry road, Rockport, Aransas County, Texas, from R-1 (1st Single-Family Dwelling District) to R-7 (Residential and Office District); repealing all ordinances in conflict therewith; providing for severability; and providing an effective date.
11. Deliberate and act on a Resolution authorizing certification of a Cultural District for at least ten years to be named Rockport Heritage and Arts District.
12. Hear and deliberate on presentation of preliminary energy audit and energy audit agreement by Ameresco Water and Energy Solutions.
13. Deliberate and act on first reading of an Ordinance amending the City of Rockport Code of Ordinances Chapter 66 “Offenses and Miscellaneous Provisions”, Article I. “In General”, Article II. “Minors”, amending Section 66-36 “Definitions” setting curfew hours for minors; and adding “Table 1”; repealing all Sections in conflict herewith; providing a severability clause; and providing an effective date.
14. Deliberate and act on approving the City Attorney to act on behalf of the Rockport Police Department and the City of Rockport in proceedings for forfeiture of contraband.
15. 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; Parks & Leisure Services Advisory Board; Planning & Zoning Commission; Rockport Heritage District 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.

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:

16. Section 551.071(1)(A) Consultation with Attorney on pending or contemplated litigation: Bay Education Center.
17. Section 551.071(2) Consultation with Attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter.
18. Section 551.072 Deliberation regarding real property - deliberate the purchase, exchange, lease, or value of real property: (A) Project Red Fish; (B) Project Cobia; and (C) 1600 block of Third Street right-of-way.
19. Section 551.074 Personnel Matters: City Secretary evaluation.

Open Session

20. 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.
21. Adjournment.

Special Accommodations

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary's office at (361) 729-2213, ext. 225 or FAX (361) 790-5966 or email citysec@cityofrockport.com for further information. Braille is not available. The City of Rockport reserves the right to convene into executive session under Government Code §§ 551.071-551.074 and 551.086.

Certification

I certify that the above notice of meeting was posted on the bulletin board at City Hall, 622 E. Market Street, Rockport, Texas on Friday, March 4, 2016, by 5:00 p.m. and on the City's website at www.cityofrockport.com. I further certify that the following News Media were properly notified of this meeting as stated above: *The Rockport Pilot*, *Coastal Bend Herald*, and *Corpus Christi Caller Times*.


Teresa Valdez, City Secretary

CITY COUNCIL AGENDA
Regular Meeting: Tuesday, March 8, 2016

AGENDA ITEM: 4

Deliberate and act on approval of City Council Regular Meeting Minutes of February 23, 2016.

SUBMITTED BY: City Secretary Teresa Valdez

APPROVED FOR AGENDA: PKC

BACKGROUND: Please see the accompanying minutes of the Regular Meeting of February 23, 2016.

FISCAL ANALYSIS: N/A

RECOMMENDATION: Staff recommends Council approve the Minutes, as presented.

CITY OF ROCKPORT

MINUTES

CITY COUNCIL REGULAR MEETING 6:30 p.m., Tuesday, February 23, 2016 Rockport City Hall, 622 East Market Street

On the 23rd day of February 2016, 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 Charles J. Wax
Mayor Pro-Tem Pat Rios, Ward 3
Council Member Rusty Day, Ward 1 (*arrived at 7:03 p.m.*)
Council Member J. D. Villa, Ward 2
Council Member Barbara Gurtner, Ward 4

CITY COUNCIL MEMBER(S) ABSENT

STAFF MEMBERS PRESENT

City Manager Kevin Carruth
City Attorney Terry Baiamonte
City Secretary Teresa Valdez
Police Commander Larry Sinclair
Public Works Director Mike Donoho
Park & Leisure Services Director Tom Staley
Community Planner Kimber Clark

ELECTED OFFICIALS

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 Wax at 6:34 p.m. on Tuesday, February 23, 2016, in the Council Chambers of the Rockport City Hall, 622 E. Market Street, Rockport, Texas.

2. Pledge of Allegiance.

Mayor Pro-Tem Rios led the Pledge of Allegiance to the U.S. flag.

3. Proclamation: Read Across Aransas County Day – March 2, 2016

Mayor Wax proclaimed March 2, 2016, as Read Across Aransas County Day in the City of Rockport.

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.

- 5. Deliberate and act on approval of City Council Regular Meeting Minutes of February 9, 2016.**
- 6. Deliberate and act on request from Rockport Yacht Club for the City to allow temporary directional signage at the intersection of Market Street and Highway 35 South on May 6-9, 2016, for the 15th Annual Rockport Nautical Flea Market.**

Mayor Wax called for requests to remove any item from the Consent Agenda for separate discussion. There being no requests, Mayor Wax 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.

4. 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.

Public Hearing

- 7. Conduct and deliberate a Public Hearing for the purpose of considering abolishing, continuance, or modification of the Juvenile Curfew Ordinance for the City of Rockport, Aransas County, Texas.**

Mayor Wax opened the Public Hearing at 6:36 p.m.

There were no public comments.

Police Commander Larry Sinclair stated the Police Department recommend continuance of the Juvenile Curfew Ordinance.

Council Member Villa asked Commander Sinclair if the City has any problems with the juveniles.

Commander Sinclair answered Council Member Villa that the Police Department does not issue very many day-time curfew citations. Commander Sinclair added that this Ordinance is a very valuable tool.

Mayor Wax informed everyone that the second public hearing is scheduled for the March 8, 2016 City Council meeting. Mayor Wax added that the graph included in the Ordinance is very useful.

Mayor Wax closed the Public Hearing at 6:41 p.m.

Regular Agenda

- 8. Deliberate and act on Planning & Zoning Commission recommendation to deny request for a Conditional Use Permit on property located at 3021-3099 Loop 1781; also known as A76 Joseph Hollis Survey, being 47.981 acres, also includes Lago Vista Village, Lot B, Rockport, Aransas County, Texas, currently zoned B-1 (General Business District) to Conditional Use Permit Overlay to allow development of an RV resort park.**

Sandy Swanson addressed the Council. Ms. Swanson asked the Council to overrule the Planning & Zoning Commission recommendation. Ms. Swanson stated she believed the developer has met the ten (10) Conditional Use Permit Review Criteria listed in Article 23 of the City Code of Ordinances. Ms. Swanson added that this is a good plan that will be good for the community and will provide recreation and local support of businesses.

Andi Binion, Project Manager for Belaire Environmental, addressed the Council. Ms. Binion stated they were contracted for this project in 2007 and performed their work according to the U.S. Corps of Engineers methodologies. Ms. Binion added that as result of that, the developer designed the project around the wetlands. Ms. Binion said they were recently contacted by the developer, J.R. Gimler, and they went back out to the property and have provided an updated map showing the 2016 boundaries. Ms. Binion called the Council's attention to the map provided to them. Ms. Binion informed the Council that this map will be provided to the U.S. Corps of Engineers, but because this project is designed around the wetlands, a permit from the U.S. Corps of Engineers is not required.

Discussion was held among Council and Ms. Binion.

MOTION: Mayor Wax moved to accept the Planning & Zoning Commission recommendation and deny without prejudice the request for a Conditional Use Permit on property located at 3021-3099 Loop 1781; also known as A76 Joseph Hollis Survey, being 47.981 acres, also includes Lago Vista Village, Lot B, Rockport, Aransas County, Texas, currently zoned B-1 (General Business District) to Conditional Use Permit Overlay to allow development of an RV resort park. Council Member Villa seconded the motion. Motion carried unanimously.

- 9. Deliberate and act on Planning & Zoning Commission recommendation to deny request for a zoning change from R-1 (1st Single Family Dwelling District) to B-1 (General Business District) on property located at 104 Woodland Drive; also known as .678 acre out of 1.51 acres at the northwest corner of FM 2165 & entry road, Rockport Country Club Estates, Unit 2, Rockport, Aransas County, Texas, to allow construction of two storage units for personal property, RV, home office, and shop space.**

Community Planner Kimber Clark addressed the Council. Ms. Clark stated this was a request for a rezone from R-1 (1st Single Family Dwelling District) to B-1 (General Business District). Ms. Clark provided the following background information:

Mr. Paul M. Strunk (owner) requests to re-zone the above described property to commercial land use (B-1 - General Business District) for construction of two storage units for personal property, RV, home office, and shop space.

1. Although this tract of land is within the City's Comprehensive Plan Future Land Use Map for projected commercial land use, the shape of the lot does not allow for TxDOT approvable access to F.M. 2165.
2. A violation of the Comprehensive Plan will exist by allowing traffic to access a commercial use through a residential street. Woodland Drive provides access to a residential subdivision and is not intended to provide direct access to commercial development not accessible from a major thoroughfare.
3. The tract of land is directly adjacent to residential developed lots.

This item was heard at a Joint Public Hearing with the City Council on January 12, 2016, and there was no public input. The issue was deliberated by the Planning & Zoning Commission (P & Z) at their January 18, 2016, meeting and an alternate zoning designation of R-7 (Residential and Office District) was discussed with one of the project owners. Comments by the property owner and neighbors were heard. Action on this item was tabled. The owners did not respond to the Commission's action or the R-7 alternative prior to the next Commission meeting.

On February 15, 2016, P&Z met again and chose to remove the item from the table. The request was deliberated and voted to be denied because the requested B-1 zoning was not compatible with the residential street and because the owners did not respond to the R-7 proposal or multiple attempts to contact them. On February 17th, the representative for the owner contacted the building department to indicate that they were requesting the alternate zoning (R-7) that was discussed on January 18th. Since the original public notice was for the less restrictive B-1 zoning, changing P&Z's recommendation to the more restrictive (than B-1) R-7 is acceptable. In addition, R-7 is a transitional use between the B-1 use fronting on Pearl Street and R-1.

Planning & Zoning Commission Chairman Brian Olsen stated the Planning & Zoning Commission was agreeable to the R-7 zoning.

Mr. Paul M. Strunk and Mr. Clayton Black stated they were agreeable to the R-7 zoning.

Discussion was held among Council, Ms. Clark and Mr. Olsen.

MOTION: Council Member Villa moved to override the Planning & Zoning Commission recommendation to deny the request for a zoning change from R-1 (1st Single Family Dwelling District) to B-1 (General Business District), and grant a zoning change to R-7 (Residential and Office District) to allow construction of two storage units for personal property, RV, home office, and shop space, on property located at 104 Woodland Drive; also known a .678 acre out of 1.51 acres at the northwest corner of FM 2165 & entry road, Rockport Country Club Estates, Unit 2, Rockport, Aransas County, Texas. Mayor Pro-Tem Rios seconded the motion. Motion carried unanimously.

10. Deliberate and act on approval of scope of work for Bayshore Drive.

Public Works Director Mike Donoho addressed the Council and gave the following report:

In January 2015, the City of Rockport began discussions with the Key Allegro Home Owners Association (HOA) about shoreline stabilization along Bayshore Drive. The Key Allegro Canal and Property Owners Association submitted a request to the US Army Corps of Engineers for a permit to replace two failed groins along the public portion of Bayshore Drive. Several years ago, the City of Rockport installed a rock revetment along the southern portion of Bayshore Drive (Blue Heron to Finisterre) to protect the public road and utilities. A portion of this revetment has undersized top cap rock that has failed and exposed the geo-textile fabric along the shoreline to weathering deterioration. The soil in this area is beginning to erode through the fabric and into the bay during significant rain and wave events. If it collapses in a storm event, Bayshore Drive and parallel utilities will be at risk. Key Allegro HOA hired Coast & Harbor Engineering to conduct a shoreline erosion and stabilization engineering study of Bayshore Drive. The study recommends reconstruction of the two failed groins at the intersection of Bayshore and Curlew. The study specifically recommended repairing the failed rock revetment on the south end of Bayshore. Hatch Mott MacDonald (formerly Coast & Harbor Engineering) is assisting in submission of a grant request on behalf of the City of Rockport for Texas General Land Office Coastal Erosion Planing & Response Ace (CEPRA) Funding to be used for this project. Since January there has been significant advancement of erosion in this area through the fabric and into the bay during rain and wave events. If it collapses in a storm event, Bayshore Drive and parallel utilities will be at risk. Hatch Mott MacDonald has developed a scope of work for emergency repairs in this area, including planning, regulatory coordination, engineering, designing, and preparing construction – ready plans and specifications for the repairs of damaged sections of the existing rock revetments and installation of scour protection at the toe of the existing concrete bulkheads.

Mr. Donoho stated shoreline stabilization is an eligible hotel occupancy tax expense. Mr. Donoho informed the Council the project cost is not to exceed \$31,500.00. Mr. Donoho recommended Council approve hiring Hatch Mott MacDonald to provide a scope of work for the implementation

of emergency repairs to failed portions of shoreline structures in an amount not to exceed \$31,500.00.

Discussion was held among Council and Mr. Donoho.

MOTION: Mayor Pro-Tem Rios moved to approve hiring Hatch Mott MacDonald to provide a scope of work for the implementation of emergency repairs to failed portions of shoreline structures for an amount not to exceed \$31,500.00. Council Member Gurtner seconded the motion. Motion carried unanimously.

11. 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 Wax stated he served as Chairman of the Elected Officials Conference in Bastrop last weekend. Mayor Wax announced that Mayor Pro-Tem Rios received the Certified Municipal Officer award at the conference. Mayor Wax stated the Elected Officials Conference is a very good conference and he encouraged all Council Members to try to attend in the future.

Mayor Wax encouraged everyone to participate in the “Read Across Aransas County Day” events.

Mayor Pro-Tem Rios announced that Mayor Wax had also received the Certified Municipal Officer award at the Elected Officials Conference.

Mayor Pro-Tem Rios stated the YMCA Development Committee had met on February 22, 2016. Mayor Pro-Tem Rios said the development is moving along very well. Mayor Pro-Tem Rios informed the Council that a grant application had been submitted to the Sid W. Richardson Foundation.

Council Member Villa said the Park & Leisure Services Board had met on Monday, February 22, 2016. Council Member Villa stated the Aransas County Leadership Class is considering replacement of benches and placement of another picnic table at Spencer Park. Council Member Villa informed the Council that the Board had also talked about formation of a sub-committee for development of the windswept oaks property.

Council Member Day informed the Council that Jennifer Day is forging ahead with the Cultural Arts District application.

Vicki Pitluk announced that there will be an electronic recycling event on Saturday, February 27, 2016, from 7:00 a.m. until 2:00 p.m. at the former City service center.

Council Member Gurtner announced that Keep Aransas County Beautiful is having their first trash pick-up on Saturday, February 27, 2016, from 8:30 a.m. to 11:00 a.m. Council Member Gurtner said everyone is to meet at the Bay Education Center.

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:

- 12. Section 551.071(1)(A) Consultation with Attorney on pending or contemplated litigation: a) Templeton, b) Pena/Dack, and c) Bay Education Center.**
- 13. Section 551.071(2) Consultation with Attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter.**
- 14. Section 551.072 Deliberation about Real Property: Deliberate the purchase, exchange, lease, or value of real property: Project Red Fish.**
- 15. Section 551.074 Personnel Matters: City Secretary Evaluation.**
- 16. Section 551.087 Deliberation Regarding Economic Development Negotiations: Project Cardinal.**

At 7:14 p.m., Mayor Wax convened the Rockport City Council into an executive session pursuant to provisions of Chapter 551 of the Texas Government Code, in accordance with the authority contained in Section 551.071910(A) Consultation with Attorney on pending or contemplated litigation: a) Templeton, b) Pena/Dack, and c) Bay Education Center; Section 551.071(2) Consultation with Attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rule of Professional Conduct of the State Bar of Texas clearly conflicts with the chapter; Section 551.072 Deliberation about Real Property: Deliberate the purchase, exchange, lease, or value of real property: Project Red Fish; Section 551.074 Personnel Matters: City Secretary Evaluation; and Section 551.087 Deliberation Regarding Economic Development Negotiations: Project Cardinal.

Open Session

- 17. 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 8:01 p.m., Mayor Wax reconvened the Rockport City Council into open session pursuant to the provisions of Chapter 551 of the Texas Government Code to take any necessary actions related to the executive sessions noted herein, or regular agenda items, noted above, and/or related items.

There was no action taken.

18. Adjournment

At 8:02 p.m., Council Member Villa moved to adjourn. Motion was seconded by Mayor Pro-Tem Rios and carried unanimously.

APPROVED:

Charles J. Wax, Mayor

ATTEST:

Teresa Valdez, City Secretary

CITY COUNCIL AGENDA
Regular Meeting: Tuesday, March 8, 2016

AGENDA ITEM: 5

Deliberate and act on a Lease Agreement with the Rockport Center for the Arts for use of 402 E. Laurel to house the 2016 Summer ArtLink Program.

SUBMITTED BY: Rockport Center for the Arts

APPROVED FOR AGENDA: PKC

BACKGROUND: Prior to 2013, the Rockport Center for the Arts' (RCA) summer ArtLink program was held in the Beachfront Pavilion at Rockport Beach. Changes by the Aransas County Navigation District to their lease rates made it unaffordable for ArtLink to continue to use that space. For the past two summers ArtLink and the City entered into lease agreements for use of 402 E. Laurel to house the Summer ArtLink Program and RCA wishes to use the facility for the 2016 Program. The lease is the same as the previous two years, with the exception of extending the lease term eight days (Section 2, lines 20-21) and the addition of an acknowledgment requirement (Section 10, lines 120-121). Please see the accompanying letter and copy of lease for additional details.

FISCAL ANALYSIS: The City will incur the cost of additional utilities. Rockport Center for the Arts has committed to cleaning, repairing any damage, and to provide toiletries and paper products (e.g. toilet paper, paper towels, soap), cleaning supplies, tables, and chairs.

RECOMMENDATION: Staff recommends approval of the lease, as presented.



R O C K P O R T
C E N T E R *for the* A R T S

Wednesday, February 24, 2016

Dear Kevin Carruth, Rockport City Manager;

Rockport Center for the Arts and the students and staff of ArtLink for Kids and Teens 2015 extends its gratitude to the City of Rockport for use of the Old City Service Center Building for this past summer's programming. The City's continued support of this program truly helps make this camp free to our local youth.

This past summer we were pleased to serve more than 355 students in eight camps spanning June and July. Half of our classes were held at the donated space from the city, directly impacting 168 campers. Here we had one room for 4th and 5th grade campers, and a second classroom for our 6th-8th grade students. Artlink employed eight local art teachers from Rockport and Corpus areas to lead all camp sessions and nine local high school and college aged interns to assist in the classrooms. We also involved high school and older middle school students as volunteers. A total of 100 instructional hours were held during four weeks of camp.

The use of a building with room for two classes was a great benefit to staff and parents alike. The ArtLink staff using the Service Center Building are now able to interact with their colleagues during camp time and share supplies in a way that had not been possible until the use of this building began. In addition, each classroom has restrooms and sinks available, adequate parking for pick up and drop off times and close proximity to the classes being held at the Art Center. This has been a very positive move for our camp as a whole.

We truly appreciate the City's participation in helping make this camp possible, and we respectfully request use of the facility for this year's camps. **At this time we are anticipating 2016 camp dates of June 13-24, and July 18-29.**

As expenses increase each year we continue to work hard to keep this program free to children of Aransas County. Donations like this which accommodate half of our campers are one of the key ingredients in keeping this camp open and accessible to all who wish to participate.

Sincerely,

Karen M Ernst

Karen Marie Ernst
Education & Outreach Director

**LEASE BETWEEN
CITY OF ROCKPORT
AND
ROCKPORT CENTER FOR THE ARTS
SUMMER ARTLINK PROGRAM**

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This Lease is made between the CITY OF ROCKPORT, hereafter called “Lessor,” whose address for purposes of notice under this Lease is 622 E. Market Street, Rockport, TX 78382, and ROCKPORT CENTER FOR THE ARTS, hereafter called “Lessee,” whose address for purposes of notice under this Lease is 902 Navigation Circle, Rockport, TX 78382.

The parties agree as follows:

1. AGREEMENT TO LEASE; DESCRIPTION OF THE PROPERTY. Lessor leases to Lessee, and Lessee rents from Lessor, the following described commercial space: A portion of the City Public Works building located at 402 E. Laurel St., Rockport, Texas, as highlighted and noted in the attached diagram as “Exhibit A,” for the purpose of offering the Summer ArtLink program.

2. TERM OF LEASE: The term of this Lease shall be a period of 55 days, commencing on June 9, 2016, and ending at midnight on August 2, 2016.

3. RENTAL. As the City of Rockport recognizes the importance of the Summer ArtLink program offered to the children and teens of Rockport, the City agrees to waive any rent that would otherwise be due and payable.

4. SECURITY DEPOSIT. No security deposit shall be required. However, in consideration therefor, the Rockport Center for the Arts agrees to leave the property as clean and in as good repair as it was found (e.g. remove all debris, spills, trash etc.).

5. LESSEE’S COVENANTS. Lessee further covenants and agrees as follows:

a. To use the premises in a careful and proper manner for the express purpose of operating a summer art camp; to commit or permit no waste or damages to the premises; to conduct or permit no business or act that is a nuisance or may be in violation of any federal, state or local law or ordinance; to surrender the premises on expiration or termination of this Lease in clean condition and good repair, normal wear and tear excepted. Provided, however, that all alterations, additions and improvements permanently attached and made by Lessee, its successors, sub-lessees and

39 assigns (excepting movable furniture, equipment, supplies, inventory, and special air-conditioning
40 equipment installed by Lessee) shall become and remain the property of Lessor on termination of
41 Lessee's occupancy of the premises.
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43 b. To maintain at all times during the lease term, at Lessee's cost, a comprehensive public
44 liability insurance policy protecting Lessor against all claims or demands that may arise or be
45 claimed on account of Lessee's use of the premises, by naming the City of Rockport as an
46 additional insured on Rockport Center for the Art's liability property. Lessee agrees to provide
47 Lessor a copy of that insurance policy prior to June 9, 2016.
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49 c. To prohibit and refrain from engaging in or allowing any use of the leased premises that
50 will increase Lessor's premiums for insurance on the building, without the express written consent
51 of Lessor.
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53 d. To indemnify and hold harmless Lessor and the leased premises from all costs, losses,
54 damages, liabilities, expenses, penalties and fines whatsoever that may arise from or be claimed
55 against Lessor or the leased premises by any person or persons for any injury to person or property
56 or damage of whatever kind or character arising from the use or occupancy of the leased premises
57 by Lessee; from any neglect or fault of Lessee or the agents and employees of Lessee in using and
58 occupying the premises; or from any failure by Lessee to comply and conform with all laws,
59 statutes, ordinances and regulations of any governmental body or subdivision now or hereafter in
60 force. If any lawsuit or proceeding shall be brought against Lessor or the leased premises on
61 account of any alleged violations or failure to comply and conform or on account of any damage,
62 omission, neglect or use of the premises by Lessee, the agents and employees of Lessee, or any
63 other person on the premises, Lessee agrees that Lessee or any other person on the premises will
64 defend it, pay whatever judgments may be recovered against Lessor or against the premises on
65 account of it, and pay for all attorneys' fees in connection with it, including attorneys' fees on
66 appeal.
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68 e. In case of damage to glass in the leased premises, to replace it with glass of the same
69 kind, size and quality as quickly as possible, at Lessee's expense.
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71 f. To make no alterations in or additions or improvements to install any equipment in or
72 maintain signs advertising its business on the premises without, in each case, obtaining the written
73 consent of Lessor. If any alterations, additions or improvements in or to the premises are made
74 necessary by reason of the special use and occupancy of the premises by Lessee, Lessee agrees
75 that it will make all such alterations, additions and improvements in or to the premises at its own
76 expense and in compliance with all building codes, ordinances and governmental regulations
77 pertaining to such work, use or occupancy. Lessee agrees that it will hold Lessor harmless against

78 all expenses, liens, claims and damages to either property or person that may or might arise because
79 any repairs, alterations, additions or improvements are made.

80

81 g. To permit Lessor to enter, inspect and make such repairs to the leased property as Lessor
82 may reasonable desire, at all reasonable times.

83

84 h. To provide toiletries and paper products as needed for the camp, including but not
85 limited to toilet paper, paper towels, soap, cleaning supplies, etc.

86

87 i. To provide tables and chairs, as needed, and to arrange for the set-up and take-down of
88 the tables and chairs. All provided property may be left in the building throughout the term of the
89 Lease, provided Lessor has no other use for the property during intersession period.

90

91 j. To be available for emergency contact, if necessary, in the following call order:

92

93 1. Ms. Karen Marie Ernst, Director of Education and Outreach

94 Office: (361) 729-5519, ext. 105

95 Cell: (361) 463-5488

96 Email: karen@rockportartcenter.com

97

98 2. Mr. Taylor Hendrix, Director of Operations

99 Office: (361) 729-5519

100 Cell: (361) 230-2089

101 Email: taylor@rockportartcenter.com

102

103 3. Mr. Luis Puron, Executive Director

104 Office: (361) 729-5519

105 Cell: (361) 205-1798

106 Email: Luis@rockportartcenter.com

107

108 8. LESSOR'S COVENANTS. Lessor covenants and agrees to warrant and defend Lessee
109 in the enjoyment and peaceful possession of the premises during the aforesaid term.

110

111 9. DEFAULTS OTHER THAN RENT. If either Lessor or Lessee fails to perform or
112 breaches any agreement on this Lease, and this failure or breach continues for ten (10) days after
113 a written notice specifying the required performance has been given to the party failing to perform,
114 (a) the party giving notice may institute action in a court of competent jurisdiction to terminate
115 this Lease or to complete performance of the agreement, and the losing party in that litigation shall
116 pay the prevailing party all expenses of the litigation, including reasonable attorneys' fees; or (b)

117 Lessor or Lessee may, after thirty (30) days' written notice to the other, comply with the agreement
118 or correct any such breach, and the costs of that compliance shall be payable on demand.

119

120 10. SPONSORSHIP. Lessee agrees to acknowledge Lessor's sponsorship of ArtLink in
121 program and marketing materials.

122

123 11. ELECTION BY LESSOR NOT EXCLUSIVE. Exercise by Lessor of any right or
124 remedy, or to enforce its rights under this Lease will not be a waiver or preclude the exercise of
125 any other right or remedy afforded Lessor by this Lease or by statute or law. Failure of Lessor in
126 one or more instances to insist on strict performance or observations of one or more of the
127 covenants or conditions of this Lease or to exercise any remedy, privilege or option conferred by
128 this Lease on or reserved to Lessor shall not operate or be construed as a relinquishment or future
129 waiver of the covenant or condition or the right to enforce it or to exercise that remedy, privilege
130 or option; that right shall continue in full force and effect.

131

132 12. ASSIGNMENT OR SUBLETING. Lessee will not assign or sublet this Lease without
133 Lessor's prior written consent.

134

135 13. ADDRESSES FOR NOTICES. Notices to Lessor shall be mailed or delivered to the
136 address set forth on the first page of this Lease, unless Lessor advises Lessee differently in writing.

137

138 Notices to Lessee may be mailed or delivered to the address set forth on the first page of
139 this Lease, and proof of mailing or posting of those notices to the leased premises will be deemed
140 the equivalent of personal service on Lessee. All notices to either party shall be sent by certified
141 or registered mail, return receipt requested.

142

143 14. CAPTIONS. The captions and paragraphs or letters appearing in this Lease are
144 inserted only as a matter of convenience and in no way define, limit, construe or describe the scope
145 or intent of the sections or articles of this Lease or affect this Lease in any way.

146

147 15. TEXAS LAW. This Lease will be governed by the laws of the state of Texas as to
148 both interpretations and performance.

149

150 16. ENTIRE AGREEMENT. This Lease sets forth all the promises, agreements,
151 conditions and understandings between Lessor and Lessee relative to the leased premises. There
152 are no other promises, agreements, conditions or understandings, either oral or written, between
153 them. No subsequent alteration, amendment, change or addition to this Lease will be binding on
154 Lessor or Lessee unless in writing and signed by them and made a part of this Lease by direct
155 reference.

156

157 17. TERMS INCLUSIVE. As used herein, the Terms "Lessor" and "Lessee" include the
158 plural whenever the context requires or admits.

159
160 18. REPRESENTATIVES BOUND HEREBY. The terms of this Lease will be binding
161 on the respective successors, representatives and assigns of the parties.

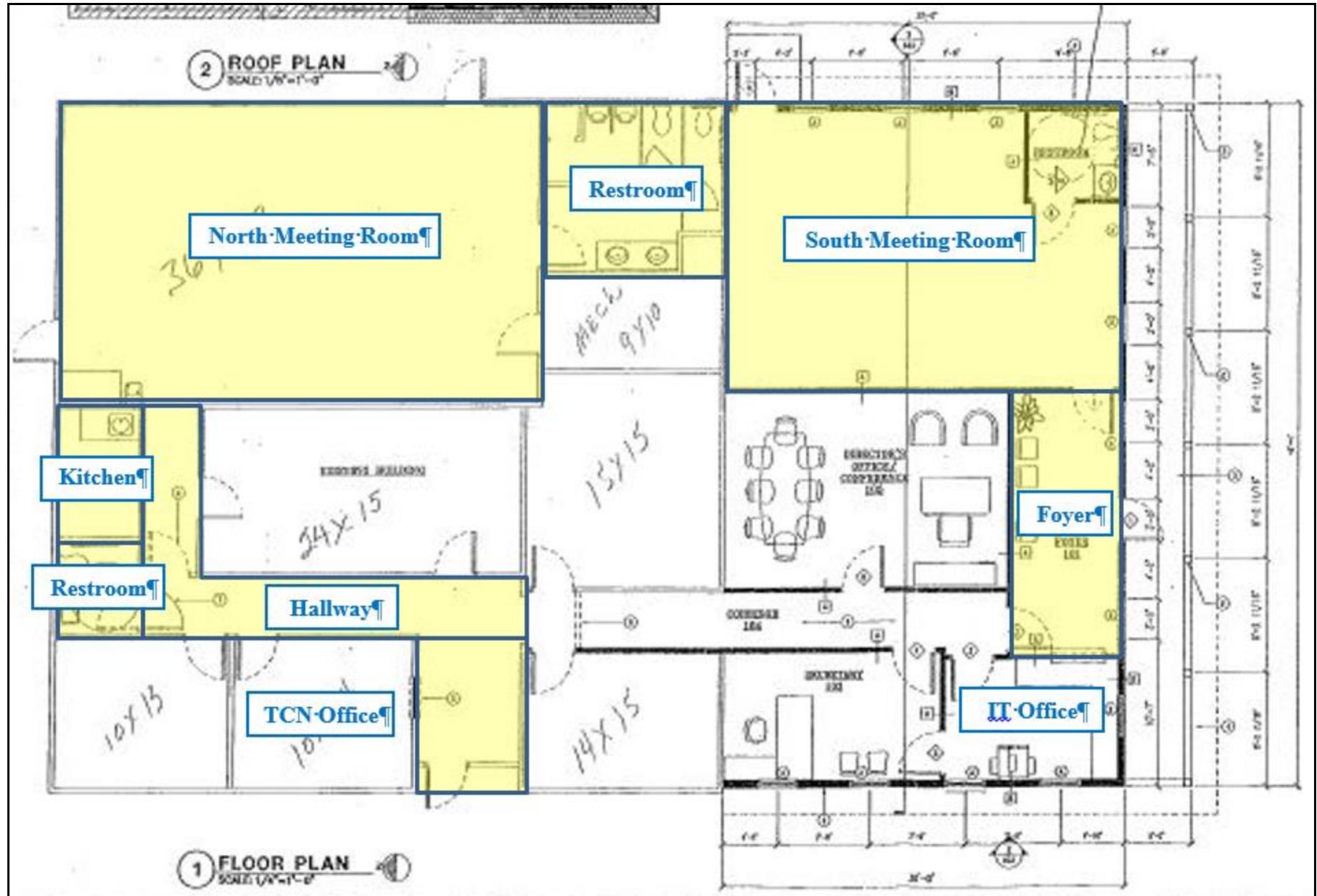
162
163 IN WITNESS WHEREOF, Lessor and Lessee have duly executed this Lease Agreement
164 on the _____ day of March, 2016.

165
166 By our signatures below, we represent that we have the authority to bind the parties herein and the
167 authority to execute this document:

168
169 LESSOR: LESSSEE:
170 CITY OF ROCKPORT ROCKPORT CENTER FOR THE ARTS

171
172
173
174 By: _____ By: _____
175 Charles J. Wax, Mayor Luis Puron, Executive Director
176

Exhibit A





CITY COUNCIL AGENDA
Regular Meeting: Tuesday, March 8, 2016

AGENDA ITEM: 6

Deliberate and act on a Resolution of the City of Rockport, Texas, authorizing the Rockport Police Department to apply for and operate a \$194,731.92 Local Border Security Program (Border Star) Grant administered by the Texas Department of Public Safety – Texas Rangers Division for Fiscal Year 2016; and authorizing the Mayor to act as the Executive Officer and authorized representative in all matters pertaining to the participation in this grant program.

SUBMITTED BY: Chief Tim Jayroe

APPROVED FOR AGENDA: PKC

BACKGROUND: The objective of the Local Border Security Program is to disrupt, deter, interdict, and dominate criminal activity associated with the northbound and southbound movement of illicit traffic through the Texas border region in order to reduce border-related crime, reduce potential acts of terror, and increase the security and quality of life of Texans. As detailed in the accompanying application, this is a reimbursement program that will primarily allow the Rockport Police Department to pay overtime to officers to increase visible patrol and engage in enhanced traffic enforcement. The Department received and successfully implemented a similar grant for FY 2014 and FY 2015. A requirement of the grant is a resolution from the City authorizing the operation of the Local Border Security Program FY 2016.

The City lost its \$194,732 Border Star grant in FY 2015-2016 because Aransas County did not meet the State of Texas' requirement to have a 90 percent or better completion rate on its CJIS disposition reporting. With assistance from the City of Rockport, Aransas County is expected to meet the State's minimum requirement by the August 31 deadline for the current grant request. The completion rate as of March 3, 2016, is 85 percent.

FISCAL ANALYSIS: Border Star is in Fund 18 with revenue is credited to account 40420 and overtime and fuel expenses charged to accounts 6181008 and 6187044 respectively.

STAFF RECOMMENDATION: Staff recommends Council approve the Resolution authorizing the Rockport Police Department to apply for and operate a \$194,731.92 FY 2016 Local Border Security Program (Border Star) Grant administered by the Texas Department of Public Safety – Texas Rangers Division, as presented.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF ROCKPORT, TEXAS, AUTHORIZING THE ROCKPORT POLICE DEPARTMENT TO APPLY FOR AND OPERATE A \$194,731.92 LOCAL BORDER SECURITY PROGRAM (BORDER STAR) GRANT ADMINISTERED BY THE TEXAS DEPARTMENT OF PUBLIC SAFETY – TEXAS RANGERS DIVISION FOR FISCAL YEAR 2016; AND AUTHORIZING THE MAYOR TO ACT AS THE EXECUTIVE OFFICER AND AUTHORIZED REPRESENTATIVE IN ALL MATTERS PERTAINING TO THE PARTICIPATION IN THIS GRANT PROGRAM.

WHEREAS, Operation Border Star was launched in 2007 to provide local and state agencies funds to pay officers overtime to beef up border patrols and to coordinate intelligence gathering about crime on the border. The local and state agencies also coordinate and share information with federal agencies; and

WHEREAS, the City of Rockport finds it is the best interest of our citizens that the City of Rockport participate in the Local Border Security Program joining together with local, state and federal partners, to support the men and women of the U.S. Border Patrol, and protect our community by securing our international borders.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF ROCKPORT, TEXAS:

Section 1. That a Texas Border Star Grant application is hereby authorized to be filed for funding consideration;

Section 2. That the Mayor is designated as the Chief Executive Officer and Authorized Representative to act in all matters in connection with this application and participation in the Texas Border Star Grant.

PASSED and APPROVED this the ____ day of _____.

CITY OF ROCKPORT, TEXAS

Mayor Charles J. Wax, Mayor

ATTEST:

Teresa Valdez, City Secretary

CITY COUNCIL AGENDA
Regular Meeting: Tuesday, March 8, 2016

AGENDA ITEM: 7

Deliberate and act to accept a Certification of Unopposed Candidates by the City Secretary for the May 7, 2016, General Election.

SUBMITTED BY: City Secretary Teresa Valdez

APPROVED FOR AGENDA: PKC

BACKGROUND: According to Texas Election Code § 2.052 & § 2.053, as soon as possible after the filing deadlines for placement on the ballot and if no candidate in the election is opposed on the ballot, the City Secretary must deliver to the City Council a certification that each candidate for office is unopposed. Upon receiving the certification, the City Council may declare the unopposed candidates elected to office, in which case the election is cancelled. Although the statute requires the City Secretary make the certification to City Council, the Council is given discretion in declaring unopposed candidates elected. City Council may hold the election regardless of the unopposed status of the candidates.

If City Council determines not to hold the election, the order declaring the unopposed candidates elected must be posted on election day at each polling place that would have been used in the election [EC §2.053(b)].

The statute provides that a certificate of election is issued to each candidate who is declared elected, “in the same manner and at the same time as provided for candidate elected at the election” [EC §2.053(c)]. Candidates elected through cancellation must also qualify for office and take the oaths of office the same as candidates elected at an election.

§ 2.052 CERTIFICATION OF UNOPPOSED STATUS.

(a) The authority responsible for having the official ballot prepared shall certify in writing that a candidate is unopposed for election to an office if, were the election held, only the votes cast for that candidate in the election for that office may be counted.

(b) The certification shall be delivered to the governing body of the political subdivision as soon as possible after the filing deadlines for placement on the ballot and list of write-in candidates.

§ 2.053 ACTION ON CERTIFICATION.

(a) On receipt of the certification, the governing body of the political subdivision by order or ordinance may declare each unopposed candidate elected to the office. If no election is to be held on election day by the political subdivision, a copy of the order

or ordinance shall be posted on election day at each polling place used or that would have been used in the election.

(b) If a declaration is made under Subsection (a), the election is not held.

(c) The ballots used at a separate election held at the same time as an election that would have been held if the candidates were not declared elected under this section shall include the offices and names of the candidates declared elected under this section listed separately after the measures or contested races in the separate election under the heading “Unopposed Candidates Declared Elected.” The candidates shall be grouped in the same relative order prescribed for the ballot generally. No votes are cast in connection with the candidates.

(d) The secretary of state by rule may prescribe any additional procedures necessary to accommodate a particular voting system or ballot style and to facilitate the efficient and cost-effective implementation of this section.

(e) A certificate of election shall be issued to each candidate in the same manner and at the same time as provided for a candidate elected at the election. The candidate must qualify for the office in the same manner as provided for a candidate elected at the election.

FISCAL ANALYSIS: N/A

RECOMMENDATION: Staff recommends Council accept the Certification of Unopposed Candidates for the position of Mayor, Council Member Ward 2 and Council Member Ward 4 for the May 7, 2016, General Election, as presented.

CERTIFICATION OF UNOPPOSED CANDIDATES

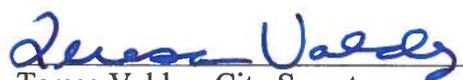
I, Teresa Valdez, certify that I am the City Secretary of the City of Rockport, Aransas County, Texas and the authority responsible for preparing the ballot for the May 7, 2016, City General Election. I further certify that no proposition is to appear on the ballot at the election, no person has made a declaration of write-in candidacy, and all of the following candidates are unopposed:

Charles Joseph (C.J.) Wax – Mayor

Joe David (J.D.) Villa - Council Member Ward 2

Barbara E. Gurtner - Council Member Ward 4

Dated this 8th day of March 2016.


Teresa Valdez, City Secretary
City of Rockport

CERTIFICACIÓN DE CANDIDATOS ÚNICOS

Yo, Teresa Valdez, certifico que soy la secretaria municipal de la Ciudad de Rockport, Condado de Aransas, Texas, y que soy la autoridad responsable de preparar la boleta de votación para las Elecciones Municipales Generales del 7 de mayo de 2016. Además, certifico que ninguna proposición aparecerá en la boleta de votación, que ninguna persona ha hecho una declaración de escriben-en candidature, y que todos los candidatos con candidatos únicos:

Charles Joseph (C.J.) Wax – Alcalde

Joe David (J.D.) Villa - Concejal del Distrito 2

Barbara E. Gurtner – Concejal del Distrito 4

Fecha este día 8th de marzo de 2016.


Teresa Valdez, Secretaria Municipal
Ciudad de Rockport

CITY COUNCIL AGENDA
Regular Meeting: Tuesday, March 8, 2016

AGENDA ITEM: 8

Deliberate and act on Resolution declaring unopposed candidates in the May 7, 2016 City General Election, elected to office; cancelling the Saturday, May 7, 2016 Mayor, Ward 2 and Ward 4 Elections; and finding and declaring that the meeting at which this Resolution is adopted was open to the public, that the public notice of time, place and the subject matter of the public business to be considered was posted as required by law, including this Resolution.

SUBMITTED BY: City Secretary Teresa Valdez

APPROVED FOR AGENDA: PKC

BACKGROUND: In a city in which any of the members of the city council are elected from single member district, a general or special election may be cancelled in a single member district if:

1. Each candidate (including an at-large candidate) for an office that is to appear on the ballot in that district is unopposed; and
2. No proposition is to appear on the ballot [EC §20.051(b)].

The City Secretary has delivered to the City Council a Certification that the candidates for Mayor and City Council Ward 2 and City Council Ward 4 are unopposed. Upon receiving the certification, the City Council may declare the unopposed candidates elected to office, in which case the election is cancelled. Although the statute requires the City Secretary make the certification to City Council, the Council is given discretion in declaring unopposed candidates elected. City Council may hold the election regardless of the unopposed status of the candidates.

Sec. 2.051. APPLICABILITY OF SUBCHAPTER.

(b) In the case of an election in which any members of the political subdivision's governing body are elected from territorial units such as single-member districts, this subchapter applies to the election in a particular territorial unit if each candidate for an office that is to appear on the ballot in that territorial unit is unopposed and no at-large proposition or opposed at-large race is to appear on the ballot. This subchapter applies to an unopposed at-large race in such an election regardless of whether an opposed race is to appear on the ballot in a particular territorial unit.

§ 2.053 ACTION ON CERTIFICATION.

(a) On receipt of the certification, the governing body of the political subdivision by order or ordinance may declare each unopposed candidate elected to the office. If no election is to be held on election day by the political subdivision, a copy of the order

or ordinance shall be posted on election day at each polling place used or that would have been used in the election.

(b) If a declaration is made under Subsection (a), the election is not held.

FISCAL ANALYSIS: This action reduces election expenses.

RECOMMENDATION: Staff recommends Council adopt the Resolution, as presented.

RESOLUTION NO. 2016-__

A RESOLUTION OF THE CITY OF ROCKPORT DECLARING UNOPPOSED CANDIDATES IN THE MAY 7, 2016, GENERAL CITY ELECTION, ELECTED TO OFFICE; CANCELLING THE SATURDAY, MAY 7, 2016, MAYOR, WARD 2 AND WARD 4 ELECTIONS; AND FINDING AND DECLARING THAT THE MEETING AT WHICH THIS RESOLUTION IS ADOPTED WAS OPEN TO THE PUBLIC, THAT THE PUBLIC NOTICE OF TIME, PLACE, AND THE SUBJECT MATTER OF THE PUBLIC BUSINESS TO BE CONSIDERED WAS POSTED AS REQUIRED BY LAW, INCLUDING THIS RESOLUTION.

WHEREAS, the General City Election was called for Saturday, May 7, 2016 for the purpose of electing members to the City Council; and

WHEREAS, the City Secretary has certified in writing that there is no proposition on the ballot, that no person has made a declaration of write-in candidacy, and that the Mayor, Ward 2 and Ward 4 candidates on the ballot are unopposed for election to office; and

WHEREAS, under these circumstances, Subchapter C, Chapter 2, Election Code, authorizes the City Council to declare the candidates elected to office and cancel the election for Mayor, Council Member Ward 2 and Council Member Ward 4.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ROCKPORT, ARANSAS COUNTY, TEXAS:

Section 1: The following candidates, who are unopposed in the Saturday, May 7, 2016, General City Election, are declared elected to office, and shall be issued certificates of election following the time the election would have been canvassed:

**Charles Joseph (C.J.) Wax - Mayor
Joe David (J.D.) Villa - Council Member Ward 2
Barbara E. Gurtner – Council Member Ward 4**

Section 2: That Saturday, May 7, 2016, Mayor, Ward 2 and Ward 4 General City Election is canceled, and the city secretary is directed to cause a copy of this Resolution to be posted on Election Day at each polling place that would have been used in the election.

Section 3: It is declared to be the intent of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this resolution are severable, and if any phrase, clause, sentence, paragraph, or section of this Resolution is declared invalid by the judgment or decree of a court of competent jurisdiction, the invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this Resolution since the City Council would have enacted them without the invalid portion.

Section 4. The Rockport City Council hereby finds, determines, and hereby declares that the meeting at which this Resolution is adopted was open to the public, that the public notice of time, place, and the subject matter of the public business to be considered was posted as required by law, including this Resolution.

PASSED and **ADOPTED** at a regular meeting of the Rockport City Council on this the 8th day of March 2016.

CITY OF ROCKPORT, TEXAS

Charles J. Wax, Mayor

ATTEST:

Teresa Valdez, City Secretary

CITY COUNCIL AGENDA
Regular Meeting: Tuesday, March 8, 2016

AGENDA ITEM: 9

Conduct and deliberate a Public Hearing for the purpose of considering abolishing, continuance, or modification of the Juvenile Curfew Ordinance for the City of Rockport, Aransas County, Texas.

SUBMITTED BY: Police Chief Tim Jayroe

APPROVED FOR AGENDA: PKC

BACKGROUND: Local Government Code § 370.002 “Review of Juvenile Curfew Order or Ordinance” requires the following:

-
- (a) Before the third anniversary of the date of adoption of a juvenile curfew ordinance by a general-law municipality or a home-rule municipality or an order of a county commissioners court, and every third year thereafter, the governing body of the general-law municipality or home-rule municipality or the commissioners court of the county shall:
 - (1) review the ordinance or order’s effects on the community and on problems the ordinance or order was intended to remedy;
 - (2) conduct public hearings on the need to continue the ordinance or order; and
 - (3) abolish, continue, or modify the ordinance or order.
 - (b) Failure to act in accordance with Subsections (a)(1)-(3) shall cause the ordinance or order to expire.
-

The juvenile curfew Ordinance was first adopted by Ordinance No. 1181 in 2001 and subsequently amended by Ordinance No. 1282 in 2004 and Ordinance No. 1603 in 2013. The review was conducted in 2007 and 2010.

This is the second of the two required public hearings to be conducted. The first public hearing was held at the February 23, 2016, City Council meeting. The public hearing notice was posted on the bulletin board at Rockport City Hall, 622 E. Market Street, Rockport, Texas, on the City’s website at www.cityofrockport.com, and published in *The Rockport Pilot* on Saturday, February 6, 2016, and will be published in *The Rockport Pilot* on Saturday, March 5, 2016.

Since 2013 there were 29 people ticketed, but there were only 16 calls for service where an officer was dispatched. Some calls for service resulted in multiple tickets.

In order to clarify the “curfew hours” the Police Department is recommending amending the Ordinance to restate the hours and include a graphic. In addition, an earlier amendment inadvertently dropped the Monday hours from the ordinance and the proposed ordinance reinstates Monday. Please see the accompanying ordinance for additional information.

FISCAL ANALYSIS:

RECOMMENDATION: Not an action item.



PUBLIC HEARING

Rockport City Council

NOTICE is hereby given that the Rockport City Council will hold Public Hearings on Tuesday, February 23, 2016, and on March 8, 2016, at 6:30 p.m., Rockport City Hall, 622 E. Market, Rockport, Texas, for the purpose of considering abolishing, continuance, or modification of the Juvenile Curfew Ordinance for the City of Rockport, Aransas County, Texas. The City encourages citizens to participate and make their views known at this Public Hearing. For further information on this request please contact the City Secretary at (361) 729-2213. This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary's office at (361) 729-2213 ext. 225 or FAX (361) 790-5966 or e-mail citysec@cityofrockport.com for further information. Braille is not available.

POSTED: this the 3rd day of February 2016, by 5:00 p.m., on the bulletin board at Rockport City Hall, 622 E. Market Street, Rockport, Texas and on the webpage www.cityofrockport.com.

PUBLISHED: in *The Rockport Pilot* in the Saturday, February 6, 2016, and Saturday, March 5th Editions, in accordance with the City of Rockport Code of Ordinances.

CITY OF ROCKPORT, TEXAS

Teresa Valdez, City Secretary

Citations Search Results

Agency	Number	Cit. Date	Court Date	Violation	Name String	Viol. Description
RPD	101679	09/19/2015	10/05/2015	00000N61	DRUTAR, BRANDON	CURFEW-NIGHTTIME
RPD	102084	10/03/2015	10/19/2015	00000N61	GRACIA, WILLIAM	CURFEW-NIGHTTIME
RPD	102569	10/24/2015	11/09/2015	00000N61	JOHNSON, CHRISTIAN	CURFEW-NIGHTTIME
RPD	102570	10/24/2015	11/09/2015	00000N61	GARCIA, NOAH	CURFEW-NIGHTTIME
RPD	102704	10/24/2015	11/10/2015	00000N61	ALLEN, JIMMY	CURFEW-NIGHTTIME
RPD	102728	10/24/2015	11/11/2015	00000N61	OLIVAREZ, ANDRES	CURFEW-NIGHTTIME
RPD	103143	12/02/2015	12/16/2015	00000N61	HALL, TINA	CURFEW-NIGHTTIME
RPD	103579	12/02/2015	12/16/2015	00000N61	WEST, JARRED	CURFEW-NIGHTTIME
RPD	103580	12/02/2015	12/16/2015	00000N61	VARNER, BRYCE	CURFEW-NIGHTTIME
RPD	83153	01/20/2014	01/31/2014	00000N61	HAMILTON, EVAN	CURFEW-NIGHTTIME
RPD	88535	06/30/2014	07/11/2014	00000N61	RODRIGUEZ, ISIAH	CURFEW-NIGHTTIME
RPD	88549	07/04/2014	07/18/2014	00000N61	KNIGHT, JUSTINE	CURFEW-NIGHTTIME
RPD	88550	07/04/2014	07/18/2014	00000N61	WILLIAMS, CAITLYN	CURFEW-NIGHTTIME
RPD	89247	07/27/2014	08/11/2014	ZCURF	GONZALES, VIRGINIA	ZCURFEW VIOLATIONS
RPD	90785	08/24/2014	09/05/2014	ZCURF	HALL, AMBER	ZCURFEW VIOLATIONS
RPD	90786	08/24/2014	09/05/2014	ZCURF	HALL, TINA	ZCURFEW VIOLATIONS
RPD	90787	08/24/2014	09/05/2014	ZCURF	GONZALES, AURORA	ZCURFEW VIOLATIONS
RPD	90788	08/24/2014	09/05/2014	ZCURF	TWITCHELL, BRANDY	ZCURFEW VIOLATIONS
RPD	93206	08/05/2014	08/19/2014	ZCURF	MONTEMAYOR, ALLISON	ZCURFEW VIOLATIONS
RPD	95700	01/31/2015	02/16/2015	ZCURF	PAHANY, NATHANIEL	ZCURFEW VIOLATIONS
RPD	95959	01/31/2015	02/13/2015	ZCURF	SIMPSON, CALEB	ZCURFEW VIOLATIONS
RPD	95961	01/31/2015	02/13/2015	ZCURF	POIASEK, KAYLE	ZCURFEW VIOLATIONS

29
Order: Number

Print Results View Citation Close

Search from 01/01/2013 to 12/31/2015

There were 16 incidents where curfew violations were involved and a total of 29 curfew violations.

ORDINANCE No. _____

AN ORDINANCE AMENDING THE CITY OF ROCKPORT CODE OF ORDINANCES CHAPTER 66 "OFFENSES AND MISCELLANEOUS PROVISIONS", ARTICLE I, "IN GENERAL", ARTICLE II. "MINORS", AMENDING SECTION 66-36 "DEFINITIONS" ITEM (1) SETTING CURFEW DAYS FOR MINORS; REPEALING ALL SECTIONS IN CONFLICT THEREWITH; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROCKPORT, TEXAS:

SECTION 1: AMENDMENT

That the City of Rockport Code of Ordinances, Chapter 66 "Offenses and Miscellaneous Provisions", Article II "Minors", Section 66-36 "Definitions" Item (1) is hereby amended as follows:

Section 66-36. Definitions.

~~(1) — Curfew hours means:~~

- ~~a. 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 a.m. of the following day;~~
- ~~b. 12:30 a.m. until 6:00 a.m. on any Friday and Saturday; and~~
- ~~c. 9:00 a.m. until 3:30 p.m. on any Tuesday, Wednesday, Thursday, or Friday when Aransas County Independent School District is in regular session~~

(2) *Curfew hours, as listed below and shown in the Table 1 below, means:*

- a. Sunday – Midnight to 6:00 a.m. and 11:00 p.m. to 11:59 p.m.
- b. Monday – Midnight to 6:00 a.m. and 11:00 p.m. to 11:59 p.m.
- c. Tuesday – Midnight to 6:00 a.m. and 11:00 p.m. to 11:59 p.m.
- d. Wednesday – Midnight to 6:00 a.m. and 11:00 p.m. to 11:59 p.m.
- e. Thursday – Midnight to 6:00 a.m. and 11:00 p.m. to 11:59 p.m.
- f. Friday – Midnight to 6:00 a.m.
- g. Saturday – Midnight to 6:00 a.m.
- h. Aransas County Independent School District regular sessions Monday through Friday – 9:00 a.m. until 3:30 p.m.

Sec. 66-36 Table 1 - Curfew Hours

TIME	SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
MIDNIGHT							
12:30 AM							
1:00 AM							
1:30 AM							
2:00 AM							
2:30 AM							
3:00 AM							
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10:30 PM							
11:00 PM							
11:30 PM							

 In effect only when Arkansas County Independent School District is in session.

SECTION 2: REPEALER

Any previously adopted ordinances, and any subsequent amendments to them, which are in conflict with this ordinance, are hereby repealed.

SECTION 3: SEVERABILITY

If at any provision, section, sentence, clause or phrase of this ordinance, or the application of same to any person or set of circumstances is, for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portions of this ordinance shall not be affected thereby, it being the intent of the City Council in adopting this ordinance that no portion hereof, or provisions or regulations contained herein, shall become inoperative or fail by reason of any unconstitutionality of any other portion hereof, and all provisions of this ordinance are declared severable for that purpose.

SECTION 4: EFFECTIVE DATE

This ordinance shall become effective immediately upon adoption by second and final reading.

APPROVED and PASSED on first reading this _____ day of March 2016.

CITY OF ROCKPORT

Charles J. Wax, Mayor

ATTEST:

Teresa Valdez, City Secretary

APPROVED, PASSED and ADOPTED on second and final reading this _____ day of March 2016.

CITY OF ROCKPORT

Charles J. Wax, Mayor

ATTEST:

Teresa Valdez, City Secretary

CITY COUNCIL AGENDA
Regular Meeting: Tuesday, March 8, 2016

AGENDA ITEM: 10

Deliberate and act on first reading of an Ordinance amending Article 4 of the City of Rockport Zoning Ordinance Number 1027 by changing the zoning of land located at 104 Woodland Drive; also known as Rockport Country Club Estates, Unit 2, .678 acres out of 1.51 acres at the northwest corner of FM 2165 & entry road, Rockport, Aransas County, Texas, from R-1 (1st Single-Family Dwelling District) to R-7 (Residential and Office District); repealing all ordinances in conflict therewith; providing for severability; and providing an effective date.

SUBMITTED BY: Public Works Director Michael S. Donoho, Jr.

APPROVED FOR AGENDA: PKC

BACKGROUND: Mr. Paul M. Strunk (owner) is seeking approval to rezone the property located at 104 Woodland Drive. Mr. Strunk's intent is to construct two storage units for personal property, RV, home office, and shop space.

This item was heard at a Joint Public Hearing with the City Council on January 12, 2016. There was no public input on this request. On January 18, 2016, the Planning & Zoning Commission (P&Z) met and deliberated the original request to change the zoning from R1 (1st Single Family Dwelling District) to B1 (General Business District). Staff recommended that the request for B1 (General Business District) be changed to R7 (Residential and office District). P&Z voted to table the original request pending input from the owner. On February 15, 2016, P&Z deliberated the original request to change the zoning from R1 to B1 and decided to recommend Council deny the requested rezone because the owner did not respond to the request for input. On February 17 the owner requested that his application be amended to reflect a desired change to R7.

At its February 23 meeting, Council deliberated on P&Z's recommendation to deny the original request to change the zoning from R1 to B1. In light of the owner's subsequent for R7 zoning and a recommendation from the P&Z Chairman for approval, Council decided to overrule P&Z's recommendation and approved the zoning change from R1 (1st Single Family Dwelling) to R7 (Residential and Office District).

FISCAL ANALYSIS: N/A

STAFF RECOMMENDATION: Staff recommends Council approve the first reading of the proposed Ordinance for rezone from R-1 (1st Single Family Dwelling District) to R-7 (Residential and Office District), as presented.

ORDINANCE NO. ____

AN ORDINANCE AMENDING ARTICLE 4 OF THE CITY OF ROCKPORT ZONING ORDINANCE NUMBER 1027 BY CHANGING THE ZONING OF LAND LOCATED AT 104 WOODLAND DRIVE; ALSO KNOWN AS ROCKPORT COUNTRY CLUB ESTATES, UNIT 2, .678 ACRES OUT OF 1.51 ACRES AT THE NORTHWEST CORNER OF FM 2165 & ENTRY ROAD, ROCKPORT, ARANSAS COUNTY, TEXAS, FROM R-1 (1ST SINGLE FAMILY DWELLING DISTRICT) TO R-7 (RESIDENTIAL AND OFFICE DISTRICT); REPEALING ALL ORDINANCES IN CONFLICT THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, an application for a zoning change to property located at 104 Woodland Drive; also known as Rockport Country Club Estates, Unit 2, .678 acres at the northwest corner of FM 2165 & entry road, Rockport, Aransas County, Texas, was received in the office of Building & Development Services Department, City of Rockport, Texas; and

WHEREAS, on December 16, 2015, notice was posted on the bulletin board at Rockport City Hall, 622 E. Market Street and on the City's webpage www.cityofrockport.com; and

WHEREAS, on November 17, 2015 and December 22 2015, notice was mailed to affected property owners within 200' of subject property; and

WHEREAS, on December 19, 2015, the City caused to be published "Notice of Joint Public Hearing" in the official newspaper of the City notifying area residents and the public in general to participate and make their views known regarding this request; and

WHEREAS, on January 12, 2016, at 6:30 p.m., the Rockport City Council and the Planning & Zoning Commission did hold a Joint Public Hearing; and

WHEREAS, on January 18, 2016, the Planning & Zoning Commission did meet and said Commission deliberated the original request to change the zoning from R1 (1st Single Family Dwelling District) to B1 (General Business District). The recommendation was made to change the request for B1 (General Business District) to R7 (Residential and Office District) the commission did vote by majority to table the original request.

WHEREAS, on February 15, 2016, the Planning & Zoning Commission did meet and said Commission deliberated the original request to change the zoning from R1 (1st Single Family Dwelling District) to B1 (General Business District). District) the commission did vote by majority to recommend to the City Council denial of this request for a rezone.

WHEREAS, on February 23, 2016, the Rockport City Council did meet and deliberate on the Planning and Zoning Commission recommendation to deny the original request to change the zoning from R1 (1st Single Family Dwelling District) to B1 (General Business District). The council did vote by majority to overrule the recommended denial of this request and approve the zoning change from R1 (1st Single Family Dwelling) to R7 (Residential and Office District).

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROCKPORT, TEXAS:

SECTION 1 - AMENDMENT

That, pursuant to Article 4 of the City of Rockport Zoning Ordinance Number????, the current zoning of land located at 104 Woodland Drive; also known as Rockport Country Club Estates, Unit 2, .678 acres at the northwest corner of FM 2165 & entry road, Rockport, Aransas County, Texas; be changed from R-1 (1st Single Family Dwelling District) to R-7 (Residential and Office District).

SECTION 2 - REPEALER.

Any previously adopted ordinances, and any subsequent amendments to them, which are in conflict with this Ordinance, are all hereby repealed.

SECTION 3 - SEVERABILITY

It is the intention of the City Council of the City of Rockport that if any phrase, sentence, section or paragraph of this Ordinance shall be declared unconstitutional or otherwise invalid by final judgment of a court of competent jurisdiction such unconstitutionality or invalidity shall not affect any of the remainder of this Ordinance since the same would have been enacted by the City Council without the incorporation of the unconstitutional or invalid phrase, sentence, section or paragraph.

SECTION 4 - EFFECTIVE DATE

This Ordinance shall become effective immediately upon adoption by second and final reading.

APPROVED and **PASSED** on first reading this 8th day of March 2016.

CITY OF ROCKPORT:

Charles J. Wax, Mayor

ATTEST:

Teresa Valdez, City Secretary

APPROVED, PASSED and ADOPTED on second and final reading this _____ day of March 2016.

CITY OF ROCKPORT

Charles J. Wax, Mayor

ATTEST:

Teresa Valdez, City Secretary



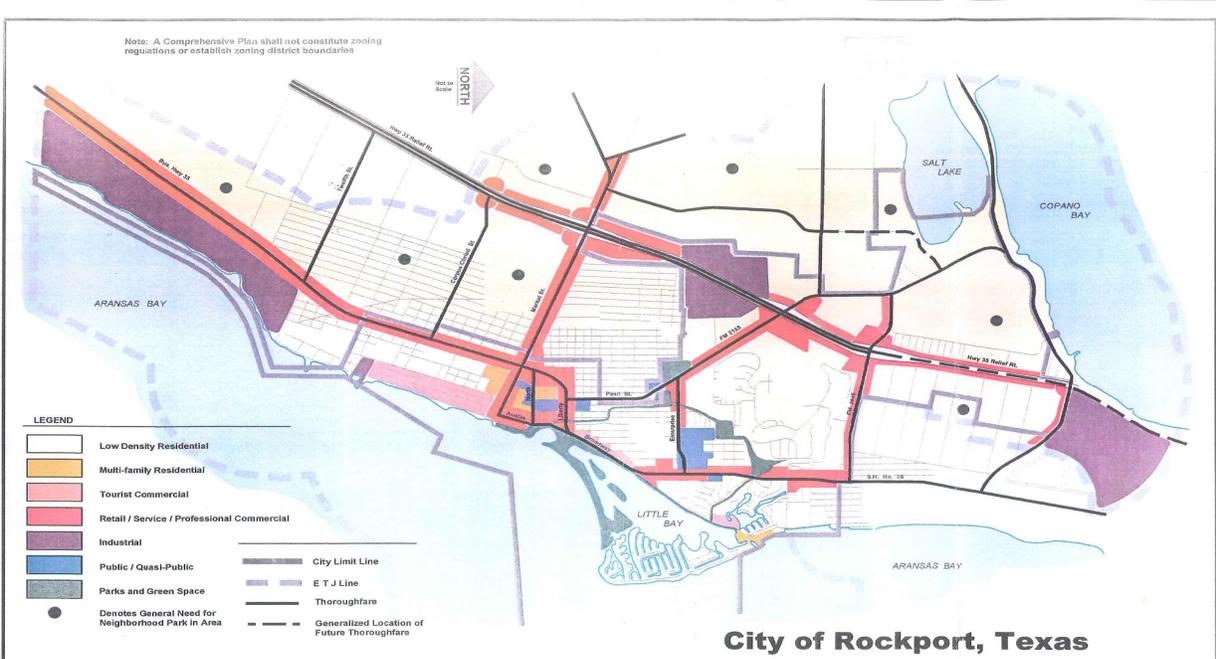
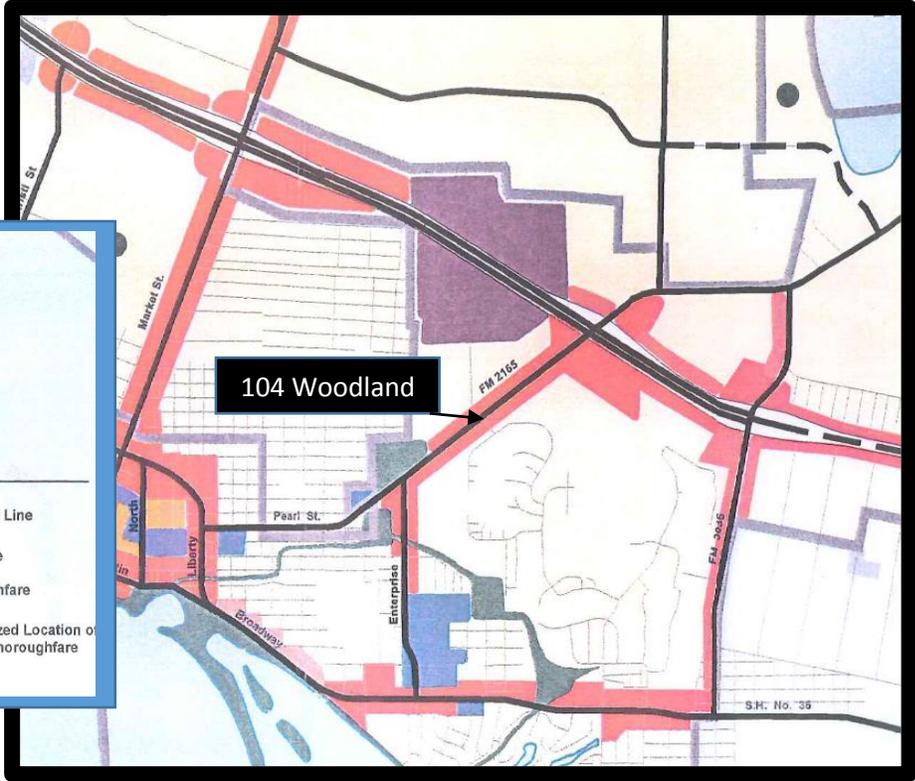
104 WOODLAND DR

Print Date: 11/24/2015
Image Date: 03/03/2014
Level: Neighborhood

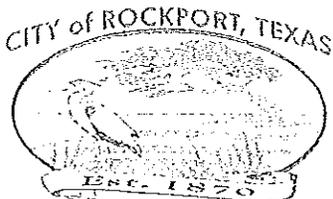
**FUTURE LAND USE PLAN
WITH ETJ
City of Rockport, Texas**

LEGEND

	Low Density Residential		City Limit Line
	Multi-family Residential		E T J Line
	Tourist Commercial		Thoroughfare
	Retail / Service / Professional Commercial		Generalized Location of Future Thoroughfare
	Industrial		
	Public / Quasi-Public		
	Parks and Green Space		
	Denotes General Need for Neighborhood Park in Area		



**City of Rockport, Texas
Future Land Use Plan w/ETJ
And Water/Sewer Service Plan**



RECEIVED
NOV 02 2015
BY: MB

CITY OF ROCKPORT
ZONING AND LAND DEVELOPMENT APPLICATION

INSTRUCTION: Please fill out completely. If more space is needed, attach additional pages. Please print or use typewriter.

A. REQUESTING: Rezoning Conditional Permit

Planned Unit Development (P.U.D.) by Conditional Permit

B. ADDRESS AND LOCATION OF PROPERTY _____
Corner of Pearl St. / F. M. 2165 and Woodland Drive

C. CURRENT ZONING OF PROPERTY: R-1

D. PRESENT USE OF PROPERTY: Vacant

E. ZONING DISTRICT REQUESTED: B-1

F. CONDITIONAL USE REQUESTED: _____

G. LEGAL DESCRIPTION: (Fill in the one that applies)

• Lot or Tract _____ Block _____

• Tract Survey Attached of the _____
Survey as per metes and bounds (field notes attached)

• If other, attach copy of survey or legal description from the Records of
Aransas County or Appraisal District.

H. NAME OF PROPOSED DEVELOPMENT (if applicable) _____

I. TOTAL ACREAGE OR SQ. FT. OF SITE(S): 0.678 Acres

J. REASON FOR REQUEST AND DESCRIPTION OF DEVELOPMENT:
(Please be specific)

The owner wants to build two storage units for personal property, RV,
home-office, and shop space

K. OWNER'S NAME: (Please print) Paul M. Strunk
 ADDRESS: 318 Olympic Dr.
 CITY, STATE, ZIP CODE: Rockport, Texas 78382
 PHONE NO 361 7298991 or 361 8884496

L. REPRESENTATIVE: (If Other Than Owner) Clayton W. Black
 ADDRESS: P.O Box 1374
 CITY, STATE, ZIP CODE: Rockport, TX 78381
 PHONE NO 361-463-9458

NOTE: Do you have property owner's permission for this request?
 YES NO

M. FILING FEE:

REZONING	\$150.00 + \$10.00 PER ACRE
PLANNED UNIT DEVELOPMENT	\$200.00 + \$10.00 PER ACRE
P.U.D. REVISION	\$200.00 + \$10.00 PER ACRE
CONDITIONAL PERMIT	\$150.00 + \$10.00 PER ACRE

(Make check payable to the City of Rockport)

- Submit application and filing fee to the Department of Building & Development, City of Rockport; 2751 S.H. 35 Bypass, Rockport, Texas 78382.

Signed: Paul M. Strunk
 (Owner or Representative)

(FOR CITY USE)

Received by: MB Date: 11-2-15 Fees Paid: \$ 150.-
 Submitted Information (accepted) (rejected) by: _____
 If rejected, reasons why: _____

Receipt No. 025354

PAUL STRUNK
92 N CARANCAHUA #1250
CORUS CHRISTI TX 78401-0019

DAVID L CROWELL FAMILY
ESTATE AND TRUSTS
23 SAN JACINTO DR
GALVESTON TX 77550-5713

ARANSAS COUNTY
301 N LIVE OAK ST
ROCKPORT TX 78382-2744

CHURCH OF JESUS CHRIST
TAX ADM DIV 546-3173 50 E N TEMPLE
FLOOR 22
SALT LAKE CITY UT 84150-3620

MICHAEL GEER JR
P O BOX 1802
FULTON TX 78358-1802

MARCELINO & ANITA GONZALEZ
15821 GYPSY ST
CORPUS CHRISTI TX 78418-6513

MICHAEL & PHYLLIS DONOHO
467 AUGUSTA DR
ROCKPORT TX 78382-6948

JOHN & ADELAIDE MARLATT
456 AUGUSTA DR
ROCKPORT TX 78382-6945

FALCON INTERNATIONAL BANK
5219 MCPHERSON RD
LAREDO TX 78041

DAVIS & GLENDA MERRELL
P O BOX 1802
FULTON TXS 78358-1802

*Mailed
11-17-15*

*and
mailing
12-22-15*

Article 14

R-7 Residential and Office District

14.1 Use Regulations. The purpose of this district is to provide an area where professional offices and office buildings may locate and be compatible with dwellings or structures located within or adjacent to the district. Land and premises may be used for:

1. Uses listed for an R-6 district.
2. Office buildings provided the following conditions are met:
 - a. No building may be constructed or altered to produce a store front, show window or display window.
 - b. No storage of merchandise in the building or on the premises.
 - c. No machinery or equipment, other than that customarily found in professional or business offices, used or stored in the building or on the premises.
3. Financial Institutions.
4. Studios (provided conditions in item 2 are met).
5. Penal institutions and detention centers, by CUP.
6. Clinics or hospitals.
7. Radio, television or communications tower (transmitting dish antenna), by CUP. Federal Communications Commission (FCC) and Federal Aviation Administration (FAA) requirements are satisfied. Refer to Article 24 for Special Conditions.

14.2 Area & Yard Regulations.

14.2.1 Area of the Lot. The minimum area of the lot shall be five thousand (5,000) square feet. See Article 20.

14.2.2 Width of the Lot. The minimum width of the lot shall be fifty (50) feet. See Table 20.

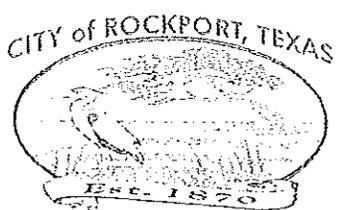
14.2.3 Area of the Building. The minimum living area of the dwelling shall be five hundred (500) square feet. See Table 20.

14.2.4 Yard Area & Building Setbacks. See Table 20.

14.3 Height of the Building. No building shall exceed thirty five (35) feet in height. See Article 3-Definitions and Article 20.

14.4 Parking Regulations. Parking regulations for permitted uses as contained in Article 21.

14.5 Accessory Use Regulations. Accessory uses, which are auxiliary or incidental to the primary use of a building or premises, as contained in Article 22.



RECEIVED
NOV 02 2015
BY: MB

CITY OF ROCKPORT
ZONING AND LAND DEVELOPMENT APPLICATION

INSTRUCTION: Please fill out completely. If more space is needed, attach additional pages. Please print or use typewriter.

- A. REQUESTING: Rezoning Conditional Permit
Planned Unit Development (P.U.D.) by Conditional Permit
- B. ADDRESS AND LOCATION OF PROPERTY _____
Corner of Pearl St. / F. M. 2165 and Woodland Drive
- C. CURRENT ZONING OF PROPERTY: R-1
- D. PRESENT USE OF PROPERTY: Vacant
- E. ZONING DISTRICT REQUESTED: B-1
- F. CONDITIONAL USE REQUESTED: _____
- G. LEGAL DESCRIPTION: (Fill in the one that applies)
 - Lot or Tract _____ Block _____
 - Tract Survey Attached of the _____
Survey as per metes and bounds (field notes attached)
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Aransas County or Appraisal District.
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- I. TOTAL ACREAGE OR SQ. FT. OF SITE(S): 0.678 Acres
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(Please be specific)
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 PHONE NO 361-463-9458

NOTE: Do you have property owner's permission for this request?
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M. FILING FEE:

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PLANNED UNIT DEVELOPMENT	\$200.00 + \$10.00 PER ACRE
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(Make check payable to the City of Rockport)

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Signed: Paul M Strunk
 (Owner or Representative)

(FOR CITY USE)

Received by: MB Date: 11-2-15 Fees Paid: \$ 150.-
 Submitted Information (accepted) (rejected) by: _____
 If rejected, reasons why: _____

Receipt No. 025354

PAUL STRUNK
02 N CARANCAHUA #1250
CORUS CHRISTI TX 78401-0019

DAVID L CROWELL FAMILY
ESTATE AND TRUSTS
23 SAN JACINTO DR
GALVESTON TX 77550-5713

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*Mailed
11-17-15*

*and
mailing
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14.5 Accessory Use Regulations. Accessory uses, which are auxiliary or incidental to the primary use of a building or premises, as contained in Article 22.

CITY COUNCIL AGENDA
Regular Meeting: Tuesday, March 8, 2016

AGENDA ITEM: 11

Deliberate and act on a Resolution authorizing certification of a Cultural District for at least ten years to be named Rockport Heritage and Arts District.

SUBMITTED BY: City Manager Kevin Carruth, Ms. Jennifer Day, CAD Committee Chairperson

APPROVED FOR AGENDA: PKC

BACKGROUND: In 2005 the Texas Legislature authorized the Texas Commission on the Arts (TCA) to designate cultural districts in Texas cities. Cultural districts are special zones that harness the power of cultural resources to stimulate economic development and community revitalization. These districts can become focal points for generating businesses, attracting tourists, stimulating cultural development and fostering civic pride. The goals of cultural districts include:

1. Attracting artists and cultural enterprises to the community
2. Encouraging business and job development
3. Address specific needs of a community
4. Establishing tourism destinations
5. Preserving and reusing historic buildings
6. Enhancing property values
7. Fostering local cultural development

In the last several months a group of citizens, including (among others) Stan Armstrong, Kay Betz, Jennifer Day, and Luis Puron, have been organizing an effort to create a cultural arts district. They have found a sponsor in the Rockport Heritage District Association and are prepared to submit an application to TCA for this year's competition for recognition by TCA's June 15 deadline. Part of the application requires resolutions of support from local entities.

Please see the accompanying resolution and PowerPoint presentation for additional details.

FISCAL ANALYSIS: At this stage of the cultural district's development, the City's contribution is expected to be mainly in-kind labor and material. Additionally, cash contributions may be available from the \$10,000 allocated for RHD streetscapes (631-8013) and possibly HOT funds.

RECOMMENDATION: Staff recommends Council approve the Resolution, as presented.

RESOLUTION NO. 2016 - __

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROCKPORT AUTHORIZING CERTIFICATION OF A CULTURAL DISTRICT FOR AT LEAST TEN (10) YEARS TO BE NAMED ROCKPORT HERITAGE AND ARTS DISTRICT.

WHEREAS, a cultural district has been designated to assist the district and community to develop a public-private partnership to support said district, and,

WHEREAS, the goals of the cultural district include attracting artists and cultural enterprises to the community, encouraging business and job development, addressing specific needs of our community, establishing tourism destinations, preserving and reusing historic buildings, enhancing property values, and fostering local cultural development, and

WHEREAS, Charles J. Wax, Mayor, City of Rockport, has signed a resolution of support for said cultural district and,

WHEREAS, the Texas Commission on the Arts will be petitioned to designate said cultural district and,

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ROCKPORT THAT THE CITY:

- Section 1.** Endorses the submission of this application and agrees to participate in the development and financial support of said cultural district.
- Section 2.** Endorses the goal of economic development of said cultural district within the context of preservation and rehabilitation of our historic buildings.
- Section 3.** Endorses the goal of tourism development of said cultural district within the context of contributing to the overall visitor development goals of the City.
- Section 4.** Will appoint a City official to represent the City on the governing board of said cultural district.
- Section 5.** By this action, directs City staff to actively support and cooperate with governing board to develop and maintain said cultural district.
- Section 6.** By this action, requests all residents of city/county and especially those citizens who own property or businesses within said district to support, promote and help maintain activities and events in said district.
- Section 7.** Directs the Mayor to sign and submit such Resolution on creation of said Cultural District.

PASSED and **APPROVED** this the 8th day of March 2016.

CITY OF ROCKPORT, TEXAS

Charles J. Wax, Mayor

ATTEST:

Teresa Valdez, City Secretary

Rockport Cultural Arts District Designation

Cultural Arts District Defined.....

- ▶ In 2005, House Bill 2208 enabled the creation of Cultural and Fine Arts Districts by the Texas Commission on the Arts (TCA).
- ▶ A District is a well recognized, mixed-use area of a community in which a high concentration of cultural facilities serve as anchors.

Cultural Arts District Defined continued.....

- ▶ Its purpose:
 - ▶ Strengthen a community's cultural arts sector by supporting existing institutions
 - ▶ Expand tourism opportunities
 - ▶ Promote economic development
- ▶ Benefits also include:
 - ▶ Artistic Advancement
 - ▶ Job Creation
 - ▶ Property Value Enhancement
 - ▶ Downtown Revitalization

Cultural Arts Districts Defined continued.....

- ▶ TCA developed guidelines for eligibility and administration procedures for the CADs
- ▶ No monies were appropriated to the Commission
- ▶ In 2009, there were seven pilot Districts designated:
 - ▶ Austin
 - ▶ Denison
 - ▶ Huntsville
 - ▶ Lubbock
 - ▶ McAllen
 - ▶ San Angelo
 - ▶ Winnsboro

Cultural Arts District Timeline

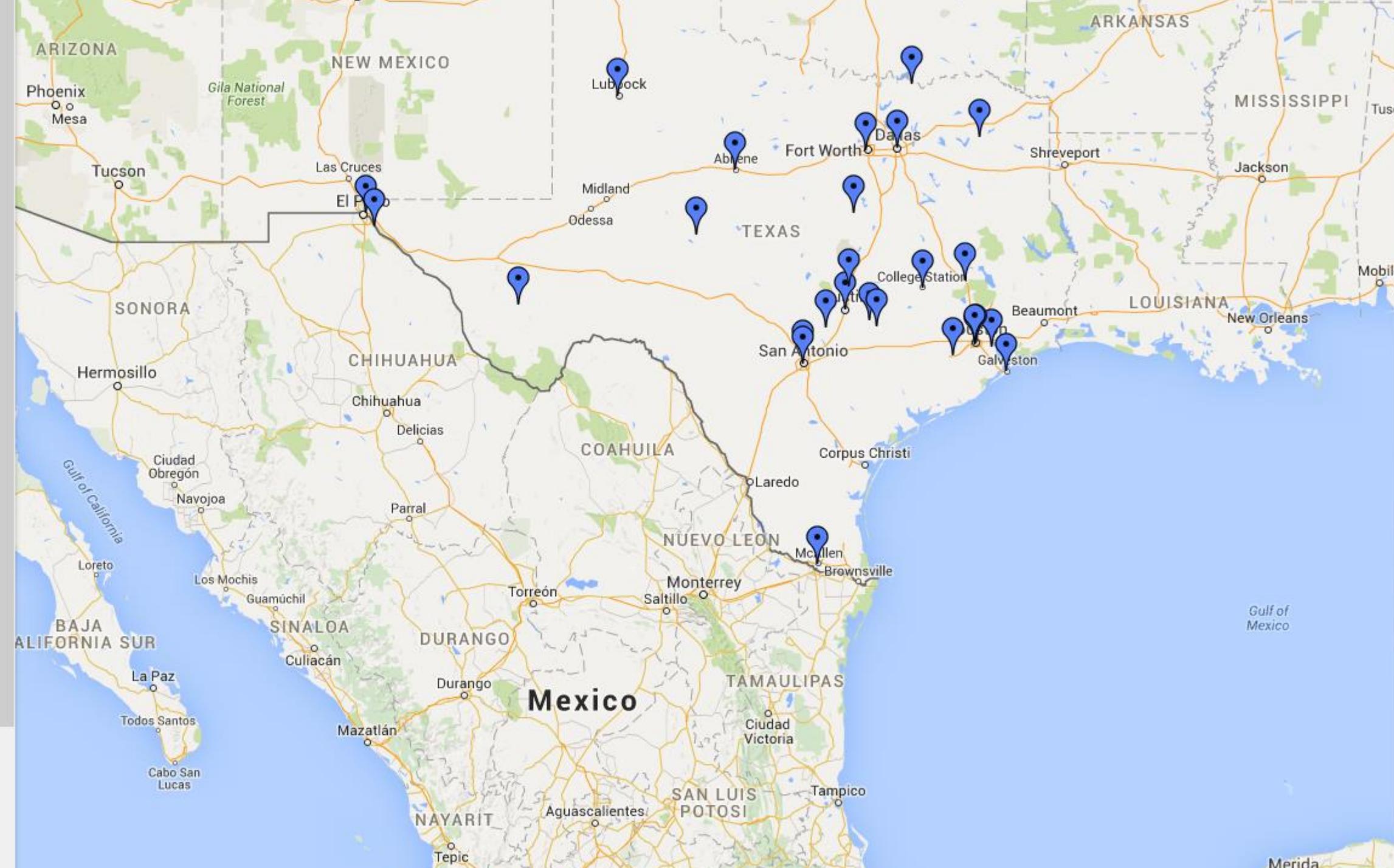
- ▶ 2008-2010 - Studies documented connection between support for the arts, a creative sector and strong economic growth
- ▶ 2011 - Economic development study documents measurable impacts for Amarillo, Clifton, El Paso, Rockport, and Texarkana
- ▶ 2011-2012 - Studies show national trend to use Arts and Culture for economic development

Cultural Arts District Timeline

- ▶ 2012-2013- TCA Enhancements to CADs:
 - ▶ State incentives and resources
 - ▶ Include private sector in district boundaries
 - ▶ Establish performance measures and tourism tracking metrics
 - ▶ Provide financial grants or contracts for development including planning, designing, construction and renovation costs
 - ▶ Create a CAD Fund to provide no interest loans
 - ▶ Enable local incentives:
 - ▶ No sales tax on original artwork sold in the district
 - ▶ Tax credit for preservation of cultural property within a cultural district

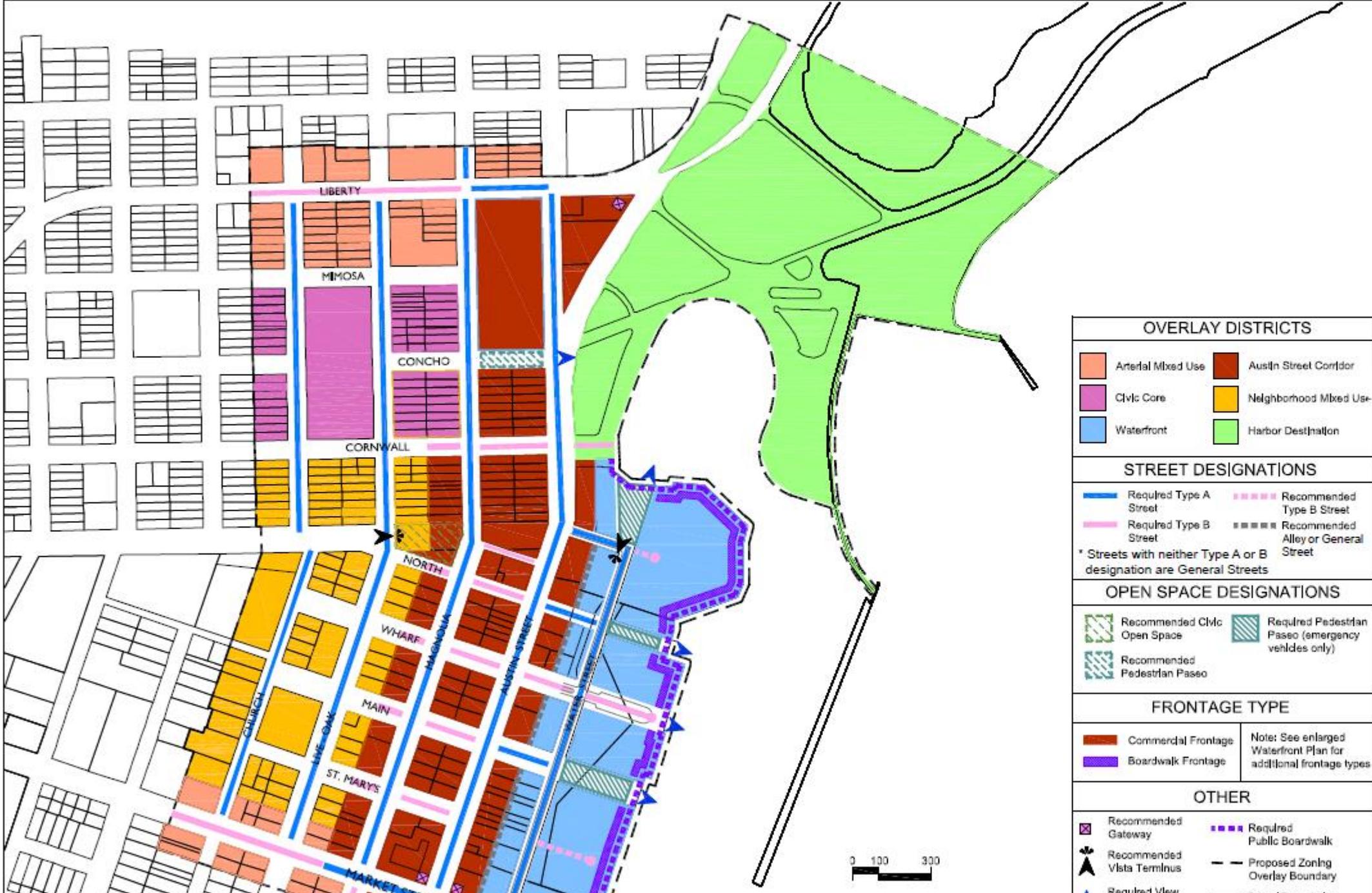
Cultural Arts District Timeline

- ▶ In 2015, there were 28 Cultural Arts Districts in Texas
- ▶ The Texas Legislature appropriated \$5 million dollars for existing CADs to be granted by 2017
- ▶ Cultural Arts Districts in Texas - Map



Rockport Cultural Arts District... On Its Way!

- ▶ Summer 2015, Rockport Steering Committee forms
- ▶ Sponsorship received from the Rockport Heritage District Association
- ▶ Support received from City of Rockport, Aransas County, Rockport-Fulton Chamber of Commerce, Town of Fulton and Rockport Center for the Arts and numerous individuals
- ▶ January 2016 - Letter of Intent and Proposed CAD Map was submitted to the TCA
- ▶ June 15, 2016 - Official CAD Application to be submitted to TCA



OVERLAY DISTRICTS	
Arterial Mixed Use	Austin Street Corridor
Civic Core	Neighborhood Mixed Use
Waterfront	Harbor Destination

STREET DESIGNATIONS	
Required Type A Street	Recommended Type B Street
Required Type B Street	Recommended Alley or General Street

* Streets with neither Type A or B designation are General Streets

OPEN SPACE DESIGNATIONS	
Recommended Civic Open Space	Required Pedestrian Paseo (emergency vehicles only)
Recommended Pedestrian Paseo	

FRONTAGE TYPE	
Commercial Frontage	Note: See enlarged Waterfront Plan for additional frontage types
Boardwalk Frontage	

OTHER	
Recommended Gateway	Required Public Boardwalk
Recommended Vista Terminus	Proposed Zoning Overlay Boundary
Required View to Water	Parcel Boundaries

Rockport Heritage District
Zoning Overlay

Rockport Cultural Arts District

- ▶ Next Steps -
 - ▶ Evidence of Level of Community Support
 - ▶ Targeted Government and Civic Organizations
 - ▶ Letters of Support and Commitment
 - ▶ Public Engagement Meetings and Survey

 - ▶ Signed City and County Resolutions

 - ▶ Signed Resolution of Support by Non Profits

 - ▶ Define CAD Leadership/Management Team and Structure
 - ▶ include roles, responsibilities, chain of command, entity with ultimate responsibility

Rockport Cultural Arts District

- ▶ Next Steps continued -
 - ▶ Plan for Developing and Sustaining the CAD
 - ▶ Cultural Plan w/tourism, marketing, economic development sections
 - ▶ CAD Budget
 - ▶ Transportation/Walking Plan
 - ▶ ADA Features
 - ▶ Affordable Housing and Studio Space for Arts (if applicable)

Rockport Cultural Arts District

- ▶ Next Steps continued -
 - ▶ Description of Incentives and Collaborations
 - ▶ Local, Regional, State, Federal, and Private
 - ▶ Description of Existing Cultural, Arts, and Tourism Enterprises
 - ▶ Description of Planned Cultural, Arts, and Tourism Enterprises w/Timeline
 - ▶ Rockport CAD Marketing Audio Visual (Required for Application)

Rockport Cultural Arts District

Questions

Rockport Cultural Arts District

Thank You!



Cultural District Initiative Rockport, Texas



Community Assessment

Rockport-Fulton, Texas has a well recognized and high concentration of cultural facilities that serve as an anchor of attractions for visitors.

Rockport-Fulton has an events calendar designed to attract visitors with a variety of interests.

There's a favorable climate of collaboration between government entities, cultural organizations, business, and the chamber of commerce that positively impact cultural tourism to the area.

Rockport-Fulton is an established, well branded and authentic cultural tourist destination with significant assets, and a sense of history, conservation and preservation.



A Cultural District for Rockport-Fulton, why ?

Attract residents, businesses, artists, other members of the creative economies and tourists to the area.

Economic development- artists and the arts contribute to the economy and have a huge impact on innovating communities.

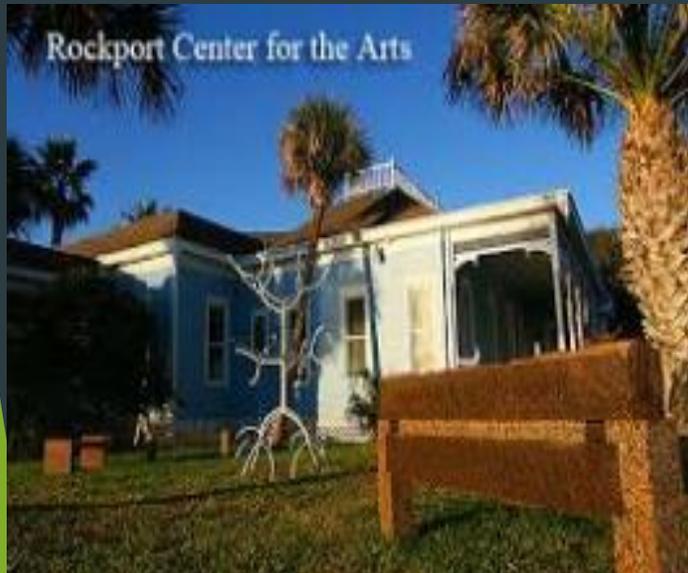
Community revitalization- historic preservation and re-use of historic assets with new business.

Job creation and an increased tax base which will enhance quality of life.

Additional state funding for Cultural Districts.

For More Information, Contact

Jennifer Day 361-729-3189 ~ Luis Purón 361-729-5519
Stan Armstrong 214-796-1806~ Kay Betz 512-584-0423



CITY COUNCIL AGENDA
Regular Meeting: Tuesday, March 8, 2016

AGENDA ITEM: 12

Hear and deliberate on presentation of preliminary energy audit and energy audit agreement by Ameresco Water and Energy Solutions.

SUBMITTED BY: City Manager Kevin Carruth

APPROVED FOR AGENDA: PKC

BACKGROUND: Section 302 of the Local Government Code authorizes local governments to enter into energy savings performance contracts (ESPC). ESPC is a construction method that allows an entity to complete energy-saving improvements within an existing budget by financing them with money saved through reduced utility expenditures. Local governments make no up-front investments and instead finance projects through guaranteed annual energy savings.

To enter into a guaranteed ESPC, a local government issues a request for qualifications, and selects a performance contractor, usually an energy service company. After identifying eligible projects, the contractor designs and installs the needed improvements. The local government pays for the financed project out of savings realized by the improvements. By law, the contractor must guarantee that the savings will always be at least equal to the payments for the cost of the improvements.

Over the last four months Ameresco has performed a preliminary assessment (at no cost to the City) to determine if there is probable cause to think there are sufficient savings to warrant an ESPC. The preliminary assessment has determined a potential for approximately \$400,000 in annual savings. The next step in the process is to conduct a certified energy audit.

Please see the accompanying PowerPoint presentation, draft energy audit agreement, and copy of Section 302 of the Local Government Code for additional information. Ameresco representative George Rash will attend and be available to answer questions.

FISCAL ANALYSIS: The energy audit will cost \$45,000. If the City ultimately enters into an ESPC and completes the design and implementation of the energy and water conservation measures, that cost is rolled into the project and there is no cash expense for the City; however, if the City does not sign an ESPC, it is liable for paying that cost.

RECOMMENDATION: Not an action item.



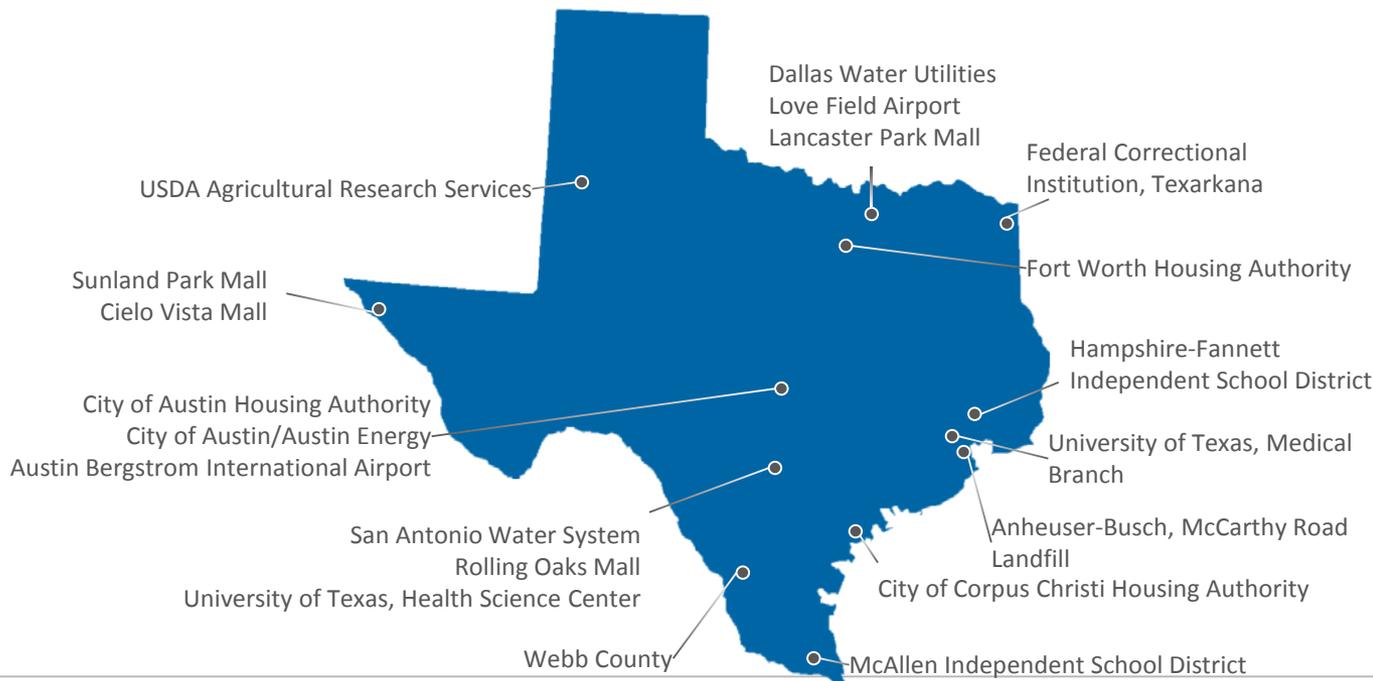
Ameresco – who we are

- Water and energy solutions are our **core business**
- One of the **Nation's Largest Independent Energy Services Companies**
 - Public (NYSE:AMRC)
 - Completed over \$5B in energy efficiency and renewable energy projects
 - 1000 employees throughout 64 offices in 34 states
- **Flexible and customized solutions** developed with in-house engineering staff
- **Vendor and product neutrality**
- On average, **Ameresco achieves 103% of all performance guarantees**



Trusted Experience

- We strive to understand the unique requirements of each client
 - Partnered to complete Billions of \$ in projects with government agencies
- We understand the local climate
 - Successful and unique energy projects implemented throughout the **Lone Star State** and a team who lives and works here

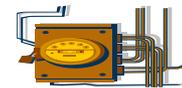


Dallas Water Utilities
4.28 MW Biogas Recovery Facility
Saves City of Dallas \$1.5M Annually

- Local Government Code 302
- Program must be budget-neutral or positive each year (all costs, including debt)
- Typical guarantee term ranges from 10 to 15 years (TX allows for a 20 year term)
- No impact on debt ceiling or bonding capacity
 - third party financing (tax-free municipal lease)
 - not traditional debt because there is an annual non-appropriations clause; thus, not subject to tax or revenue pledge
- Calculations must be verified by licensed, third party engineer
- Performance is ***guaranteed*** by Ameresco

Common areas where funding is often scarce

- Water supply and distribution systems
- Water and wastewater treatment plants
- SCADA systems for plant control
- Facility infrastructure such as HVAC and lighting
- Street lights, traffic signals
- Water meter replacement, right-sizing
- Gas meters and Electric meter replacement
- Demand response
- Renewable—solar; wind; biogas; biomass



This Preliminary Assessment (PA) provides you with a review of the energy conservation measure (ECM) findings.

Findings indicate:

- Significant energy, water, and operational cost reduction opportunities
- You can positively affect your bottom line through energy efficient measures through-out the city
- You can realize the largest savings opportunity, maximize your carbon footprint reduction, and create the best environment for city officials, city staff, and city residents
- Recommend to the city that you proceed with Investment grade audit (IGA)

Potential Magnitude of Cost Reductions

Depending upon your selected ECM's, energy savings from the program are expected to be approx. 15-20 % or greater annually.

Based on your 2014 utility data, and selected facilities, utility observations are :

Water usage :

- **Pumped/purchased – 994,677,000 gal/yr.**
- **Consumed/billed – 852,932,490 gal/yr.**
- **Total Loss factor – 141,744,510 gal/yr. or 14.2 %***
- **Potential savings of up to 5 %**

*Note – loss factor includes leaks, unmetered/unbilled, normal loss of 6-8%, water meter age, etc.

Potential Magnitude of Cost Reductions, cont.

Based on your 2014 utility data, and selected facilities, utility observations are :

Natural Gas usage :

- **Purchased mcf – 172,066 mcf/yr**
- **Consumer billed – 163,403 mcf/yr**
- **Total Loss factor – 5 %***
- **Potential savings of up to 1-2 %**

*Note – loss factor includes age of meter, meter readings, line leakage, unbilled/unmetered meters, etc.

Potential Magnitude of Cost Reductions, cont.

Based on your 2014 utility data, and selected facilities, utility observations are :

Other Energy Conservation Measures (ECM's):

- **Street lights**
- **Lift stations - 42, two pumps at each location**
- **Storm lift stations - 8**
- **City hall - 5000 sq ft (lighting, hvac, water, IAQ, etc.)**
- **Police station – 5000 sq ft (lighting, hvac, water, IAQ, etc.)**
- **New facilities to be built**
- **Billing system update**

- **Estimated Annual Utility Savings** **\$ 400,000**
- **20 Year Project Savings** **\$ 8,000,000***
- **Estimated Project Cost** **\$ 3-4,000,000**
- **Estimated Potential Rebates** **\$ 0**
- **Annual Lease Payment (1st year)** **\$ 400,000**
- **Financing Term Length** **12-15 Years**
- **Annual Financing Rate** **1 %****

*Escalation rate of 3% /yr. would make it well over \$10,000,000

**Rate based on City using QECB's for funding

Sample Cash-flow

Year	<u>Water Meter</u> 5% Accuracy	<u>Sewer Meter</u> 5% Accuracy	<u>Automated Leak Detection</u>	<u>Other Utility Savings</u>	<u>Capital Cost Avoidance</u>	<u>O&M Savings Benefit</u>	<u>Total Inflows</u>	<u>Annual Payment</u>	<u>Measurement & Verification</u>	<u>water meters Annual Maintenance</u>	<u>Total Outflows</u>	<u>Net Cash Flow</u>	<u>Cumulative Cash Flow</u>
1	\$225,000	\$34,343	\$715	\$0	\$1,875	\$135,200	\$397,134	-\$400,000	\$10,000	\$0	-\$390,000	\$7,134	\$7,134
2	\$231,750	\$35,374	\$737	\$0	\$1,931	\$139,256	\$409,048	-\$400,000	\$10,300	\$0	-\$389,700	\$19,348	\$26,481
3	\$238,703	\$36,435	\$759	\$0	\$1,989	\$143,434	\$421,319	-\$400,000	\$10,609	\$0	-\$389,391	\$31,928	\$58,410
4	\$245,864	\$37,528	\$782	\$0	\$2,049	\$147,737	\$433,959	-\$400,000	\$10,927	\$0	-\$389,073	\$44,886	\$103,296
5	\$253,239	\$38,654	\$805	\$0	\$2,110	\$152,169	\$446,978	-\$400,000	-\$30,000	\$0	-\$430,000	\$16,978	\$120,273
6	\$260,837	\$39,813	\$829	\$0	\$2,174	\$156,734	\$460,387	-\$400,000	\$11,255	\$0	-\$388,745	\$71,642	\$191,915
7	\$268,662	\$41,008	\$854	\$0	\$2,239	\$161,436	\$474,198	-\$400,000	\$11,593	\$0	-\$388,407	\$85,791	\$277,706
8	\$276,722	\$42,238	\$880	\$0	\$2,306	\$166,279	\$488,424	-\$400,000	\$11,941	\$0	-\$388,059	\$100,365	\$378,071
9	\$285,023	\$43,505	\$906	\$0	\$2,375	\$171,267	\$503,077	-\$400,000	\$12,299	\$0	-\$387,701	\$115,376	\$493,447
10	\$293,574	\$44,810	\$933	\$0	\$2,446	\$176,405	\$518,169	-\$400,000	\$12,668	\$0	-\$387,332	\$130,837	\$624,284
11	\$302,381	\$46,155	\$961	\$0	\$2,520	\$181,697	\$533,715	-\$400,000	\$13,048	\$0	-\$386,952	\$146,762	\$771,047
12	\$311,453	\$47,539	\$990	\$0	\$2,595	\$187,148	\$549,726	-\$400,000	\$13,439	\$0	-\$386,561	\$163,165	\$934,212
13	\$320,796	\$48,966	\$1,020	\$0	\$2,673	\$192,763	\$566,218	-\$400,000	\$13,842	\$0	-\$386,158	\$180,060	\$1,114,272
14	\$330,420	\$50,434	\$1,050	\$0	\$2,754	\$198,546	\$583,204	-\$400,000	\$14,258	\$0	-\$385,742	\$197,462	\$1,311,734
15	\$340,333	\$51,948	\$1,082	\$0	\$2,836	\$204,502	\$600,700	-\$400,000	\$14,685	\$0	-\$385,315	\$215,386	\$1,527,119
16	\$350,543	\$53,506	\$1,114	\$0	\$2,921	\$210,637	\$618,721	\$0	\$0	\$0	\$0	\$618,721	\$2,145,841
17	\$361,059	\$55,111	\$1,148	\$0	\$3,009	\$216,956	\$637,283	\$0	\$0	\$0	\$0	\$637,283	\$2,783,124
18	\$371,891	\$56,764	\$1,182	\$0	\$3,099	\$223,465	\$656,402	\$0	\$0	\$0	\$0	\$656,402	\$3,439,525
19	\$383,047	\$58,467	\$1,218	\$0	\$3,192	\$230,169	\$676,094	\$0	\$0	\$0	\$0	\$676,094	\$4,115,619
20	\$394,539	\$60,221	\$1,254	\$0	\$3,288	\$237,074	\$696,376	\$0	\$0	\$0	\$0	\$696,376	\$4,811,995
Totals	\$6,045,834	\$922,821	\$19,220	\$0	\$50,382	\$3,632,875	\$10,671,132	-\$6,000,000	\$140,863	\$0	-\$5,859,137	\$4,811,995	

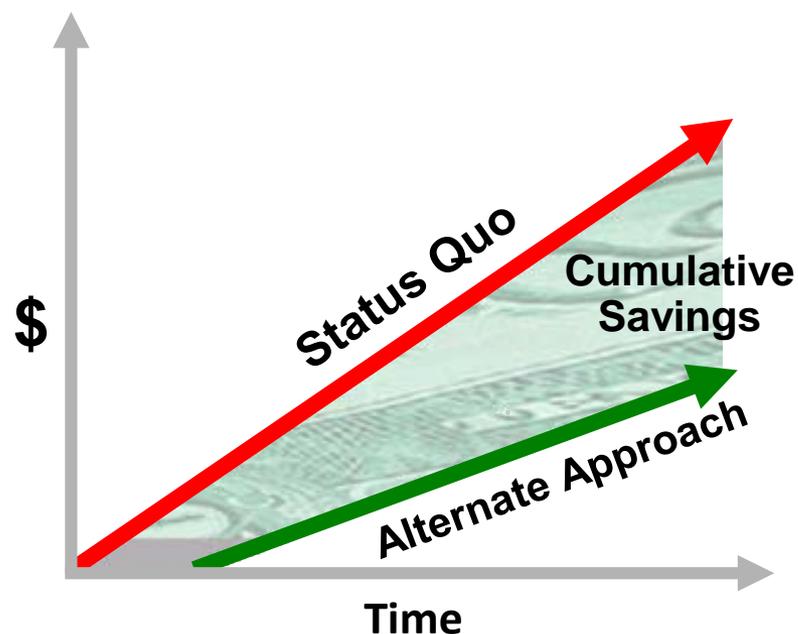
Energy Conservation Measures (ECM'S)



-
- **Water Meters – AMI**
 - **Gas Meters-AMI**
 - **Update Billing system to handle AMI**
 - **HVAC, Lighting, controls, at City hall and Police**
 - **Street lighting , where applicable**
 - **Lift-stations, Water and Storm**
 - **Upgrade SCADA**
 - **Other ECM's that are revealed during IGA**

Benefit Recap

- Solution is self-funded and guaranteed (no tax or rate increases)
- Positive visibility for Local Govt leadership and alignment with their goals
- Aging infrastructure is updated with new technology
- Reduction in energy, operational, and maintenance costs
- Improved safety and comfort for citizens and staff
- Local economic boost
- Local Govt staff determines scope
- Local Govt staff determines suppliers
- Enabled by Texas LG Code
- Grant, rebate, & financing assistance
- Fast implementation
- Start saving now



- Ameresco identifies projects with your staff that are guaranteed to pay for themselves
- This means addressing infrastructure challenges with no capital outlay and without the need to issue bonds
- Can utilize process through Power Purchase Agreements; Energy Savings Contracts; DBOM (Design/Build; Operate; Maintain)

Next Step: Recommend IGA

- **Utility Analysis**
- **Energy Conservation Measures confirmed**
- **Construction Plan, Implementation Outline, & Schedule**
- **Measurement & Verification Plan**
- **Commissioning of Project**

In Conclusion...

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ENERGY AUDIT AGREEMENT NO. _____

THIS ENERGY AUDIT AGREEMENT (the "Audit Agreement") is entered into as of the _____ day of _____ (the "Effective Date") by and between City of Rockport, Texas, whose principal offices are located at the 622 E. Market Street, Rockport, Texas 78382 (the "Owner") and Ameresco, Inc., with an address of 60 East Rio Salado Parkway, Suite 1001, Tempe, Arizona 85281 ("Ameresco"). Ameresco and Owner are also referred to individually as "Party" and collectively as the "Parties".

Whereas, the Owner desires that Ameresco perform an Energy Audit (as hereinafter defined) at its facilities listed in Attachment A (the "Premises"); and the scope of services as listed in Attachment B.

Whereas, the Agreement is authorized and governed by the Energy Savings Performance Contracts for Local Governments (Chapter 302 of the Texas Local Government Code);

Whereas, performance of the Energy Audit constitutes the first phase ("Phase 1") of an energy conservation project (the "Project");

Whereas, if Ameresco is directed by the Owner to proceed with the implementation of the recommendations following the Energy Audit, the second phase of the Project ("Phase 2") will consist of the design and installation of energy conservation measures described and recommended in the Energy Audit Report (defined below).

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Owner and Ameresco agree as follows.

ARTICLE 1 PHASES OF PROJECT

1.1 Phase I – Energy Audit.

(a) After execution of this Audit Agreement, Ameresco will conduct an Energy Audit at the Premises. As used in this Audit Agreement, "Energy Audit" means a process including (i) the collection of data related to Owner's use and operation of the Premises, observations of the Premises, determination of base year energy consumption, financial analysis of the cost and benefit of energy and water conservation measures and renewable energy projects that are recommended to be installed at the Premises, determination of potential water and sewer revenue enhancements from new water meters, and (ii) the preparation of a detailed Energy Audit Report, which analyzes current energy consumption at the Premises, recommendations for energy efficient equipment upgrades, energy conservation measures and a detailed analysis of implementation costs, anticipated energy savings resulting from such improvements and assumptions upon which the projected savings are based. The Energy Audit Report is intended to provide the Owner with the information necessary for the evaluation of the costs and benefits of proceeding with the second phase of the Project.

(b) Should Ameresco determine, in its sole discretion, at any time before the completion of the Energy Audit Report that the anticipated energy and water conservation savings cannot be achieved at the Premises in compliance with the financial criteria mandated by federal or state laws pertaining to energy conservation programs, Ameresco will provide written notice to Owner and cease all further Energy Audit activities, in which case Owner will not be charged for any Energy Audit activities performed by Ameresco.

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1.2 Energy Audit Price.

(a) If the Owner decides to proceed with the design and implementation of the energy and water conservation measures described in the Energy Audit Report or identified as part of the Special Energy Audit, the Parties shall execute a mutually-acceptable energy services agreement (the "ESA") per Local Government Code 302. If the Parties enter into an ESA which includes the scope of work in the Energy Audit Report, Ameresco will not bill Owner for the Energy Audit Price, but will include such Energy Audit Price in the cost of the work to be performed under the ESA.

(b) In the event Owner instructs Ameresco to prepare a detailed analysis of water and/or waste water treatment facilities, co-generation projects, park and sports lighting, manufacturing or production analyses, or renewable energy projects, which require pre-design activities in order to determine the implementation costs for such improvements ("Special Energy Audit"), or if the Owner adds additional facilities to the scope of the Energy Audit ("Additional Work"), the Owner shall compensate Ameresco for the Special Energy Audit or Additional Work at a mutually agreed upon price, which will be reflected as Special Energy Audit Price.

1.3 Phase 2 – Implementation.

(a) If the Owner decides to proceed with the design and implementation of the energy and water conservation measures described in the Energy Audit Report or identified as part of the Special Energy Audit, the Parties shall execute a mutually-acceptable energy services agreement (the "ESA"). If the Parties enter into an ESA which includes the scope of work in the Energy Audit Report, Ameresco will not bill Owner for the Energy Audit Price, but will include such Energy Audit Price in the cost of the work to be performed under the ESA.

(b) Owner acknowledges that the price for the Energy Audit is \$45,000.00 and will be included in the ESA. Owner also acknowledges that if Ameresco prepares and identifies a workable project that qualifies under Local Government Code 302, and does not proceed with the project within 60 days after completion of the audit, Ameresco will submit a bill not to exceed \$45,000.00 due and payable.

(c) Owner acknowledges that the price for the Project is based on the market cost as of the date of the Energy Audit Report, for steel, copper and similar raw materials incorporated into equipment and material used for the Project. Price increases for such equipment and materials after the Audit Report was issued may either result in a project price increase or a corresponding decrease in the project size.

1.4 Other Terms and Conditions.

(a) Ameresco's receipt of an executed copy of this Audit Agreement shall serve as notification to Ameresco to proceed with the Energy Audit. Ameresco will thereafter promptly initiate the Energy Audit.

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(b) Ameresco does not assume responsibility to Owner for the anticipated energy savings projected in the Energy Audit Report unless Ameresco completes the recommended energy conservation measures.

(c) Owner hereby agrees to provide timely and complete access to all necessary property and energy consumption cost records for the three years preceding, the commencement of Ameresco's services.

1.5 Miscellaneous Terms and Conditions.

(a) This Audit Agreement is hereby executed as of the Effective Date, written above.

(b) The signatories hereto represent that they have been duly authorized to enter into to this Audit Agreement on behalf of the Party for whom they sign.

(c) The laws of the State of Texas shall govern the interpretation and enforcement of the terms and conditions stated herein.

(d) This Audit Agreement may not be amended unless in writing signed by authorized representatives of both Parties.

(e) Neither Party may assign this Audit Agreement to another party without the prior written consent of the non-assigning Party, which will not be unreasonably withheld, delayed or conditioned. No un-consented-to assignment will be legally binding upon the non-assigning Party.

AMERESCO, INC.

OWNER

By: _____
 Name: Robert Georgeoff
 Title: Vice President

By: _____
 Name: Kevin Carruth
 Title: City Manager

DRAFT**ATTACHMENT A****List of Departments/Facilities**

City Hall
Police Department
Fire Department
Library, other city facilities
Water meters, AMI
Gas meters, AMI
Street lighting
Billing system
Other items that are discovered during
audit

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ATTACHMENT B

SCOPE OF SERVICES

- 1) **Data and Information.** Collect data and background information from Owner concerning facility operation and energy use for the most recent three years from the effective date of this Contract as follows:
 - a. Building square footage.
 - b. Construction data of buildings and major additions including building envelope.
 - c. Utility company invoices.
 - d. Occupancy and usage information.
 - e. Description of all energy-consuming or energy-saving equipment used on the premises.
 - f. Description of energy management procedures utilized on the premises.
 - g. Description of any energy-related improvements made or currently being implemented.
 - h. Description of any changes in the structure of the facility or energy-using or water-using equipment.
 - i. Description of future plans regarding building modifications or equipment modifications and replacements.
 - j. Drawings, as available (may include mechanical, plumbing, electrical, building automation and temperature controls, structural, architectural, modifications and remodels).
 - k. Original construction submittals and factory data (specifications, pump curves, etc.), as available.
 - l. Operating engineer logs, maintenance work orders, etc., as available.
 - m. Records of maintenance expenditures on energy-using equipment, including service contracts.
 - n. Prior energy audits or studies, if any.

- 2) **Identify Potential Measures**
 - a. Interview individuals with knowledge of the facility such as the facility manager, maintenance staff, subcontractors and occupants of each building regarding:
 - i. Facility operation, including energy management procedures.
 - ii. Equipment maintenance problems.
 - iii. Comfort problems and requirements.
 - iv. Equipment reliability.
 - v. Projected equipment needs.
 - vi. Occupancy and use schedules for the facility and specific equipment.
 - vii. Facility improvements – past, planned and desired.
 - b. Survey major energy-using equipment, including, but not limited to, lighting (indoor and outdoor), heating and heat distribution systems, cooling systems and related equipment, automatic temperature control systems and equipment, air distribution systems and equipment, outdoor ventilation systems and equipment; exhaust systems and equipment; hot water systems, electric motors, transmission and drive systems, special systems such as kitchen/dining equipment and swimming pools, renewable energy systems, other energy using systems, water consuming systems, such as restroom fixtures, water fountains, and irrigation systems.
 - c. Perform "late-night" surveys outside of normal business hours or on weekends to confirm building system and occupancy schedules, if deemed necessary.
 - d. Develop a preliminary list of potential energy and water saving measures. Consider the following for each system:
 - i. Comfort and maintenance problems.
 - ii. Energy use, loads, proper sizing, efficiencies and hours of operation.
 - iii. Current operating condition.
 - iv. Remaining useful life.
 - v. Feasibility of system replacement.

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- vi. Hazardous materials and other environmental concerns.
 - vii. Owner's future plans for equipment replacement or building renovations.
 - viii. Facility operation and maintenance procedures that could be affected.
 - ix. Capability to monitor energy performance and verify savings.
- 3) **Base-Year Consumption.** Establish base-year consumption and reconcile with end-use consumption estimates.
- a. Establish appropriate base year consumption by examining utility bills for the past three years for electricity, gas, propane, steam, water, and any other applicable utilities. Present base year consumption in terms of energy units (kWh, kW, ccf, Therms, gallons, or other units used in bills), in terms of energy units per square foot, in terms of dollars, and in terms of dollars per square foot. Describe the process used to determine the base year (averaging, selecting most representative contiguous 12 months, removal of anomalies, or other statistical or weather-normalized method). Consult with facility personnel to account for any anomalous schedule or operating conditions on billings that could skew the base year representation. Contractor shall account for periods of time when equipment was broken or malfunctioning in calculating the base year.
 - b. Estimate loading, usage and/or hours of operation for all major end uses of total facility consumption including, but not limited to: lighting, heating, cooling, motors (fans, pumps, and other pertinent), plug loads, and other major energy and water using equipment. Where loading or usage are highly uncertain (including variable loads such as cooling), Contractor shall use its best judgment, spot measurements or short-term monitoring. Contractor should not assume that equipment run hours equal the operating hours of the building(s) or facility staff estimates.
 - c. Reconcile annual end-use estimated consumption with the annual base year consumption. This reconciliation shall place reasonable "real-world" limits on potential savings. Propose adjustments to the baseline for energy and water saving measures that shall be implemented in the future.
- 4) **Preliminary Analysis.** Develop a preliminary analysis of potential energy and water saving measures.
- a. List all potential opportunities, whether cost-effective or not. Consider technologies in a comprehensive approach including, but not limited to: lighting and daylighting systems, heating/ventilating/air conditioning equipment and distribution systems, controls systems, building envelope, motors, kitchen equipment, pools, renewable energy systems, other special equipment, irrigation systems, and water saving devices.
 - b. Identify measures which appear likely to be cost effective and therefore warrant detailed analysis.
- 5) **Preliminary Meeting.** Meet with Owner to present preliminary analysis prior to complete analysis. Describe how the projected project economics meet the Owner's terms for completing the Energy Audit. Discuss assessment of energy use, savings potential, project opportunities, and potential for developing an energy performance contract. Develop a list of recommended measures for further analysis. The Owner shall at its discretion, have the option to reject any presented calculations of savings, potential savings allowed, or project recommendations.
- 6) **Savings and Cost Analysis.** Analyze savings and costs for each mutually agreed to energy and water saving measure and any mutually agreed to capital improvement measures.
- a. Follow the methodology of the American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE) or other nationally-recognized authorities following the engineering principle(s) identified for each retrofit option.
 - b. Utilize assumptions, projections and baselines which best represent the true value of future energy or operational savings. Include accurate marginal costs for each unit of savings at the time the audit is performed, documentation of material and labor cost

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- savings, adjustments to the baseline to reflect current conditions at the facility, calculations which account for the interactive effects of the recommended measures.
- c. Use best judgment regarding the employment of instrumentation and recording durations so as to achieve an accurate and faithful characterization of energy use.
 - d. Develop a preliminary measurement and verification plan for each measure.
- 7) **Draft Audit Report.** Prepare a draft Energy Audit Report. The report provides an engineering and economic basis for negotiating a potential Energy Performance Contract between the Owner and the Contractor. The report shall include:
- a. Overview.
 - i. Contact information.
 - ii. Summary table of recommended energy and water saving measures, with itemization for each measure of total design and construction cost, annual maintenance costs, the first year cost avoidance (in dollars and energy/water units), simple payback and equipment service life.
 - iii. Summary of annual energy and water use by fuel type and costs of existing or base year condition.
 - iv. Calculation of cost savings expected if all recommended measures are implemented and total percentage savings of total facility energy cost.
 - v. Description of the existing facility, mechanical and electrical systems.
 - vi. Summary description of measures, including estimated costs and savings for each as detailed above.
 - vii. Discussion of measures considered but not investigated in detail.
 - viii. Conclusions and recommendations.
 - b. Base year energy use.
 - i. Description and itemization of current billing rates, including schedules and riders.
 - ii. Summary of all utility bills for all fuel types and water.
 - iii. Identification and definition of base year consumption and description of how established.
 - iv. Reconciliation of estimated end use consumption (i.e. lighting, cooling, heating, fans, plug loads, etc.) with base year (include discussion of any unusual findings)
 - c. Full description of each energy and water saving measure including:
 - i. Written description of:
 - A. Existing conditions.
 - B. Description of equipment to be installed and how it shall function.
 - C. Include discussion of facility operations and maintenance procedures that shall be affected by installation/implementation.
 - D. Present the plan for installing or implementing the recommendation.
 - ii. Savings calculations:
 - A. Base year energy use and cost.
 - B. Post-retrofit energy use and cost.
 - C. Savings estimates including analysis methodology, supporting calculations and assumptions used.
 - D. Annual savings estimates. The cost savings for all energy saving measures must be determined for each year during the contract period. Savings must be able to be achieved each year (cannot report average annual savings over the term of the contract).
 - E. Savings must be limited to savings allowed by the Owner as described above.
 - F. Description and calculations for any proposed rate changes.
 - G. Explanation of how savings interactions between retrofit options are accounted for in calculations.
 - H. Operation and maintenance savings, including detailed calculations and description. Ensure that maintenance savings are only applied in the applicable years and only during the lifetime of the particular equipment.

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- I. If computer simulation is used, include a short description and state key input data. If requested by Owner, access shall be provided to the program and all assumptions and inputs used, and/or printouts shall be provided of all input files and important output files and included in the Energy Audit with documentation that explains how the final savings figures are derived from the simulation program output printouts.
 - J. If manual calculations are employed, formulas, assumptions and key data shall be stated.
 - K. Conclusions, observations, caveats.
- iii. Cost estimate – Include a detailed scope of the construction work suitable for cost estimating. Include all anticipated costs associated with installation and implementation. Provide preliminary specifications for major mechanical components as well as detailed lighting and water fixture counts. The following shall also be included:
- A. Engineering/design costs.
 - B. Contractor/vendor estimates for labor, materials, and equipment; include special provisions, overtime, and all other appropriate items, as needed to accomplish the work with minimum disruption to the operations of the facilities.
 - C. Permit costs.
 - D. Construction management fees.
 - E. Identify any hazardous materials that must be abated by the Owner in order for the work to be installed
 - F. Conclusions, observations, caveats.
- d. Miscellaneous:
- i. Estimate of average useful service life of equipment.
 - ii. Preliminary commissioning plan.
 - iii. Preliminary measurement and verification plan, following the International Performance Measurement and Verification Protocol most current International Performance Monitoring and Verification Protocol (IPMVP), explaining how savings from each measure is to be measured and verified.
 - iv. Discussion of impacts that facility would incur after contract ends. Consider operation and maintenance impacts, staffing impacts, budget impacts, etc., and identify who is responsible for maintenance.
 - v. Compatibility with existing systems.
- 8) **Post-Audit Meeting.** Meet with Owner to review the recommendations, savings calculations and impact of the measures on the operations of the facility. Describe how the projected project economics meet the Owner's terms for completing the Energy Audit. Discuss the willingness and capability of Owner to make capital contributions to the project to improve the economics of the overall project. Revise Audit as directed by Owner.
- 9) **Complete and Present Final Energy Audit Report.** Deliver final audit report to Owner for approval.

LOCAL GOVERNMENT CODE

TITLE 9. PUBLIC BUILDINGS AND GROUNDS

SUBTITLE C. PUBLIC BUILDING PROVISIONS APPLYING TO MORE THAN ONE TYPE
OF LOCAL GOVERNMENTCHAPTER 302. ENERGY SAVINGS PERFORMANCE CONTRACTS FOR LOCAL
GOVERNMENTS

Sec. 302.001. DEFINITIONS. In this chapter:

(1) "Baseline" means a calculation or set of calculations in an energy savings performance contract that may be based on historical costs, revenues, accuracy, or related components and used for determining:

(A) the costs for energy or water usage by a local government and related net operating costs;

(B) the billable revenues from providing energy, water, or other utilities to users; or

(C) the efficiency or accuracy of metering or related equipment, systems, or processes or procedures.

(2) "Energy or water conservation or usage measures" means:

(A) the installation or implementation of any of the items, equipment, modifications, alterations, improvements, systems, and other measures described by Subdivision (4) that are intended to provide:

(i) estimated energy savings;

(ii) an estimated increase in billable revenues; or

(iii) an estimated increase in meter accuracy; or

(B) the training for, or services related to, the operation of the items, equipment, modifications, alterations, improvements, systems, or other measures described by Paragraph (A).

(3) "Energy savings" means an estimated reduction in net fuel costs, energy costs, water costs, stormwater fees, other utility costs, or related net operating costs from or as compared to an established baseline of those costs. The term does not include an estimated reduction due to a decrease in energy rates that is not derived from increased conservation or reduced usage.

(4) "Energy savings performance contract" means a contract between a local government and a provider for energy or water conservation or usage measures in which the estimated energy savings, utility cost savings, increase in billable revenues, or increase in meter accuracy resulting from the measures is subject to guarantee to offset the cost of the energy or water conservation or usage measures over a specified period. The term includes a contract related to the pilot program described by Subdivision (9-a) and a contract for the installation or implementation of the following in new or existing facilities, including all causally connected work:

(A) insulation of a building structure and systems within the building;

(B) storm windows or doors, caulking or weather stripping, multiglazed windows or doors, heat-absorbing or heat-reflective glazed and coated window or door systems, or other window or door system modifications that reduce energy consumption;

(C) automatic energy control systems, including computer software and technical data licenses;

(D) heating, ventilating, or air-conditioning system modifications or replacements that reduce energy or water consumption;

(E) lighting fixtures that increase energy efficiency;

(F) energy recovery systems;

(G) electric systems improvements;

(H) water-conserving fixtures, appliances, and equipment or the substitution of non-water-using fixtures, appliances, and equipment;

(I) water-conserving landscape irrigation equipment;

(J) landscaping measures that reduce watering demands and capture and hold applied water and rainfall, including:

(i) landscape contouring, including the use of berms, swales, and terraces; and

(ii) the use of soil amendments that increase the water-holding capacity of the soil, including compost;

(K) rainwater harvesting equipment and equipment to make use of water collected as part of a storm-water system installed for water quality control;

(L) equipment for recycling or reuse of water originating on the premises or from other sources, including treated

municipal effluent;

(M) equipment needed to capture water from nonconventional, alternate sources, including air-conditioning condensate or graywater, for nonpotable uses;

(N) metering or related equipment or systems that improve the accuracy of billable-revenue-generation systems;

(O) alternative fuel programs resulting in energy cost savings and reduced emissions for local government vehicles, including fleet vehicles;

(P) programs resulting in utility cost savings; or

(Q) other energy or water conservation-related improvements or equipment, including improvements or equipment relating to renewable energy or nonconventional water sources or water reuse.

(5) "Guarantee" means a written guarantee of a provider that the energy savings, increase in billable revenues, or increase in meter accuracy from the energy or water conservation or usage measures will at least equal the cost of the energy or water conservation or usage measures, all causally connected work, and ancillary improvements provided for in an energy savings performance contract.

(6) "Increase in billable revenues" means an estimated increase in billable revenues as compared to an established baseline of billable revenues.

(7) "Increase in meter accuracy" means an estimated increase in efficiency or accuracy of metering or related equipment, systems, or processes or procedures that is calculated or determined by using applicable industry engineering standards.

(8) "Local government" means a county, municipality, or other political subdivision of this state. The term does not include a school district authorized to enter into an energy savings performance contract under Section 44.901, Education Code.

(9) "Meter guarantee" means a guarantee of a stipulated or agreed upon increase in billable revenues to result from the estimated increase in meter accuracy, based on stipulated or agreed upon components of a billable revenue calculation in an energy savings performance contract.

(9-a) "Pilot program" means a pilot program operated by the Energy Systems Laboratory at the Texas A&M Engineering Experiment

Station, in consultation with the Texas Facilities Commission and the State Energy Conservation Office, that:

(A) establishes and implements energy efficiency improvements to state-owned buildings maintained by the commission;

(B) generates savings in utility costs resulting from the improvements resulting in at least a 30 percent annual return on the costs of the improvements;

(C) provides for the participation of not fewer than two companies selected by the commission; and

(D) provides for any money attributable to utility cost savings resulting from the pilot program to be appropriated only to the commission.

(10) "Provider" means an entity in the business of designing, implementing, and installing of energy or water conservation or usage measures or an affiliate of such an entity.

Added by Acts 1997, 75th Leg., ch. 635, Sec. 1, eff. June 11, 1997.

Amended by Acts 2001, 77th Leg., ch. 573, Sec. 6, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1310, Sec. 78, eff. June 20, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 527 (S.B. 831), Sec. 4, eff. June 16, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 982 (H.B. 1728), Sec. 5, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1021 (H.B. 1184), Sec. 1, eff. June 19, 2015.

Sec. 302.002. ENERGY SAVINGS PERFORMANCE CONTRACTS. (a) The governing body of a local government may enter into an energy savings performance contract in accordance with this chapter.

(b) Each energy or water conservation or usage measure must comply with current local, state, and federal construction, plumbing, and environmental codes and regulations. Notwithstanding Section 302.001, an energy savings performance contract may not include improvements or equipment that allow or cause water from any condensing, cooling, or industrial process or any system of nonpotable usage over which public water supply system officials do not have sanitary control to be returned to the potable water supply.

Added by Acts 1997, 75th Leg., ch. 635, Sec. 1, eff. June 11, 1997.
Amended by Acts 2001, 77th Leg., ch. 573, Sec. 6, eff. Sept. 1, 2001;
Acts 2001, 77th Leg., ch. 1319, Sec. 4, eff. Sept. 1, 2001; Acts
2003, 78th Leg., ch. 1310, Sec. 79, eff. June 20, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 527 (S.B. 831), Sec. 5, eff. June
16, 2007.

Sec. 302.003. PAYMENT AND PERFORMANCE BOND. Notwithstanding any
other law, before entering into an energy savings performance
contract, the governing body of the local government shall require the
provider of the energy or water conservation or usage measures to file
with the governing body a payment and performance bond relating to the
installation of the measures in accordance with Chapter 2253,
Government Code. The governing body may also require a separate bond
to cover the value of the guarantee.

Added by Acts 1997, 75th Leg., ch. 635, Sec. 1, eff. June 11, 1997.
Amended by Acts 2001, 77th Leg., ch. 573, Sec. 6, eff. Sept. 1, 2001;
Acts 2001, 77th Leg., ch. 1319, Sec. 5, eff. Sept. 1, 2001; Acts
2003, 78th Leg., ch. 1310, Sec. 80, 121(23), eff. June 20, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 527 (S.B. 831), Sec. 6, eff. June
16, 2007.

Sec. 302.004. METHOD OF FINANCING; TERMS OF CONTRACT. (a) An
energy savings performance contract may be financed:

(1) under a lease-purchase contract that has a term not to
exceed 20 years from the final date of installation and that meets
federal tax requirements for tax-free municipal leasing or long-term
financing;

(2) with the proceeds of bonds; or

(3) under a contract with the provider of the energy or
water conservation or usage measures that has a term not to exceed the
lesser of 20 years from the final date of installation or the average
useful life of the energy or water conservation or usage measures.

(a-1) Notwithstanding other law, the governing body of a local

government may use any available money, other than money borrowed from this state, to pay the provider of the energy or water conservation measures under this section, and the governing body is not required to pay for such costs solely out of the savings realized by the local government under an energy savings performance contract. The governing body may contract with the provider to perform work that is related to, connected with, or otherwise ancillary to the measures identified in the scope of an energy savings performance contract.

(b) An energy savings performance contract shall contain provisions requiring the provider of the energy or water conservation or usage measures to provide a guarantee. If the term of the contract exceeds one year, the local government's contractual obligations in any one year during the term of the contract beginning after the final date of installation may not exceed the total energy and water savings, the net operating cost savings, and the stipulated or agreed upon increase in billable revenues resulting from the estimated increase in meter accuracy, divided by the number of years in the contract term.

Added by Acts 1997, 75th Leg., ch. 635, Sec. 1, eff. June 11, 1997.
Amended by Acts 1999, 76th Leg., ch. 361, Sec. 4, eff. Sept. 1, 1999;
Acts 2001, 77th Leg., ch. 573, Sec. 6, eff. Sept. 1, 2001; Acts 2001,
77th Leg., ch. 1319, Sec. 6, eff. Sept. 1, 2001; Acts 2003, 78th
Leg., ch. 1310, Sec. 81, eff. June 20, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 527 (S.B. 831), Sec. 7, eff. June 16, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 982 (H.B. 1728), Sec. 6, eff. September 1, 2011.

Sec. 302.005. BIDDING PROCEDURES; AWARD OF CONTRACT. (a) An energy savings performance contract under this chapter may be let in accordance with the procedures established for procuring certain professional services by Section 2254.004, Government Code. Notice of the request for qualifications shall be published in the manner provided for competitive bidding.

(b) Before entering into an energy savings performance contract, the governing body must require that the energy savings, increase in

billable revenues, or increase in meter accuracy estimated or projected by a provider be reviewed by a licensed professional engineer who:

(1) has a minimum of three years of experience in energy calculation and review;

(2) is not an officer or employee of a provider for the contract under review; and

(3) is not otherwise associated with the contract.

(c) In conducting the review, the engineer shall focus primarily on the proposed improvements from an engineering perspective, the methodology and calculations related to cost savings, increases in revenue, and, if applicable, efficiency or accuracy of metering equipment. An engineer who reviews a contract shall maintain the confidentiality of any proprietary information the engineer acquires while reviewing the contract. Sections [1001.053](#) and [1001.407](#), Occupations Code, apply to work performed under the contract.

Added by Acts 1997, 75th Leg., ch. 635, Sec. 1, eff. June 11, 1997.

Amended by Acts 2001, 77th Leg., ch. 573, Sec. 12, eff. Sept. 1, 2001;

Acts 2001, 77th Leg., ch. 1319, Sec. 7; Acts 2003, 78th Leg., ch.

1276, Sec. 12.005, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch.

1310, Sec. 82, eff. June 20, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 527 (S.B. [831](#)), Sec. 8, eff. June 16, 2007.

Sec. 302.006. METER GUARANTEES. (a) This section applies to any energy savings performance contract that:

(1) provides for any metering or related equipment, system, or process or procedure; and

(2) includes a meter guarantee by the provider, regardless of whether the meter guarantee is a part of a broader guarantee applicable to other energy or water conservation or usage measures or causally connected work.

(b) Not later than the fifth anniversary of the effective date of an energy savings performance contract, an engineer shall test a statistically relevant sample of the meters installed or implemented under the contract to determine or calculate the actual average

accuracy and shall compare the actual average accuracy to the baseline average accuracy of those tested meters.

(c) A meter guarantee applies if the engineer reports to the local government and the provider that the average accuracy of the tested meters as of the testing date is less than the baseline average accuracy of the tested meters as of the testing date.

(d) The amount payable under the meter guarantee must be determined for each year subject to the engineer's report and is equal to the difference between:

(1) the agreed increase in billable revenues based on the estimated accuracy of all of the meters for each year, according to the energy savings performance contract; and

(2) the revenues for the same year that would result from applying the engineer's reported actual average accuracy of the tested meters to all of the meters subject to the energy savings performance contract, using the same contract components that were used to calculate the agreed increase in billable revenues for that year, assuming the annual decrease in actual average accuracy of all the meters was a pro rata percentage of the reported total decrease in actual average accuracy.

(e) Notwithstanding Subsection (d), if the meter guarantee in the contract is part of a broader guarantee applicable to other energy or water conservation or usage measures or causally connected work under the contract, the amount payable under the meter guarantee for any year during the measurement period is reduced or offset by the difference between:

(1) the sum of the energy savings and the increase in billable revenues resulting from the other energy or water conservation or usage measures or causally connected work for that year during the measurement period; and

(2) the guaranteed amount of the energy savings and the increase in billable revenues from the other energy or water conservation or usage measures or causally connected work for that year during the measurement period.

(f) A test conducted under this section must be performed in accordance with the procedures established by the International Performance Measurement and Verification Protocol or succeeding standards of the United States Department of Energy.

(g) An engineer conducting a test under this section shall:

- (1) verify that the tested meters have been properly maintained and are operating properly; and
- (2) comply with Section [302.005\(c\)](#).

Added by Acts 2007, 80th Leg., R.S., Ch. 527 (S.B. [831](#)), Sec. 9, eff. June 16, 2007.

Sec. 302.007. EXEMPTION FROM OTHER CONTRACTING LAW. Chapter [2269](#), Government Code, does not apply to this chapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. [628](#)), Sec. 3.04, eff. September 1, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. [1093](#)), Sec. 22.002(25), eff. September 1, 2013.

CITY COUNCIL AGENDA
Regular Meeting: Tuesday, March 8, 2016

AGENDA ITEM: 13

Deliberate and act on first reading of an Ordinance amending the City of Rockport Code of Ordinances Chapter 66 “Offenses and Miscellaneous Provisions”, Article I. “In General”, Article II. “Minors”, amending Section 66-36 “Definitions” setting curfew hours for minors; and adding “Table 1”; repealing all sections in conflict herewith; providing a severability clause; and providing an effective date.

SUBMITTED BY: Police Chief Tim Jayroe

APPROVED FOR AGENDA: PKC

BACKGROUND: Local Government Code § 370.002 “Review of Juvenile Curfew Order or Ordinance” requires the following:

-
- (a) Before the third anniversary of the date of adoption of a juvenile curfew ordinance by a general-law municipality or a home-rule municipality or an order of a county commissioners court, and every third year thereafter, the governing body of the general-law municipality or home-rule municipality or the commissioners court of the county shall:
 - (1) review the ordinance or order’s effects on the community and on problems the ordinance or order was intended to remedy;
 - (2) conduct public hearings on the need to continue the ordinance or order; and
 - (3) abolish, continue, or modify the ordinance or order.
 - (b) Failure to act in accordance with Subsections (a)(1)-(3) shall cause the ordinance or order to expire.
-

The juvenile curfew Ordinance was first adopted by Ordinance No. 1181 in 2001 and subsequently amended by Ordinance No. 1282 in 2004 and Ordinance No. 1603 in 2013. The review was conducted in 2007 and 2010.

This is the first of the two required public hearings to be conducted. The second public hearing will be held at the March 8, 2016, City Council meeting. The public hearing notice was posted on the bulletin board at Rockport City Hall, 622 E. Market Street, Rockport, Texas, on the City’s website at www.cityofrockport.com, and published in *The Rockport Pilot* on Saturday, February 6, 2016, and will be published in *The Rockport Pilot* on Saturday, March 5, 2016.

Since 2013 there were 29 people ticketed, but there were only 16 calls for service where an officer was dispatched. Some calls for service resulted in multiple tickets.

In order to clarify the “curfew hours” the Police Department is recommending amending the Ordinance to restate the hours and include a graphic. In addition, an earlier amendment

inadvertently dropped the Monday hours from the ordinance and the proposed ordinance reinstates Monday. Please see the accompanying ordinance for additional information.

FISCAL ANALYSIS: N/A

RECOMMENDATION: Staff recommends Council approve the first reading of the Ordinance, as presented.

ORDINANCE No. _____

AN ORDINANCE AMENDING THE CITY OF ROCKPORT CODE OF ORDINANCES CHAPTER 66 "OFFENSES AND MISCELLANEOUS PROVISIONS", ARTICLE I, "IN GENERAL", ARTICLE II. "MINORS", AMENDING SECTION 66-36 "DEFINITIONS" ITEM (1) SETTING CURFEW DAYS FOR MINORS; REPEALING ALL SECTIONS IN CONFLICT THEREWITH; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROCKPORT, TEXAS:

SECTION 1: AMENDMENT

That the City of Rockport Code of Ordinances, Chapter 66 "Offenses and Miscellaneous Provisions", Article II "Minors", Section 66-36 "Definitions" Item (1) is hereby amended as follows:

Section 66-36. Definitions.

~~(1) — Curfew hours means:~~

- ~~a. 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 a.m. of the following day;~~
- ~~b. 12:30 a.m. until 6:00 a.m. on any Friday and Saturday; and~~
- ~~c. 9:00 a.m. until 3:30 p.m. on any Tuesday, Wednesday, Thursday, or Friday when Aransas County Independent School District is in regular session~~

(2) *Curfew hours, as listed below and shown in the Table 1 below, means:*

- a. Sunday – Midnight to 6:00 a.m. and 11:00 p.m. to 11:59 p.m.
- b. Monday – Midnight to 6:00 a.m. and 11:00 p.m. to 11:59 p.m.
- c. Tuesday – Midnight to 6:00 a.m. and 11:00 p.m. to 11:59 p.m.
- d. Wednesday – Midnight to 6:00 a.m. and 11:00 p.m. to 11:59 p.m.
- e. Thursday – Midnight to 6:00 a.m. and 11:00 p.m. to 11:59 p.m.
- f. Friday – Midnight to 6:00 a.m.
- g. Saturday – Midnight to 6:00 a.m.
- h. Aransas County Independent School District regular sessions Monday through Friday – 9:00 a.m. until 3:30 p.m.

Sec. 66-36 Table 1 - Curfew Hours

TIME	SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
MIDNIGHT							
12:30 AM							
1:00 AM							
1:30 AM							
2:00 AM							
2:30 AM							
3:00 AM							
3:30 AM							
4:00 AM							
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11:30 PM							

 In effect only when Arkansas County Independent School District is in session.

SECTION 2: REPEALER

Any previously adopted ordinances, and any subsequent amendments to them, which are in conflict with this ordinance, are hereby repealed.

SECTION 3: SEVERABILITY

If at any provision, section, sentence, clause or phrase of this ordinance, or the application of same to any person or set of circumstances is, for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portions of this ordinance shall not be affected thereby, it being the intent of the City Council in adopting this ordinance that no portion hereof, or provisions or regulations contained herein, shall become inoperative or fail by reason of any unconstitutionality of any other portion hereof, and all provisions of this ordinance are declared severable for that purpose.

SECTION 4: EFFECTIVE DATE

This ordinance shall become effective immediately upon adoption by second and final reading.

APPROVED and PASSED on first reading this _____ day of March 2016.

CITY OF ROCKPORT

Charles J. Wax, Mayor

ATTEST:

Teresa Valdez, City Secretary

APPROVED, PASSED and ADOPTED on second and final reading this _____ day of March 2016.

CITY OF ROCKPORT

Charles J. Wax, Mayor

ATTEST:

Teresa Valdez, City Secretary

CITY COUNCIL AGENDA
Regular Meeting: Tuesday, March 8, 2016

AGENDA ITEM: 14

Deliberate and act on approving the City Attorney to act on behalf of the Rockport Police Department and the City of Rockport in proceedings for forfeiture of contraband.

SUBMITTED BY: Police Commander Jerry Lawing

APPROVED FOR AGENDA: PKC

BACKGROUND: Chapter 59 of the Texas Code of Criminal Procedure states: "Attorney representing the state" means the prosecutor with felony jurisdiction in the county in which a forfeiture proceeding is held under this chapter or, in a proceeding for forfeiture of contraband as defined under Subdivision (2)(B)(v) of this article, the city attorney of a municipality if the property is seized in that municipality by a peace officer employed by that municipality and the governing body of the municipality has approved procedures for the city attorney acting in a forfeiture proceeding. In a proceeding for forfeiture of contraband as defined under Subdivision (2)(B)(vi) of this article, the term includes the attorney general.

"Contraband" means property of any nature, including real, personal, tangible, or intangible, that is:

- (A) used in the commission of:
 - (i) any first or second degree felony under the Penal Code;
 - (ii) any felony under Section 15.031(b), 20.05, 20.06, 21.11, 38.04, or Chapter 43, 20A, 29, 30, 31, 32, 33, 33A, or 35, Penal Code;
 - (iii) any felony under The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes); or
 - (iv) any offense under Chapter 49, Penal Code, that is punishable as a felony of the third degree or state jail felony, if the defendant has been previously convicted three times of an offense under that chapter;
- (B) used or intended to be used in the commission of:
 - (i) any felony under Chapter 481, Health and Safety Code (Texas Controlled Substances Act);
 - (ii) any felony under Chapter 483, Health and Safety Code;
 - (iii) a felony under Chapter 151, Finance Code;
 - (iv) any felony under Chapter 34, Penal Code;
 - (v) a Class A misdemeanor under Subchapter B, Chapter 365, Health and Safety Code, if the defendant has been previously convicted twice of an offense under that subchapter;
 - (vi) any felony under Chapter 32, Human Resources Code, or Chapter 31, 32, 35A, or 37, Penal Code, that involves the state Medicaid program;
 - (vii) a Class B misdemeanor under Chapter 522, Business & Commerce Code;
 - (viii) a Class A misdemeanor under Section 306.051, Business & Commerce Code;
 - (ix) any offense under Section 42.10, Penal Code;

- (x) any offense under Section 46.06(a)(1) or 46.14, Penal Code;
 - (xi) any offense under Chapter 71, Penal Code;
 - (xii) any offense under Section 20.05 or 20.06, Penal Code; or
 - (xiii) an offense under Section 326.002, Business & Commerce Code;
- (C) the proceeds gained from the commission of a felony listed in Paragraph (A) or (B) of this subdivision, a misdemeanor listed in Paragraph (B)(vii), (ix), (x), or (xi) of this subdivision, or a crime of violence;
- (D) acquired with proceeds gained from the commission of a felony listed in Paragraph (A) or (B) of this subdivision, a misdemeanor listed in Paragraph (B)(vii), (ix), (x), or (xi) of this subdivision, or a crime of violence;
- (E) used to facilitate or intended to be used to facilitate the commission of a felony under Section 15.031 or 43.25, Penal Code; or
- (F) used to facilitate or intended to be used to facilitate the commission of a felony under Section 20A.02 or Chapter 43, Penal Code.

FISCAL ANALYSIS: Currently the Aransas County Attorney is tasked with filing forfeitures for the Police Department, of which that office receives 40 percent of the seizure. Rockport PD has six cases that were filed by the Department in a timely manner but were either lost, disregarded in the court system, or not heard before the court in the time allowed by either the past District Attorney's Office or the current County Attorney Offices. The total value of the seizures in the six cases was approximately \$6,250 in vehicles, jewelry, and cash (the City would have collected 60 percent). The City currently has a \$5,000 seizure pending and, should the proposed minute order pass, the City will be able to keep all of it, less filing fees.

RECOMMENDATION: Staff recommends Council approve the City Attorney to act on behalf of the Rockport Police Department and the City of Rockport in proceedings for forfeiture of contraband, as presented.