

CITY OF ROCKPORT

MINUTES

CITY COUNCIL REGULAR MEETING 6:30 p.m., Tuesday, April 26, 2016 Rockport City Hall, 622 East Market Street

On the 26th day of April 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
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
Finance Director Patty Howard
Police Chief Tim Jayroe
Public Works Director Mike Donoho
Park & Leisure Services Director Tom Staley

ELECTED OFFICIALS PRESENT

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 6:30 p.m. on Tuesday, April 26, 2016, in the Council Chambers of the Rockport City Hall, 622 E. Market Street, Rockport, Texas.

2. Pledge of Allegiance.

Council Member Villa led the Pledge of Allegiance to the U.S. and Texas flags.

3. Citizens to be heard.

At this time comments will be taken from the audience on any subject matter that is not on the agenda. To address the Council, please sign the speaker's card located on the table outside the Council Chamber and deliver to the City

Secretary before the meeting begins. Please limit comments to three (3) minutes. In accordance with the Open Meetings Act, Council may not discuss or take any action on any item that has not been posted on the agenda.

There were no citizen comments.

Consent Agenda

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

- 4. Deliberate and act on approval of Regular Meeting Minutes of April 12, 2016.**
- 5. Deliberate and act on request from Texas Maritime Museum for: 1) closure of Chamber Street, from Loop 70 to Navigation Circle on Thursday, May 26, 2016, from 2:00 p.m. to 12:00 a.m., and on Saturday, May 28, 2016, from 8:00 a.m. to 12:00 a.m., and on Sunday, May 29, 2016, from 8:00 a.m. to 12:00 a.m.; 2) Use of Festival Site for parking; and 3) Permission for beer and wine consumption on the grounds of the Texas Maritime Museum, for the 20th Annual Festival of Wines and Food.**
- 6. Deliberate and act on Resolution amending Resolution 2016-06 authorizing certification of a cultural district to be named Rockport Arts District.**
- 7. Deliberate and act on Resolution replacing Resolution No. 2016-04 authorizing the Rockport Police Department to apply for and operate a Local Border Security Program Grant.**
- 8. Deliberate and act on Resolution finding that AEP Texas Central Company's application for approval of a distribution cost recovery factor to increase distribution rates within the City should be denied; and finding that the City's reasonable rate case expenses shall be reimbursed by the Company.**

Mayor Wax called for requests to remove any item from the Consent Agenda for separate discussion.

Mayor Wax requested Item 6 be removed from the Consent Agenda for separate discussion.

Mayor Wax called for a motion to approve the Consent Agenda minus Item 6.

MOTION: Council Member Villa moved to adopt the Consent Agenda Items as presented minus Item 6. Mayor Pro-Tem Rios seconded the motion. Motion carried unanimously.

ITEM #6: Deliberate and act on Resolution amending Resolution 2016-06 authorizing certification of a cultural district to be named Rockport Arts District.

Mayor Wax stated he had read the Resolution and he did not understand the name changes. Mayor Wax asked why "cultural" does not appear and why "heritage" was taken out.

Jennifer Day addressed the Council. Ms. Day stated she is chairing the governing board requesting creation of a cultural arts district. Ms. Day explained that at the time of the Resolution submission to the City, the arts district initiative intended to use the name Rockport Heritage and Arts District; however, since that time the arts district sponsor, Rockport Heritage District Association, has officially changed their name with the State of Texas to Rockport Heritage and Arts District. Therefore, the arts district initiative has changed their name to Rockport Arts District (dropping “Heritage and”) and the change needs to be reflected on the City Resolution that will be submitted with the Texas Commission on the Arts application.

Mayor Wax asked why “cultural” was dropped.

Ms. Day answered that the group wanted a cool acronym RAD, Rockport Arts District. Ms. Day said it was brought to her attention last Friday that there was an issue with the name request.

Anita Diebel addressed the Council. Ms. Diebel stated she is an artist and downtown merchant and has been involved since the 1980’s. Ms. Diebel said that people ask her questions about this and she has not been able to answer them. Ms. Diebel expressed that this is very confusing since the Rockport Center for the Arts is also known as RCA. Ms. Diebel added that the Rockport Center for the Arts should not be shadowed in anyway and if “cultural” were added to the name of the arts district that may help eliminate some confusion.

Jean Giesey addressed the Council. Ms. Giesey stated she is a board member of the Rockport Center for the Arts. Ms. Giesey said that everyone here loves our community and the world of art and she appreciates the work everyone is doing, but she is concerned about the name for the arts district. Ms. Giesey expressed that the Rockport Center for the Arts has worked many years for recognition and they would like the art district to consider another name that would not infringe on the Rockport Center for the Arts.

Terry Baiamonte addressed the Council. Ms. Baiamonte stated she is a board member of the Rockport Center for the Arts and she is concerned about the confusion of Rockport Center for the Arts known as Rockport Arts Center (RAC) and Rockport Arts District (RAD). Ms. Baiamonte said she had researched several art district names and almost all of them contain the word “cultural.” Ms. Baiamonte urged the arts district organization to use something with the word “cultural.” Ms. Baiamonte added that the Rockport Center for the Arts Board did not know anything about the name for the arts district until it appeared on the Council Agenda.

Discussion was held among Council.

Ms. Day stated that the initiative is for a cultural arts district and since this issue has come up, the group needs to look at the name, which has caused confusion that was not intended, revisit it as a group, and comply with the intent of being collaborative and inclusive.

Mayor Wax stated he echoed Ms. Day’s comment. Mayor Wax said the goal of Council is not only to support the arts district but downtown as well.

MOTION: Mayor Wax moved that this item be tabled until the May 10, 2016, City Council Meeting. Council Member Villa seconded the motion. Motion carried unanimously.

Regular Agenda

9. Deliberate and act on first reading of an Ordinance amending City of Rockport Code of Ordinances Chapter 54 Health and Sanitation, Article II, Food Establishments.

City Manager Kevin Carruth stated this is primarily a housekeeping issue according to Aransas County Environmental Health. Mr. Carruth stated they are requesting that our Ordinance be revised to match changes in state statutes and removal of the fee schedule so it can be done by referencing the County's annual fee schedule. Mr. Carruth called the Council's attention to a memorandum from James S. Jackson, Aransas County Environmental Health, included in the packet.

Discussion was held among Council and Mr. Carruth.

MOTION: Council Member Villa moved to approve the first reading of an Ordinance amending City of Rockport Code of Ordinances Chapter 54 Health and Sanitation, Article II, Food Establishments. Council Member Gurtner seconded the motion. Motion carried unanimously.

10. Deliberate and act on first reading of an Ordinance authorizing the closing, vacating and abandonment of a 20-foot wide alleyway lying between Lots 1 and 9, Block 107, Manning Addition, and a 20-foot wide alleyway lying between Lots 15-16 and 7-8, in Block 108, Manning Addition, Rockport, Aransas County, Texas; providing for the terms and conditions of such vacation and abandonment; authorizing the Mayor to execute a Quitclaim Deed for the said alleyways to be closed, vacated and abandoned; and providing for an effective date.

City Manager Kevin Carruth stated he had met with Steve Pham and they had discussed Mr. Pham's plans for 16 cottages. Mr. Carruth said that as a condition of the sale of the alleyways, Mr. Pham agreed to add at least 40 percent of the total value \$345,613 within four years.

Mr. Pham addressed the Council. Mr. Pham stated he started on this project in November 2015. Mr. Pham said he first visited the Building and Planning Department and was told he would need to visit the City Secretary. Mr. Pham expressed that he visited the City Secretary and she had informed him that the process for vacating City property can take quite some time, probably three or more months. Mr. Pham stated that it is coming up on five to six months now and he has started breaking ground and he is spending more on this project than he thought.

Council Member Villa asked Mr. Pham if he was satisfied with all the numbers stated in the Ordinance.

Mr. Pham answered that he was satisfied with the numbers stated in the Ordinance.

Mayor Pro-Tem Rios asked Mr. Pham when he anticipated starting on the first house.

Mr. Pham replied: "tomorrow."

MOTION: Council Member Villa moved to approve the first reading of an Ordinance authorizing the closing, vacating and abandonment of a 20-foot wide alleyway lying between Lots 1 and 9, Block 107, Manning Addition, and a 20-foot wide alleyway lying between Lots 15-16 and 7-8, in Block 108, Manning Addition, Rockport, Aransas County, Texas; according to the plat of record in Volume 1, Page 7, Plat Records of Aransas County, Texas; providing for the terms and conditions of such vacation and abandonment; authorizing the Mayor to execute a Quitclaim Deed with conditions and reversionary clause for the two (2) 20-foot alleys to be closed, vacated and abandoned; and providing for an effective date. Council Member Day seconded the motion. Motion carried unanimously.

11. Deliberate and act on a Resolution finding an imminent threat to public health and safety and public property due to shoreline erosion along Bayshore Drive between Curlew Drive and Albatross Lane.

City Manager Kevin Carruth stated the high tide and high winds on April 17-18, 2016, accelerated erosion of the shoreline on Bayshore Drive, between Curlew Drive and Albatross Lane. Mr. Carruth informed the Council that some sections of the shoreline retreated by approximately two feet in those two days. Mr. Carruth said Coast and Harbor Engineering has prepared specifications for a temporary measure to halt the erosion that is within the US Army Corps of Engineers national permit 13 but the cost is above the \$50,000 mandatory bid threshold. Mr. Carruth added that the imminent destruction of public and private utilities and sections of Bayshore Drive as well as the start of the 2016 hurricane season in 35 days do not provide enough time to complete the competitive bid or proposal process that would normally be required. Mr. Carruth stated that Section 252.022(a)(2) of the Local Government Code exempts municipalities from competitive bids or proposals in order to preserve or protect the public health or safety of the municipality's residents, and Section 252.022(a)(3) also exempts municipalities from competitive bids or proposals due to unforeseen damage to public property. Mr. Carruth said the engineer has contracted three vendors, trying to get the best price.

Mayor Wax asked what AEP had said about the electrical switch box located in that area.

Public Works Director Mike Donoho said that AEP had visited the site and stated that underneath the switch box there is four to six feet of concrete and that box is made to be in the bay. Mr. Donoho stated that AEP said it was a protected switch box and their engineers are comfortable with what we are doing.

Aaron Horan, Project Manager for Coast and Harbor Engineering addressed the Council. Mr. Moran stated the progression of erosion has been extremely rapid. Mr. Horan said that two years ago when Coast & Harbor Engineering had done a study for the Key Allegro Home Owners Association, it had been noted in the report that several locations had exposed geotextile. Mr. Horan added that it is continuing to get worse.

MOTION: Mayor Wax moved to adopt a Resolution finding an imminent threat to public health and safety and public property due to shoreline erosion along Bayshore Drive between Curlew Drive and Albatross Lane. Mayor Pro-Tem Rios seconded the motion. Motion carried unanimously.

12. Deliberate and act on authorizing emergency repairs to halt and/or correct shoreline erosion along segments of Bayshore Drive between Curlew Drive and Albatross Lane.

City Manager Kevin Carruth informed the Council that Coast and Harbor Engineering has prepared specifications for a temporary measure to halt the erosion that is within the US Army Corps of Engineers national Permit 13, at a preliminary estimated 30% design cost of \$161,750.00. Mr. Carruth stated Coast and Harbor Engineering has provided the preliminary 30% design drawings. Mr. Carruth said the engineer's opinion of probable cost was included in the agenda packet and the total is \$161,759.00, which does not include the previous engineering costs approved by Council.

Discussion was held among Council, Mr. Horan, Project Manager for Coast and Harbor Engineering, City Manager Kevin Carruth and Public Works Director Mike Donoho.

MOTION: Mayor Pro-Tem Rios moved to authorize emergency repairs to halt and/or correct shoreline erosion along segments of Bayshore Drive between Curlew Drive and Albatross Lane. Council Member Villa seconded the motion. Motion carried unanimously.

13. 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 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 Development 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.

Council Member Villa stated the Aransas County Leadership Class has completed a couple of projects at Spencer Park.

Mayor Wax stated the City has received 178 responses for the Texas Municipal League Region 11 meeting being hosted by Rockport on Thursday, April 28th.

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:

14. **Section 551.071(1)(A) Consultation with Attorney on pending or contemplated litigation: (A) Bay Education Center, (B) Manning, (C) Pena/Dack, and (D) Texaz Construction and AZ Southwest Properties.**
15. **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.**
16. **Section 551.072 Deliberation about Real Property: Deliberate the purchase, exchange, lease, or value of real property: (A) Project Red Fish, and (B) 1100 block of East North Street, between Austin Street and Water Street.**
17. **Section 551.087 Deliberation Regarding Economic Development Negotiations: Project Cardinal.**
18. **Section 551.074 Personnel Matters: Appeal of Termination – Laura Clark.**

At 7:12 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) Bay Education Center, (B) Manning, (C) Pena/Dack, and (D) Texaz Construction and AZ Southwest Properties; 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: (A) Project Red Fish, and (B) 1100 block of East North Street, between Austin Street and Water Street; Section 551.087 Deliberation Regarding Economic Development Negotiations: Project Cardinal; and Section 551.074 Personnel Matters: Appeal of Termination – Laura Clark.

Open Session

19. **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 8:02 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.

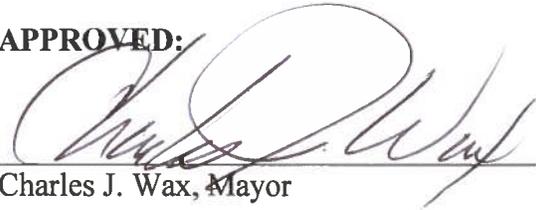
MOTION: Mayor Wax moved that the City Council deny Laura Clark's appeal of termination. Council Member Villa seconded the motion. Motion carried unanimously.

20. Adjournment

At 8:03 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