

CITY OF ROCKPORT

MINUTES

CITY COUNCIL REGULAR MEETING 6:30 p.m., Tuesday, September 27, 2016 Rockport City Hall, 622 East Market Street

On the 27th day of September 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
Community Planner Amanda Torres
Police Commander Jerry Lawing
Public Works Director Mike Donoho
Parks & Leisure Services Director Rick Martinez
Finance Director Patty Howard

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, September 27, 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. flag.

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 Council Special Meeting Minutes of September 20, 2016.**
5. **Deliberate and act on a Resolution of the City of Rockport, Texas, setting a date, time, and place for public hearings on the proposed annexation by the City of Rockport, Texas, of 92 acres, more or less, along Market Street between Warbler Lane and Kelly Lane, authorizing and directing publication of notice of such public hearings, and directing City staff to prepare Annexation Service Plan.**
6. **Deliberate and act on a Resolution of the City of Rockport, Texas, setting date, time, and place for public hearings on the proposed annexation by the City of Rockport, Texas, of 212 acres, more or less, along Highway 35 Bypass between 12th Street and approximately 545 feet north of Griffith Drive, authorizing and directing publication of notice of such public hearings, and directing City staff to prepare Annexation Service Plan.**
7. **Deliberate and act on a Resolution of the City of Rockport, Texas, setting date, time, and place for public hearings on the proposed annexation by the City of Rockport, Texas, of 990 acres, more or less, along Highway 35 Bypass between Mundine Road and approximately 1,000 feet south of 18th Street, authorizing and directing publication of notice of such public hearings, and directing City staff to prepare Annexation Service Plan.**

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

Mayor Wax requested that Item 5 be removed from the Consent Agenda for separate discussion.

MOTION: Council Member Villa moved to adopt the Consent Agenda Items as presented, minus Item 5. Mayor Pro-Tem Rios seconded the motion. Motion carried unanimously.

Consent Agenda Item 5.

Mayor Wax stated two persons had signed up to address the Council regarding this Agenda item.

Dwight Fisher, 602 Pine Avenue, addressed the Council. Mr. Fisher asked if the people living in the proposed annexation area would be notified.

Mayor Wax answered that people living in the proposed annexation area would be notified. Mayor Wax stated the Agenda item schedules the two required public hearings on annexation.

Dick Kitchens, 610 Pine Avenue, addressed the Council. Mr. Kitchens stated he was against the proposed annexation.

Mayor Wax informed Mr. Kitchens that this Agenda item schedules the public hearings. Mayor Wax suggested Mr. Kitchens attend a public hearing to make his statement.

MOTION: Mayor Pro-Tem Rios moved to approve the Resolution of the City of Rockport, Texas, setting a date, time, and place for public hearings on the proposed annexation by the City of Rockport, Texas, of 92 acres, more or less, along Market Street between Warbler Lane and Kelly Lane, authorizing and directing publication of notice of such public hearings, and directing City staff to prepare Annexation Service Plan. Council Member Villa seconded the motion. Motion carried unanimously.

Regular Agenda

- 8. Deliberate and act on first reading of an Ordinance pursuant to Article 23 “Conditional Use Permit,” Rockport Zoning Ordinance Number 1027, a Conditional Use Permit is hereby granted to 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, for the purpose of building an RV Resort Park; with no conditions other than those stipulated under Article 23, Rockport Zoning Ordinance Number 1027; repealing all ordinances in conflict therewith; providing for severability; and providing an effective date.**

Marcie Simmons, 414 Old Salt Lake Road, did not want to address the Council, but requested her comments be read into the record.

Mayor Wax read Ms. Simmons comments: “I am still against this as it will cause my property value to go down. We own 10 acres right next to this site.”

Planning & Zoning Commission Chair Brian Olsen addressed the Council. Mr. Olsen informed the Council that the Planning & Zoning Commission met last week and voted to recommend that the Council approve the request for a Conditional Use Permit.

Council Member Day asked Ms. Simmons to show him the location of her property.

Ms. Simmons showed the located of her property. Ms. Simmons stated the RV park will be right next to her property.

Council Member Day asked developer J.R. Gimler to explain how the RV park will be laid out.

Mr. J.R. Gimler stated the RV park will be developed in three phases. Mr. Gimler said Phase 1 will be in the middle of the property, Phase 2 will be on the east side of the property and Phase 3

will be the last area to be developed. Mr. Gimler added that there will also be some cottages constructed throughout the RV park.

Discussion was held among Council and Mr. Gimler.

Mayor Wax asked Mr. Gimler what the timeline is for this development

Mr. Gimler answered that it would probably be two years before Phase 3 is started.

Mayor Pro-Tem Pat Rios asked Mr. Gimler how long the property has been zoned B-1.

Mr. Gimler answered that it has been zoned B-1 for about 30 years.

Council Member Villa stated that he knew that Mr. Gimler had changed some things in this development since he first presented his request to Council, due to concerns voiced by area residents. Mr. Villa said he is elected by his constituents and he has to be their voice, and they are opposed to this request for a Conditional Use Permit for an RV park; therefore, he would be voting against this request.

MOTION: Council Member Day moved to approve the first reading of an Ordinance pursuant to Article 23 “Conditional Use Permit,” Rockport Zoning Ordinance Number 1027, a Conditional Use Permit is hereby granted to 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, for the purpose of building an RV Resort Park; with no conditions other than those stipulated under Article 23, Rockport Zoning Ordinance Number 1027; repealing all ordinances in conflict therewith; providing for severability; and providing an effective date. Mayor Pro-Tem Rios seconded the motion. Motion carried 4:1.

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

AGAINST MOTION: Council Member Villa

9. **Deliberate and act on first reading of an Ordinance pursuant to Article 23 “Conditional Use Permit,” Rockport Zoning Ordinance Number 1027, a Conditional Use Permit is hereby granted to property located at 121-R Lamar Dr.; also known as Part of Lots 1, 2 and 3, Burton and Danforth, Block 230, 8.15 acres, Rockport, Aransas County, Texas, for the purpose of building a recreational vehicle park; subject to compliance with conditions contained in this Ordinance, as well as those conditions stipulated under Article 23, Rockport Zoning Ordinance Number 1027; repealing all ordinances in conflict therewith; providing for severability; and providing an effective date.**

Planning & Zoning Commission Chair Brian Olsen addressed the Council. Mr. Olsen stated the Planning & Zoning Commission met last week and several residents attended and voiced concerns regarding road safety, flooding and septic tank contamination from flooding. Mr. Olsen said that it is the opinion of the Planning & Zoning Commission that it would be cost prohibitive to provide City water and sewer to this site. Mr. Olsen informed the Council that the Planning & Zoning Commission recommended denial of the Conditional Use Permit request.

Community Planner Amanda Torres stated that staff had first recommended approval of the Conditional Use Permit, but after further consideration, staff is recommending denial of the Conditional Use Permit based on drainage concerns, access concerns, and the transference of the permit to any subsequent owner.

Discussion was held among Council, Mr. Olsen, Ms. Torres, and Public Works Director Mike Donoho.

Joe Wilson, 216 Portia, addressed the Council. Mr. Wilson voiced concerns regarding flooding in this area.

Candace Sargent, 214 Portia, addressed the Council. Ms. Sargent stated she bought her home and never would have had a realtor look for something next to a RV park. Ms. Sargent added that a RV park at this location will decrease her property value. Ms. Sargent said she is also concerned about flooding in the area, all the septic waste that will be going into the groundwater, roads are too narrow for two RVs, fire, trash and crime.

Leonard Russ, 146 Spring Lane, addressed the Council. Mr. Russ informed the Council that he owns a lot next to this property and if this property is raised to prevent flooding, that will flood his property. Mr. Russ said the streets are too narrow and will deteriorate as RVs utilize them. Mr. Russ added that he did not want to see property values decrease because of this.

Jeff Massengill, 134 Spring Lane, addressed the Council. Mr. Massengill stated he bought his five acres 38 years ago because of the tranquility, there is no noise or light pollution. Mr. Massengill said he did not think he could live with an RV located behind his property.

MOTION: Mayor Wax moved to deny the request for a Conditional Use Permit. Council Member Villa seconded the motion. Motion carried unanimously.

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 2201 State Highway 35 Bypass; also described as Lot 44 (West 100' x 49'), Block 1, West Terrace Unit 2, Rockport, Volume 2, Page 116, Map Records of Aransas County, Texas; from R-1 (1st Single Family Dwelling District) to B-1 (General Business District); repealing all ordinances in conflict therewith; providing for severability; and providing an effective date.

Planning & Zoning Commission Chair Brian Olsen addressed the Council. Mr. Olsen stated that rezoning from R-1 to B-1 fits in with the City's future plan for this area. Mr. Olsen said that staff and the Planning & Zoning Commission recommend approval.

Discussion was held among Council and property owner, Travis Kelley.

Council Member Gurtner stated she had no problem with changing this to a business district, but her concern was that this was a very pretty area with a pond and trees. Ms. Gurtner requested Mr. Kelley save as much of this as he could; it would be advantageous. Ms. Gurtner also asked that Mr. Kelley think about lower signage.

MOTION: Council Member Villa moved to approve the 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 2201 State Highway 35 Bypass; also described as Lot 44 (West 100' x 49'), Block 1, West Terrace Unit 2, Rockport, Volume 2, Page 116, Map Records of Aransas County, Texas; from R-1 (1st Single Family Dwelling District) to B-1 (General Business District); repealing all ordinances in conflict therewith; providing for severability; and providing an effective date. Mayor Pro-Tem Rios seconded the motion. Motion carried unanimously.

11. Deliberate on request for stipend incentive to downtown businesses that elect to open their restrooms to the public.

Rockport Cultural Arts District (RCAD) Chair and President Jennifer Day addressed the Council. Ms. Day informed the Council that a survey was conducted as a community outreach and communication requirement from the Texas Commission on the Arts when RCAD was seeking the State designation. Ms. Day said over 500 survey responses were received and the consistently rated and most requested feature was public restrooms. Ms. Day stated that RCAD has proposed that the City of Rockport pay a monthly \$100.00 stipend to those businesses that elect to open their restrooms to the public. Ms. Day added that Rockport-Fulton Chamber of Commerce, Coastal Bend Health Foods and Rockport Daily Grind have responded affirmatively to allow public bathroom availability on Monday through Saturday, 8:00 a.m. until 3:00 p.m., and no options for Sunday.

Council Member Villa stated that \$100.00 monthly times three businesses equals \$3600.00 annually. Council Member Villa asked that if the City is going to spend \$3600.00 annually, are there other possibilities: rent a restroom trailer and place it somewhere.

Mayor Wax stated he would not endorse the City paying a stipend to any 501(c)3 entities such as the Rockport Center for the Arts, Rockport Aquarium or Rockport-Fulton Chamber of Commerce.

Discussion was held among Council and Ms. Day.

Mayor Wax suggested this item be placed on the Council Strategic Planning Workshop Agenda that will be held in January 2017, for further discussion.

12. Deliberate and act on first reading of an Ordinance of the City of Rockport, Texas, authorizing a pro-rata reimbursement to Circle W RV Ranch for development of a water main utility line affecting property and property owners abutting and along Smokehouse Road, out of the C.S. Zenn Survey, A226; providing for pro-rata payments from benefited property owners who request to connect to the water utilities during the reimbursement period; providing for developer to be reimbursed from the pro-rata funds received; and providing an effective date and a termination date.

Mayor Wax stated this item had been pulled from the Agenda due to legal issues determining actual ownership.

13. Deliberate and act on first reading of an Ordinance of the City of Rockport, Texas, implementing a temporary moratorium on the submission, acceptance, processing, and approval of any application for any permit or license for the installation of above-ground wireless communications facilities in the public right-of-way or on public or private property; providing a savings clause; providing a severability clause; finding and determining that the meetings at which the Ordinance was passed were open to the public as required by law; and providing an effective date.

Public Works Director Mike Donoho addressed the Council. Mr. Donoho informed the Council that the City recently received an application from a distributed antenna system (DAS) infrastructure provider for installation of wireless communications facilities, consisting of a permit for a 120 foot antenna pole to be installed in the public rights-of-way within the City of Rockport. Mr. Donoho stated this is something that is occurring all over the State and several cities are taking steps to put a moratorium on the submission, acceptance, processing and approval of any new or pending applications for this. Mr. Donoho added that the City does not currently allow placement of above-ground wireless communications facilities, including but not limited to antenna, poles and other support structures within the City right-of-way, but the existing provisions of the City Code are inadequate and time is needed to review, study and revise the City Code to fully take into account the impacts related to timing, location, and manner of construction of such facilities by multiple telecommunication, small cell, and DAS providers within the public right-of way. Mr. Donoho said staff recommends that Council adopt a moratorium for a period of 120 days or as maybe extended by City Council.

Discussion was held among Council, Mr. Donoho, City Manager Kevin Carruth and City Attorney Terry Baiamonte.

MOTION: Council Member Villa moved to approve the first reading of an Ordinance of the City of Rockport, Texas, implementing a temporary moratorium on the submission, acceptance, processing, and approval of any application for any permit or license for the installation of above-ground wireless communications facilities in the public right-of-way or on public or private property; providing a savings clause; providing a severability clause; finding and determining that the meetings at which the Ordinance was passed were open to the public as required by law; and providing an effective date. Council Member Day seconded the motion. Motion carried unanimously.

14. 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.

Mayor Wax read a letter from the Government Finance Officers Association notifying the City that the City's comprehensive annual financial report for the fiscal year ended September 30,

2015, qualifies for a Certificate of Achievement for Excellence in Financial Reporting. Mayor Wax stated this is the 14th consecutive year that the City has received this award. Mayor Wax extended congratulations to Finance Director Patty Howard.

Council Member Villa informed the Council that the Parks & Leisure Services Advisory Board had taken a tour of the Bent Oaks property. Council Member Villa added that a Texas A & M Forest Service representative was present and talked about the trees on the property.

Mayor Pro-Tem Rios stated he had attended a reception for the tenth anniversary of the Mission-Aransas National Estuarine Research Reserve on September 24, 2016. Mayor Pro-Tem Rios said people were very pleased with the Bay Education Center,

Council Member Gurtner stated over 90 people had attended the Keep Aransas County Beautiful clean-up.

Mayor Wax informed the Council that Council Member Gurtner has agreed to serve as the Council liaison for the Rockport-Fulton Chamber of Commerce Government Affairs Council.

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:

- 15. Section 551.071(1)(A) Consultation with Attorney on pending or contemplated litigation: (A) Bay Education Center, (B) Texaz Construction and AZ Southwest Properties.**
- 16. 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.**

City Attorney Terry Baiamonte stated there was no significant information to report to Council in regard to the posted Executive Session items, so there was no need for an Executive Session.

Open Session

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.

No Executive Session was conducted.

17. Adjournment

At 7:48 p.m., Council Member Villa moved to adjourn. Motion was seconded by Mayor Pro-Tem Rios. Motion carried unanimously.



APPROVED:

Charles J. Wax, Mayor

ATTEST:

Teresa Valdez, City Secretary