

CITY OF ROCKPORT

MINUTES

CITY COUNCIL REGULAR MEETING 6:30 p.m., Tuesday, April 11, 2017 Rockport City Hall, 622 East Market Street

On the 11th day of April 2017, 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

PLANNING & ZONING COMMISSION MEMBERS PRESENT

Edward Bellion
G. Maynard Green
Diana Severino-Saxon

STAFF MEMBERS PRESENT

City Manager Kevin Carruth
City Secretary Teresa Valdez
City Attorney Terry Baiamonte
Police Commander Jerry Lawing
Public Works Director Mike Donoho
Parks & Leisure Services Director Rick Martinez
Finance Director Patty Howard
Community Planner Amanda Torres

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 11, 2017, in the Council Chambers of the Rockport City Hall, 622 E. Market Street, Rockport, Texas.

2. Pledge of Allegiance.

Council Member Gurtner led the Pledge of Allegiance to the U.S. flag.

3. Presentation: Friends of Aransas & Matagorda Island Wildlife Refuge.

Mayor Wax stated the Whooping Crane Strut was successful. Mayor Wax presented a check in the amount of \$945.00 to Linda Lanoue, Treasurer of the Friends of Aransas and Matagorda Island Wildlife Refuge.

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.

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 Workshop and Regular Meeting Minutes of March 28, 2017.**
- 6. Deliberate and act on 2nd quarter report from the Rockport-Fulton Chamber of Commerce for Fiscal Year 2016-2017 marketing expenditures.**
- 7. Deliberate and act on 2nd quarter report from the Texas Maritime Museum for Fiscal Year 2016-2017 marketing expenditures.**
- 8. Deliberate and act on ratification of a Resolution opposing any legislation that increases the maximum transport haul weights over roadways in the City of Rockport and statewide; finding compliance with the open meetings law; and providing an effective date.**

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

MOTION: Council Member Day moved to adopt the Consent Agenda items as presented. Council Member Gurtner seconded the motion. Motion carried unanimously.

Public Hearing

9. Call to Order – Rockport Planning & Zoning Commission.

Mayor Wax announced that a Joint Public Hearing would not be held tonight due to lack of quorum for the Planning & Zoning Commission. Mayor Wax said he would allow citizen comments on the items posted for public hearings.

- 10. Conduct a Joint Public Hearing with the Planning & Zoning Commission to consider a request for a Conditional Use Permit to allow development of climate control storage units on six acres (Lot 2), being part of eighteen acres located at 1300 FM 3036; also known as Lots 2 and 3, Rockport Center, Rockport, Aransas County, Texas, currently zoned R-1 (1st Single Family Dwelling District).**

A joint public hearing was not conducted, but citizen comments were received.

Russell D. Roberts, 201 Marion Drive, addressed the Council. Mr. Roberts stated that City code Section 118-23.4 states each application for a Conditional Use Permit shall be submitted with enough data and information to be consistent with ten listed criteria. Mr. Roberts said the application submitted does not do this. Mr. Roberts added that Section 118-23.10 lists specific uses requiring a Conditional Use Permit and not one of those uses is close to a storage unit. Mr. Roberts also referred to Section 118.6 saying this section states what land and premises may be used for in a R-1 (1st Single Family Dwelling District). Mr. Roberts expressed that the Council should be asking themselves three questions: 1) What data and information is on the application that would convince you to grant a Conditional Use Permit; 2) Since Marion Drive has the only surrounding residents that would be adversely affected, will their opposition carry the greatest weight, or will the developer and realtor; and 3) How can you possibly grant a Conditional Use Permit given the specific land use stated in the City code?

Elizabeth Roberts, 201 Marion Drive, addressed the Council. Ms. Roberts read the following: “Marion Drive is an ideal American neighborhood with a lively mix of people in a beautiful location. We look after our houses and our yards, and we watch out for each other. And, as far as I know the rest of the County Club community also essentially meets this description. Now, adjoining one side of our community is an 18-acre strip of uncleared, unimproved property, which I understand has been on the market for some time. It is zoned R-1. If (and I say if) the asking price of the property has been too high for a developer to profitably build and market R-1 compliant homes, together with roads, utilities, and drainage – then perhaps the more fitting solution would be to do what many of us here have had to do, either improve the property or lower the price. It is possible that these repeated applications and hearings were simply an attempt to maximize profits via a third option; a hope that the City of Rockport and the residents of the neighborhood will somehow overlook the detrimental side effects. However, none us us bought into a backdrop of storage sheds, with an ever-changing parade of strangers passing along our back yards at any hour. Who would even know what kind of stuff is being stored in the sheds? What other development would be granted CUPs in adjoining R-1 plots if this CUP were approved? How would Rockport realtors and the P & Z Board explain such an unreliable zoning environment to potential new buyers? We know that, in the past, this realtor and this developer have brought constructive development to the City of Rockport. We call upon them now to continue in that positive vein, to help to preserve and enhance the existing neighborhoods in this community, and to relocate the storage project to another, more suitable, location. We understand that the P & Z and the City Council are obliged to consider zoning requests duly made. In this case, we call upon them to reject once and for all this, and any such request, which does not measure up to the ordinances of the City of Rockport, especially in the light of current plans to rework the 10-year old Rockport comprehensive zoning plan.”

Katrina Brown, 205 Forest Hills, addressed the Council. Ms. Brown stated she serves on the Board of Directors of the Rockport Country Club Homeowners Association. Ms. Brown said the Rockport Country Club is the largest subdivision in Rockport with 600 residences and about 1200 residents. Ms. Brown expressed that when evaluating adjacent development, should it not remain the same or as close to the same of the adjacent property. Ms. Brown added that the original request for zoning change had been denied so now the developer was trying a different method by requesting a Conditional Use Permit, and if granted this would diminish the value of properties around it. Ms. Brown asked if an environmental study had been conducted on the property because of surface flooding. Ms. Brown stated that on a three-acre basis, Rockport Country Club Estates are selling for about twice the value as this property and asked that Council avoid diminishing values of adjacent property. Ms. Brown declared that the Board of Directors of the Rockport Country Club Homeowners Association is opposed to the Conditional Use Permit; it is not the best use for everyone.

Dan Wilkins, 102 Marion Drive, addressed the Council. Mr. Wilkins said his property backs up to this property. Mr. Wilkins expressed that when he moved here two years ago, before he purchased his home he investigated what was around him. Mr. Wilkins said there was a nice county park. Mr. Wilkins stated the developer should have done his homework as well and known that the property is zoned R-1. Mr. Wilkins said the City needs to hold to its zoning ordinance and not set a precedence by granting this Conditional Use Permit.

John Hitchcock, 109 Marion Drive, addressed the Council. Mr. Hitchcock said he has lived at 109 Marion Drive for over 20 years. Mr. Hitchcock said if the Conditional Use Permit is granted, property values would immediately be affected, have a domino effect on other Rockport Country Club property, and there will be an unwelcome view of trucks, etc. because of the storage units. Mr. Hitchcock expressed that he was fiercely opposed to the granting of a Conditional Use Permit.

Donald Dye, 127 Marion Drive, addressed the Council. Mr. Dye said he is a new resident of Marion Drive, but has lived in Rockport for six years. Mr. Dye stated he moved to Marion Drive understanding that property near him was zoned R-1. Mr. Dye added that the Country Club has already had security issues and he could see storage units adding to those issues. Mr. Dye declared that commercial activity goes on through evenings and Marion Drive has a calm atmosphere and he did not want that disturbed. Mr. Dye stated he did a review of the criteria for granting a Conditional Use Permit and this request does not meet the criteria.

Tiffany Hoover, 115 Marion Drive, addressed the Council. Ms. Hoover stated that the granting of a Conditional Use Permit would present a security problem for adjacent property owners, it would devalue surrounding properties. Ms. Hoover added that the undeveloped lot next to this property would give thieves direct access to Marion Drive. Ms. Hoover asked that the Council consider the concerns of Marion Drive residents. Ms. Hoover said that if there was to be commercial development, it should be done up front and leave residential behind it.

Jeff Atteberry, 132 Marion Drive, addressed the Council. Mr. Atteberry stated he lives behind the property and he purchased his home knowing that the property behind him was zoned R-1. Mr. Atteberry said to constantly have to come back and fight this is disturbing to him. Mr. Atteberry added he has had major drainage issues in his back yard and he wonders what this

development would do to his property. Mr. Atteberry expressed he was also concerned that crime in his neighborhood would increase if a Conditional Use Permit is granted for storage units.

Adelaide Marlatt, 456 Augusta, addressed the Council. Ms. Marlatt stated she was representing the Rockport County Club Estates Homeowners Association. Ms. Marlatt expressed that she was disappointed there was not a quorum of the Planning and Zoning Commission and she hoped the citizens and property owners would be allowed to present their comments at the Planning & Zoning Commission meeting. Ms. Marlatt read the following: "In a few moments, this public hearing will close, you will go back to your business as usual. The people of Marion Street will not. They will be looking at the calendar and waiting until the hearing date of the rezoning request – first with the Planning & Zoning Commission and then the City Council and wondering what will be decided. This project request was denied once and they thought it was over, but here it is again in no time flat; this time it is a different colored coat, a Conditional Use Permit. If it doesn't change the zoning it must be okay – then how is it that the result is the same? With all due respect how do you interpret the Code to allow the developer to reach so far? We have had a number of professionals look at the zoning codes and laws and the answer is the same. You cannot reach that far. It is hard to understand why we are finding ourselves in this position again. Are we struggling to get projects going and this is all there is? *The Rockport Pilot* said building permits for February were \$4.7 million in 2017, versus \$1.01 in February 2016, so we know the momentum is building. Did the developers choose to ignore the zoning ordinances and particularly the planning information set out in Rockport Ordinance No. 1113? It contains guidelines on what to put beside residential subdivisions. Are they choosing to ignore it as well? You put commercial development at intersection corners, and much more. If you allow this project to be permitted for this location, it will be spot zoning whether we call it that or not. It is bounded on one side by a subdivision, the entire back of this parcel and the others next to it are bounded by residential. Across the street is a new residential subdivision of 21 single family houses that sold out very quickly. Homes like this are what brings people to Rockport if growth is what we are looking for. People don't move to Rockport because we have one more storage unit. As this request goes forward, I urge you on behalf of the property owners of Rockport Country Club Estates to think about how important your actions are. These are young people and retirees who have invested a large portion of their hopes, dreams and finances in their home, trusting that city zoning will be their protection. What will you do? Will you hold that trust, or will you allow our zoning ordinances to become whatever the developer wants them to be? These people here tonight are betting you will hold their trust. You are our neighbors, you see us at church, in the grocery store, at the next service club meeting. If we say to newly annexed people, zoning will protect you, we will do our best to see that it does and give our developers the planning tools they need so they will easily know what will be permitted in an area before they purchase property. Conditional Use Permits will be a rarity and will be used for important things like churches, schools, etc. Thank you for listening to us tonight. We look forward to working with you as we labor to make our area a great place to live and own a home. We are depending on you." Ms. Marlatt added that she had done some research of other cities and Hutto does not allow storage units except in industrial zoning areas.

- 11. Conduct and deliberate a Joint Public Hearing with the Planning & Zoning Commission to consider a request to rezone newly annexed property located at 1531 State Highway 188; also known as Lot 7-C, Ken Mar III Unit 4 (2.45 acres), Rockport, Aransas County, Texas, currently zoned R-1 (1st Single Family Dwelling District) to B-**

1 (General Business District), to continue mixed use of property, which is currently business and residential.

A joint public hearing was not conducted, but citizen comments were received.

Linda Jones, 1531 State Highway 188, addressed the Council. Ms. Jones stated this property was recently annexed by the City and she is currently breaking the law by operating a business on property zoned as R-1.

Mayor Wax stated that when property is annexed into the City, it comes in as R-1 and the existing business continues. Mayor Wax informed Ms. Jones that she is not in violation of the law and she has properly requested rezoning of the property.

Janet Noel stated she is Ms. Jones sister. Ms. Noel asked what would happen if they want to sell the property.

City Attorney Terry Baiamonte answered that once the property is rezoned B-1 it stays that way. Ms. Baiamonte stated that Ms. Jones and Ms. Noel were following the required steps for rezoning and that should be completed in a relatively short period of time.

12. Adjourn – Rockport Planning & Zoning Commission.

Due to lack of quorum the Rockport Planning & Zoning Commission did not convene thus it was not necessary to adjourn.

Mayor Wax encouraged the Planning & Zoning Commission members present tonight to share with other members the comments received tonight. Mayor Wax stated the citizen comments will be recorded in the Minutes of this meeting and a copy of those Minutes are available at the office of the City Secretary.

Regular Agenda

- 13. Deliberate and act on amended first reading of an Ordinance amending Chapter 66 of the Code of Ordinances entitled “Offenses and Miscellaneous Provisions” by the addition of a new Article IV. “Sex Offender Residency Restriction,” making it unlawful for certain sex offenders to reside within 1,000 feet of premises where children gather or within 1,000 feet of another offender, providing penalties for violations of the Ordinance, including but not limited to a fine not to exceed \$500.00 for each offense, and each and every day such violation shall continue or exist shall be deemed a separate offense; providing for injunction relief; providing for the validity of said Ordinance; repealing all prior ordinances in conflict herewith; and providing for an effective date.**

Mayor Wax stated the Council had approved the first reading of the proposed Ordinance, but the City Attorney has made some substantive changes and that is why it is being brought back as an amended first reading.

City Attorney Terry Baiamonte said there were several changes made to the Ordinance but there were three significant changes: 1) addition of “Neither allegation nor evidence of a culpable mental state is required for the proof of an offense defined by this section”; 2) addition of “The penal provisions imposed under this section shall not preclude the city from filing suit to enjoin a violation of this section. The city shall retain all legal rights and remedies available to it pursuant to local, state and federal law”, and added the word “injunction” in Section 66.73; and 3) added protection for loitering around parks.

Police Commander Jerry Lawing stated he had reviewed the Ordinance and thinks it is a very good Ordinance.

Council Member Day asked if the proposed Ordinance has been compared to other cities ordinances regulating residency restrictions for sex offenders.

Ms. Baiamonte said that it had been compared. Ms. Baiamonte said the proposed Ordinance has the added injunction clause.

MOTION: Council Member Villa moved to approve the amended first reading of an Ordinance amending Chapter 66 of the Code of Ordinances entitled “Offenses and Miscellaneous Provisions” by the addition of a new Article IV. “Sex Offender Residency Restriction,” making it unlawful for certain sex offenders to reside within 1,000 feet of premises where children gather or within 1,000 feet of another offender, providing penalties for violations of the Ordinance, including but not limited to a fine not to exceed \$500.00 for each offense, and each and every day such violation shall continue or exist shall be deemed a separate offense; providing for injunction relief; providing for the validity of said Ordinance; repealing all prior ordinances in conflict herewith; and providing for an effective date. Mayor Pro-Tem Rios seconded the motion. Motion carried unanimously.

14. Deliberate and act on review of conceptual designs for street signs designating the boundaries of the Rockport Cultural Arts and Heritage Districts.

Public Works Director Mike Donoho called the Council’s attention to the life-sized signs showing the changes requested at the last Council meeting.



Chris Crowley asked how much the signs will cost and how many are needed.

Jennifer Day answered that there are 44 signs needed.

Mayor Wax answered that there is \$15,000 allocated in the budget for signs.

Discussion was held among Council and Mr. Donoho.

Mr. Crowley stated he would like to buy one as a souvenir.

MOTION: Mayor Wax moved to approve the design of the street signs designating the boundaries of the Rockport Cultural Arts and Heritage Districts. Mayor Pro-Tem Rios seconded the motion. Motion carried unanimously.

15. Deliberate and act on presentation by Aransas County Navigation District requesting letter of support for Aransas County Navigation District Little Bay Restoration Master Plan.

Mayor Wax stated that Aransas County Navigation District Commissioner Malcolm Dieckow was ill and unable to attend the meeting tonight. Mayor Wax said the Council has seen the Little Bay Restoration Master Plan.

Council Member Gurtner stated she agreed with the letter of support.

MOTION: Council Member Villa moved that the City approve a letter of support for Aransas County Navigation District Little Bay Restoration Master Plan. Mayor Pro-Tem Rios seconded the motion. Motion carried unanimously.

16. Deliberate and act on identifying potential areas for annexation in 2017.

Community Planner Amanda Torres said that for research purposes, staff is asking Council to narrow down the scope of specific annexation areas. Ms. Torres declared that the Council is not deciding tonight on annexation but this is strictly for staff purposes.

Council Member Day stated he thought a lot of the areas should eventually become a part of Rockport and some of the areas have greater weight than others. Council Member Day said the Market Street area and the Bypass area (Gap 35) need to be high on the list because Rockport is growing quickly.

Council Member Villa stated he was not in favor of any more annexation.

Mayor Pro-Tem Rios stated he agreed with Council Member Day, but he would like to see where the City is financially with the area that was recently annexed.

Council Member Gurtner stated the one thought she had was Market Street because of the work the City needs to do there, specifically as it relates to drainage.

Mayor Wax stated he thought Market Street, Bypass (Gap 35) and Area D (Linden) should be the areas that staff focus on. Mayor Wax said he did not know what calls for service there will be in these areas, and that would have to be looked at.

Mayor Wax stated that directing staff to research and prepare information on these areas is not a decision to annex anything. Mayor Wax expressed that this is a way for Council to examine the costs of servicing these areas if annexed.

17. Deliberate and act on a Resolution finding that AEP Texas Inc.'s application to amend its distribution rates within the City should be denied, finding that the City's reasonable rate case expenses shall be reimbursed by the company; finding that the meeting at which the Resolution is passed is open to the public as required by law; requiring notice of this Resolution to the company and legal counsel.

City Manager Kevin Carruth stated AEP does this annually and when the Council has previously adopted such a Resolution, it has always been to the City's benefit.

Brief discussion was held between Council Member Day and Mr. Carruth.

MOTION: Council Member Day moved to adopt a Resolution finding that AEP Texas Inc.'s application to amend its distribution rates within the City should be denied, finding that the City's reasonable rate case expenses shall be reimbursed by the company; finding that the meeting at which the Resolution is passed is open to the public as required by law; requiring notice of this Resolution to the company and legal counsel. Council Member Villa seconded the motion. Motion carried unanimously.

18. Reports from Council.

At this time, the City Council will report/update on all committee assignments, which may include the following: Aransas Pathways Steering Committee, Building and Standards Commission; Coastal Bend Bays and Estuaries Program; Coastal Bend Council of Government; 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 presented to Finance Director Patty Howard and City Manager Kevin Carruth a letter from the Government Finance Officers Association notifying him that the City of Rockport has received the Distinguished Budget Presentation Award for the current budget. Mayor Wax said this is the fourteenth year in a row that the City has received this award.

Council Member Villa said he went for a run at Memorial Park yesterday and the Parks staff has done an outstanding job at the park. Council Member Villa said it was beautiful.

Mayor Pro-Tem Rios said he attended and enjoyed the Chamber of Commerce luncheon recognizing 501(c)3 organizations. Mayor Pro-Tem Rios stated it was interesting to see how many people do so much for this community.

Mayor Wax stated there were 144 organizations recognized.

Executive Session

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

- 19. Section 551.071(1)(A) Consultation with Attorney: Pending or contemplated litigation: (A) Bay Education Center; (B) Texaz Construction and AZ Southwest Properties, (C) Texas Workforce Commission and Joseph M. Repasky; and (D) Joe & Diana Harrington.**
- 20. 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.**
- 21. Section 551.087 Deliberation Regarding Economic Development Negotiations: Project Road Runner.**

At 7:27 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 551.071(1)(A) Consultation with Attorney: Pending or contemplated litigation: (A) Bay Education Center; (B) Texaz Construction and AZ Southwest Properties; (C) Texas Workforce Commission and Joseph M. Repasky; and (D) Joe and Diana Harrington; 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; and Section 551.087 Deliberation Regarding Economic Development Negotiation: Project Road Runner.

Open Session

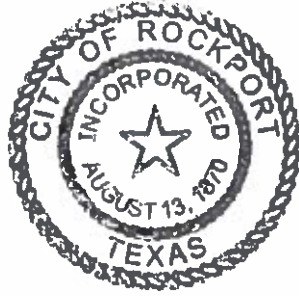
City Council will reconvene into open session pursuant to the provisions of Chapter 551 of the Texas Government Code to take any actions necessary related to the executive sessions noted herein, or regular agenda items, noted above, and/or related items.

At 8:11 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.

No action was taken.

22. Adjournment

At 8:11 p.m., Council Member Villa moved to adjourn. Motion was seconded by Mayor Pro-Tem Rios. Motion carried unanimously.



APPROVED:



Patrick Rios, Mayor Pro-Tem

ATTEST:



Teresa Valdez, City Secretary