

CITY OF ROCKPORT

MINUTES

CITY COUNCIL SPECIAL MEETING

5:00 p.m., Thursday, August 19, 2021

Rockport Service Center, 2751 State Highway 35 Bypass
and

Via Video Conferencing Application ZOOM

A temporary suspension of the Open Meetings Act to allow telephone or video conference public meetings was granted by Governor Greg Abbott. These actions were being taken to mitigate the spread of COVID-19 by avoiding meetings that bring people into a group setting and in accordance with Section 418.016 of the Texas Government Code.

Due to the COVID-19 pandemic, the attorney general has said: "statutes that may be interpreted to require face-to-face interaction between members of the public and public officials are suspended; provided, however, that the governmental bodies must offer alternative methods of communicating with their public officials." Public participation is valued and citizens wishing to express their views on any topic or agenda item can electronically submit a Citizen Participation Form in order to register to speak by going to <https://rockport.seamlessdocs.com/f/CouncilCitizenParticipation> or scanning the QR code provided on the Agenda, or if attending the meeting in person register at the meeting. Using the same form, citizens can also provide written comments to the City Secretary by 4:00 p.m. on the day of the meeting. The Mayor will read the comments and they will be summarized in the minutes of the meeting.

On the 19th day of August 2021, the City Council of the City of Rockport, Aransas County, Texas, convened in Special Meeting at 5:00 p.m., at the Training Room of the Rockport Service Center and via video conferencing application ZOOM, 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 Patrick R. Rios
Mayor Pro-Tem J.D. Villa, Ward 2
Council Member Katy Jackson, Ward 1
Council Member Brad Brundrett, Ward 3
Council Member Andrea Hattman, Ward 4

CITY COUNCIL MEMBER(S) ABSENT

STAFF MEMBERS PRESENT

City Manager Kevin Carruth
Assistant to City Manager Kimberly Henry
City Secretary Teresa Valdez
Director of Finance Katie Griffin
Parks & Leisure Services Director Rick Martinez
Director of Public Works and Building & Services Director Mike Donoho
Police Chief Greg Stevens
Police Officer David Gerloff
Police Lieutenant Nathan Garcia

ELECTED OFFICIALS PRESENT

Police Commander Larry Sinclair
Information Technology Director Bob Argetsinger

Opening Agenda

1. Call to Order.

With a quorum of the Council Members present, the Special Meeting of the Rockport City Council was called to order by Mayor Rios at 5:03 p.m. on Thursday, August 19, 2021, in the Training Room of the Rockport Service Center, 2751 State Highway 35 Bypass, Rockport, Texas, and via video conferencing application ZOOM.

Council Member Jackson asked for a point of clarification; have there been any changes to Chapter 2 of the City's Code since she looked at it this morning.

Mayor Rios said there had been no changes.

2. Hear and deliberate on the proposed Fiscal Year 2021-2022 Budget.

Director of Finance Katie Griffin addressed the Council. Ms. Griffin said there were some revisions to the Budget that Council had asked staff to make during the Monday Budget Workshop. Ms. Griffin stated Council has been provided a copy of items removed and items added:

- Drainage Maintenance – addition of \$200,000
- Shoreline Stabilization – increase of \$25,000
- Canopy Cover for Fit Court at Memorial Park – removed \$20,000
- Shade Structure for Basketball Court at Memorial Park – removed \$30,000
- Mobile Surveillance Cameras (2) – removed \$45,000
- Receptionist for Rockport Service Center – removed \$44,000

Ms. Griffin said everything else remains the same as far as dollar amount and there are some things Council will need to discuss further as we get into the budget process as whether or not to rearrange full time employees between departments.

Council Member Brundrett asked if the added \$200,000 for drainage maintenance is out of the Community Disaster Loan (CDL).

Ms. Griffin answered that is from the difference in the tax rate that Council discussed on Monday, the meet in the middle rate.

Council Member Brundrett asked what we did with the CDL funds, and the Accountant position was going to be out of utility funds? The remote surveillance cameras were cut and the grant match for the body cams was put back in – is that out of General Funds or CDL funds?

Ms. Griffin answered the Accountant will come out of the utility funds and CDL will fund the other items on the list that were discussed (anything that is not capital). Ms. Griffin said the remote surveillance cameras were cut and the grant match for the body cams was put back into the budget

and those can come out of either fund, General Fund or CDL Funds. Ms. Griffin explained that what we generally do with CDL funds is use it to balance us to zero dollars; in order for us to adopt a budget we are required to have either greater revenues than expenditures or the difference between revenues and expenditures have to net out at zero. Ms. Griffin said for the items that we do not have sufficient coverage for, if they are eligible for CDL funds, we will use that to branch over and make sure we are legally adoptable.

Council Member Brundrett asked if the CDL funds could be used to balance the budget prior to adoption or do we have to do that after. Mr. Brundrett asked how much of the \$1.3 million CDL funds do we have left, right now?

Ms. Griffin answered that we can do that prior to adoption but there are certain restrictions on the CDL funds and sometimes we can use those funds to help bridge the gap that would normally be paid for from other funds. Ms. Griffin said we are at about \$85,000 drawn from the CDL right now, so there is room if Council gave direction to enhance or increase a line item that is for maintenance or operations.

Council Member Hattman asked if the drainage maintenance could come out of the CDL funds.

Ms. Griffin answered that was correct; there is almost \$1 million that could be used, but it has to be on repairing, cleaning out ditches, pothole repairs and anything of that sort; it cannot be building new detention ponds or that sort of thing.

Mayor Rios said he had received a couple of Citizen Participation forms for persons wishing to address the Council:

1) Kristie Rutledge, 1411 Dana Drive: I submitted my comments in writing, but I am going to change them based on Ms. Griffin's comments. This looks like the carrot and stick; you have to raise the tax rate to get any money in drainage maintenance – this is a regularly budgeted item that was funded for years and years and for some reason it has been dropped of the budget. I say stick to your guns keep the tax rate where you had it and get this budget lean. I found \$2 million to cut in the budget (named her cuts). The City increased personnel expense by \$530,000 in 2019 and you're on par this year for a \$920,000 increase in personnel; this is not sustainable. You sent a direction to City staff, and they brought you back to two special meetings in one week because they didn't respect the direction you gave them on August 10th. Stop increasing our taxes especially during times of crisis because you want to waste money on things that are not necessary. You need to keep the tax rate in line with the No New Revenue Rate and keep the budget in line with what that allows. You need to hold firm to the direction you gave City staff.

2) Jeff Hutt, 2201 Prairie Road: I don't think this is a special year; these guys are going to come back to you every year because all I hear them saying is it is not about going to the No New Revenue Rate, it's about they don't want to lose this percentage of growth and they are going to need this percentage of growth every single year so they can never come back to you and ask you for the No New Revenue Rate. They are trying to fund their bureaucracy. I have a question: You have the M&O rate when you're figuring your budget and you have the M&O rate times 1.035% and that is together and then you have the I&S rate on the side; your I&S rate can go up, say like

\$.20- could go from \$.18 to \$.38 and we couldn't do anything about it, so the only money we are talking about here is the raise in maintenance and operation; which is you want an increase of 3.5%, correct? Mr. Carruth, you told Mr. Brundrett, if the I&S rate goes up the M&O rate has to come down and if the I&S rate goes down the M&O rate can come up, it fluctuates. So, I'm asking a question if the I&S rate is fixed and we were to take the Tax Notes and they were to hit us for \$.10 that could go up from \$.18 to \$.28 but that would not be included in this number – we are just looking at maintenance and operation.

Mr. Carruth stated they would get back to Mr. Hutt.

Russ & Elizabeth Roberts, 201 Marion Drive – Mr. Roberts addressed the Council, distributed a letter, and commented: Very much appreciate the opportunity to speak to you. We have been in two Council meetings before this one and it is our perception there is no difference between the citizenry that has spoken and the Council and staff with regard to the urgency of drainage. One of the things that I am sure you have noticed is that the public, me included, do not have the budgetary expertise in budgetary matters to know whether a bucket of money in the ordinary budget or a bond issue is necessary to achieve a certain goal. What I handed out is a letter I wrote to *The Rockport Pilot* and the gist of that letter is that we want you to come up with the best way to mitigate drainage problems. What is encouraging to us is that there is that bucket of money from the Harvey relief, something like \$1.5 million, and we would like to urge the Council and staff to use that money to the absolute best that you can before we lose it. I know it's painful, but somewhere down the line we may have to do a bond issue for capital improvements.

Mayor Rios said he know the budget has been reviewed by the public, but we wanted to point out there have been some misunderstanding when we look at the line item for drainage – it's says \$40,000 but that particular line item is for whatever our streets and drainage crew need to buy, i.e. a piece of pipe, a collar or glue or something right on the spot. Mayor Rios informed everyone that the majority of the drainage that is funded comes under the contracted services which is hundreds of thousands, if not millions of dollars a year.

Ms. Griffin said our contracted services is in multiple places throughout the budget.

Mayor Rios said we have about \$10 million in drainage projects out for bid right now in four or five areas of the City. Mayor Rios expressed even that is not enough according to the Master Drainage Plan.

Council Member Brundrett said he would like to see us utilize the CDL money as much as possible. Council Member Brundrett asked if we are using the CDL money anywhere else in the budget and what is the amount left to work with.

Ms. Griffin said she would need Council to give her that direction, a particular amount, and she could put that in the proposed budget and bring it back to Council. Ms. Griffin said the CLD money is being used for a couple of items in the budget: upgrades for software, Finance to go to the Cloud and public safety software for the Police Department. Ms. Griffin stated the City would get a long-term effect out of this instead of short-term. Ms. Griffin said she would verify it, but she believed there was about \$1.3 million that has not been completely earmarked yet.

3. Deliberate and act on reconsideration of August 10, 2021, City Council record vote taken on proposed 2021 *ad valorem* property tax for Fiscal Year 2021-2022 budget and scheduling date for required public hearing on proposed tax rate.

Mayor Rios said he had received several Citizen Participation forms from persons who wanted to address the Council on this Agenda item:

1) Kim Cate, 202 Highlands - Mayor Rios read Ms. Cate's comments: Vote no on agenda item #3. Listen to the people. We need money for drainage.

2) Andrew Kane, 2106 Lakeview Drive, addressed the Council and commented: On August 10, 2021, Brad Brundrett made a motion to set the tax rate for next year's budget at the No New Revenue Rate. After the motion was made and before the vote Mayor Rios clarified what the motion was and what they were voting on – he said if we vote for the No New Tax Rate tonight we will not be able to come back with a higher tax rate – the motion carried 4:1. Therefore, I think you do not have the authority to come back tonight and reconsider the tax rate considering the motion last week included not being able to come back and raise the rate. A clear message was sent to City staff by Council to tighten the belt, remove unnecessary spending and concentrate on priorities. At Monday's budget workshop, Staff didn't come back with any solutions, instead they come back with the hands stretched out for more money, despite the direction from Council to budget to the No New Revenue Rate. That rate still yields \$277,000 more in revenue from property taxes plus the increases in sales taxes. Financial advisory Henderson stated on August 31, 2020, passing Tax Notes for the non-citizen approved tax notes to build a new city hall wouldn't impact next year's budget or the next 10 years actually. Guess what? It has. The City Manager presented higher than anticipated revenues for this year. The Appraisal District has reported higher appraised values with more rooftops and businesses than last year adding to the tax base. The Mayor reported to Channel 2 that 1300 homes are "under construction right now" but that is untruthful because we have 148 active residential permits today, not 1300. According to the newly released census from 2010 to 2020 Aransas County grew less than 400 people, that is an average of 0.15% a year; the growth isn't here we keep hearing about. These mistruths are just an excuse to justify a bloated city government budget. The Mayor and City Manager are asking the citizens to shoulder the majority of the City budget while giving developers a free ride.

3) Kathy Kane, 109 Broadwalk Avenue, commented: As an attendee of the August 10, 2021, meeting, I am shocked you are here tonight to reconsider a very clear direction set by four Council members. These four clearly understood the motion and subsequent vote to set the tax rate at the No New Revenue rate. The Mayor understood the motion and voted against it. The City Manager understood the motion and urged the Council to not adopt the No New Revenue rate. The City staff understood the motion and understood they were to bring a budget back for consideration based on this new revenue prediction. Shame on you Mayor Rios for trying to rewrite a well informed and deliberate motion to support the citizens by asking this Council to consider a higher tax rate. Shame on you Mr. Carruth for not doing your job as directed by your Council to bring back a new budget and instead throwing a fit to get your way. I am asking Council Members Jackson, Villa, Brundrett and Hattman to stand your ground and not allow Rios and Carruth to change your hard work.

4) Kristie Rutledge, 1411 Dana Drive, commented: I like Ms. Kane, is shocked that we are even discussing this today. I personally called and talked to Kevin Carruth's assistant on the morning of August 10th and I asked for clarification about the motions or the Agenda items on that meeting Agenda; she told me distinctly that whatever rate was chosen by Council on that night would be sent for public notice but it could never go higher in a subsequent meeting than the rate selected on August 10th. I understand this is against the City Charter to even reconsider the tax rate tonight and is against the intention of tax reform that was set by Texas Legislature. You have been sent a directive and given constraints by the Texas Legislature and this Council sent a clear message. Stick with the No New Revenue rate, Council Members hold your ground. You have been elected to represent the people of Rockport and sometimes you may have to go against the City Manager who is not elected. Let this be the day that you say to the City Manager, that you represent the people of Rockport and their voices matter, you honored them through your vote on August 10th and you will not be bullied by coming back and being drug into special meeting after special meeting to hear about how they can't cut \$220,000.

5) Candace Sargent, 214 Portia Avenue – Mayor read her comments: I don't understand the desire to raise the tax rate when Council voted 4 to 1 not to raise the rate. I have copied from Kristie Rutledge some common sense, well thought out budget advice. These ideas can be added to the drainage problem while not needing to raise the tax rate: Eliminate \$50,00 shade canopies, eliminate \$25,000 for parade float, eliminate \$25,000 for Market Street study, reduce the COLA to 2.5%, sell the sport complex and other vacant land – it's a money pit, cut seminars/training/travel for staff where online classes are available, eliminate the developer greeter – seriously what a waste. Why is there an additional 4 million for the City Hall and another \$2.3 million drainage for the downtown anchor? These are not all of Ms. Rutledge's ideas on the budget but all of them make a hell of a lot better sense than your budget plan. At some point a decision needs to be made to support the citizens you were voted in office to support and not outside developers and other outside entities, and no more tax abatements for developers when you ask for more taxes from your constituents.

Ms. Griffin said on Monday there was a lot of conversation about how the M&O tax rate is calculated and the difference between the way the No New Revenue Tax Rate was calculated last year and the way we have to calculate it this year. Ms. Griffin stated if you use the No New Revenue Tax Rate the M&O is no longer calculated independently; what happens is if the rate for your debt changes year over year, if it goes up, and using the No New Revenue Rate, it squeezes down the M&O and that is what it was doing for the City of Rockport. Ms. Griffin said when Council met on Monday afternoon other alternatives were discussed and Council Member Jackson asked if there was somewhere we could meet in the middle and I had explained the revised proposed tax rate is the true M&O rate, not the M&O rate with an inflationary factor, if you were to calculate them independently as we have done in previous years. Ms. Griffin explained if you were to look at the Voter Approval Tax Rate that actually takes the true No New Revenue M&O rate and puts the 3.5% inflationary factor on it, and the debt rate stays the same with every one of those rates – only your M&O fluctuates; so what we talked about doing is finding the happy middle so we did not lose ground on our M&O rate for the future. Ms. Griffin stated she understands it is the perception of a tax increase, but if you look at the information provided to you, you will not

see a significant increase in tax on the average residential household property and the tax rate actually decreases. We have asked to move forward with the meet in the middle rate; our current tax rate is a little over \$.42 and the proposed rate is \$.41.

Council Member Hattman said she wanted clarification about how we are not able to raise the tax rate after we set it at the August 10th meeting.

Ms. Griffin explained what that meant was when you have the public hearing and you set your tax rate in that public hearing, you cannot change it. Ms. Griffin said what staff is asking Council to do tonight is essentially to reset the clock and reset the public hearing date; we have had clarification from legal counsel, comptroller and tax office and we are not doing anything that is illegal or can't be done. Ms. Griffin stated Council would propose a tax rate tonight and that would cap you at what is presented at the public hearing; you can lower it, but it would be capped at the amount proposed tonight. Ms. Griffin said as long as there is sufficient time to hold public hearings and meet the publishing requirements by The Truth in Taxation, you can restart. Ms. Griffin said staff was asking you to reconsider the motion that was made last Tuesday and also a new motion to restart the public hearing and notification process.

Council Member Hattman said she had another question for clarification. Council Member Hattman says that Roberts Rules of Order, that our City ordinance says we follow, states that reconsideration has to be done within 24 hours and it has to be presented by someone on the presiding vote side; I want to make sure we are doing this correctly because there are questions, I am being asked.

City Manager Kevin Carruth said when the meeting recording was reviewed, it was Mayor Pro-Tem Villa that gave direction to bring it back for reconsideration.

Council Member Jackson said there was no vote on that and that according to Roberts Rules of Order a motion for reconsideration has to be on the same day the original vote was taken or the next succeeding day within the same session a business meeting is held, and a motion to reconsider does have to be seconded.

Mayor Rios said he believed Roberts Rules of Order are a guideline and are not binding.

Council Member Jackson read Section 2-27 of the City's Code: "The city council hereby adopts Robert's Rules of Order to regulate city council proceedings not covered by the rules of order and procedure adopted herein. The city council adopts Texas Rules of Evidence and Texas Rules of Civil Procedure...."

City Attorney Megan Santee stated Robert's Rules of Order is not law, it is a guide for parliamentary procedure for a meeting and so if there is a change for this budget or tax rate the City needs to look toward the Texas Tax Code and the Texas Local Government Code to decide what it is you are going to do next. Ms. Santee said no matter what you do, it can be trumped by State law, because Robert's Rules is not law; so if the City elects to restart the process for adopting a budget and scheduling public hearings it may do so under State law; you cannot use Robert's Rules of Order as something to supersede State law.

Council Member Jackson asked if it would be best not to use the “motion to reconsider” and just vote.

Ms. Santee said Council can direct staff to re-set the date for the public hearing. Ms. Santee said any action can be undone by action from subsequent meetings.

Mayor Rios said Ms. Griffin had provided the language for a motion on the document given to Council tonight.

Ms. Griffin said the motion contains language according to Texas Truth in Taxation which combines the Local Government Code and the Texas Tax Code.

MOTION: Mayor Pro-Tem Villa moved to propose a tax rate at \$0.410432 and schedule the public hearing for September 7, 2021, at 6:30 p.m. Mayor Rios seconded the motion. Motion failed: 2:3

FOR MOTION: Mayor Pro-Tem Villa & Mayor Rios.

AGAINST MOTION: Council Member Jackson, Council Member Brundrett and Council Member Hattman.

3. Adjournment.

At 5:55 p.m., Mayor Pro-Tem Villa moved to adjourn. Motion was seconded by Council Member Hattman. Motion carried unanimously.

APPROVED:




Patrick R. Rios, Mayor

ATTEST:


Teresa Valdez, City Secretary