

STATE OF TEXAS §  
COUNTIES OF ARANSAS §  
SAN PATRICIO AND NUECES §  
CITY OF ARANSAS PASS §

On this the 19<sup>th</sup> day of June, 2006 the City Council of the City of Aransas Pass convened in a Regular Council Meeting being open to the Public at the regular meeting place thereof in the City Hall and notice of said meeting giving the time, place, date and subject hereof having been posted and prescribed by Chapter 551 of the Texas Government Code with the following attendance to wit constituting a quorum.

PRESENT: Jesus Galvan, Mayor  
Dorothy Roberts, Mayor Pro Tempore  
Frank Hametner, Council Member  
Grace Chapa, Council Member  
Jay Attaway, Council Member

ABSENT: None

ADMINISTRATIVE PERSONNEL PRESENT: Scott Thompson, City Manager  
Allen Lawrence, City Attorney  
Ada Owens, City Secretary

ADMINISTRATIVE PERSONNEL ABSENT: None

STAFF PRESENT: Gretchen Black, Assistant City Manager  
Darren Gurley, Director of Public Works  
Darrell Jones, Police Chief

OTHERS PRESENT: Patty Akers, Attorney with Bickerstaff, Heath, Pollan & Carrom LLP, M. Eulitz, Nancy Allen, Mary Jane Meza, Jimmie S. Naranjo, Mary Schawe, Pat Jansen, Marilyn Rimer, Irene Irely, Ty Polasek, Lupe Torres, Lu and Ralph Arcemont, Emma Naranjo, Jesus Munoz, Joe Naranjo, Karl Lovette, Scott Galvan, Elizabeth Galvan, Aleisha Galvan, Deore Heges, Edward Canales, Tim Galvan, Torivio A. Galvan, Paul Weekley, Arnulfo Gonzales, Jr., Sami L. Shirley, Jay Masterson, Ernie Torres, Ken Northe, Jerry Wellman, Marsha Wellman, Jeanie Brummett, Don Brummett, Peggy Spencer, Ann Melton, DeeDee Weber, Robert Weber, Charlie Johnson, Alpha and Jim Covington, J. Peer, Gary Boehnke, Patty Gilden, Belinda Ritz, Hope Comingore, Capt. Fred Comingore, Patty Berger, Eva Young, Ron Everett, Bob Keiser, Tensha Keiser, Veronica Johnson

(There may have been others present who did not sign in).

**ITEM 1. CALL MEETING TO ORDER.**

Mayor Galvan called the meeting to Order at 7:00 p.m. on June 19, 2006.

**ITEM 2. INVOCATION AND PLEDGE OF ALLEGIANCE TO THE UNITED STATES FLAG AND THE TEXAS FLAG.**

Council Member Hametner gave the Invocation.

Council Member Chapa led the Pledge of Allegiance to the United States Flag and the Texas Flag.

### **City Manager's Report.**

Scott Thompson, City Manager stated a Council budget workshop would soon be scheduled to discuss the proposed FY 2006-2007 Budget. He requested the Council provide him with any special projects or programs the Council would like to see expanded or added to the draft budget.

The City Manager stated that discussions with Council over the past several months have already allowed staff to begin work on some items of interest to the Council. These included a special events budget for the Mayor and Council, a capital plan for sidewalks, a plan for maintenance of the entryways into the City, and for the mowing of lots and alleyways. He stated staff was preparing cost estimates for the items and would do so for any other items the Mayor and Council may have.

The City Manager stated the preliminary numbers indicated the City would end FY 2006 with revenues exceeding projections and expenses less than projected allowing for approximately \$200,000.00 to be added to the General Fund Reserves. He stated changes in the Municipal Court and other areas in FY2006 will allow for increased revenue projections of FY2007.

The City Manager stated the City had 16 weed lot violations in May and 83 weed lots have been inspected this year compared to 36 weed lot inspections in 2005. The staff is aggressively pursuing enforcement of City ordinances and the clean up of the City.

### **ITEM 3.**

#### **CITIZEN'S COMMENTS.**

Mr. Jerry Wellman stated he lives at 1869 S. Saunders. Mr. Wellman stated he hoped that the City Manager would not get a "Golden Parachute" because the last City Manager with a Golden Parachute did not work with Mr. Wellman to fix his drainage. When a new City Manager was hired without a Golden Parachute his drainage problem was fixed. He stated incentives in the City Manager's contract were however, acceptable.

Mr. Wellman stated all Council Members stated that when they were elected that they would support the development of the harbor. He stated the public did not know what was in the contract and the public had elected the Council Members to get the very best contract they could and the City needed harbor development. He stated he would like the harbor development to include public areas, lots available for purchase, few, if any expenses for the City related to the infrastructure, no tax abatements, all development to be on the tax rolls, and if developer does not perform, the City would take the development over and finds another developer

Ms. DeeDee Weber stated she is with the Aransas Pass Chamber of Commerce and thanked the City for the help with the 58<sup>th</sup> Annual Shrimporee. She stated that a special thanks goes to Police Chief Darrell Jones and his department for making Shrimporee an incident free event.

Mr. Charlie Johnson stated he previously lived in Aransas Pass and served on the Council for six years. Mr. Johnson then read a letter in

support of development of the harbor, but by leasing the property not selling it. He proposed leasing the harbor and buying out the shrimpers businesses.

Mrs. Nick Mirkovich stated she and Mr. Mirkovich feel the harbor needs to be developed but do not like the way it is going to be developed because they want something to be retained for the shrimpers. She stated the shrimping industry goes up and down and is coming back. There is no place else on the coast for the shrimpers to go. It was a mistake if some of the land in the harbor is not retained for the shrimpers.

Mayor Galvan stated there are slips dedicated to the shrimpers in the developer's plan which is available to the public.

**ITEM 4.**

**CONSENT AGENDA – “All of the Following items on the Consent Agenda are considered to be routine by the City Council and will be enacted with one motion. There will be no separate discussion of these items unless a Council Member so requests. If discussion is desired that item will be removed from the Consent Agenda and will be considered separately”.**

- A. Approval of Minutes of a Special Called Meeting of June 2, 2006 and Regular Meeting June 5, 2006.**
- B. Consider a Resolution Authorizing Tax Resale of Lot 9, Block 277, Aransas Pass Townsite.**
- C. Consider a Resolution Authorizing Tax Resale of Lots 1-2, Block 764, Aransas Pass Townsite.**
- D. Consider a Resolution Authorizing Tax Resale of Lot 16, Block 763, Aransas Pass Townsite.**
- E. Consider and Act on a Mutual Aid Agreement with Texas Water/Wastewater (TxWARN), a utility to utility mutual aid response system.**

Mayor Pro Tempore Roberts made the motion to approve the Consent Agenda. Council Member Hametner seconded the motion and the motion carried unanimously.

**ITEM 5.**

**CONSIDER AND ACT ON APPOINTMENT OF MAYOR PRO TEMPORE.**

Council Member Knight stated Council Member Hametner had the most votes in the last election and custom has been to appoint that Council Member as Mayor Pro Tempore.

Council Member Knight made the motion to appoint Council Member Hametner as Mayor Pro Tempore. Council Member Hametner seconded the motion and the motion was defeated by a vote of 3 to 2 with Mayor Galvan, Mayor Pro Tempore Roberts and Council Member Chapa voting no and Council Members Knight and Hametner voting yes.

Council Member Hametner then made the motion to appoint Council Member Knight Mayor Pro Tempore. There was no second to the motion and the motion died for lack of a second.

Council Member Chapa then made the motion to reappoint Mayor Pro Tempore Roberts as the Mayor Pro Tempore. Council Member Roberts seconded the motion and the motion carried 3-2 with Mayor Galvan,

Mayor Pro Tempore Roberts and Council Member Chapa voting yes and Council Members Knight and Hametner voting no.

**ITEM 6.**

**CONSIDER AND ACT ON MOVING JULY 3, 2006 COUNCIL MEETING TO JULY 10, 2006.**

After discussion, Council Member Knight made the motion to move the July 3, 2006 Council Meeting to July 17, 2006. Council Member Hametner seconded the motion and the motion carried unanimously.

**ITEM 7.**

**CONSIDER AND ACT ON APPOINTMENT OF ARANSAS PASS MUNICIPAL DEVELOPMENT DISTRICT MEMBERS.**

After discussion, Mayor Pro Tempore Roberts made the motion to appoint Mr. Raymond W. Stone, Mr. Harlan E. Roberts and Mr. Ed LaPointe to the Aransas Pass Municipal Development District with their terms to expire July 31, 2008. Council Member Knight seconded the motion and the motion carried unanimously.

**ITEM 8.**

**PRESENTATION ON HURRICANE PREPAREDNESS BY SAN PATRICIO EMERGENCY COORDINATOR WILLIAM ZAGORSKI.**

Mr. William Zagorski made a PowerPoint presentation that included the history of hurricanes and probabilities of hurricanes moving into the Gulf of Mexico and the immediate area. Mr. Zagorski stressed the importance of hurricane preparedness; knowledge of the routes to take during an evacuation; and evacuation of the elderly, disabled, and disadvantaged (i.e. anyone who would need transportation to evacuate). He also explained the procedure for housing and feeding evacuees in Waco which would be the host city for Aransas Pass evacuees. Mr. Zagorski outlined the plan for step by step actions related to the timing and intensity of a hurricane moving into the area.

The Mayor and Council thanked Mr. Zagorski for his comprehensive presentation.

**ITEM 9.**

**RECESS REGULAR MEETING AND RETIRE TO EXECUTIVE SESSION PURSUANT TO CHAPTER 551 OF TEXAS GOVERNMENT CODE, SECTION 551.071, LEGAL MATTERS, CONSULTATIONS WITH ATTORNEY; SECTION 551.072, DELIBERATIONS ABOUT REAL PROPERTY; AND SECTION 551.087 DELIBERATIONS REGARDING ECONOMIC DEVELOPMENT RELATED TO DEVELOPMENT OF CONN BROWN HARBOR AND OTHER CITY AND STATE OWNED PROPERTY AND PROPOSED CONTRACTS WITH THE ARANSAS PASS DEVELOPMENT GROUP AND THE GENERAL LAND OFFICE FOR PURCHASE AND/OR LEASE OF STATE AND CITY OWNED LAND; AND SECTION 551.074, PERSONNEL MATTERS, CITY MANAGER, EVALUATION AND PROPOSED EMPLOYMENT AGREEMENT.**

Council recessed into Executive Session at 7:47 p.m.

**ITEM 10.**

**RECONVENE INTO OPEN SESSION.**

Council reconvened into open session at 9:15 p.m.

**ITEM 11.**

**CONSIDER AND ACT ON DISCUSSIONS FROM EXECUTIVE SESSION RELATED TO ONE OR MORE PROPOSED CONTRACTS WITH ARANSAS PASS DEVELOPMENT GROUP AND THE GENERAL LAND OFFICE REGARDING PURCHASE AND/OR LEASE OF REAL PROPERTY, INCLUDING CITY OWNED REAL PROPERTY, AND DEVELOPMENT OF THE CONN BROWN HARBOR PROJECT.**

Ms. Patty Akers, Attorney with Bickerstaff, Heath, Pollan & Carrom LLP stated she was a partner with the Austin law firm which specializes in representation of local governments and does not represent developers. She stated the law firm was hired by the City to draft comprehensive contract for the sale and lease of the City owned portions of the Conn Brown Harbor. She stated that the contract which was drafted reduced the risks of the City and maximized the potential benefits to the extent that could be done in a legal document.

Ms. Akers explained the essence of contract to the citizens present and indicated several colored maps of Conn Brown Harbor stating that the maps were various sites of land that make up the project. She made a point of stating that more than half the land in question was not owned by the City, but rather by the Texas General Land Office (GLO). She stated that after a review period there will be simultaneous closings and the GLO will convey their part of the property and the City will convey it's part of the property to the developer. Ms. Akers stated there would be a draft of the contract between the City and the developer available after the Council meeting. She stated that the City has agreed to sell the Harbor property to the developer for \$11M and \$6M will be paid to the GLO for the property they now own. The City will receive \$5M of which \$1M will be put aside to pay for the environmental remediation of any contamination found and the City's liability will be limited to only \$1M. The City will not pay for any contamination on the GLO part of the property.

Ms. Akers stated there will be a study of the contamination in the Harbor and selling the Harbor will relieve the City of the contamination liability. If the contamination clean up is more than the developer can afford the agreement would be canceled.

Ms. Akers stated there is a concept plan for improvement on the actual peninsula and the area that borders on the Harbor. The City will zone the property before it closes, giving the City the guarantee that the project the developer says they will do is the project that will be done. Safeguards in place for the City include \$20M proposed for public improvements which will be completed including water, sewer, bulkheads and streets at no cost to the City. The City will have a lien on the property for five years to guarantee the infrastructure and environmental clean up is completed. The developer will put up a bond in the amount of \$20M for the cost of infrastructure. In addition, the developer will have a 15 year period to complete their proposal. She stated that there are portions of the project, the airport tract, LWR tract, and the seawall area, which there are no plans for yet, however, they will have to be zoned along with the other portions. She noted that the LWR property is owned by the GLO and rather than buying the property simultaneously, with the other harbor property the City may take an option to purchase it. She stated that the GLO wants \$2M for the LWR property and that the City is protected from any possible contamination at the LWR property, until the property is sold to the developer.

Ms. Akers also stated that some of the project may be developed out of order noting that the developer has asked for an option to acquire just the west strip of the harbor (the proposed Marina side) for \$1M and the developer would actually get a 99 year lease on the property. If the developer acquires this property ahead of the final closing, then they will get \$1M off the purchase price. She stated that there is about \$2M in repairs needed to the bulkhead before the lease can go forward and it would be at no cost to the City. She stated the contract that the Council would vote on tonight is the first contract in a series of contracts and that the projected closing date would be December 15, 2006. She further stated that there are another four or five contracts to be negotiated before the final contract would be signed and the entire deal completed.

The City Manager stated the City does not have the money to take care of the environmental issues and infrastructure on the harbor and that the City would not be taking any chances and would not have any significant amount of money invested in the project. He stated that the City would be maximizing revenue potential whether the harbor was leased or sold however, they would make more by selling than by leasing

Ms. Akers stated the City Park property would probably be leased, not sold, and would be replaced and expanded by the developer. She stated there are leases in effect along the harbor and the City is selling or leasing the harbor property subject to those contracts in place. If the developer cannot negotiate the expiration of those leases then the developer must develop around the leases until their expiration. She stated that the City is not requiring or forcing any lease holder to leave.

After a question from the audience the Public Works Director stated that the current Wastewater Plant was running at 50% capacity and could handle the increased development for many years and that when the time came to upgrade it would easily be accomplished.

Mayor Pro Tempore Roberts stated there had been questions about why the Council had chosen APDG as the developer. She stated that the Council had listened to several developers and that they all wanted money from the City up front for infrastructure and contamination studies; were not willing to have the shrimping industry in the harbor; and wanted to build private/gated subdivisions that would not be accessible to the public. She further stated that the development that APDG is proposing is an ecological friendly development and that they are providing all the infrastructure and all environmental studies and clean up. She noted that there were also the only ones who were willing to adjust their plans to what the City wanted in a project. She stated that she believed that the development presented would be beneficial to all the citizens of Aransas Pass.

Mayor Galvan stated the Seaman's Memorial will stay where it is and that is in the contract. He stated that the Council has been in negotiations and has not tried to hide anything from anyone. He noted that the plans have changed several times and members of the Council have had several meetings with the GLO. The GLO asked that the negotiations be kept confidential until negotiations were finished. The GLO first set the price for their part of the Harbor property at \$15.8M but reduced the price to \$8.8M and when told the City could not afford that,

the GLO adjusted the price to \$6M. Ownership of the Harbor property has been a big issue for a long time and has, hopefully, been solved once the final contract is signed. He further stated that if the property was leased to a developer the City would be responsible for the environmental clean up and infrastructure and the environmental clean up is a burden the City cannot afford. He stated that the only way the City could even attempt to clean up the harbor would be through raising taxes.

Council Member Knight stated he opposed the agreement because he did not know who the Council was doing business with; he has not seen any financial statements from APDG; and he does not like the way APDG does business. He stated APDG offered to fund his campaign for City Council against Council Member Hametner (Place 4). Council Member Knight stated that was the reason he ran against Ms. Pam Benson for Place 2. He stated APDG was suing a sitting Councilman for making a couple of statements to the effect that he was against this project.

Council Member Knight made the motion to table Item 11. The motion was seconded by Council Member Hametner and the motion was defeated 3-2 with Mayor Galvan, Mayor Pro Tempore Roberts and Council Member Chapa voting no and Council Members Hametner and Knight voting yes.

Mayor Pro Tempore Roberts made the motion to approve the Resolution authorizing Mayor Jesus Galvan to execute and enter into a sale and lease agreement for the sale and lease of certain real property owned by the City or to be acquired by the City, with the Aransas Pass Development Group, L.L.C. for the Conn Brown Harbor project and finalize negotiations with the General Land Office for the acquisition of certain State owned property and conveyance of certain City owned property and directing staff to take certain action. The motion was seconded by Council Member Chapa and the motion carried with a vote of 3-2 with Mayor Galvan, Mayor Pro Tempore Roberts, and Council Member Chapa voting yes and Council Members Hametner and Knight voting no.

**ITEM 12.**

**CONSIDER AND ACT ON EVALUATION AND PROPOSED EMPLOYMENT AGREEMENT FOR CITY MANAGER.**

Mayor Galvan stated there was no action on this item.

**ITEM 13.**

**ADJOURNMENT OF MEETING.**

Mayor Galvan adjourned the meeting at 9:59 p.m.

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Jesus Galvan, Mayor

ATTEST:

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Ada Owens, City Secretary