

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

On this the 4th day of August, 2008 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: Tommy Knight, Mayor
Jay Attaway, Mayor Pro Tempore
Frank Hametner, Council Member
Karen Mayer, Council Member

ABSENT: Vickie Abrego, Council Member

ADMINISTRATIVE PERSONNEL PRESENT: Mike Sullinger, Interim City Manager
Allen Lawrence, City Attorney
Ada Owens, City Secretary

ADMINISTRATIVE PERSONNEL ABSENT:

STAFF PRESENT: Bill Haines, Asst Police Chief/Harbormaster
Don Brummett Acting Public Works Director

OTHERS PRESENT: Ralph & Lu Arcemont, Dennis Limon, Raymond Dugat, Orlando & Shannon Garza, Mary Rimer, Jim & Alpha Covington, Jeanie Brummett, Patty Gilden, Rosemary Upton, Earl Buckmaster, Irwin Walters, Pat Walters, R. Powell, Rosemary Vega/Chamber of Commerce, Margaret Garrett, Phil & Nell Reynolds, Karen Sykes, Hal Lutz, Weber, Eva Young

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

ITEM 1. CALL MEETING TO ORDER.

Mayor Knight called the meeting to order at 7:00 p.m. on August 4, 2008.

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

Interim City Manager Mike Sullinger gave the invocation. Mayor Knight led the Pledge of Allegiance to the United States flag.

ITEM 3. 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 Councilmember 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 July 21, 2008
- B. Consider and Act on Ordinance No. 2008-3943, an ordinance of the City of Aransas Pass, Texas for a Conditional Use Permit to Chris’s Marine for outdoor display and boat sales at 1213 W. Wheeler, City of Aransas Pass, Texas, subject to conditions set forth.
- C. Consider and Act on Ordinance No. 2008-3944, an ordinance of the City of Aransas Pass, Texas, granting an extension of a Conditional Use Permit to display lawn and garden equipment at 1746 W. Wheeler, City of Aransas Pass, Texas, subject to conditions set forth.

Councilmember Mayer made the motion to approve the Consent Agenda. Councilmember Hametner seconded the motion and the motion carried unanimously.

ITEM 4. PUBLIC HEARING ON REQUEST OF ORLANDO AND SHANNON GARZA TO REZONE FARM LOT 7, LANDBLOCK 209 TO MOBILE HOME DISTRICT (MH). THE PROPERTY IS ZONED RESIDENTIAL (R7A).

City Attorney Allen Lawrence declared the Public Hearing open at 7:03 p.m. on the request of Orlando and Shannon Garza to rezone Farm Lot 7, Landblock 209 to Mobile Home District (MH). The property is zoned Residential (R7A). The City Attorney stated

the Planning and Zoning Commission had met on July 28, 2008 and recommended approval of the request. He asked Mr. and Mrs. Garza to come forward to speak for their request.

Orlando Garza stated the property was a five-acre tract located off of N. Avenue A at Bypass Highway 35. He stated they wanted to move their mobile home onto the property and had long range goals of making the property a mobile home park.

The City Attorney asked if there was anyone present to speak against the request. Seeing no one, the City Attorney closed the Public Hearing at 7:06 p.m.

ITEM 5. CONSIDER AND ACT ON REQUEST OF ORLANDO AND SHANNON GARZA TO REZONE FARM LOT 7, LANDBLOCK 209 TO MOBILE HOME DISTRICT (MH). THE PROPERTY IS ZONED RESIDENTIAL (R7A).

Council Member Hametner made the motion to approve the request of Orlando and Shannon Garza to rezone Farm Lot 7, Landblock 209 to Mobile Home District. Council Member Mayer seconded the motion and the motion carried unanimously.

ITEM 6. PUBLIC HEARING ON THE REQUEST OF FRED FURMAN FOR AN APPLICATION OF FRANCHISE TO OPERATE A TAXICAB SERVICE IN THE CITY OF ARANSAS PASS.

The City Attorney declared the Public Hearing open at 7:07 p.m. on the request of Fred Furman for an application of franchise to operate a taxicab service in the City of Aransas Pass. He asked Mr. Furman to come forward to speak for his request.

Mr. Furman stated he was applying for a franchise and two (taxicab) permits to operate in Aransas Pass.

The City Attorney asked Mr. Furman where his business was located.

Mr. Furman stated he would get an office downtown on N. Commercial St. He stated his company, Coastal Bend Cab Company, also had permits to operate in Rockport, Ingleside and Port Aransas

The City Attorney stated Mr. Furman had furnished all the necessary paperwork for his franchise application. The City Attorney asked if there was anyone present to speak against the request. Seeing no one, the City Attorney closed the Public Hearing at 7:09 p.m.

ITEM 7. CONSIDER AND ACT ON REQUEST OF FRED FURMAN FOR AN APPLICATION OF FRANCHISE TO OPERATE A TAXICAB SERVICE IN THE CITY OF ARANSAS PASS.

Mayor Pro Tempore Attaway made the motion to approve on the request of Fred Furman for an application of franchise to operate a taxicab service in the City of Aransas Pass. Council Member Hametner seconded the motion and motion carried unanimously.

ITEM 8. CONSIDER AND ACT ON APPROVING A LETTER OF PROTEST TO TEXAS COMMISSION ON ENVIRONMENT QUALITY (TCEQ) OPPOSING THE REQUEST OF MILE 533 MARINE WAYS, INC. FOR AIR QUALITY PERMIT NO. 85037 TO AUTHORIZE THE ABRASIVE BLAST CLEANING AND SURFACE COATING OPERATIONS AT THE SHIPYARD LOCATION AT 748 E. GOODNIGHT AVE., ARANSAS PASS, TEXAS.

The City Manager stated that over the last two years there had been complaints from two subdivisions, Bay Harbor and Pelican Cove, regarding the dust and sandblasting medium from the Mile 533 Marine Ways shipyard. He stated the City has grown with the industrial type operation next to other businesses and the subdivisions. He stated the two were not compatible because there was no way to keep the sandblasting medium under control. He stated the notice from the Texas Commission on Environmental Quality (TCEQ) was in the newspaper and anyone could protest the request for the TCEQ permit.

Hal Lutz, a Director from the Bay Harbor Channel Owners Association, stated the residents of Bay Harbor had difficulties with the airborne fallout from the sandblasting operation for many years. He stated the Association was on record with letters to the City and TCEQ in January 2003 that stated their problem and their concern that the fallout may also be a health hazard. He stated the shipyard was sandblasting bottoms of boats that might have heavy metals and other carcinogenic chemicals involved. He stated the fallout from the sandblasting could be seen. He stated he strongly suggests that the City consider the Harbor development project as the prevailing winds would put

the fallout on top of all the new boat stalls that are planned (for the marina to be built). He stated the Association was advised Mile 533 Marine Ways did not have a Storm Water Runoff Permit.

Council Member Hametner asked Mr. Lutz if the sandblasting operation was contained, would he have a problem and did Mr. Lutz know if it was possible to contain sandblasting operations?

Mr. Lutz stated he did not think they would have a problem if the operation were contained, but would be concerned if the fallout was washed into Redfish Bay. He stated they were looking for an environmentally safe operation.

Mayor Knight asked Mr. Lutz how long had he lived here?

Mr. Lutz stated approximately three years and other residents much longer.

Mayor Knight asked Mr. Lutz was he aware the sandblasting business was there before he bought his property?

Mr. Lutz stated not really.

Irwin Walters, President of the Pelican Homeowner's Association stated he represented 237 homeowners and wanted to echo what Mr. Lutz was saying. He stated the Association had many complaints from his neighborhood regarding the fallout from the sandblasting operation. Mr. Walters made the same complaints regarding the operation and stated there was also noise pollution during the sandblasting that could be heard all over the neighborhood.

Mayor Knight asked Mr. Walters how long had he lived here?

Mr. Walters stated he had lived here for three years and many of the residents have lived in Pelican Cove many, many years.

Mayor Knight asked Mr. Walters was he aware the sandblasting business was there before he bought his property?

Mr. Walters stated not really.

Tim Chapman stated he owned Mile 533 Marine Ways Shipyard with his two sons. He stated it was a family business. He stated the shipyard was rented from Herndon Marine Products four years ago. He stated they owned the travel lift and all working equipment; but the buildings and everything else was owned by Herndon. He stated the shipyard had been there since the 1940's. He stated there were approximately 15 employees working in the shipyard with an annual payroll of \$500,000.00. Mr. Chapman gave a history of the employees working for the shipyard and the area businesses the shipyard supports.

Mr. Chapman stated the business had complied with all the laws and regulations that he was aware of. He stated the shipyard had General Land Office (GLO) Oil Spill and Response Certificate No. 30207, a Texas Commission on Environmental Quality (TCEQ) Storm Water Pollution Prevention Permit, an Air Quality Permit No. 82232 for sandblasting, and has applied for a TCEQ Air Quality Permit No. 85037 (that was being protested). He stated the shipyard was not using conventional sandblasting sand, but a material called "Green Diamond" which has low free silicate content. He stated the shipyard had been using dust screens the past eight months when they became aware the dust screens were needed. He stated the natural vegetation around the shipyard helps (contain dust). He stated the predominate wind, 80% of the time, is from the east. He stated there was a lot of sand that comes from Mustang Island; the whole peninsula was formed from the blow sand from the beach.

Mr. Chapman stated he would be happy to answer questions from any of the people but had never been approached and has only had a couple of complaints. He stated his son, Chad lived in Pelican Cove for five years and never had a problem with dust. He stated the harbor development would need travel lifts (a shipyard) for the boats. He stated he would be happy to work with the residents (of Pelican Cove and Bay Harbor), but with the screening and natural vegetation there was not much sand that gets out of the shipyard. He stated the shipyard had all the permits, that he was aware of, that were required. He stated even without this (protested) permit the shipyard would still have a permit to sandblast.

Mr. Chapman explained the limitations of sandblasting with the permits they presently held. Discussion was held on the permits the company holds and the actions and restrictions that were required by those permits.

The City Manger asked Mr. Chapman had he ever had this particular (TCEQ) permit?

Mr. Chapman stated no, the shipyard was working on a "permit by rule" permit right now.

The City Manager asked Mr. Chapman which is a "grandfather" type permit?

Mr. Chapman stated yes.

The present screening for containing sandblasting dust used by the shipyard was discussed.

Council Member Hametner discussed the issues on both sides and stated he would like to see the City send a protest letter to TCEQ that would indicate the City understands and supports the Bay Harbor Channel Owner's Association and Pelican Cove homeowner's concerns and that the City requests the proposed TCEQ permit not be approve until full compliance with all current air quality, water quality and hazardous materials containment and disposal regulations are met.

Discussion was held on the changes in the environmental issues and regulations in past years and effects on the community.

Council Member Hametner made the motion to approve a letter of protest to TCEQ protesting the request of Mile 533 Marine Ways, Inc. for Air Quality Permit No. 85037 to authorize the abrasive blast cleaning and surface coating operations at the shipyard location (Mile 533 Marine Ways) at 748 E. Goodnight Ave., Aransas Pass, Texas until full compliance with all current air quality, water quality and hazardous materials containment and disposal regulations are met. Mayor Pro Tempore Attaway seconded the motion and the motion carried unanimously.

ITEM 9. DISCUSSION REGARDING ONE-HALF CENT SALES TAX INCREASE FOR SAN PATRICIO AND NUECES COUNTIES AND ONE PERCENT TELECOMMUNICATION TAX INCREASE.

The City Manager stated the staff would like to research a one-half percent increase in sales tax for San Patricio County and Nueces County in the City. He stated Aransas County areas of the City are paying the maximum sales tax at this time. He stated the one-half cent sales tax would add \$600,000.00 to the City's budget for next year. The tax receipts would go toward crime control and the money presently in the Police Department budget would go for other things. He stated most cities have already raised their sales tax to the maximum amount. He stated the issue would go before the voters in the May 2009 election.

The City Attorney stated the procedure was not complicated, but there were time limitations. He stated a temporary board would have to be appointed, the board members would have to propose a plan and budget, plus there were other procedures and once the process was completed the item had to be placed on the ballot for the next election date.

Mayor Knight asked was the board similar to the APMDD board?

The City Attorney stated in most cities that have adopted the sales tax increase the City Council had served as the board. He stated it was a seven member board and served staggered terms.

The City Manager stated the telecommunication tax was another option that would net the City approximately \$120,000.000 annually. He stated this was a one percent telecommunication tax that would collect tax on cell phone calls made within the State. He stated no election was required to enact the telecommunication tax.

Council Member Hametner stated he was more in favor of this type of tax rather than raising ad valorem taxes.

The City Manager stated the two taxes would be worth 12 cents on the ad valorem tax; it equates to \$50,000.00 per penny of ad valorem tax.

The consensus of the Council was the City Manager and City Attorney would research both taxes and report to the Council.

ITEM 10. CONSIDER AND ACT ON CHANGING THE DATE OF THE SEPTEMBER 1, 2008 (LABOR DAY) CITY COUNCIL MEETING.

Council Member Mayer made the motion to change the date of the September 1, 2008 City Council meeting to September 2, 2008. Council Member Hametner seconded the motion and the motion carried unanimously.

ITEM 19.

REPORTS FROM CITY MANAGER AND STAFF AND PUBLIC COMMENTS: *At this time the Mayor, City Council, Staff and Public comments may be given. Reports or updates on any assignments which include but are not limited to grants, building and development, budgets, financial reports and any other projects may be given. No formal action can be taken on any of these items at this time. Comments will be limited to 3 minutes each.*

The City Manager stated at the last budget meeting, the numbers used came from the San Patricio County Appraisal District. The Appraisal District has changed those numbers which were three percent off. He stated the change in numbers made the proposed tax rate (\$0.58) the effective rate, so no public hearings would be necessary. He stated the effective tax rate of 58 cents was budgeted.

Council Member Hametner commented he was in favor of annexing the area north of the City limits to Highway 188, west to Farm Road 1069 and east to Highway 35.

Eva Young commented a sound system was needed in the Council Chamber.

Margaret Garrett, reading from a prepared statement, stated "on behalf of citizens, taxpayers and members of the South Texas Commercial Fisheries, The Texas Shrimp Association and industry members on Conn Brown Harbor. I, Margaret Garrett do hereby openly request that when you as the elected Mayor and elected City Council Members of the City of Aransas Pass, Texas, come to an agreement in a choice of the preferred developer for the perfect plan for the world class marina development and/or any other development of any part of Conn Brown Harbor, that you, our elected officials provide that a presentation of the said plan chosen be presented by the developer in an open presentation to the citizens, taxpayers and general public. The presentation must be held in a neutral, accommodating environment. Presentation must be factual, accurate and complete."

Mayor Knight asked Ms. Garrett what did she mean by "neutral environment"?

Ms. Garrett stated she would get to that in a minute and she would explain.

Council Member Hametner asked Ms. Garrett what made her assume that the Council would not do that (present proposals in an open meeting) anyway?

Ms. Garrett stated she did not know; she was just following what she was asked to do.

Mayor Knight stated he had control of the agenda and most likely, when it came time for a developer to make a presentation, the developer(s) would make their presentations right here (in the Council Chambers) and after the presentations, the Council would recess into Executive Session to discuss the developer's presentations.

Ms. Garrett stated she thought that was what the people and taxpayers were asking the Council to do, give the public the opportunity to ask questions and a grace period before it was put on the agenda. She stated let the developers get up in the Council Chambers and make their presentations.

Mayor Knight stated the Council did not have any proposals.

Ms. Garrett stated the newspapers say contrary to that.

Mayor Knight stated he did not care what the newspaper said, he had looked at a very rough proposal for the development in the Harbor and the proposal had been changed quite a bit. He stated he had not seen the (changed) proposal and neither had the City Manager.

The City Manager stated he and the Council always intended to make the presentations in public.

Ms. Garrett stated she was doing what she was asked to do.

Discussion followed regarding who Ms. Garrett was speaking for.

The City Manager stated The City Council and staff was doing the best they could. Nothing was going to go on behind anyone's back. He stated with the economic conditions as they were, it was hard to negotiate a deal and the Council was not willing to give up much of the taxpayer's money and the developers were not stupid enough to put millions of dollars in a project without getting something out of it. He stated he should know something from the developers in two to three weeks and then the presentation would be made before the Council and the public.

ITEM 12. RECESS REGULAR MEETING AND RETIRE TO EXECUTIVE SESSION PURSUANT TO CHAPTER 551 OF TEXAS GOVERNMENT CODE.

Recessed into Executive Session at 8:12 p.m.

A. Section 551.074 Personnel Matters: City Manager applicants.

ITEM 13. RECONVENE IN REGULAR MEETING AND CONSIDER AND ACT ON FINDINGS OF EXECUTIVE SESSION.

Reconvened into Open Session at 8:43 p.m.

A Section 551.074 Personnel Matters: City Manager applicants.

Council Member Hametner made the motion to instruct the Interim City Manager to schedule interviews with the selected City Manager applicants. Mayor Pro Tempore Attaway seconded the motion and the motion carried unanimously.

ITEM 20. ADJOURNMENT OF MEETING.

Mayor Pro Tempore Attaway made the motion to adjourn the meeting. Council Member Mayer seconded the motion and the motion carried unanimously.

Mayor Knight adjourned the meeting at 8:44 p.m.

Tommy Knight, Mayor

ATTEST:

Ada Owens, City Secretary