

LOUIS RIGBY
Mayor
JOHN ZEMANEK
Councilmember At Large A
DOTTIE KAMINSKI
Councilmember At Large B
DANNY EARP
Councilmember District 1
CHUCK ENGELKEN
Councilmember District 2



DARYL LEONARD
Councilmember District 3
KRISTIN MARTIN
Mayor Pro-Tem
Councilmember District 4
JAY MARTIN
Councilmember District 5
NANCY OJEDA
Councilmember District 6

MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF LA PORTE OCTOBER 23, 2017

The City Council of the City of La Porte met in a regular meeting on **Monday, October 23, 2017**, at the City Hall Council Chambers, 604 West Fairmont Parkway, La Porte, Texas, at **6:00 p.m.** to consider the following items of business:

- 1. CALL TO ORDER** – Mayor Rigby called the meeting to order at 6:00 p.m. Members of Council present: Councilmembers Ojeda, J. Martin, K. Martin, Kaminski, Leonard, Engelken, Zemanek, and Earp. Also present were City Secretary Patrice Fogarty, City Manager Corby Alexander, and Assistant City Attorney Clark Askins.
- 2. INVOCATION** – The invocation was given by Pastor Ben Rosenberger, Bayshore Baptist Church.
- 3. PLEDGE OF ALLEGIANCE** – The Pledge of Allegiance was led by Councilmember Danny Earp.
- 4. PUBLIC COMMENTS** (Limited to five minutes per person.)

Chuck Rosa, 812 S. Virginia St., addressed Council concerning property at 621 W. Main St.; he is not in favor of demolishing this building.

Drue Adams, 200 Crescent View St., addressed Council in regards to the fence and gate he wants removed between Lots 3 & 4 in the Crescent View Subdivision. The gate has been left open, but it's not enough. Mr. Adams passed out a petition of people/neighbors indicating they want the gate taken down. He urged the City to enforce the ordinance. He requests City Council's support to have the fence and gate removed, so that citizens will have open access to the Bay.

Becky Chatham, 306 Crescent View St., addressed Council regarding how she loves the area she lives in. However, she's against the gate being there, and stated it is not legal to fence off open space and right-of-way.

Terry Short, 2803 Crescent Dr., (gate owner), addressed Council on how none of his neighbors helped to fix the bulkhead on this property. He has taken care of all maintenance on the land and the bulkhead except one neighbor has helped mow a few times. He does intend to take it to Court to be granted owner by adverse possession. His wife is afraid for her safety; once when she was home alone, three individuals were peering through the window. In 19 years, no neighbors have used that land for recreation.

Mark Mathews, 2807 Crescent Dr., addressed Council on a couple of points. He provided original documents from 1926 which address the artesian well. They do not mention access to Galveston Bay. There are number of issues involved before making a decision.

Amanda Kastl, 219 Crescent View St., addressed Council and stated everyone on their street is in attendance at the council meeting except one member. If there is a concern about safety, Mr. Short needs to fence his own yard and not the open area. She stated, "A fence was built, it's not legal, and it should be removed." She continued, "It's not complicated."

5. CONSENT AGENDA *(All consent agenda items are considered routine by City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Councilmember requests an item be removed and considered separately.)*

- (a) Consider approval or other action regarding the minutes of the meeting held on October 9, 2017– P. Fogarty
- (b) Consider approval or other action regarding a Resolution appointing Chuck Engelken as representative and Jay Martin as alternate to the Houston Galveston Area Council (H-GAC) 2018 General Assembly and Board of Directors – P. Fogarty
- (c) Consider approval or other action authorizing Staff to accept the quote from Athletic Field Specialists for reconstructing all fields at Pecan Park, utilizing Buy Board Contract 476-15 – R. Epting
- (d) Consider approval or other action regarding irrigation system upgrade at Bay Forest Golf Course – A. Osmond
- (e) Consider approval or other action the purchase of computers through PCMG (PCMall Gov) utilizing Buy Board Contract 498-15 – G. Parker
- (f) Consider approval or other action regarding an Ordinance vacating, abandoning and closing a 140-square foot portion of the West S Street right-of-way located adjacent to the Troon Drive private access easement in the Retreat at Bay Forest North Subdivision – I. Clowes
- (g) Consider approval or other action authorizing the purchase of medical treatment devices in the amount of \$73,185.45 – R. Nolen
- (h) Consider approval or other action awarding Bid #17021 for Annual Concrete Street Repair Project (Small Sections) – D. Pennell
- (i) Consider approval or other action rejecting all bids for Bid #17024 for Bulk Fuel Supply – D. Pennell

Councilmember Earp singled out Consent Agenda Items D, G, H, and I for questions. Staff addressed his questions.

Consent Item F was requested by the city manager to be removed from Council consideration.

Regarding Items A thru E and G thru I, Councilmember Chuck Engelken made a motion to approve these Consent Agenda Items pursuant to staff recommendations. Councilmember Danny Earp seconded the motion. **MOTION PASSED UNANIMOUSLY 9/0.**

6. PUBLIC HEARINGS AND ASSOCIATED ORDINANCES

- (a) Public hearing to receive comments regarding recommendation by the Planning and Zoning Commission to approve an Ordinance amending the City's Future Land Use Map Component of the Comprehensive Plan for a 5.051-acre tract of land legally described as Blocks 1143 and 1144, La Porte Subdivision, generally located on S. 16th St., north of the West M Street right-of-way, to change designation from "Commercial" to "Light Industrial;" and consider approval or other action regarding an Ordinance amending the City's Future Land Use Map Component of the Comprehensive Plan for a 5.051-acre tract of land legally described as Blocks 1143 and 1144, La Porte Subdivision, generally located on S. 16th St., north of the West M Street right-of-way, to change designation from "Commercial" to "Light Industrial" – I. Clowes

Item 6(a) was removed from consideration.

- (b) Public hearing to receive comments regarding the recommendation by the Planning and Zoning Commission to approve an Ordinance approving zone change request #17-92000003, to rezone a 5.051-acre tract of land legally described as Blocks 1143 and 1144, La Porte Subdivision, from General Conditional (GC) to Planned Unit Development (PUD); and consider approval or other action regarding an Ordinance amending Chapter 106, "Zoning" of the Code of Ordinance of the City of La Porte, by changing the zoning classification of a 5.051-acre tract of land legally described as Blocks 1143 and 1144, La Porte Subdivision, from General Commercial (GC) to Planned Unit Development (PUD) – I. Clowes

Item 6(b) was removed from consideration.

- (c) Public hearing to receive recommendation by the Planning and Zoning Commission to approve Special Conditional Use Permit Request #17-91000002, an amendment to SCUP #03-011, to allow for extended hours of operations at the truck pre-check facility located at 900 E. Barbours Cut Blvd.; and consider approval or other action regarding an Ordinance amending the Code of Ordinances of the City of La Porte, Chapter 106, more commonly referred to as the Zoning Ordinance of the City of La Porte by granting Special Conditional Use Permit #17-91000002, as amendment to Special Conditional Use Permit #03-011 for property located at 900 E. Barbours Cut Blvd., and legally described as 20.796-acres along E. Barbours Cut Blvd., being Reserve A, Block 1 Porte of Houston Authority La Porte, Harris County, Texas for the purpose of extending the hours of operation for the existing truck pre-check facility in a Planned Unit Development (PUD) Zone – I. Clowes

The public hearing opened at 6:39 p.m.

City Planner Ian Clowes presented a summary regarding a recommendation by the Planning and Zoning Commission to approve Special Conditional Use Permit Request #17-91000002, an amendment to SCUP #03-011, to allow for extended hours of operations at the truck pre-check facility located at 900 E. Barbours Cut Blvd.

There being no public comments, the public hearing closed at 6:46 p.m.

Councilmember J. Martin asked if a sound wall has been erected. City Planner Ian Clowes responded yes, the sound wall has been constructed. Councilmember J. Martin also asked if public input from the surrounding community was received. Per Mr. Clowes, no comment sheets came back; one or two people spoke at the past Planning and Zoning Meeting, and they were unopposed to the SCUP; they had concerns regarding the operations at the port.

Mayor Rigby asked will there be DOT officers available to cover the time frame. Police Chief Adcox responded there will be schedule adjustments to extend the hours of the DOT officers, and with the additional DOT Officer being filled within the next few months, that will help and makes it more manageable.

Councilmember Zemanek requested confirmation whether the extended hours to cover will be straight time hours and not overtime hours. Chief Adcox responded yes.

Councilmember Ojeda asked Ian Clowes whether, in his opinion, extending these hours will alleviate truck traffic or increase the amount of trucks. Ian Clowes responded Jeff Davis from the Port might be better to answer that question. His interpretation of the Port is that it is a 24-hour operation; truck traffic won't necessarily increase; but if the hours are extended, it will space out the trucks throughout the day. Councilmember Ojeda repeated her question to the applicant Jeff Davis from Port of Houston Authority. Jeff Davis answered the facility will still be doing the same volume, but it gives the opportunity to spread the hours along a longer period. They feel by spreading the hours, it will alleviate the traffic and eases the burden of the facilities' ability to operate. He further stated, "We have every intention of filling the facility."

The public hearing closed at 6:46 p.m.

Councilmember John Zemanek made a motion to accept the Planning and Zoning Commission's recommendation to approve an Ordinance amending Chapter 106, "Zoning" of the Code of Ordinances of the City of La Porte, by granting Special Conditional Use Permit #03-011 for property located at 900 E. Barbours Cut Blvd., and legally described as 20.796-acres along E. Barbours Cut Blvd., being Reserve A, Block 1 Port of Houston Authority, Harris County, Texas for the purpose of extending the hours of operation for the existing truck pre-check facility in a Planned Unit Development (PUD) Zone. Councilmember Daryl Leonard seconded. **MOTION PASSED 8/1.**

Ayes: Mayor Rigby, Councilmembers Leonard, Engelken, Earp, Zemanek, Kaminski, J. Martin, and K. Martin
Nays: Councilmember Ojeda

Prior to council action, Assistant City Attorney Clark Askins read the caption of **Ordinance 2017-3685**: AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF LA PORTE, CHAPTER 106, MORE COMMONLY REFERRED TO AS THE ZONING ORDINANCE OF THE CITY OF LA PORTE, BY GRANTING SPECIAL CONDITIONAL USE PERMIT NO. 17-9100002, AN AMENDMENT TO SPECIAL CONDITIONAL USE PERMIT NO 03-011, FOR THAT CERTAIN PARCEL OF LAND LEGALLY DESCRIBED AS 20.769 ACRES ALONG EAST BARCOURS CUT BOULEVARD, BEING RESERVE A, BLOCK 1 PORT OF HOUSTON AUTHORITY, LA PORTE, HARRIS COUNTY, TEXAS; FOR THE PURPOSE OF EXTENDING THE HOURS OF OPERTATION FOR THE EXISTING TRUCK PRE-CHECK FACILITY IN A PLANNED UNIT DEVELOPMENT (PUD) ZONE, MAKING CERTAIN FINDINGS OF FACT RELATED TO THE SUBJECT; FINDING COMPLIANCE WITH THE OPEN MEETINGS LAW; AND PROVIDING AN EFFECTIVE DATE HEREOF.

7. DISCUSSION AND POSSIBLE ACTION

(a) Discussion and possible action regarding Infant Swimming Resource classes in the City of La Porte – R. Epting

Parks and Recreation Director Rosalyn Epting presented a summary.

After Council discussion, Councilmember Zemanek made a motion and Councilmember Leonard seconded to direct staff to move forward with the program. **MOTION PASSED 9/0.**

(b) Discussion and possible action regarding gate and fence erected on property located between Lots 3 and 4, Crescent View Subdivision – Councilmembers Earp/Zemanek/Kaminski

Councilmember Earp spoke first.

Councilmember Earp asked whether Mr. Short secured a permit to build the fence and gate. City Manager Corby Alexander responded no, there is no permit. He stated Mr. Short eventually came in to get a permit, but the City declined to issue a permit at that time due to the issue in controversy. Councilmember Earp followed up asking if a citation has been issued to Mr. Short. Mr. Alexander responded that the City had allowed the fence/gate to remain in place until the legality of it was understood. Councilmember Earp asked if a title search has been done to determine who owns the property. Mr. Alexander and City Attorney Clark Askins responded yes, and that no one owns the property. Councilmember Earp also asked whether the City collects taxes on the property. Mr. Alexander responded the property is not on any entity's tax roll. Councilmember Earp asked if the City doesn't collect taxes on it, doesn't that mean no one owns it?

City Attorney Clark Askins stated somebody owns it, and we have to start with the plat which is from 1926, and he believes the owner(s) are the heirs to the original owners of the Home Builders Investment Company. The original plat from 1926 was filed under Home Builders Investment Company. The strip of land was never a lot; it was just a strip of land shown on the plat. The street was never dedicated to the public. There are no records of any court cases or litigation of somebody claiming ownership.

Councilmember Earp asked are there clear definitive property lines of the lots on either side of the property. Clark Askins answered there is; it is a distinct strip - but it is completely silent referring to the strip.

Councilmember Earp asked does the City believe the strip to be City property. Clark Askins and Corby Alexander said no.

Mr. Alexander mentioned the City removed waterlines and moved water meters to the edge of Crescent View -- to the property lines edge. Clark Askins added what's underneath is a prescriptive easement for the sewer line.

Councilmember Zemanek asked what the City's policy is on allowing someone to fence in a property; for example, can he fence in his next door neighbor's property? Corby Alexander responded no. Councilmember Zemanek stated whether the Shorts try to obtain this strip through adverse possession, and that's within their rights, until such time as the Shorts actually own it, the gate needs to come down.

Mayor Rigby stated that since the City already has an ordinance in place that does not allow a non-permitted gate, it must be taken down by Mr. Short or by the City without any further Council direction. He also asked whether Mr. Alexander had clear direction, to which he stated yes, he has clear direction from Council.

No Council action was taken.

(c) Discussion and possible action to create an In-City Municipal Utility District (MUD) in the City of La Porte – C. Alexander

City Manager Corby Alexander presented a summary.

Councilmember Zemanek asked if this property is in the TIRZ. Corby Alexander responded no, it's not in the TIRZ.

Developer Paul Grohman introduced those with him: Jeff Anderson, with Beazer Homes, Attorney Katie Sherborne, with Allen, Boone, Humphries, Robinson, LLP, Allen Mueller, business partner with Gromax Development, and Craig Coleman, with Senior Engineers.

Beazer Home representative Jeff Anderson presented a report on small development in the City at Bayside Crossing, the development which far exceeded expectations. He wants the opportunity to create a master planned community in La Porte, and the tract they're interested in is large enough to include amenities such as a Rec Center with a pool, trails, parks, etc. In order to develop the master planned community, they need the ability to create a utility district over the property. To create a Municipal Utility District (MUD), they need Council's consent.

Attorney Katie Sherborne, with Allen, Boone, Humphries, Robinson, LLP, gave a tutorial of what is meant by in-city MUDs.

Mayor Rigby would like to see this come in sooner rather than later, but is not making a decision tonight and would like additional information.

Councilmember J. Martin made a motion to move forward with investigating creation of an in-city MUD. Councilmember Kaminski seconded the motion. **MOTION PASSED UNANIMOUSLY 9/0.**

8. ADMINISTRATIVE REPORTS

There were no additional reports.

9. COUNCIL COMMENTS regarding matters appearing on the agenda; recognition of community members, city employees, and upcoming events; inquiry of staff regarding specific factual information.

Councilmember Earp commented Go Astros; Councilmember Ojeda acknowledged residents at Crescent View coming and working together – it will be a great time to discuss maintenance, cost, and repair. Councilmember J. Martin provided no comments; Councilmember K. Martin provided no comments; Councilmember Kaminski provided no comments; Councilmember Zemanek commented that he was called out during public comments by a citizen, and perhaps that citizen should listen to the tape from the last meeting to hear Councilman Zemanek's comments. He said that Mr. Rosa made comments that an engineer stated the building at 621 W. Main was not unsafe and that the engineer who came to the council meeting was just thrown under the bus at the last minute; he stated Mr. Rosa needs to understand that the engineer he thinks was thrown under the bus is the same person who said there was nothing wrong with the building. Councilmember Leonard provided no comments; Councilmember Engelken provided no comments; Mayor Rigby commented on attending the Chamber of Commerce breakfast recognizing an organization of the month in the City of La Porte, and that that organization was our First Responders - Fire, Police, EMS, and Office of Emergency Management. He stated he appreciates the Chamber doing that, and it was well deserved after what everyone went through with Hurricane Harvey.

10. ADJOURN - There being no further business, Councilmember Engelken made a motion to adjourn the meeting at 8:10 p.m. Councilmember Leonard seconded the motion. **MOTION PASSED UNANIMOUSLY 9/0.**

Patrice Fogarty, City Secretary

Passed and approved on November 13, 2017.

Mayor Louis R. Rigby