

BEACH CITY COUNCIL

REGULAR MEETING

The Beach City Council met for a Regular Meeting Tuesday June 26th, 2007 at the Beach City Community Building. Those present were:

MAYOR: Guido Persiani

MAYOR PRO TEM: Rita Standridge – Absent

ALDERMAN: Ray Smith

Douglas Walker

Tommy Clayton

Vaughn Bercaw

CITY ATTORNEY: Daniel Jackson

CITY SECRETARY: Margaret Gainer

Mayor Persiani called the meeting to order at 7:12 P.M. Tuesday, June 26th, 2007.

I. Public Hearing for comments regarding the FY 2007/2008 Budget

Mayor Persiani asked if there were any comments about the FY 2007/2008 Budget. No comments were made.

II. Appoint Mayor Pro Tem

Mayor Persiani stated that it was time to appoint a Mayor Pro Tem. He asked if any one was interested in serving. Alderman Smith nominated Alderman Standridge and Alderman Walker nominated Alderman Smith. Nominations closed. Alderman Standridge received two votes and Alderman Smith received two votes. Mayor Persiani had to break the tie. After some consideration he appointed Alderman Standridge as the Mayor Pro Tem for FY 2007/2008.

III. Review and consider approval of the Regular Minutes of May 22nd, 2007 Regular Meeting and Minutes of June 11th, 2007 Budget Work Session.

Council reviewed the minutes prior to the meeting. Alderman Walker stated that his name is down for the one who made the motion and the one who seconded it in item III, a motion to approve the Statement of Revenues and Expenditures. The Secretary listened to the tapes and it was Alderman Standridge that made the motion and Alderman Walker that seconded it. Alderman Bercaw referred to page 3, 26 lines down and changed "to" to "two" and two lines further down Alderman Clayton wanted to add the word "to" to read "Baytown to go to two positions".

MOTION made to accept the minutes of May 22nd, 2007 as amended and the minutes of the June 11th, 2007 Budget Work Session as presented.

MOTION: Smith

SECONDED: Walker

APPROVED: 4 - 0

IV. Review and consider approval of the Statement of Revenues and Expenditures for 11 months ending May 31, 2007.

Mayor Persiani reported on the Statement of Revenues and Expenditures. The revenues for the month were \$11,530.86 and expenditures were \$6,003.96 making revenues over expenditures in the amount of \$5,526.90. He reported that he had talked to Wells Fargo on the CD that has matured. They tried to work it where Wells Fargo could come back and offer a CD from their bank side. They could not come up to what Prosperity bank was offering. While the funds are in transit we will be earning 4.00%, he could not electronically move the money. As soon as we receive the check we will get a CD at Prosperity Bank. The interest rate at TexPool as of June 25th was 5.269%. Total assets are \$538,984.07.

MOTION made to accept the Statement of Revenues and Expenditures for 11 months ending May 31st, 2007 as stated.

MOTION: Bercaw SECONDED: Walker APPROVED: 4 - 0

V. Review and authorize payment of the proposed expenditures and investments.

The Proposed expenditures and investments were reviewed by Council prior to the meeting. The proposed expenditures were reviewed, no questions asked.

MOTION made to approve the proposed expenditures as presented.

MOTION: Walker SECONDED: Smith APPROVED: 4 - 0

The Expenditure Authorization approved by Council on June 26th, 2007 is attached hereto and made a part of these minutes.

VI. Review & Consider approval of FY 2007/2008 Budget

Mayor Persiani said this is the product of our efforts when he met July 11th, 2007. We did not have any comments from the Public Hearing. He asked if there were any comments. No comments were made.

MOTION made to accept the FY 2007/2008 Budget as stated.

MOTION: Smith SECONDED: Bercaw Vote by show of hands
APPROVED: 4 - 0

VII. Review and Act upon Service Provider Agreements

A. Beach City Volunteer Fire Department

Mayor Persiani stated that the agreement that was made for the BCFVD, in the budget, \$44,000.00 to \$45,000.00 plus \$3,000.00 to be saved in reserve.

MOTION made to approve the existing BCFVD Service Provider Agreement, based on last years terms and conditions with the amount increasing from \$44,000.00 to \$45,000.00 to be paid by monthly installments by the first of every month.

MOTION: Walker SECONDED: Bercaw Vote by show of hands

APPROVED: 4 - 0

A check in the amount of \$3,750.00 will be signed tonight for the BCVFD check due July 1st, 2007

B. Trinity Bay Emergency Medical Services

Mayor Persiani said nothing changed in Trinity Bay Emergency Medical Services Service Provider Agreement.

MOTION made to renew the Trinity Bay Emergency Medical Services 2007/2008 contract for the same 2006/2007 amount, \$4,000.00, and with the same conditions.

MOTION: Clayton

SECONDED: Walker

Vote by show of hands

APPROVED: 4 - 0

C. Health and Environmental Services

Mayor Persiani said we don't have a contract to present but we talked about it last year but never did it and we have to have it. We will not have any contract services for the City without a contract. He went on to say that Reggie Nalley is our TCEQ Designated Representative and we need a contract not only to determine what to pay him but to define other issues. He asked Attorney Jackson if he had any examples to work with. Attorney Jackson said lets just go over the basic terms we want to see. Attorney Jackson, Mayor Persiani and Designated Representative Nalley discussed what should go into the contract. Attorney Jackson said he would draw up a contract.

VIII. Review and Act upon preliminary plats for P. & R. Barrow tracts in Barrow Ranch Subdivision.

Eric Guzman with GC Engineering presented the preliminary plats for P. & R. Barrow tracts in Barrow Ranch Subdivision. Council reviewed the plats.

Mayor Persiani said we are suppose to look at it based on our subdivision regulations and they are not hearing any negatives from us, so just file it with Don Brandon and he will e-mail the Mayor that every thing is alright, at the same time he might be giving you instructions on making the documentation look correct. One of the places we want to see some verification as to meeting our setback requirements, we can't see that there so it will have to be on the document or provided for us somewhere in your homeowners deed descriptions. We also have the requirement of at least 30 thousand gallons of retention in reserve for a subdivision. We could probably waive that because there is such a huge pond just down the road. The Fire Department has to be happy with that. Alderman Walker asked that Erisce take back to the developers to see if it's not possible to have some green place in the subdivision where people in the neighborhood could meet. The Mayor added, just a nice park area.

IX. Nuisance Ordinance 2003-1:

A. Review and Act upon proposed revisions

Mayor Persiani said where he was headed with the revisions, he and Reggie had been e-mailing each other on the debate of changing out a mobile home to a different size, in this case the Troxell property, they did. It changed from a single size to a double wide. Does that home owner have the responsibility of coming to us and submit an application to make the change? The Mayor read the ordinance and it does not specifically say that. The ordinance only talks about permits to but does not say what you get a permit for. The precedent is you should unless TCEQ in all of their requirements they demand if you change from one mobile home size to another mobile home size you have to go through the process of evaluation.

The Mayor said he is going to skip over this proposed revisions action because in the next item Fema is coming after us regarding storm water drainage and our current permit does not deal with that. We may or may not revise the ordinance but come out with a new ordinance that says here is permitting. We will deal with flood plains, septic systems and possibly for pools.

B. Review Status of current environmental complaints

On the C. Jordan complaint on Clark Lane. Mr. Charlie Burgess reported that he has completed the drawings, verification on the well situation and inspector Nalley has approved the installation. Mr. Burgess is waiting for Ms. Jordan to come in and sign the affidavit to the public and the two year maintenance contract. We will probably have it this week.

Troxell property on Lenny Lane. Inspector Nalley said that he and Mayor Persiani had a disagreement on how to bring these people to court. The Mayor addressed the change of size in the trailer house from a single wide to a double wide. Mr. Nalley's point in this is that with the on-site sewage facility it doesn't matter what the footage of the home, it's the bedrooms that we go by. Mr. Troxell had upgraded both systems by adding another 500 gallon tank and his home and the rent house. Mr. Nalley explained all of the evidence that he has collected and said both systems had failed systems. He went on to say that in February he sent a registered letter to Mr. Troxell giving him so many days to respond to the City. Mr. Nalley did not proceed on because he was not sure they could win in Judge Cryers Court, so some time was lost in March, and that was his fault. Mayor Persiani said in the conversation with Judge Cryer he said, "it looks like this is probably gonna come your way". In that, the Mayor knows you got to use regulations and you have to have facts and have good evidence. The Mayor just wants to make sure that when we go there we are correct. He contacted Chambers County to see how they would handle that. They sent some documents that they use and the door opener from Sidney Lewis was check the permit first. When he checked the permit he found the size of the home had been changed. When he says's door opener that forces them to come to us with an application that says the mobile home has been changed to a larger one. We don't know what they did; all we know is that they have a double wide. His point is they should have come to us re-applying, to that point. He hasn't found it in the ordinance where it says you have to do that. Reggie says TCEQ will allow one change to another without

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an investigation. Reggie said as long as the number of bed rooms doesn't change. Mayor Persiani asked who makes that decision. Does the homeowner, they are inside of a city limit? Mr. Nalley said we didn't know they had changed. The mayor said, but now we do know that. So now do we start another 30 day clock, with another notice that says that they are in violation of these other two violations, but now we have another one; they are in violation of a permit. If they don't respond then they go before Judge Cryer. There has been about a four month period waiting to do something here. The question to Mr. Nalley is, if you don't want to go the permit route, start another thirty day clock, are you ready to file charges? Mayor Persiani said Reggie is the only one who can file the charges. Attorney Jackson said he has to the Court and file the violation of the ordinances and the court will draw up this complaint and serve it to this person telling them when to be in court to answer why they should not be found guilty. Mayor Persiani asked what is the option, what should we do? The Designated Representative says it's failed, as far as the mayor is concerned, it's failed. Mayor Persiani said there are a lot of third parties out there that can conduct a full investigation. He knows of one company that does that or Reggie may know somebody, because when it comes to handling a complaint it may take a different level of expertise. Reggie is doing the best job that he can but that may not fit the bill for what we need because we are taking it to court. Alderman Walker said he thought Reggie was doing what he should by going out to talk to people, telling them what the hazards are and trying to get them to take care of the problem. He went on to say but when we are talking about going to court, that's another whole different ball game. We need a lot of information and a lot of data. Alderman Smith asked Reggie if he had gone face to face with the Troxells to the point where you feel you are going to recommend to Council that we go to a third party for sample collecting and data handling or do you feel like you need to go face to face with them again. Mr. Nalley answered by saying I've gone to his house to talk to him face to face and his wife answers the door, and he has seen him sitting in the house watching TV but he won't come to the door. Alderman Smith said then let's go to the next level at this point. Alderman Walker said the next level is to go to court and he wants to get all of the available data so there is no ifs, ands or buts when this goes to court. Reggie said he's not looking for more compensation for filing complaints and things like that but he's spent a lot of time on the Jordan's and the Troxell's and a "hell of a lot of time on McCollum Park which never was resolved. Mayor Persiani asked to let him separate the issues which is there's routine issues and there's exceptional issues. . The exceptional is taking more time, demanding more expertise and has the highest liability to this City. That's why he doesn't think we should belabor the issue much any more as to what we are looking to in the future. There's going to be more and more of these, and the minute it comes in as a complaint he thinks the chain reaction will happen whether we use third party or send Reggie out there we probably will still have 80% compliance. He feels as the complaints come in we will still be able to make the choice which way we want to go.

MOTION made, in regards to the environmental violation at the Troxell property at 8713 Lennie Lane. Beach City will utilize a third party service to investigate and prosecute as a one time contract arrangement to review later.
MOTION: Smith **SECONDED:** Walker **Vote** by show of Hands

Reggie Nalley, Designated Representative reported on the 8012 Bayview property located in the Bayridge Subdivision. He stated that he gone back to this property and was still unable to find anyone there. He has talked to Mr. Duran on the phone but has been unable to talk to him face to face. He will continue to try to get in touch with them. Nothing has changed; the only thing that may be causing a health hazard is still within a fenced yard with a locked gate. On the 1919 Bayview property belonging to Cinderella Haven, he checked again. There are still cars, a goat and a chicken in a cage, but they are all within her fenced yard. There is no garbage present. Part of her fence is on the right-of-way that belongs to the Water Company that supplies water to the subdivision. There was another complaint by some residents of the subdivision that attended the May 22nd meeting about a storm sewer covering running over, when it rains, and pours sewer into the street that runs directly into the bay. Mayor Persiani told them he would have the inspector check on it. He also asked them to come in and file a complaint. Mrs. Gainer stated that there was no formal complaint filed.

Mayor Persiani said, regarding some of the complaints, he doesn't understand why the County can not help to resolve these complaints beings the City is in the County. He compared our ordinance with the County rules and finds they follow the minimum State requirements and we've got something different; that does not reflect the minimum that the County follows. He wanted to hear from Attorney Jackson because he doesn't know what to do. That is why he feels we need some revisions to our Ordinance. Those people down there are asking for us to do one of two things, either follow the County's regulations or modify ours to increase ours or beings they are paying county taxes why can't we have them step in and take care of the mess. City Inspector Reggie Nalley has been back to Bayridge Subdivision since our last meeting and has not issued any more notices of violations. The Mayor said there's a struggle there, what is he suppose to do? When he went there he saw that they have taken the cars and put them in a fenced boundary and did not see any other violations. The Mayor went on to say that our nuisance ordinance gives us a little flexibility, if we think that is improper; we could declare that as a violation. Attorney Jackson said we do have a State statute called "junk cars" statute. We could use that to create a junk car ordinance that deals specifically with junk cars because junk cars are a separate item under law. It's a car with no tires, no inspection sticker, not running, and no registration. We would have to hire a wrecker and pull them out and take them off. Reggie explained that this is an eye sore for the subdivision because as you turn into the subdivision on Bayridge Drive, this is the very first house on the right hand side. The first thing you see is the fence, a potable water storage tank, and old RV, junk cars that they moved back there and their house that is fixing to fall down. They live in it. Mayor Persiani said what he is hearing as consensus is No. 1. have Margaret get a written complaint regarding the storm sewer/ sanitary problem. No. 2. The home with the pool, Reggie do a face to face with them and tell them the next thing we are going to do is enforce the nuisance ordinance. No. 2. the one with the abandon cars, try to do a face to face as that is a violation of State law, if they are burning garbage, they don't burn garbage, period. If we don't cure that problem we need to fix our ordinance, no one burns

garbage inside this City. Alderman Walker said he thinks we should fix the ordinance anyway. The Mayors recommendation is that to fix the ordinance we should go back to the Texas Administrative Code and clearly define it from Counties, it's on the internet, and it makes this whole subdivision thing become very clear. Next month he will bring to Council the Environmental Health Code for the State. Inspector Nalley said that Darla Branch in the TCEQ Houston office called him and told him about a meeting they were going to have on "how to build a court case on this". He said if someone could attend it may be of some help but he doesn't usually take off work to attend these meetings. He will send the information to Mayor Persiani.

X. Flood Prevention and Storm Water Drainage

A. FEMA Community Assistance review - Flood Prevention Ord. No 87-1

Mayor Persiani said we have a lot more responsibility than septic systems in this community. If anyone needs to make a flood damage claim, the City has to be on board. That's why this ordinance was approved or the City could not have gotten flood insurance. The ordinance states that we need a Flood Plain Administrator and the Administrator would be the inspector and another place the ordinance makes another inspector that we don't have. You have to look at the FEMA maps to find all the zones and the zones that are in the 100 year flood plain. We also have a velocity Zone where we get wind driven water. The City Secretary and the Mayor met with two representatives from Fema this morning. Their recommendation is to first upgrade our ordinance and they have the electronic version of a model ordinance. We also need a permitting system. When you go for a building permit, it's not just a septic system; you now have to make a requirement of the builder to submit the flood survey. We are not supposed to be letting anyone build in any area that is a drainage area and you can't store material, etc. in it. They gave us a list of five things to do. Their whole pitch is, work with cities and get them to be pro-active and start pushing them in the right direction. Today they would be talking to Old River-Winfree, Cove, Anahuac and Mont Belvieu as part of an educational process.

B. Review storm water drainage

Mayor Persiani said in reviewing the storm water drainage problem, Mr. McCoy does not reside in Beach City. There is no one here to represent him or the newspaper. The County is not interested in picking up any drainage ways out to the bay. TexDot adamantly defended their position, they will not go beyond their road ways, they allow the drainage to go through to the next point of departure.

XI. Preliminary Review of Financial Audit for Period covering July 1, 2006 to June 30, 2007.

No Action on this item.

XII. Report status of items on the FY 06/07 action list.

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Mayor Persiani said the only thing that changed was the City did have the Hurricane Preparedness Meeting. It went really well, it had about forty residents present..

XIII. Council members' comments, citizens' comments and input.

The City Secretary reported that the man from the County that picks up water samples stopped by the office and left some bottles for any of the residents that want to test their water. He will pick up the samples, here at the office, the second Tuesday of each month at 11:00 A.M. to deliver to the lab. Alderman Walker stated that the stop signs down on Highway 99

XIV. Adjourn

Mayor Persiani adjourned the meeting at 9:55 P.M. Tuesday, June 26th, 2007

ATTEST TO:


Margaret Gainer
City Secretary

APPROVED BY:


Guido Persiani
Mayor