

BEACH CITY COUNCIL

REGULAR MEETING

The Beach City Council met for a Regular Meeting Tuesday May 22nd, 2007 at the Beach City community Building. Those present were:

MAYOR: Guido Persiani

MAYOR PRO TEM: Rita Standridge

ALDERMAN: Ray Smith Tommy Clayton Douglas Walker

Vaughn Bercaw – Absent

CITY ATTORNEY: Daniel Jackson – Absent

CITY SECRETARY: Margaret Gainer

Mayor Persiani called the meeting to order at 7:10 P.M. Tuesday May 22nd, 2007.

I. Administer the Oath of Office for recently elected Alderman.

Mayor Persiani administered the Oath of Office to Alderman Ray Smith, Alderman Rita Standridge, and Alderman Tommy Clayton.

II. Review and consider approval of the Regular Minutes of April 24, 2007 Regular Meeting,

Council reviewed the minutes prior to the meeting.

MOTION made to approve the minutes as written.

MOTION: Standridge SECONDED: Walker APPROVED: 4 - 0

III. Review and consider approval of the Statement of Revenues and Expenditures for 10 months ending April 30th, 2007.

Statement of Revenues and Expenditures reviewed by Council prior to the meeting.

Mayor Perisiani reported that the revenues for the month were \$3,864.10 for the month and what is good is that year to date, the amount is \$115; 100.03 which is \$100.03 over budget at the end of 10 months. For the month of April expenditures were more than revenues in the amount of \$5,510.11. Total assets are \$533, 457.17 and the TexPool interest as of May 21st was 5.25%

MOTION made to approve the Statement of Revenues and Expenditures for ten months ending April 30, 2007 as presented.

MOTION: ~~Walker~~ STANDRIDGE SECONDED: Walker APPROVED: 4 - 0

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

The Expenditure Authorization was reviewed by Council prior to the meeting.

The amended copy of the expenditure authorization was provided for council.

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MOTION made to accept the proposed expenditures as presented and amended.

MOTION: Smith

SECONDED: Walker

APPROVED: 5 – 0

The Expenditure Authorization approved by Council on May 22nd, 2007 is attached hereto and made a part of these minutes.

V. Presentation by the Chambers-Liberty Counties Navigation District (CLCND) regarding navigation and water related activities in West Chambers County.

Mayor Persiani introduced George Wilcox, General Manager of the Chambers/Liberty County Navigation District, also Mr. Billy Combs, a Beach City resident and Vice Chairman on the C/LCND Board of Directors. Mr. Wilcox summarized the history of the navigation district since it was formed in 1944. The District has two major functions, one is for irrigation and water supply and one is for navigation. The irrigation budget is funded completely by the sale of water and serves growers of rice, crawfish and waterfowl. They are not growing as much rice as they have in the past so the use on the water side is down. The water supply also serves the City of Anahuac and the Trinity Bay Conservation District. The navigation function serves as the local sponsor with the Corps of Engineers for various dredging projects. The Board of Directors consists of five members. The board members serve four year terms, at this time three represent Liberty County and two represent Chambers. At the next election three will represent Chambers County and two will represent Liberty County. Mr. Wilcox said he had read where the City of Beach City supports de-annexation or de-tax, for navigation purposes, of that portion of West Chambers County in the Chambers-Liberty Counties in the Chambers-Liberty Counties District lying west of the Old & Lost Rivers, and east of Cedar Bayou. Mr. Wilcox feels it is a vital asset to Chambers County and the City of Beach City by providing recreational and business opportunities to citizens in West Chambers County. He was also concerned about the quality of our water with all of the new growth in the area.

Mr. Billy Combs, a Director on the Board of the CLCND was present. He stated that the Wallisville Project was a CLCND project and it is the kind of project the district has done and needs to do with a relationship with the Corps. The also built the Fish and Wildlife Conservation project and take care of the wet lands and marshes. Mayor Persiani asked what is the districts role, that's the Corps of Engineers project; all you are is a sponsor. You're financially not contributing to that; the Corps of Engineer is taking care of all of it. When we look at the spending from 2002 to 2006 70% of the annual navigation revenues are from property located in West Chambers County. Only 19% of the 2002-2006 Navigation Project Work Plan was budgeted for Cedar Bayou, the closest tributary to us, and the last thing, less than 2% was expended during this period. 98% was spent in areas other than West Chambers County. That is the facts. The Mayor went on to say the statutory authority stream is currently possessed in separate sections; the upper 6.5 miles by the chambers County-Cedar Bayou Navigation District and the lower 7 miles by the Chambers-Liberty Counties Navigation District. Registered archaeological sites within CLCND's boundary have been, and continue to be, damaged/degraded by

illegally moored barges along the shoreline. He didn't think the district did anything to stop that. You have 7 miles and of the 7 miles authorized channel is five and a half miles, so that leaves one and a half miles that is still within your district but uncontrolled by your district; so how about spending some money on Cedar Bayou, take care of the mile and a half that is being effected. Barges that are improperly moored are damaging archaeological sites and when Navigation District to the North started working on the project they found that the archaeological sites were already damaged significantly. Mr. Combs said the district has no industrial leases and Mayor Persiani said but your district has the navigable channel, since when was your boundary based on industry, you base it on your boundary, so do more in the Channel area. He went on to say that was also a shoaled area within this mile and a half and private industry had to dredge it out. Why didn't the Navigation District dredge it out, especially for collecting taxes? Reliant Energy and Bayer dredged it out. Mr. Combs said Bayer doesn't benefit the Navigation District. The Mayor said, but it's alright to take our tax money and don't spend in on Cedar Bayou. Alderman Standridge asked if they were going to tax the old Crawley site. Mr. Combs said they have the right to charge for the barges but we don't exercise it. Jim Josey said that shows you they would rather charge you and not them. Mayor Persiani said that is the sentiment; is to quit taxing the roof tops when Cedar Bayou can support it self. That was the whole point when the task force was trying to combine the two districts, get all the taxing value out of that Cedar Bayou, hitting the industry that benefits from it. Mayor Persiani said House Bill 3158 has now been passed through the Senate and goes to the Governor for signature. That will add ^{the} Baytown positions to the Cedar Bayou Navigation District. We opposed the bill because we didn't see it being fair that Baytown go ^{to} two positions and we didn't get any, so with the advent assuming this passes, that now is going to cut a precedent for navigation districts throughout the State even though it is local, and what's more local than another navigation district being right next to us. So are you director's ready to add Beach City to your board? The whole idea was that the Navigation District, as you mentioned, come to be this appointed body and they may not represent all the Community as well as it should. The idea here was they put two city representatives in that had no taxation at all, came outside of the District and added them in. It seems only appropriate that Beach City, Cove and Old River or whoever should be included. Mr. Combs said, actually, Beach City already has one. The Mayor said he is just saying, you weren't appointed by the City, you are appointed by Chambers County.

Alderman Standridge said many years ago we talked at a number of Council meetings about reserved water rights and even voted to sign a contract. Now we know that wasn't something that you could actually sell without Houston's permission. Mr. Wilcox said no, Houston has nothing to do with it but delivering it. Alderman Standridge asked if he was saying that contract is still binding as far as the reservation, you just need time for the delivery until the negotiations done. Mr. Wilcox said yes and both parties knew that.

VI. Nuisance Ordinance 2003-1:

A. Review and act upon current environmental complaints

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Mayor Persiani said of the nuisance complaints that we have two are OSSF related, actually a third one is in Bayridge. Mrs. Gainer, City Secretary reported that on May 15th, 2007 Mrs. Gene Speer had come by the office and filed a complaint about the Bayridge septic system pump, located close to the main gate was not working. I was making a lot of noise and at times raw sewerage was flowing out into the ditch on FM 2354 that goes into a drainage ditch that runs to the Bay. On May 16th Mrs. Gainer notified Reggie Nalley, who was in Colorado at the time. He said he would be in town on Saturday and he would go out and check the problem on Saturday if he got in town early enough, otherwise he would be out there Sunday. When she called Mrs. Speer back to tell her when Mr. Nalley would be out there, her husband reported that the Company had been out there and changed the pump out and everything was working fine. The residents that were present were not aware of this, their complaint was the man-hole in the middle of the street on Bayridge Drive that when it rains it pours raw sewerage in the street that runs directly into the Bay. Mrs. Gainer will notify Inspector Nalley..

Mayor Persiana called on Ms. Robin Lee to present her issues in the Bayridge Subdivision. Ms. Lee stated that she had been in the subdivision about eight and a half years. She did not know when she bought the property that the Home Owners Association had fallen by the wayside. These issues were not enforced and it got to the point where, according to a lawyer, we cannot legally enforce them now because they are null and void. She went on to address the 1919 Bayview property belonging to Cinderella Haven. Its problems are old cars, drugs, trash, animals, their picket fence on the Subdivision Water System right-of-way and three boys out of control. Alderman Standridge asked if they had called the Sheriffs Dept. on the drugs. She said they showed up much later. Another resident asked who the Constable was. Alderman Standridge said it was Robert Barrow but he does not patrol the area unless he is serving warrants. He occasionally will come out to back up the Sheriffs department. Mrs. Haven has three children that are still in school. One is a delinquent and he walks around with a machete. He has been seen running from cars where gas has been stolen, Michael Speers had two cows shot. Mayor Persiani said he is listening with divided ears and what he is hearing is crime related issues. The mayor said Council has the picture. Ms. Lee went on with more problems at the address ending by saying this property would probably be appraised at \$36,000.00. This is a proud subdivision; her property is appraised at \$128,000.00. There should not be that much difference inside a platted subdivision. Ms. Lee also addressed the 8012 Bayview property. It is an abandoned swimming pool, four to five years. High grass, snakes, possums, bull frogs and mosquitoes. Mayor Persiani said we are going to move this discussion we have had based on our nuisance ordinance and the discussion we had last time at council was that the feedback that we had was because these were within the subdivision within the Home Owners Association authority boundaries, we didn't see how our ordinance would confuse them. The Mayor sent them a copy of the nuisance ordinance and the Chambers County procedure. What Ms. Lee is saying is that she pays county taxes why can't she use the County to enforce this kind of procedure. The Mayor said he had called Sydney Lewis but he hasn't returned his call. The Mayor did talk to Judge Sylvia and he said if Mr. Lewis didn't object, he didn't see a problem with Beach City implementing and enter-local agreement with the county similar to

the one Old River Winfree and Cove have. Anahuac probably already has an inter-local with them for many services. The Mayor is not sure what happens, we have incorporated boundaries and we have our rules, our ordinance prevails, it covers it. The county cannot come in without our authorization and that would be good but the local can't just simply say lets just use your procedure. We have to set aside our rule, we can make our ordinance go away or we could add to comply with their procedure then we agree; the county can come in and enforce our ordinance because it is really the same ordinance. Alderman Smith wanted to know if we could do anything like a quick plan, just issue one purchase order instead of a lifetime contract. The Mayor said it is for a year.

Alderman Smith asked about our options. Mayor Persiani said option one is using Reggie's current experience as our Designated Authority because he is the one that can take them to the judge. Tell Reggie to go ahead and issue a public nuisance letter to that party saying to do something. You have to tell them what they have to do; our ordinance is very focused on public type nuisances. We have to get where we're correct and within the law of this. Option two is to back off a little bit, lets review our nuisance ordinance and compare our nuisance ordinance to the county procedure or we simply say lets go to the level of an inter-local agreement with the county. The Council authorizes that and we have to craft up the inter-local agreement and bring it back to Council for approval. First we will have to revise our ordinance to bring it up to the County's level and we enter the enter-local with that. Could include our OSSF or not include it. Alderman Standridge said she would be more comfortable if we had our attorney here tonight to give us some legal guidance as to how to proceed.

Mayor Persiani's recommendation to Council was for a motion to designate Reggie Nalley as our Designated Authority.

MOTION made for the City of Beach City to authorize Reggie Nalley as our Designated Authority to enforce Ordinance No. 2003-1, to make necessary inspections, issue citations, give notice, follow-up the charges and otherwise cooperate in enforcement of this ordinance regarding the complaints in the Bayridge Subdivision on 8012 Bayview Drive; an abandoned swimming pool and 1919 Bayside Dr., garbage collection, old cars, etc.

MOTION: Walker

SECONDED: Clayton

Show of hands:

Approved: 4 - 0

B. Review and act upon proposed procedure to handle nuisance and environmental complaints

Mayor Persiani has not finished the proposed procedure to handle nuisance and environmental complaints.

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

Mayor Persiani said Rusty Senac and Jim Standridge put hours of energy into this and we really appreciate what they have done. We're not going to talk about it tonight, we don't want Jim and Rusty to spend a lot of time with this,

answering a lot of questions and doing presentations, the points are clear. He went on to say the City Secretary and he will spend time going through each item and pull the ones that are just fact, if the numbers are not quite right we need to fix that.

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

The Mayor said he did not update the list but wanted to remind council that the Hurricane Awareness Meeting in June 12th.

IX. Schedule meeting for FY 2007/2008 Budget Work Session.

It was decided that the Budget Work Session would be Monday, 7:00 P.M. June 11, 2007 at the Beach City Community Building.

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

1. Mayor Persiani gave an update on TexDot construction. He reported that when the new part of 99 opens the stop signs will go away. He went on to say that from 1405 to Cedar Bayou in actually Tri City Beach Road, not FM 2354. The Jennings now owns all of the properties on both sides of the road and has asked that this road become private.

Mayor Persiani said he wants Council to understand what he's been going through over these septic systems. He's not so sure he's supposed to be doing anything. For example, Reggie is our designated representative, according to the State. He is not a registered sanitarian; he cannot design one of these systems. Sometimes when he asks technical questions he doesn't get technical answers. He's struggling because he's thinking this is the person that should be able to do that, and he is not comfortable and confident that he is getting responses back timely. He asked him to be here for this meeting, sent him e-mails last week and there was no response. The City Secretary got a hold of him today; he's in Colorado for his work and won't be able to get to the septic problems here until Saturday. He's really struggling with this. Then he talked to another man, a registered sanitarian, maybe he does the kind of service we need. He works for the citizens, he puts in the OSSF. He said he qualifies to go get technical information and write up a report to present to the Judge. Mayor Persiani said it sounds like it takes two people to take it to the level of a law suit. Reggie can go out and say sewage is on the ground, your system has failed. A registered sanitarian can go out there and say your system has failed and here are the technical reasons it has failed. Once that system is failed, it's failed, period. Then the mayor thinks, this system failed in 2005, Reggie sends out a letter, the mayor didn't know it, council members didn't know it. Nothing happened. Here comes another letter from the same people, and they are sitting here another year later, in August 2006. They came to the City Council meeting two council meetings ago wanting to know what has the City been doing. This is when the mayor sees the liability level is going up big time. That thing failed in 2005 and he doesn't like it and he don't think Council likes it either. He's trying to figure out "what is

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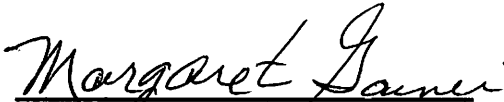
the answer". We could either spend more money or get a service, a third party service that will do everything. The other option is turn to the County, we pay County taxes, and they boast that they can do it. He went on to say we're going to be facing these septic problems, we're going to put some money in there for it, because if we don't he feels we're heading for a real slippery slope here. The septic systems are going to fail slowly but surely because you can't maintain them. Once it's failed, it's failed.

XI. Adjourn

Mayor Persiani adjourned the meeting at 10:15 P.M., Tuesday May 22nd, 2007.

ATTEST TO

APPROVED BY:


Margaret Gainer
Margaret Gainer
City Secretary


Guido Persiani
Guido Persiani
Mayor