

LOUIS RIGBY
Mayor
JOHN ZEMANEK
Councilmember At Large A
DOTTIE KAMINSKI
Councilmember At Large B
DANNY EARP
Mayor Pro-Tem
Councilmember District 1



CHUCK ENGELKEN
Councilmember District 2
DARYL LEONARD
Councilmember District 3
KRISTIN MARTIN
Councilmember District 4
JAY MARTIN
Councilmember District 5
MIKE CLAUSEN
Councilmember District 6

MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF LA PORTE FEBRUARY 27, 2017

The City Council of the City of La Porte met in a regular meeting on **Monday, February 27, 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 Engelken, J. Martin, K. Martin, Leonard, Earp, Zemanek, Clausen, and Kaminski. Also present were City Secretary Patrice Fogarty, City Manager Corby Alexander, and Assistant City Attorney Clark Askins.
2. **INVOCATION** – The invocation was given by 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.)

Justin Surginer, 201 S. Virginia St., addressed Council and stated he was unjustly detained due to a false statement of an individual, and he feel his character has been defamed.

Robert McIlvain, 8819 Orchard Ln., signed up to address Council; but since he did not see his item of concern on the agenda, he declined to speak.

Shawn Metcalf, 11127 Sunset Ridge, addressed Council with several concerns regarding the City overseeing the finances of the La Porte Boys Baseball Association.

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 minutes of meeting held on February 13, 2017 – P. Fogarty
 - (b) Consider approval or other action regarding an Interlocal Agreement for Joint Elections between the City of La Porte; La Porte Independent School District and San Jacinto College District – P. Fogarty
 - (c) Consider approval or other action regarding the sale of 12-feet of Lot 27, Block 80, Town of La Porte, Harris County, Texas to Bayway Homes to facilitate the construction of a single family home – T. Leach

- (d) Consider approval or other action authorizing the City Manager to execute a concession agreement between the City of La Porte and Linda Darnell Witt as the Concessionaire for Sylvan Beach Fishing Pier – R. Epting
- (e) Consider approval or other action regarding a Municipal Water Service Agreement between the City of La Porte, City of Deer Park, and the owner of the facility at 9515 Spencer Highway – B. Sterling

Councilmember Engelken made a motion to approve Consent Agenda Items pursuant to staff recommendations. Councilmember Leonard 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 amendment to the Future Land Use Map Component of the La Porte Comprehensive Plan for a 40-acre tract of land known as Tracts 1 and 1L, Johnson Hunter Survey, Abstract 35, generally located on State Highway 146 north of Wharton Weems Blvd; consider approval or other action regarding an Ordinance amending the City's Future Land Use Map Component of the La Porte Comprehensive Plan for a 40-acre tract of land known as Tracts 1 and 1L, Johnson Hunter Survey, Abstract 35, generally located on State Highway 146 north of Wharton Weems Blvd., by changing use classification to "Commercial," "Mid to High-Density Residential" and "Mixed-Use" – I. Clowes

The public hearing opened at 6: 12 p.m.

City Planner Ian Clowes presented a summary.

There being no public comments, the public hearing was closed at 6:16 p.m.

Councilmember Engelken made a motion to approve an Ordinance amending the City's Future Land Use Map Component of the La Porte Comprehensive Plan for a 40-acre tract of land known as Tracts 1 and 1L, Johnson Hunter Survey, Abstract 35, generally located on State Highway 146 north of Wharton Weems Blvd., by changing classification to "Commercial," "Mid to High-Density Residential" and "Mixed Use." Councilmember Earp seconded the motion. **MOTION PASSED UNANIMOUSLY 9/0.**

Prior to council action, Assistant City Attorney Clark Askins read the caption of **Ordinance 2017-3668 AN ORDINANCE ADOPTING AN UPDATE TO THE FUTURE LAND USE MAP COMPONENT OF THE COMPREHENSIVE PLAN OF THE CITY OF LA PORTE, TEXAS UPON RECOMMEDATION OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF LA PORTE, TEXAS; FINDING COMPLIANCE WITH THE OPEN MEETINGS LAW AND PROVIDING AN EFFECTIVE DATE HEREOF.**

- (b) Public hearing to receive comments regarding recommendation by the Planning and Zoning Commission to approve SCUP# 16-91000004 to allow construction of an entertainment, commercial and residential mixed-use development center on State Highway 146 north of Wharton Weems Blvd., consider approval or other action regarding an Ordinance amending the Code of Ordinances of the City of La Porte, Chapter 106, by approving SCUP# 16-91000004, for the purpose of constructing an entertainment, commercial and residential mixed-use development center on State Highway 146 north of Wharton Weems Blvd. – I. Clowes

The public hearing opened at 6:18 p.m.

City Planner Ian Clowes presented a summary.

There being no public comments, the public hearing was closed at 6:19 p.m.

Councilmember Engelken made a motion to approve an Ordinance amending the Code of Ordinances of the City of La Porte, Chapter 106, by approving SCUP# 16-91000004, for the purpose of constructing an entertainment, commercial and residential mixed-use development center on State Highway 146 north of Wharton Weems Blvd. Councilmember K. Martin seconded the motion. **MOTION PASSED UNANIMOUSLY 9/0.**

Prior to council action, Assistant City Attorney Clark Askins read the caption of **Ordinance 2017-3669** 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. 16-91000004 FOR THAT CERTAIN PARCEL OF LAND HEREIN DESCRIBED, FOR THE PURPOSE OF CONSTRUCTING AN ENTERTAINMENT, COMMERCIAL AND MIXED-USE DEVELOPMENT CENTER ON STATE HIGHWAY 146 NORTH OF WHARTON WEEMS BOULEVARD; MAKING CERTAIN FINDINGS OF FACT RELATED TO THE SUBJECT; CONTAINING A SEVERABILITY CLAUSE; FINDING COMPLIANCE WITH THE OPEN MEETINGS LAW; AND PROVIDING AN EFFECTIVE DATE HEREOF.

- (c) Public hearing to receive comments regarding recommendation by the Planning and Zoning Commission to approve a zone change request for changing the zoning classification of tracts 30A and 31A, Strang Subdivision from Business Industrial District (BI) to Light Industrial District (LI); consider approval or other action regarding an Ordinance to approve zone change request # 16-92000004, changing the zoning classification of tracts 30A and 31A, Strang Subdivision from Business Industrial District (BI) to Light Industrial District (LI) – I. Clowes

The public hearing opened at 6:19 p.m.

City Planner Ian Clowes presented a summary.

There being no public comments, the public hearing was closed at 6:21 p.m.

Councilmember Clausen made a motion to approve an Ordinance to approve zone change request #16-92000004, changing the zoning classification of tracts 30A and 31A, Strang Subdivision from Business Industrial District (BI) to Light Industrial District (LI). Councilmember Earp seconded the motion. **MOTION PASSED UNANIMOUSLY 9/0.**

Prior to council action, Assistant City Attorney Clark Askins read the caption of **Ordinance 2017-3670** AN ORDINANCE AMENDING CHAPTER 106 “ZONING” OF THE CODE OF ORDINANCES OF THE CITY OF LA PORTE BY CHANGING THE ZONING CLASSIFICATION OF TRACTS 30A AND 31A, STRANG SUBDIVISION FROM BUSINESS INDUSTRIAL DISTRICT (BI) TO LIGHT INDUSTRIAL DISTRICT (LI); MAKING CERTAIN FINDINGS OF FACT RELATED TO THE SUBJECT; FINDING COMPLIANCE WITH THE OPEN MEETINGS LAW; AND PROVIDING AN EFFECTIVE DATE HEREOF

- (d) Public hearing to receive comments regarding recommendation by the Planning and Zoning Commission to approve a zone change request for changing the zoning classification of tract 17-1A and 18A, Strang Subdivision from Business Industrial (BI) to Light Industrial (LI); consider approval or other action regarding an Ordinance to approve zone change request #16-92000005, changing the zoning classification of tracts 17-1A and 18A, Strang Subdivision from Business Industrial (BI) to Light Industrial (LI) – I. Clowes

The public hearing opened at 6:22 p.m.

City Planner Ian Clowes presented a summary.

There being no public comments, the public hearing was closed at 6:23 p.m.

Councilmember Leonard made a motion to approve an Ordinance to approve zone change request #16-92000005, changing the zoning classification of tracts 17-1A and 18A, Strang Subdivision from

Business Industrial (BI) to Light Industrial (LI). Councilmember Earp seconded the motion. **MOTION PASSED UNANIMOUSLY 9/0.**

Prior to council action, Assistant City Attorney Clark Askins read the caption of **Ordinance 2017-3671** AN ORDINANCE AMENDING CHAPTER 106 "ZONING" OF THE CODE OF ORDINANCES OF THE CITY OF LA PORTE BY CHANGING THE ZONING CLASSIFICATION OF TRACTS 17-1A AND 181A, STRANG SUBDIVISION FROM BUSINESS INDUSTRIAL DISTRICT (BI) TO LIGHT INDUSTRIAL DISTRICT (LI); MAKING CERTAIN FINDINGS OF FACT RELATED TO THE SUBJECT; FINDING COMPLIANCE WITH THE OPEN MEETINGS LAW; AND PROVIDING AN EFFECTIVE DATE HEREOF.

- (e) Public hearing to receive comments regarding recommendation by the Planning and Zoning Commission to approve a zone change request for changing the zoning classification of tracts 30 and 31 and 17A and 18, Strang Subdivision from Business Industrial District (BI) to Light Industrial District (LI); consider approval or other action regarding an Ordinance to approve zone change request #16-92000006, changing the zoning classification of tract 30 and 31 and 17A and 18, Strang Subdivision from Business Industrial District (BI) to Light Industrial District (LI) – I. Clowes

The public hearing opened at 6:25 p.m.

City Planner Ian Clowes presented a summary.

There being no public comments, the public hearing was closed at 6:26 p.m.

Councilmember Zemanek made a motion to approve an Ordinance to approve zone change request #16-92000006, changing the zoning classification of tract 30 and 31 and 17A and 18, Strang Subdivision from Business Industrial District (BI) to Light Industrial District (LI). Councilmember Kaminski seconded the motion. **MOTION PASSED UNANIMOUSLY 9/0.**

Prior to council action, Assistant City Attorney Clark Askins read the caption of **Ordinance 2017-3672** AN ORDINANCE AMENDING CHAPTER 106 "ZONING" OF THE CODE OF ORDINANCES OF THE CITY OF LA PORTE BY CHANGING THE ZONING CLASSIFICATION OF TRACTS 30 AND 31 AND 17A AND 18, STRANG SUBDIVISION FROM BUSINESS INDUSTRIAL DISTRICT (BI) TO LIGHT INDUSTRIAL DISTRICT (LI); MAKING CERTAIN FINDINGS OF FACT RELATED TO THE SUBJECT; FINDING COMPLIANCE WITH THE OPEN MEETINGS LAW; AND PROVIDING AN EFFECTIVE DATE HEREOF.

7. AUTHORIZATIONS

- (a) Consider approval or other action authorizing the City Manager to execute an agreement between the City of La Porte and La Porte Boy's Baseball Association – R. Epting

Parks and Recreation Director Rosalyn Epting presented a summary.

Ms. Epting clarified amendments to the agreement and also took two suggested changes from Council as follows: to provide a Form 1099 to any individual earning over \$600.00 and to add a provision to allow for the award of scholarships.

Councilmember Clausen made a motion to approve the agreement as presented with the additional two amendments. Councilmember Earp seconded the motion. **MOTION PASSED UNANIMOUSLY 9/0.**

8. DISCUSSION AND POSSIBLE ACTION

- (a) Discussion and possible action regarding Ballard Exploration Company request for a Geophysical Mineral and Testing Permit – B. Sterling

GIS Manager Brian Sterling presented a summary.

Councilmember Earp made a motion to deny the permit. Councilmember Engelken seconded the motion. **MOTION PASSED 8/1.**

Ayes: Councilmembers Clausen, Zemanek, K. Martin, Leonard, Engelken, J. Martin, Kaminski and Earp
Nays: Mayor Rigby
Absent: None

- (b) Discussion and possible action regarding amendments to the Port Crossing Development Agreement – C. Alexander

City Manager Corby Alexander presented a summary and a PowerPoint presentation.

Councilmember Leonard made a motion to approve amendments to the Port Crossing Development Agreement. Councilmember J. Martin seconded the motion. **MOTION PASSED UNANIMOUSLY 9/0.**

- (c) Discussion and possible action regarding extending the deadline for “go live date” for ONE Solution core finance functions to April 15, 2017 – T. Leach

The regular meeting was recessed at 7:00 p.m. to take up this item in executive session (see posted executive session under Item 11), and the regular meeting then was reconvened at 8:03 p.m. See resultant action on Item 12.

9. ADMINISTRATIVE REPORTS

There were no additional reports.

10. **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 Engelken wished Human Resources Manager Matt Hartleib a Happy Birthday.

Mayor Rigby requested Assistant City Manager Traci Leach get information to Maggie Anderson, with Around La Porte, and Rebecca Collins, with the Bay Area Observer, to write an article clarifying when a citizen has a right to speak at city council meetings, i.e. during the public comment section and at all legal public hearings, as opposed to during council action items being taken up by the city council.

11. **EXECUTIVE SESSION** – The City reserves the right to meet in closed session on any agenda item should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code, including, but not limited to, the following:

Texas Government Code, Section 551.074 – Personnel Matters: Deliberation concerning the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee, unless the officer or employee requests a public hearing: Patrice Fogarty, City Secretary.

Texas Government Code, Section 551.071(1)(A) – Pending or Contemplated Litigation: Meet with City Attorney and City Manager to discuss performance issues under contract with SunGard.

City Council recessed the regular Council meeting to convene the first executive session at 7:00 p.m. regarding Item 8(c) and **Texas Government Code, Section 551.071(1)(A)** – Pending or Contemplated Litigation: Meet with City Attorney and City Manager to discuss performance issues under contract with SunGard.

City Council recessed the regular Council meeting to convene the second executive session at 8:07 p.m. regarding **Texas Government Code, Section 551.074** – Personnel Matter: Deliberation concerning the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee, unless the officer or employee requests a public hearing: Patrice Fogarty, City Secretary.

12. **RECONVENE** into regular session and consider action, if any on item(s) discussed in executive session.

Regarding the first executive session item pertaining to Item 8(c) and **Texas Government Code, Section 551.071(1)(A)** – Pending or Contemplated Litigation: Meet with City Attorney and City Manager to discuss performance issues under contract with SunGard, Council reconvened the regular Council meeting at 8:03 p.m.

Councilmember Engelken made a motion to exercise the 90-day cure period. Councilmember Leonard seconded the motion. **MOTION PASSED UNANIMOUSLY 9/0.**

City Council reconvened the regular council meeting at 8:35 p.m. from the second executive session regarding GC 551.074, performance review of City Secretary Patrice Fogarty.

Regarding the deliberation concerning the performance review of Patrice Fogarty, City Secretary, Councilmember Engelken made a motion to give City Secretary Patrice Fogarty a 4.52 percent lump sum instead of the typical merit process. Councilmember Clausen seconded the motion. **MOTION PASSED UNANIMOUSLY 9/0.**

13. **ADJOURN** - There being no further business, Councilmember Engelken made a motion to adjourn the meeting at 8:37 p.m. Councilmember Leonard seconded the motion. **MOTION PASSED UNANIMOUSLY 9/0.**

Patrice Fogarty, City Secretary

Passed and approved on February 27, 2017.

Mayor Louis R. Rigby