



STATE OF TEXAS
COUNTY OF FORT BEND
STATE OF TEXAS

The City Commission for the City of Richmond, Texas met in Regular Session on January 22, 2019 at 4:30 p.m.

Mayor Moore proceeded to call the meeting to order at 4:30 p.m. A quorum was present, with the following members in attendance:

Evalyn W. Moore, Mayor
Terry Gaul, Commissioner P1
Barry Beard, Commissioner P2
Carl Drozd, Commissioner P3
Josh Lockhart, Commissioner P4
Terri Vela, City Manager
Gary Smith, City Attorney
Laura Scarlato, City Secretary

The Mayor proceeded to make the following presentations for agenda item A2 Employee Recognition for Service with the City of Richmond:

- Ismael Yanez, 5 years of service, Parks Department – Not present.
- Kevin Teague, 15 years of service, Fire Department – Present.
- Albert Cantu, 20 years of service, Fire Marshal Department – Present.

Cindy Drabek, Chairman with the Richmond Historical Commission provided the board with a Quarterly Update. Ms. Drabek provided a synopsis of the Commission, welcomed new Director Jose Abraham and board member Carol Edwards. The board has reviewed sign permits and have been implementing the historical color palette that was adopted. The board has listened to citizens and business owners who are concerned about the growth of the downtown area. The public was invited to attend the monthly meetings held the third Tuesday of the month at 8:00 a.m. the City Hall Annex.

Mayor Moore introduced agenda item A3, Public Comments.

Carlos Garcia, 2003 Briar Lane, Richmond, TX

Mr. Garcia addressed the workshop that was held in Bryan, TX and his concerns that the meeting was held off site where citizens could not attend and the money that was spent. Also that the minutes do not reflect that anything occurred at the workshop. Mr. Garcia also wanted it noted that it is not the first time an ethics violation has been made for Charter Violations. He and Tres Davis have filed two, providing a copy of one that was filed on March 15, 2016. Using an old baseball saying, "Three strikes you're out and transparency is lacking"

Agenda item A4, Public Hearing to receive comments for or against text amendments to the Unified Development Code, to replace the term “lot” with “manufactured home lot or space” within certain sections that pertain to Manufactured Home Parks and Subdivision. The specific sections include:

- 1) Section 4.1.204, Manufactured Home Parks and Subdivisions
- 2) Section 6.1.107, Nonconforming MHPs and RV Parks
- 3) Section 3.1.102A, Single-Family Detached Lot and Building Standards
- 4) Section 6.3.313, Manufactured Home Placement/Occupancy Permit
- 5) Section 5.1.103, Manufactured Home Standards

There was no one present to speak regarding this item, therefore the agenda item was closed.

Mayor Moore asked if there was any discussion regarding agenda item A5, the Consent Agenda. Commissioner Beard pulled Consent Agenda items A5 (3) and (7) and Commissioner Lockhart pulled Consent Agenda items A5 (7) and (8).

Commissioner Gaul moved to approve the remaining Consent Agenda items with Commissioner Beard seconding the motion. The vote was unanimous to approve.

A5 (3). Police Department Report. Commissioner Beard stated it was an honor and a privilege to attend the awards banquet of the Police Department the previous Friday night. He would like to comment on how inspirational it was to observe the strong sense of community for the fellow officers and also for the citizens in their community. Commissioner Beard commented that sometimes these occasions are for “patting ourselves on the back” but this truly reflected their caring for the community as well. Also would like to show his appreciation for the Beat Reports that are included in the monthly reports.

A5 (7). Public Works Report. Commissioner Beard would like more explanation regarding the Brazos River Erosion Study. Assistant City Manager “ACM” Howard Christian addressed the Commission regarding the report which was prepared by Huitt-Zollars, Inc. The study was a projection of the next 30 years for an eight mile path of river flow through the city reflecting the geomorphologic study of the bank erosion along the Brazos River. The study provided two methods: The Time Sequence and Extrapolation Method (TSEM) and the Observation Method for Meander Migration (OMMM). ACM Christian provided slides with maps showing the different degrees of erosion that have occurred after the flooding of 2015, 2016 and Hurricane Harvey in 2017 as well as the projected for the next 30 years. There are several areas of concern but when asked, ACM Christian stated the primary would be the crossing at Highway 90. The erosion will continue to be monitored every five years with the County taking the lead as to policy changes if needed. Concerned parties will be notified of the study results such as Union Pacific, TxDot and affected citizens.

Commissioner Lockhart pulled the item to discuss the gate that is located between the Williams Ranch/Veranda Subdivisions. Commissioner Lockhart stated the plats were reviewed and voted on that if the gate became a safety concern to citizens, it would be removed. (*See the Minutes from Regular Commission November 21, 2016 Action on Consent Agenda A4 (11) following Executive Session.*) Concerns from citizens, Lamar Consolidated Independent School District “LCISD” and the County have been noted with Commissioner Lockhart. Commissioner Lockhart stated the Mayor in a meeting said the gate would not be removed because the City was not going to go against Johnson Development. City Manager Terri Vela stated it was the responsibility of the land owner to provide two exits. This was echoed by Mayor Moore that it was the responsibility of Joan McLeod to provide two exits. Commissioner Lockhart stated we are now creating another situation like North Richmond where emergency personnel are unable to access the area. This makes two areas of our City that are economically disadvantaged

that have the same issue, this is a problem. ACM Christian stated that a meeting had been held with Fire Chief, County Engineer, KB Homes, and Precinct 1 staff to provide the service road (TxDOT feeder road) as an alternative exit and to determine the cost. Commissioner Lockhart asked ACM Christian his opinion as to the cost of the road versus removing the gate which was provided for in the footnote of the plat. ACM Christian replied that the cost could be significant. Following a lengthy discussion, the agenda item was closed.

A5 (8). Review and consider taking action on Resolution No. 262-2019, adopting the Official Map of the City of Richmond. Jordan Adams, GIS Technician was present to provide answers to any questions from the Commission. City Manager Vela gave a description of the Legends on each side with the map. GIS Tech Adams explained the different colors and what they represent as far as annexations, strategic partnership agreements and development agreements. The last revision to the map was October 18, 2018. The Planning Department is responsible for maintaining the accuracy of the official map for the City. Commissioner Lockhart inquired where the boundaries for the affected areas on the map for the EB5 Census Tract Agreement that was signed by Mayor Moore on October 3, 2018. City Manager Vela stated there isn't an electronic version that can be provided that would reflect those areas. Commissioner Lockhart expressed concerns as to why the agreement was not brought before the Commission for a vote as well as why it was signed when both the City Manager and Commissioner Beard had strong concerns about the agreement. The Mayor stated it was her right to sign the agreement. Commissioner Lockhart disagreed that the Mayor had the right to sign the Federal document without bringing it before the Commission. Commissioner Lockhart pressed the issue of where the area was on the map that the EB5 Census Tract Agreement covered, it was not identified. After a lengthy discussion, the agenda item was closed.

Commissioner Beard moved to approve the Consent Agenda items A5 (3), (7) and (8) with Commissioner Gaul seconding the motion and the vote was unanimous to approve.

Agenda item A6, to review and consider taking action on Ordinance No. 2019-01, Order of General Election for the May 4, 2019 Election. City Manager Vela spoke regarding this agenda item stating there will be two voting locations in the City of Richmond, the water maintenance facility and the George Memorial Library. Commissioner Beard made the motion to approve Ordinance No. 2019-01, Order of General Election for a General Election to be held on May 4, 2019, for the purpose of electing a Commissioner for Position 2 and a Commissioner for Position 4 each for a term of office from 2019 to 2022; Providing for a joint election on May 4, 2019, with other entities contracting with Fort Bend County for this joint election; providing for election precincts and polling places; providing for repeal; providing for severability; and containing other provisions relating to the subject. Commissioner Lockhart seconded the motion and the vote was unanimous to approve.

Mayor Moore introduced agenda item A7, to review and consider taking action on Resolution No. 263-2019, Joint Election Agreement and Contract for Election Services with Fort Bend County. City Manager Vela introduced this item stating that Fort Bend County provides all of the staffing and services that are needed to hold an election. The estimated cost for the election is \$7,283 however, that amount is subject to change based on the addition or subtraction of polling locations. Commissioner Beard inquired if the County sets the voting time periods and it was noted that yes, the County determines the voting times. It was requested to be verified if the City water

maintenance facility and the George Memorial Library would both be “early” voting locations by Commissioner Drozd. Commissioner Beard made the motion to approve Resolution No. 263-2019 approving and authorizing an Interlocal agreement with Fort Bend County, Texas for a Joint Election Agreement and Contract Election Services. Commissioner Gaul seconded the motion and the vote was unanimous to approve.

Agenda item A8, to review and consider taking action on staff’s recommendation to award contract and authorize City Manager to execute Engineering Design and Construction Phase Services Contract for the Magnolia Lane Paving and Drainage Improvement Project. ACM Christian addressed the Commission regarding this agenda item stating the City received ten submissions for the request for qualifications. In 2018, the City hired a consultant to do a Street Assessment Study that categorized the condition of each street throughout the City. Magnolia Street was rated very low and recommended for street reconstruction. Drainage was also evaluated and this street will include street reconstruction and drainage improvement. Staff recommended ARKK Engineering which was the low bidder at \$79,875. Commissioner Lockhart questioned the process and ACM Christian made assurances that there were no personal relationships, no bids because this is a professional service, evaluations were made and scored by qualified staff and this firm was determined to be the most qualified to do the job. Commissioner Lockhart made certain that he did not want a repeat of the East Laurel Oaks situation. Commissioner Beard made the motion to approve and then Commissioner Drozd requested an amendment to the motion. Commissioner Drozd requested the motion be amended to include the amount of the project. Commissioner Beard motioned to award the contract to ARKK Engineers, LLC and to authorize the City Manager to execute an Engineering Design and Construction Phase Services Contract for the Magnolia Lane Paving and Drainage Improvement Project in the amount of \$79,875. Commissioner Lockhart seconded the motion and the vote was unanimous to approve.

Mayor Moore introduced agenda item A9, to review and consider taking action on Ordinance No. 2019-03, text amendments to the Unified Development Code, to replace the term “lot” with “manufactured home lot or space” within certain sections that pertain to Manufactured Home Parks and Subdivisions. The specific sections include:

- 1) Section 4.1.204, Manufactured Home Parks and Subdivisions
- 2) Section 6.1.107, Nonconforming MHPs and RV Parks
- 3) Section 3.1.102A, Single-Family Detached Lot and Building Standards
- 4) Section 6.3.313, Manufactured Home Placement/Occupancy Permit
- 5) Section 5.1.103, Manufactured Home Standards

Planning Director Jose Abraham addressed the Commission regarding this item however, before the discussion, Mr. Valdimer Reyes requested to speak due to being late to the meeting and missing the public hearing under agenda item A4. Commissioner Beard motioned to allow

Mr. Reyes to speak for three (3) minutes with Commissioners Lockhart and Drozd simultaneously seconding the motion.

Valdimer Reyes, 110 Riveredge Drive, Richmond, Texas

Mr. Reyes concerns that if a "Lot" is vacant it will lose its non-conforming status. If one "lot" is vacant, it will affect the entire mobile home park with the way it is written. Mr. Reyes asked that the City not change the wording.

Planning Director Abraham stated that the Unified Development Code erroneously uses the term "Lot" for parcels within Manufactured Home Parks or subdivisions for the placement of a single manufactured home. It was explained to the Commission the definitions and differences of a "Lot", "Space", "Manufactured Home Park" and a "Manufactured Subdivision". The changes will provide better clarity and consistency and address the possibility for misinterpretation. Commissioner Gaul requested Planning Director Abraham address the citizen concerns and asked him to confirm that these were changes only for the clarification, not any actual changes in the policy related to manufactured home parks. City Attorney Gary Smith provided an in-depth analysis of the intention of the UDC and its interpretation of the sections. Commissioner Beard inquired if the amendments had been reviewed by the Planning and Zoning Commission and the answer was that they had and that a public hearing had been held. Following a question and answer period, Commissioner Drozd made the motion to approve the proposed text amendment to Section. 4.1.204, Manufactured Home Parks and Subdivisions; Section 6.1.107, Nonconforming MHPs and RV Parks; Table 3.1.102A, Single-Family Detached Lot and Building Standards; Section. 6.3.313 Manufactured Home Placement/Occupancy Permit; Section. 5.1.203 Manufactured Home Standards. Commissioner Beard seconded the motion and the vote was unanimous to approve.

The Mayor opened agenda item A10, to review and consider taking action on Ordinance No. 2019-02, amending the Ethics Ordinance. City Manager Vela stated the City had received an allegation of ethics violation prior to the meeting. This amendment would provide for a modification to the original Ordinance that created the Board in 2005 which has been modified in 2011 and again in 2017. The original Board of Ethics and Compliance would disband upon the completion of the review, hearing and recommendation on the complaint referred to the board at the time of its appointment. The amendment is proposing to change the language to appoint a board with each member serving a term of three years and the terms shall be staggered to provide for the appointment of the board members and alternate member over a three-year period. Commissioner Beard stated that what the Commission discovered at the workshop/retreat is that the Charter and Code of Ethics language needed to be revised. Having a standing board would allow for a more timely review and the code of ethics to stay more current. Commissioner Beard made the motion to approve Ordinance No. 2019-02, amending Richmond Code, Chapter 2 "Administration," Article III "Ethics," to provide for the appointment and terms of the members of the Board of Ethics and Compliance; Providing for Repeal; providing for severability; and containing other provisions relating to the subject. Commissioner Drozd seconded the motion and the vote was unanimous to approve.

Mayor Moore introduced agenda item A11, Excuse from Attendance at a Regular City Commission Meeting. City Attorney Gary Smith addressed the Commission stating

at the Workshop/Retreat it was suggested that the excuses from attendance needed to be at the end of the agenda to approve or disapprove the absence at the current meeting. It was also noted that future absences could be voted on as well. There were no absences to approve tonight therefore the agenda item was closed.

Mayor Moore stated agenda item A12, Consider taking action on requests for future agenda items. At the Workshop/Retreat it was suggested at this point of the meeting, agenda items could be recommended by the Commission for the next meeting. The next Commission meeting is February 18, 2019.

Commissioner Lockhart made the motion to discuss the gate located in the Williams Way/Veranda Subdivisions. Commissioner Beard seconded the motion and the vote was unanimous.

Commissioner Lockhart made the motion to place the EB5 Census Tract Agreement on the agenda to gain a full understanding. A presentation was requested as to the validity, area it encompasses, economic impact and fraud. Commissioner Beard seconded the motion and the vote was unanimous.

At this time, Mayor Pro-Tem Beard proceeded to preside over the meeting. Mayor Pro-Tem Beard thanked Mayor Moore for allowing him to preside over this process. Mayor Pro-Tem Beard addressed everyone in attendance, stating the Commission did not enter into this process with any malice and that the Commission does not take the allegations made against the Mayor lightly. Rule F2 from the Rules of Commission was read for clarification. The Rules of Commission will be followed to keep order and not allow personal attacks. The allegations that are being addressed tonight are in the letter dated January 11, 2019.

Mayor Moore was asked if there was a preference to meet in Executive Session of which she responded her preference would be to meet in Executive Session.

Commissioner Lockhart was allowed to speak for five minutes beginning with the statement, "This is the hardest thing I have ever had to do." "I love Richmond", that being said, the following was brought before the Commission or stated:

These allegations have been brought before the Commission for the past 7 months with no action. Every agenda item on the 01.22.19 agenda was laced with his concerns. The Commission needed to go to an offsite meeting to discuss these allegations. At that meeting, Mayor Moore admitted to these allegations. Mayor Moore was asked to resign and she refused.

Sections 3.04 and 3.07: On December 10, 2018, ordered Finance Director Susan Lang to retire without consulting the City Manager. This is a direct violation of the Charter as well as a possible violation as Age Discrimination as called out in the Civil Rights Act of 1964. It also violated the Equal Employment Opportunity Commission, the Department of Labor and the Age Discrimination in Employment Act.

Section 3.10 The Mayor has violated this numerous times when discussing what has been discussed in Executive Session with Pat and Dan McDonald as it relates to the McDonald and Wessendorff Insurance Company. This is a conflict of interest with

Pat and Dan McDonald who received the employee health insurance contract with the lowest score (42) and the highest cost. The Mayor forbid City Manager Vela to place the item on the agenda.

Section 3.09 Commissioner Lockhart believes this has been violated as well. At this point, the five minutes was up. Transparency and Accountability was reiterated.

Attorney Michael Orsak spoke on behalf of Mayor Evalyn Moore. Attorney Orsak regards Evalyn as a longtime friend and a good person. Stated the room was filled with good people. Stated the room was filled with distinguished individuals and recognized Reverend Lockhart, his wife Sharon and brother Joey. Attorney Orsak provided a very poignant oration in defense of Evalyn stating, "To expel someone that has been elected by the populous who has owned it, and regretted it and should be allowed to say I'm sorry for it would be undemocratic. Taking the voice of the people and putting it in the hands of the Commission would be a disservice." His desire would be to slap her hand but don't make it fatal. People make statements that are taken out of context, but they shouldn't be taken to the point of expulsion for it. His wish would be for Josh and Evalyn to work together in a more civil manner, serving the community. There are two sides to every coin and those sides are better looked at in Executive Session. This is not something you get paid to do, its volunteer.

Mayor Pro-Tem Beard announced agenda item A13, Adjourn to Executive Session, as authorized by Texas Government Code, Section 551.074 and 551.701, Personnel Matters and Attorney Consultation.

The Commission adjourned to Executive Session at 6:11 p.m.

The Commission reconvened into Open Session at 8:17 p.m.

No action was taken during Executive Session.

Mayor Pro-Tem made the following statements:

The allegations took some time to review as they were taken very serious. They affect the City, individuals and everyone. Change is never easy and the City has been in a time of transition and transition is difficult. At that point, Commissioner Terry Gaul made a motion to censure Mayor Moore for official misconduct in violations of

Charter, Section 3.04 – (1) assumed administrative duties

Charter, Section 3.07- (2) dictate removal of administrative officer

Charter, Section 3.07 - (3) giving order to employee subject to direction and supervision of the City Manager (Mayor Moore has admitted this misconduct)

Charter, Section 4.07 – interfering with the City Manager in the performance of the duties of that office.

Direction was given to the City Attorney to draft a letter of censure: the other alleged violations were not found to be sustained. A copy of the letter of censure shall be placed in the Mayor's official file.

Commissioner Drozd seconded the motion and the vote was as follows:

Mayor Pro-Tem Beard – Aye
Commissioner Gaul - Aye
Commissioner Drozd - Aye

There was a brief discussion period.

Commissioner Drozd stated based on what he had read, findings as noted and violations that were found, whether it was intentional or not he stated it was their duty to enforce the rules of the Charter. He felt it was in poor judgement regarding the official misconduct and he feels the remedy of censure is appropriate.

Commissioner Gaul stated he agreed with all of Commissioner Drozd's sentiments but later stated that they have learned that the Commission has a broad power as a whole versus individually.

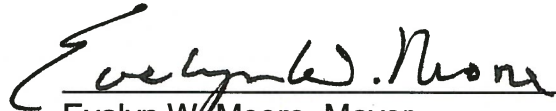
Mayor Pro-Tem Beard stated again that the City has been in a state of change and transition and based on what has happened the Commission has a sense of all of their responsibilities. That the Charter trumps everything, they are more aware of the Rules of Commission which are appropriate and that no one should interfere with the duties of the City Manager. If it should occur again with anyone of them, a public hearing would be held.

Commissioner Lockhart was allowed five minutes to refute the comments made and the decision of the Commission. It was stated that he strongly disagreed with their decision and ignorance was not an excuse as to change and transition. We all took an oath. It was stated that Commissioner Lockhart and Commissioner Beard wrote the Charter so they should know what it says. The Charter was written five years ago. He feels this is a total disrespect for the laws of the City. He stated the meetings being held at 4:30 is an inconvenient time for the citizens. He stated the Mayor in her closing statement said that in the future she would contact each of us individually before making a decision, she is not going to change.

Mayor Moore was also given five minutes to speak. She wished to thank the Commission for their decision as well as the City Attorney and Frank Garza. She knows it was not an easy one and she appreciates it very much.

With no further business to discuss, Mayor Pro-Tem Beard declared the meeting adjourned at 8:29 p.m.

APPROVED:



Evalyn W. Moore, Mayor

Attest:



Laura Scarlato, City Secretary