

MINUTES OF THE REGULAR MEETING  
TOWN OF BAYVIEW, TEXAS

Held at  
102 S. San Roman, Bayview, Texas

December 19, 2013

**TOWN COUNCIL MEETING**

1. The regular meeting of the Board of Alderman of the town of Bayview was called to order, December 19, 2013 at 6:30 p.m. at the Town Office, 102 S. San Roman, Bayview, Texas.

Present were: Mayor Tom Rodino, Aldermen: Garry Lowder, Bill Hooton, Mark Mullendore, Scott Stachowiak, and Leon Deason; as well as Town Secretary, Susan Heinz.

2. The Pledge of Allegiance was led by Mayor Rodino.
3. Mayor Rodino welcomed everyone in attendance and asked if there were any public comments or concerns. He reminded those present that the Board was not allowed to comment, discuss or make any type of decision regarding the comments.

There was concern expressed by Jeneria Lewis about the fence ordinance for the Town of Bayview being open for interpretation. She stated that they were putting a fence around a garden and when a fence permit was requested, they were informed by the Town Secretary that one was not needed. Jeneria questioned this and as a result, a permit was issued. Mayor Rodino stated that this is something the Board would need to look into.

Tom Daughters brought up his concerns about a pile of building debris mixed with tree trimmings at 127 N. San Roman. He noted that Mayor Rodino had already been looking into the situation and arrangements had been made to notify the property owner. Mr. Daughters thanked Mayor Rodino for being proactive.

Steve Hester also expressed concern about a resident who cleared a lot of citrus trees and was waiting for pickup by Allied Waste, he also commented on the corner lot at N. San Roman and FM 510, said property is for sale and the ROW is not being maintained. Mayor Rodino assured him that the town would follow up.

**Action Items:**

1. Eric Villareal from LNV Engineering reported on the latest information we had received from FJW concerning rain delays. FJW is requesting that the amount the Town is charging them for late days needs to be reduced because of rain days. Eric

stated that FJW only notified LNV one time, in December, 2012, of the need to delay work due to rain. FJW is claiming rain days after the fact, not in compliance with the contract. There was quite a bit of discussion among the Board members and Eric concerning the next steps to take. Eric asked for the Board's approval for him to meet with FJW to address our concerns. Alderman Deason made a motion to authorize Eric Villareal and some of the Aldermen to meet with FJW after the first of the year. Alderman Lowder seconded. Motion carried.

**Old Business (matters carried forward from a previous meeting or meetings):**

1. There was quite a bit of discussion about adopting a formal policy and procedure for communicating with the Town attorneys. Alderman Deason explained the changes he proposed to this policy. The other Aldermen were given the opportunity to express their opinions and concerns. Mayor Rodino clarified some of the items for the Board. Alderman Hooton stated that he did not see the need for the word Mayor to be changed to the Board. Alderman Mullendore stated that he felt any time a board member wanted to speak with the attorney, it needed to be cleared through the Mayor first. Alderman Mullendore stated he felt the changes made by Alderman Deason allowed for transparency and made a motion to adopt the Policy and Procedure for communicating with Attorneys with the additions made by Alderman Deason. Alderman Deason seconded. Aldermen Stachowiak, Mullendore and Deason voted in favor of the motion, Aldermen Hooton and Lowder voted against. Motion carried.
2. The adoption of a formal policy and procedures for placing items on the Town Council meeting agenda was discussed. Alderman Deason explained his proposed changes. His biggest concern was about changing dates of regularly scheduled meetings; if a change was going to be made for one it needed to be made for everyone. Alderman Mullendore made a motion that the Board accept the original with changes. Alderman Stachowiak seconded. Aldermen Mullendore, Stachowiak, and Deason voted in favor of the motion. Aldermen Hooton and Lowder voted against. Motion carried.
3. Discussion and possible action on a proposed lease agreement with the Girl Scouts. Mayor Rodino stated that there were no new developments to report, but that a proposed short term lease was presented to the Girl Scouts; and they stated that they would review it and try to get it on the agenda for their Board meeting in January. There was no action to be taken by the Board at this time.
4. There was discussion on the proposed Noise Ordinance reworked by Alderman Lowder. The amended Ordinance clarifies the requirements and states how to handle noise complaints. Alderman Hooton wants the document called a Guideline, not an Ordinance, since the Town itself cannot enforce the Ordinance, as we have no equipment to measure loudness of the noise and no means to issue a citation. Alderman Lowder stated that any complaints received about noise are really Disturbing the Peace; as the Sheriff's department does not have any means of

measuring sound either. Alderman Hooton made a motion to accept the Ordinance with amendments made by Alderman Lowder, call it a Guideline, and remove Item 12 which refers to a Penalty being charged for violation. Alderman Mullendore seconded. Approval was unanimous, motion carried.

### **New Business:**

#### **5. Approval of the Consent Agenda:**

- a. Minutes of the Town Meeting(s) of November 21, 2013.
- b. Financial reports for month of November, 2013.
- c. Building Inspector Report and Fees (there were none)
- d. Payment of the billing from the Rentfro Law Firm totaling \$106.25.

Alderman Mullendore made a motion to approve the Consent Agenda, Alderman Lowder seconded. All approved, motion carried.

#### **6. Discussion and possible action on a new program for handling ROW maintenance issues. Alderman Hooton reminded everyone that the intention of this ordinance is to make it more defined and enforceable, making it fair to all persons concerned.**

Alderman Hooton moved that *'we continue working on this amendment because it is needed. And that these basic provisions are generally accepted given that minor modifications may be agreed upon and legal confirmations for issues such as determination of the definition of ROW and penalty enforcement will be completed'*. Alderman Lowder seconded the motion. Alderman Deason and Alderman Mullendore voted against the motion. Alderman Stachowiak stated that he would like to see the old and the new ordinances merged together, and then voted in favor of continuing the work. Motion carried.

Alderman Hooton mentioned that the biggest issue so far is what exactly is the ROW. There does not seem to be a standard ROW measurement for the Town of Bayview. Alderman Hooton would like to come up with a standard measurement of the area the Town expects the property owners to maintain. He also explained the process of documenting violations so that it would be fair, consistent, and enforceable. Alderman Mullendore stated that the ROW issue was not that important of an issue for him. He felt that the enforcement and payment of fines was going to be quite difficult. Alderman Stachowiak feels the current ordinance is enforceable, but that Alderman Hooton's proposals would make the process more manageable. Alderman Stachowiak also stated that there was a CD in the Town Office addressing the ROW and asked the Town Secretary if she would look for it. Alderman Deason expressed his concerns about the determination of the ROW distance. There was much discussion concerning this ordinance. Alderman Hooton stated that he would go back to

David Irwin, Town Attorney, to get his opinion of the legality of fines, the necessity to take matters to the Building and Standards Commission and the determination of the ROW distances. The matter will then be brought back to the BOA in January, 2014. There was no action at this time.

7. Mayor Rodino recommended these referrals to the Building & Standards Commission:

- a. Brownsville Anesthesia property on Calle Hermosa
- b. Salinas-Lee property on Calle Hermosa/S. Valencia
- c. Capistran property on W. Resaca/Palma Lane

The Bergandahl property was not referred to the B&SC at this time as we have had difficulty learning who was actually responsible for the property and the original letter was sent to the attorney, not the property owner. There will be letters sent to Ms. Bergandahl, as owner of record.

Alderman Lowder proposed the fines to be as follows:

Brownsville Anesthesia - \$675 plus an additional \$575  
Salinas-Lee - \$375 plus an additional \$325  
Capistran - \$775 plus an additional \$725

Alderman Mullendore made a motion that these cases be referred to B&SC.  
Alderman Lowder seconded. Motion carried.

8. Mayor Rodino reported on the correspondence received regarding the Cornerstone Church and School in Madison Grove. The Town received a letter from their attorney, asking why the Town was denying the use permit. Mayor Rodino stated that the church was not the issue, but that the school was another matter. It was also stated that to the Town's knowledge, the Church does not own the property as they have not yet provided proof of ownership.

Mayor Rodino asked for a motion to take this letter to the Town Attorney, David Irwin, for legal input. Alderman Hooton so moved, Alderman Deason seconded, motion carried.

9. Mayor Rodino asked for a letter of support to the Town of Laguna Vista's efforts to obtain a solid waste grant to develop a recycling program and information to residents on proper disposal of waste. Some questions were asked concerning any costs to the Town of Bayview. Mayor Rodino stated that there would be no cost to the Town at this time.

Alderman Mullendore made a motion that we send a letter of support to the Town of Laguna Vista, Alderman Lowder seconded. Motion carried.

## **DISCUSSION ITEMS:**

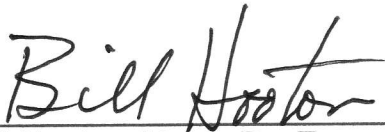
10. Some progress has been made on updating Bayview standalone ordinances. Mayor Rodino stated that at some time in the future a workshop would be needed after Town Secretary, Susan Heinz, collated the information.
11. Mayor Rodino reported that it has now been more than 30 days since Judge Hinojosa ruled in the Town's favor regarding Bayview Palms and that the trial date in February, has been removed from the Clerk's calendar. Roger Hughes stated that if the owners of Bayview Palms wanted to appeal the ruling, they still could until the 31<sup>st</sup> of December, but he didn't feel they would exercise that option.
12. Mayor Rodino presented a Welcome to Bayview letter, created by Susan Heinz, Town Secretary, which would be presented to new residents, both purchasing existing homes as well as building new homes, with certain ordinances attached. This would be a way of informing new residents that the Town does have ordinances, and would avoid unnecessary confusion. Alderman Lowder would also like to see these letters given to local real estate agents.
13. Citizen complaints regarding loose dogs. The dogs on W. Toronja seem to be under control at the present time. If loose dogs continue to be a problem, the owners can be referred to the B&SC for fining.
14. Reports:
  - a. No reports from Building & Standards Commission, but Jeneria Lewis announced that Bonnie Gibbons had agreed to act as secretary for the Commission.
  - b. Nothing to report regarding Emergency Management. Mayor Rodino did state that a consortium of cities was being led by Los Fresnos for a hazard mitigation plan, approved by FEMA. He presented the information to the Council and asked them to consider participation in this consortium for approval or denial at the January meeting of the Board.
  - c. Roger Mantony was asked if there was anything to report on CERT, there was not.

## **EXECUTIVE SESSION:**

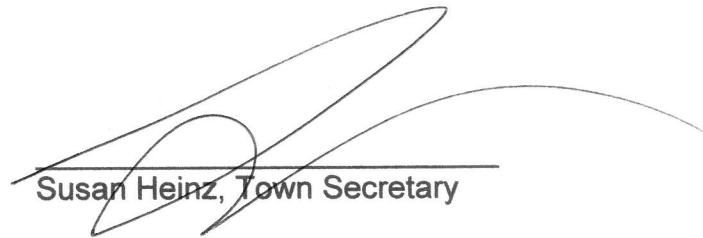
There was no Executive Session

## ADJOURN

The regular meeting of the Board of Alderman was adjourned at 9:10 p.m. after a motion from Alderman Deason and a second from Alderman Lowder.

A handwritten signature in cursive script that reads "Bill Hooton".

Bill Hooton, Mayor Pro Tem

A handwritten signature in cursive script that reads "Susan Heinz".

Susan Heinz, Town Secretary