

# Minutes of City Council

## Regular Meeting of Monday, April 8, 2019

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BE IT KNOWN THAT, a Regular Meeting of the City Council of City of Richwood was held Monday, April 8, 2019, beginning at 6:05 PM in the Richwood City Hall, 1800 N. Brazosport Blvd. Richwood, Texas.

### I. CALL TO ORDER

The meeting was called to order at 6:09 p.m.

### II. INVOCATION

The invocation was held during the prior Planning and Zoning Meeting.

### III. PLEDGES OF ALLEGIANCE

*Pledge of Allegiance & Texas Pledge*

The pledges were held during the prior Planning and Zoning Meeting.

### IV. ROLL CALL OF COUNCIL MEMBERS

Mark Guthrie, Mayor -ABSENT

Mike Johnson

Frank Blanks

Sarah Reed

Mark Brown II

Katie Johnson, Mayor Pro-Tem

Others present: Michael Coon, City Manager; Lindsay Koskiniemi, Finance Director; Clif Custer, Public Works Director; Giani Cantu, City Secretary

### V. PROCLAMATIONS

A. Proclamation recognizing David Head

B. Proclamation - Police Week - May 13-17, 2019

C. Proclamation - Arbor Day - April 26, 2019

Katie Johnson read all proclamations.

### VI. PRESENTATIONS

A. **Fiscal Year 2017-2018 Comprehensive Annual Financial Report**

**Kevin Cadenhead with Kennemer, Master, and Lunsford, presented the annual financial report.**

Mayor Pro-Tem Katie Johnson recessed the meeting at 6:25 p.m.

Mayor Pro-Tem Katie Johnson recalled the public meeting at 7:40 p.m.

## VII. CONSENT AGENDA

- A. Approval of Minutes of Previous Meetings
- B. Payment of Bills

On motion by Sarah Reed second by Frank Blanks, with all present members “voting aye, all consent agenda items were approved.

## VIII. DISCUSSION AND ACTION ITEMS

- A. **Discuss and consider granting a variance to Richwood Self Storage to clarify variance for building encroachments granted by City Council on September 13, 1999 and approving a lease agreement for the property located on Richwood Drive that the Richwood Self Storage pylon sign is placed on**

Mr. Coon stated in 1999 City Council granted Richwood Self Storage a variance on the encroachments to the building line with the following discussion and action:

*“Quinton Anderson was present to act as the representative of the owners of the Richwood Self Storage. It is in the process of being sold and the current survey showed several encroachments across city building lines. Building 26 encroaches 8 feet over the building lines, Building 9 is 6.5 feet, Buildings 27 – 28 are 1.4 feet, Buildings 16 and 17 are 1/10 feet and Building 33 is 7/10 feet.*

*On motion by Councilman Cary, seconded by Councilman Pitts, with all members present voting aye, the variance request for encroachments to the city’s building lines was approved as requested.”*

The attorney of new owners is requesting clarification to include a variance to the property line. The survey that was presented to Council in 1999 does show the encroachment to the City’s property line. Staff is recommending authorizing a variance for the encroachment to the property line based on what was presented in 1999. The lease agreement is for the sign that currently sits on city property. The owners have done a great job maintaining.

On motion by Frank Blanks, second by Mike Johnson with all present members voting “aye” a variance to Richwood Self Storage to clarify variance for building encroachments granted by City Council on September 13, 1999 and a lease agreement for the property located on Richwood Drive that the Richwood Self Storage pylon sign is placed on was approved.

- B. **Discuss and consider an ordinance amending the Drought Contingency Plan**

Clif Custer upon reviewing the contingency plan after last council meeting to address shortage of water staff found that the current ordinance doesn't include pressure. Adding pressure allows the city more freedom to not have to enact a certain stage of drought contingency plan. According to TCEQ compliance, pressure is the end all be all of how we measure the efficiency of our water system. Proposed changes included pressure requirements as follows: Stage 1 40 psi at any point, stage 2 38 psi at any point, and Stage 3 35 psi.

Mike Johnson asked how many times are we in stage 1 with proposed changes.

Clif Custer reported 100% of the time.

Mark Brown asked how many times are we in stage 1 with current ordinance.

Mr. Coon stated with the current ordinance 0% because it does not address pressure. However, the City still remains 100% out of TCEQ compliance with current situations.

Mark Brown asked so these proposed changes allow the city to enact the Drought Contingency Plan based on pressure shortages.

Clif Custer that is correct.

Mike Johnson stated his issue is that the Drought Contingency Plan is more a shortage of water plan. These changes would mean limiting water use when there is no drought.

Katie Johnson asked if this would mean no splashpad.

Mr. Coon reported that at Stage 3 of the proposed changes, people can only water by hand and yes it would mean the City as well would have to keep the Splash pad off.

Mike Johnson stated the splashpad is thoroughly enjoyed by residents and asked if there was a compromise to allow use on the weekends.

Mr. Coon stated the ordinance could be written to include something like that.

Mark Brown the issue isn't necessary a shortage in water, it is pressure. He asked what happens to pressure when the splashpad is on?

Clif Custer reported he doesn't know. That testing has not been done.

Mike Johnson stated he wants to see a more in depth look into it because residents really enjoy this.

Mark Brown stated he agrees but also need to look at water quality.

Mike Johnson stated he believes part of this also leads into the Town Hall meeting on April 9 and how quick those improvements are going to get done.

Mark Brown will there be amendments to proposed changes.

Michael Coon stated if Council wants to see changes then staff can make amendments.

Mark Brown asked staff to hold off until further testing is done.

**C. Discuss and consider awarding RFQ 19-001Q Engineering Sewer Improvements - 2018 CDBG Funds**

Mr. Coon reported staff is recommending Civil Corp.

Tommy Kuykendall, Civil Corp, stated they have the manpower, technical expertise and capability to perform these services. Company has grown from about 25 to 100 employees. References include Victoria, Port Lavaca, Rosenberg and Wharton. This is the type of the work they do.

On motion by Frank Blanks second by Sarah Reed with all present members voting “aye” RFQ 19-001Q Engineering Sewer Improvements – 2018 CDBG Funds was awarded to Civil Corp.

**D. Discussion on possible changes to zoning ordinance**

Mr. Coon stated this was the forum to discuss areas of the zoning ordinance that need clarification.

Kelia Gartman, 238 Stuart, stated she has inherited her family home. Her step dad passed away and the intent is to provide living quarters for her mother. She understands no kitchen is allowed, it would just be living quarters and bath. However, she was told the current ordinance addresses servants or staff to live above a garage, but it won't allow other family. She believes it is important to take care of parents and would ask Council to consider changing the ordinance to allow family.

Sarah Reed stated she believes council should consider changes to allow family.

Frank Blanks agreed.

Mike Johnson asked if this was a garage apartment. Would it be separate quarters or attached to the house?

Ms. Gartman stated it is an existing detached garage. They would like to build above the garage with no kitchen.

Mr. Coon stated the current ordinance allows for temporary periods. He doesn't see issue with changes for family as long as it addresses the ability to change it into rental property.

Mr. Brown stated the previous issue on the agenda was due to change of use after occupancy. What prevents this from being changed after?

Mr. Coon reported if changed after it would give the City the ability to revoke the occupancy permit.

Discussion was held on possible changes to residential zoning to allow detached living quarters for family.

Mr. Brown asked are you concerned about her going up and down stairs.

Ms. Gartman stated they have considered that and do have a space for possible elevator. However, for now she will be living in back of house.

Mr. Coon stated, if council is in approval, staff can make some changes and bring for consideration.

Council agreed and advised staff to make changes to allow more family use of detached living quarters or living quarters in accessory buildings.

Ms. Reed asked that the home occupations also be looked at again.

Ms. Johnson stated changes to zoning ordinance also should include the ability to replat lots.

Mr. Coon reported staff has some changes. They still need review by city attorneys. He asked Council to address changes to home occupations or provide direction since it was brought up.

Ms. Reed stated she will provide feedback later.

Mr. Coon presented the following:

*Over the course of the last year there have been multiple requests from various resident to look at different provisions of our zoning code and staff has also noticed some areas that may benefit from having further clarification. Since the zoning ordinance is so large, staff is breaking down recommended changes to the ordinance into multiple meetings. The following a list of the zoning changes that will be reviewed at this meeting.*

1. *Maximizing property usage for residential landowners.*
2. *Creating a larger buffer on back of commercial, business, and multi-family lots.*
3. *Adding a maximum lot size for the Single-Family Rural Zone.*
4. *Adding a definition for shade trees.*
5. *Adjusting the fines for zoning violations.*

**Maximizing Property Usage**

*Over the course of the last year, the City has received multiple requests from residents for permission to place a building within the current setbacks. On October 27, 2018 City Council held a special workshop to discuss the history of setbacks and to provide staff with feedback on any potential changes to the setbacks. As a result of that meeting, staff was giving instructions to prepare changes to the setbacks that would allow residents to maximize the use of their property. Listed below is a summary of the recommended changes:*

*A. Remove the distinction between temporary and permanent accessory structures to simplify the ordinance.*

*B. Change the setback requirements to be less restrictive than the current requirements for temporary accessory structures in the Single-Family, Zero Lot Line, Single-Family Attached, and Two-Family zoning districts.*

**Changes to Residential Accessory Structures Setbacks**

| <b>Current Ordinance</b> | <b>Recommend Change</b>                            |
|--------------------------|----------------------------------------------------|
| Front                    | 60 Feet    Front of House<br>(as close as 25 Feet) |
| Side                     | 5 Feet    5 Feet                                   |
| Back                     | 5 Feet    3 Feet                                   |

- A. Increase maximum lot coverage by 5 percent in residential zones and add a definition for lot coverage.*
- B. Only allow accessory structures that are permanently affixed to the ground to be located within an easement. Will help maintain access to easements given other recommended changes.*
- C. Change back building line for principal structure to a set limit instead of a calculation based off property depth.*

**Create Larger Buffer for Residential Zones**

*During recent discussions on development, multiple residents have brought up concerns that the current building setback of 18 feet for commercial properties is too small. To provide a larger buffer, staff is recommending*

*that no buildings be allowed within 25 feet of the back of commercial, business, and multi-family lots. While multi-family lots were not mentioned specifically by residents, staff feels it would be appropriate to create a larger buffer there as well.*

#### **Maximum Lot Size**

*Over the past year the City has also seen a large number of requests to combine lots in the Oakwood Shores Subdivision, which is zoned Single-Family Rural. If this practice is allowed to be continued unchecked, that subdivision could get to a point that there are so few lots with houses that the property tax generated from that subdivision will never be able to provide the revenue needed to maintain the City's infrastructure in that subdivision. To protect the City's long-term financial interests, staff is recommending limiting the maximum lot size to 2.25 acres for any lots that are created or changed after July 1, 2019.*

#### **Shade Trees**

*Although our current ordinance requires shade trees be included in the landscaping plan for new construction, it does not provide a definition of a shade tree.*

#### **Adjusting Fines**

*When comparing our current fines to that of other cities, our fines are set at a lower level. Staff is recommending setting the fine not to exceed \$2,000. That would be the maximum fine. A judge would still have their discretion to reduce that amount. Listed below is a chart summarizing the fines for some surrounding communities.*

| <b>Zoning Violation Fine</b>      |                                         |
|-----------------------------------|-----------------------------------------|
| <i>Angleton</i>                   | <i>Not to Exceed \$2,000</i>            |
| <i>Brazoria</i>                   | <i>No Zoning Ordinance</i>              |
| <i>Clute</i>                      | <i>Not to Exceed \$2,000 + Expenses</i> |
| <i>Freeport</i>                   | <i>Not to Exceed \$2,000 + Expenses</i> |
| <i>Lake Jackson</i>               | <i>Not to Exceed \$2,000</i>            |
| <i>West Columbia</i>              | <i>No Zoning Ordinance</i>              |
| <b><i>Richwood (Current)</i></b>  | <b><i>Between \$5 to \$1,000</i></b>    |
| <b><i>Richwood (Proposed)</i></b> | <b><i>Not to Exceed \$2,000</i></b>     |

Discussion was held on staff's recommendations to changes and utility easements.

Mr. Brown stated he wants to see that changed because someone cannot put a structure in a utility easement.

Mr. Johnson asked if you could just allow temporary.

Mr. Coon stated if we want to provide a definition to temporary then great.

Mr. Johnson could be defined as anything that is not on a slab. If it is held down by its own weight or anchored than it is temporary because it can easily be moved.

Ms. Johnson asked Clif Custer, Public Works Director, he saw any issues with people putting stuff in easements.

Mr. Custer stated yes. Historically, the City has had a pretty giving view that we replace or fix any damages but not all providers do. Electricity and gas do not fix and there has been issues with recent improvements.

Ms. Johnson stated so we should not allow building in easements.

Mr. Coon stated he believes what is being said is that as long as it is easily and readily movable it is okay.

Mr. Brown stated that is correct. If I can go empty and move my shed in minutes, it should be allowed.

Discussion was held on fencing requirements and location of accessory structures setbacks.

Mr. Brown believes he should be able to go all the way to the fence line with a temporary.

Frank Blanks agrees.

Mike Johnson agrees also. However, believes maybe the intent was to avoid the nuisance of seeing a building from your yard.

Mr. Coon advised that some cities require 6 inches per foot of building for setbacks.

Ms. Reed asked could you not have it start at certain height

Mr. Coon stated you could.

Mr. Brown believes side setbacks make sense, but back setbacks don't make sense. He asked what is the proposed 20 feet.

Mr. Coon advised the 20 feet is building line for the main structure only. In summary, Council would like to see a definition of permanent and temporary structures added and keep permanent and temporary structures with a setback of 5 feet.

Mr. Brown stated he believes it is his property and he should be able to use it as long as it is not permanent. What is the problem with someone using the space within setback?

Mr. Coon advised it is a personal preference. Personally, he would not like to see his neighbor's stuff right along his property line. However, council is the one that determines the policy.

Ms. Johnson stated she believes this is where height comes into play. If you have a building and paint it a color she doesn't like then she has to look at it. Or if you allow it to become delapidated and it becomes unsightly.

Mr. Coon asked for clarification. Should temporary building any structure over 8 ft, 10 ft, or another height require setback?

Mr. Johnson stated the building just needs to be single story.

Mr. Brown concurred and added temporary.

Mr. Coon stated for clarification any temporary single story shall be allowed to go up to the property line.

Council agreed.

Discussion was held on commercial property setbacks that abound to residential.

Mayor Pro-Tem Johnson called for a recess at 8:55 p.m.

Mayor Pro-Tem Johnson recalled the meeting at 9:07 p.m.

Discussion was held on maximum lot size, shade trees and adjusting fines.

Mr. Coon summarized the discussion: maximum lot size at 2.25 acres, require shade trees, and setting fines to 2000 with clarification of notifying process and compliance period.

Mr. Brown what prohibits the city from imposing retroactive fines.

Ms. Cantu stated there is no statute of limitations on ordinance violations.

Mr. Coon advised however, that is where Council could set those policies to prohibit retroactive ordinance violations.

- E. Approve items removed from Consent Agenda  
No items removed.

#### IX. PUBLIC COMMENTS

*All public comments will be subject to the following rules: all speakers will be permitted to speak no longer than 3 minutes; all speakers will only be permitted to speak once; speakers cannot defer their 3 minutes to another speaker; the first five individuals who sign up for the public comment section will be permitted to speak*  
There were no public comments.

#### X. FUTURE AGENDA ITEMS

Zoning changes – Public Hearing

#### XI. REPORTS

Reports that require no action.

- A. Financial Reports

#### XII. CITY MANAGER'S REPORT

Mr. Coon reported the May agenda will have an item to adjust time limits and discuss regular meetings with new council and April 22 is the CIAC meeting. Last week he submitted an official request for waiver to use CDBG funds for funding FEMA flood gates. It is in final review process.

Mr. Brown asked if there will be a flood advisory review committee meeting and bring back an update.

Mr. Coon advised we are still in waiting. However, he can send out an update to the group.

Mr. Coon also reported that staff is working on the FY 19-20 budget and the strategic planning session is scheduled for May 18.

#### XIII. COMMITTEE REPORTS

No reports were given.

#### XIV. COUNCIL MEMBER COMMENTS & REPORTS

Mr. Brown stated KRB did a great job at Saturday's Earth Day event and had a lot of stuff for kids. It was a nice day. He thanked staff for getting financials in order.

#### XV. MAYOR'S REPORT

No report was given.

XVI. ADJOURNMENT

There being no further business the meeting adjourned at 9:26 p.m.

These minutes were read and approved on this 13<sup>th</sup> day of May, 2019.

ATTEST:

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Mayor

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Giani Cantu, City Secretary