

The City Council of the City of Seabrook met in regular session on Tuesday, April 2, 2019 at 7:00 p.m. in Seabrook City Hall, 1700 First Street, Seabrook, Texas to discuss, consider and if appropriate, take action on the items listed below.

THOSE PRESENT WERE:

THOM KOLUPSKI

ED KLEIN

LAURA DAVIS

JEFF LARSON – Ex. Abs.

NATALIE PICHA

BUDDY HAMMANN

JOE MACHOL – Ex. Abs

GAYLE COOK

SEAN LANDIS

STEVE WEATHERED

ROBIN HICKS

MAYOR

COUNCIL PLACE NO. 1

COUNCIL PLACE NO. 2

COUNCIL PLACE NO. 3

MAYOR PRO TEM

COUNCIL PLACE NO. 4

COUNCIL PLACE NO. 5

COUNCIL PLACE NO. 6

CITY MANAGER

DEPUTY CITY MANAGER

CITY ATTORNEY

CITY SECRETARY

Mayor Kolupski called the meeting to order at 7:00 p.m. and led the audience in the United States and Texas Pledges of Allegiance.

1. PRESENTATION

1.1 Presentation to recognize members of the Seabrook Volunteer Fire Department for assisting ITC Deer Park in extinguishing the tank fires. (Kolupski/Davis)

Mayor Kolupski recognized the members of the Seabrook Volunteer Fire Department who worked to assist with the tank fires at ITC in Deer Park.

Councilmember Davis read the words of appreciation, as Mayor Kolupski presented each SVFD member with a certificate of recognition.

Mayor Kolupski thanked those that fought the fire, stating that they did a great job. The fire was tough and those fighting it were out there a few days. City and Council appreciates the expertise and professionalism of the Seabrook Volunteer Fire Department. In addition, the Mayor of Deer Park expressed his appreciation to Mayor Kolupski for the assistance and work done by the members of the Seabrook Volunteer Fire Department.

2. PUBLIC COMMENTS AND ANNOUNCEMENTS

Robert Kidd, 1021 Victorian Court, stated that he is in opposition to the 20 foot setback in Old Seabrook but would support a 10 foot setback. There are a lot of buildings in Old Seabrook that have more of a 10 foot setback. If a 20 foot setback were to be required, the view from a back porch would look at the back side of another building, rather than looking out at the water. Because of the buildings already in existence with less than a 20 foot setback, there will be a number of

nonconforming structures, even though those buildings are grandfathered. Mr. Kidd asked Council to consider a 10 foot setback rather than a 20 foot setback.

2.1 Mayor, City Council, and/or members of City staff may make announcements about City/Community events. (Council)

Councilmember Davis announced the following upcoming events: The Seabrook Animal Shelter Spring Cleaning Adoption Event; a City holiday with offices closed on Good Friday; and the Easter Egg Hunt.

3. SPECIFIC PUBLIC HEARING

3.1 Conduct a public hearing on a request for consideration of an amendment to the Code of the City of Seabrook, Appendix A, "Comprehensive Zoning", Article 3, "Establishment of Zoning Districts and Associated Regulations", Section 3.12 (OS) "Old Seabrook District", by considering amending Subsection 3.12.02 B. 2. "Area Regulations", by creating a minimum building front yard setback of twenty (20) feet. (Landis)

Sean Landis, Deputy City Manager, stated that currently there is no front yard setback in the Old Seabrook Zoning District. The Planning & Zoning Commission is making the recommendation of a front yard setback of 20 feet be added to the zoning district. The recommendation of 20 feet came from the P&Z Commissioners using the townhouse requirement of a 20 foot setback in the current ordinance as a benchmark and looking at R-1 zoning in other areas of the city that are platted similarly to the Old Seabrook plats with lots of 50x125. The front yard setback in an R-1 zoning district is 25 feet. Parking, driveways, landscaping can project beyond the 20 feet. Old Seabrook currently has a zero setback, which means someone could literally build right up to the street or against the open ditch which creates hazardous conditions with reduced right-of-way sections in that area.

The following comments were made from City Staff and City Council:

Merlion has a setback of zero but the deck was built 20 feet away from the property line. The ordinance will not change anything on the platted lots. The front yard is off the side streets and this will not fix anything with Main Street requirements. This corrects the issue of building right up against the street on the side streets.

The height requirements are 17.5-18.5 feet above sea-level which is why most of the buildings are elevated the way they are.

Essentially, none of the houses in Old Seabrook actually front Main Street because the address is from the side street, so the setback from Main Street is still 5 feet.

A month ago, the City went through the whole process of expressing the want of sidewalks on Main Street, but the City still cannot build sidewalks down Main Street with a 5 foot setback without taking a piece of the property. It was the intent that throughout the district, someone cannot

91 build right up against the street. Planning and Zoning believes this safety issue needs to be
92 addressed. The setbacks are typically requirements that allows the fire department to bring in the
93 trucks.
94

95 The problem is not on the side streets. The problem is on Main Street. Ten years down the
96 road there will be an even bigger headache because all of Old Seabrook is non-conforming.
97

98 One of the issues discussed for the last 15 years is walkability and sidewalks in Old
99 Seabrook. All buildings in existence or in construction would be grandfathered, but if a
100 grandfathered structure suffers over 50% damage from a storm, for example, then they would have
101 to comply with 20 foot setback. This is a safety issue and this is not effecting anything in existence.
102 This is for future buildings, to give a little bit of a buffer. The City is not restricting someone's
103 ability to market in the future.
104

105 Mayor Kolupski opened the public hearing.
106

107 Debra Harper, 506 Baywood Drive, stated that a zero lot line was a way to encourage
108 businesses to come into the City. The idea was a sidewalk with the street façade but that was
109 before elevation got so high. One problem with such a large setback is allowing staircases to be
110 in the setback. That has caused problems with elevated buildings. The ditches should be part of
111 City right-of-way, so houses should not be in those ditches. Ms. Harper agrees with Mr. Kidd.
112

113 Mayor Kolupski closed the public hearing.
114

115 **4. CONSENT AGENDA** 116

117 **4.1** Approve on second reading proposed Ordinance 2019-10, "Adoption of an Updated
118 Seabrook Official Zoning Map." (Landis)
119

120 AN ORDINANCE WHICH REPLACES THE CURRENT OFFICIAL CITY OF SEABROOK
121 ZONING MAP DATED THE 19TH DAY OF APRIL, 2006; PROVIDING A PENALTY IN AN
122 AMOUNT OF NOT MORE THAN \$2,000.00 FOR VIOLATION OF ANY PROVISIONS
123 HEREBY OF INCLUSION INTO THE CODE; REPEALING ALL ORDINANCES OR PARTS
124 OF ORDINANCES INCONSISTENT OR IN CONFLICT HEREWITH; AND PROVIDING
125 FOR NOTICE AND SEVERABILITY
126

127 **4.2** Approve on second reading proposed Resolution 2019-06, "EDC Project Designation for
128 KIWO Inc. and approval of SEDC expenditures for retention, and site improvements due to
129 TXDOT condemnation pursuant to Performance Agreement." (Chavez)
130

131 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEABROOK, TEXAS,
132 APPROVING A PROJECT OF THE SEABROOK ECONOMIC DEVELOPMENT
133 CORPORATION TO PROVIDE BUSINESS INCENTIVES TO KIWO, INC. IN AN AMOUNT
134 NOT TO EXCEED \$84,209.40 FOR BUSINESS RETENTION, EXPANSION, AND
135 CONSTRUCTION OF SITE IMPROVEMENTS DUE TO TXDOT CONDEMNATION FOR

146 IMPROVEMENTS, ALL AS PROVIDED FOR IN THE TERMS AND CONDITIONS OF
THE "ECONOMIC DEVELOPMENT AGREEMENT," ATTACHED HERETO FOR
APPROVAL

4.3 Approve a permit request submitted by Dow Seadrift Pipeline Corporation to relocate approximately 4.36 miles of 10" propane and 6" ethylene pipeline due to the SH 146 Expansion Project. The pipelines will cross the Clear Creek Channel and the following roads within the City of Seabrook: Shipyard Drive, Anders Street, 3rd Street, 2nd Street, West Repsdorph Road, Humble Drive, and Red Bluff. The proposed construction is scheduled to begin on or around March 1, 2020 and is estimated to be complete by May 2020. (Landis)

4.4 Approve the minutes of the March 19, 2019 regular City Council meeting. (Hicks)

Motion was made by Councilmember Hammann and seconded by Councilmember Davis

To approve the Consent Agenda as presented

MOTION CARRIED BY UNANIMOUS CONSENT

5. NEW BUSINESS

5.1 Consider and take all appropriate action on first reading of proposed Ordinance 2019-12, "Establishment of a 20' (Twenty Foot) Front Yard Setback within the (OS) Old Seabrook Zoning District." (Landis)

AN ORDINANCE AMENDING THE CODE OF THE CITY OF SEABROOK, APPENDIX A, "COMPREHENSIVE ZONING", ARTICLE 3, "ESTABLISHMENT OF ZONING DISTRICTS AND ASSOCIATED REGULATIONS", SECTION 3.12 (OS) "OLD SEABROOK DISTRICT", BY AMENDING SUBSECTION 3.12.02 B. 2. "AREA REGULATIONS", BY CREATING A MINIMUM BUILDING FRONT YARD SETBACK OF TWENTY (20) FEET; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$2,000 FOR VIOLATION OF ANY PROVISION HEREOF BY INCLUSION INTO THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT WHEREWITH; AND PROVIDING FOR NOTICE AND SEVERABILITY.

Council expressed the following concerns:

Because lots are smaller than other lots in town, there is hesitation to effect the buildable area. The side yard and front yard are linked, because you are looking at the total buildable area on that lot. The zoning for R-1 is 25 foot setback so a 20 foot setback would be appropriate, but Planning and Zoning should look at the side yard.

Planning and Zoning brought up safety issues, but there needs to be a more comprehensive assessment – specifically about why 20 feet meets the safety requirements. A joint workshop with

the Economic Development Corporation and Planning and Zoning will allow everyone to have a voice.

Every year this subject comes up and at some point, everyone will have to agree to make some decisions in hopes that everyone is okay with what Old Seabrook might be in the future.

The City was awarded the livable center study. This study will include Old Seabrook and will address some of the walkability.

Old Seabrook as a whole is not just Main Street. There was talk about creating the Main Street district, so in the process, the City will end up with two zoning districts: Old Seabrook and Main Street that will have two different layouts. Planning and Zoning was trying to keep people from building right up to the property line. The streets in Old Seabrook are narrow and around 16-17 feet wide. Fire trucks need 24 feet to turn around. As the City goes through the livable center study, a lot of the issues will be identified, and then a financial decision can be made on how to address the issues.

Motion was made by Mayor Pro Tem Picha and seconded by Councilmember Davis

To approve on first reading proposed Ordinance 2019-12, "Establishment of a 20' (Twenty Foot) Front Yard Setback within the (OS) Old Seabrook Zoning District."

MOTION CARRIED BY A 4 TO 1 VOTE, WITH COUNCILMEMBER KLEIN VOTING IN OPPOSITION

6. ROUTINE BUSINESS

6.1 Approve the Action Item Checklist which is attached and made a part of this Agenda. (Council)

TXDOT – Sean Landis, Deputy City Manager, stated that Whataburger is not one of the buildings that TXDOT is taking down. Code Enforcement is working on a title search to notify the property owner to address the graffiti. The City does not have the right to go on private property and mitigate graffiti, so if the property owners do not address the issue they will be written a citation. TXDOT is in the process of contracting with Webber to complete the demolition, which will be a quicker process. TXDOT has addressed the following traffic issues and concerns: remove the yield sign and put a stop sign at 10th Street; bring the barriers farther down at the waterfront district to stop individuals from going down to end of barriers and making a U-turn; prepare the north bound of the frontage road for utility relocation; widening the southbound bridge. TXDOT has started working on the express bridge and preparing for columns. A week ago an unauthorized barge showed up in the channel. Webber moved the barge in without going through the Coast Guard, and it was quickly remedied. RS&H and TXDOT will make sure Webber can get the proper permissions. The SH146 Expansion project is still on a five year timeline. State Representative Dennis Paul's Office is helping to expedite the demolition of the buildings on the railroad side. TXDOT is going building by building, and waiting for asbestos reports.

PROJECTS – Gayle Cook, City Manager, stated City staff has primarily finished the Todville project pending some equipment pickup and the County has finals to do. Pine Gully Phase 1A bid opening is quickly approaching. Kevin Padgett, Director of Public Works, and Brian Craig, Assistant Director of Public Works and City Engineer, have been involved with the City utility relocation. A third party inspector is going out and everything is going fine. The SCADA system went out to bid. NASA RD1 and Old Seabrook waterline improvements are at 90% design. The bids for Marvin Circle off SH146 have been opened and will be on the next City Council agenda. Pine Gully and Hester water line improvements have been approved. Brad Goudie, Director of Emergency Services, is working with Public Works for the replacement of the fire station floor. Du Lac Trace Waterway and Seascape repairs are in the works. The Red Bluff expansion is at a 90% project review completion – letting date in July and construction should begin in August and some of the clearing for the right-of-way is happening now.

GRANT – There are no new updates. The City does have a firm that's working on a preliminary submittal for the Meyer sidewalk grant for the intermediate school and if preliminary is favorable, staff will come back to council for full proposal.

LEGISLATION – Ms. Cook stated there are two Seabrook bills (House and Senate) that are progressing. There are over 70 cities looking to do a rebate on the hotel tax. It is closely being watched as it is progressing. A couple of resolutions came up with the tax bill and drainage issues with Seabrook's recognition on those resolutions. Regional partners are supporting the City. The tax cap that came up could be very detrimental to the City in the future. The uniform election date in November makes it tough on the City to pass anything budget wise. Another bill the City is watching is the franchise bill. There is not a city that is in favor of giving up their right-of-way for free.

Motion was made by Councilmember Davis and seconded by Councilmember Klein

To approve the Action Items Checklist

MOTION CARRIED BY UNANIMOUS CONSENT

6.2 Establish future meeting dates and agenda items. (Council)

The next City Council meeting will be on Tuesday, April 16, 2019 at 7:00 p.m.

7. CLOSED EXECUTIVE SESSION

7.1 Section 551.071

Conduct a closed executive session to consult with the City Attorney to discuss legal issues associated with compliance terms and legal remedies under the contract between the City of Seabrook and the Clear Lake Emergency Medical Corps (CLEMC). (Cook)

At 7:59 p.m. Mayor Kolupski announced that the City Council will now hold a closed executive meeting pursuant to the provisions of the Open Meetings Act, Chapter 551 Government Code and Vernon's Texas Codes Annotated, in accordance with the authority contained in Section 551.071, Consultation with Attorney.

8. OPEN SESSION

Council will reconvene in open session to allow for possible action on any of the agenda items listed under "Closed Executive Session."

At 8:21 p.m. Mayor Kolupski reconvened the meeting in open session and stated that item 7.1 had been discussed, but that no action had been taken in executive session.

8.1 Discussion on emergency medical services and current services being performed by Clear Lake Emergency Medical Corps (CLEMC). (Cook)

Gayle Cook, City Manager, explained that staff wants to explore where the City is at with the current emergency medical services provider and what the numbers look like to explore the option of a fully funded in-house EMS Department.

Brad Goudie, Director of Emergency Services, stated that Seabrook has seen a significant increase in call volume over the last year, which is the criteria under the CLEMC contract for assessment amounts paid by Seabrook, and with the construction of over 55 residential structures, the call volume will continue to grow. The current CLEMC assessment of \$249,269.00 has been steady since FY17-18 when there was a 15% increase in assessment. In FY12-13, Webster had dropped out as a CLEMC partner and at that time the CLEMC board made the determination to keep every partner's assessment capped for 5 years.

Ms. Cook continued that with the current assessment of \$246,269.00 plus estimated collections of around \$350,000.00 from inside city limit calls, Seabrook has just over \$596,000.00 going into CLEMC. When budget conversations ended last year with the CLEMC board, it was evident that CLEMC has CIP and capital needs, and it would take an assessment to Seabrook of \$387,000 for services plus bringing equipment and CIP needs up to current. Because there was opposition from other partners on the final numbers needed, the discussions stopped. One issue is that there is not a good formula for calculating operations costs (call volume costs) versus capital/CIP needs (static costs). Members were not comfortable with the proposal to increase some partners' assessments to cover CIP while other partners would be issued credits. There was no assurance that all would share the same costs for administrative, non-call related expenses. Seabrook wants to have the assessments be equitable. April 30 is the next board meeting and the discussion should be centered around what it would cost to get CLEMC back up to where they need to be. Another issue is that money has not been set aside for CIP; therefore, CLEMC has been purchasing on an as needed basis, and asking partners to fund items in emergency situations. CLEMC has also financed equipment.

Ms. Cook continued that a year to year comparison of audit results is a little skewed because accruals were not done prior to last year. The general condition of the CLEMC corporation is that it is netting out \$0, with no funds in reserve at this point. Basically, billing and assessment payments are funding payroll and accounts payable. It was understood at the end of the last board meeting that CLEMC could come back and ask for a bailout. A Councilmember stated that the organization is not set up for survival with a board of volunteers, Councilmembers from seven different cities, who are not experienced in running ambulance businesses.

Ms. Cook pointed out that CLEMS is a corporation with the seven cities as partners in the corporation. CLEMC has with Johnson Space Center and Port of Houston, so there are other revenues in addition to the city assessments. The board is made up of one (1) member from each city for every 5000 in population, so that Seabrook has three (3) board members. Councilmember stated that if five (5) of the smaller cities voted the same, then those five (5) cities could out vote Seabrook. Mr. Goudie explained that a vote to hire qualified personnel to assist with brining CLEMC up to standard and in a good position to move forward was voted down. The operations side is doing well, but the management side needs assistance. A Councilmember stated that CLEMC is running on bylaws that were created when it was a volunteer organization and some of the board members are not willing to change. There is no clear indication that there will be forward progress.

Councilmember asked if CLEMC, in addition to the funding issue, is looking at how to resolve the increased response times that are being reported. A 17 minute response time is not acceptable. Mr. Goudie stated that the CLEMC operations chief knows that a 3rd ambulance will resolve the response time issue, but the funding is not available to purchase the 3rd ambulance. The remedy to the response time is issue is one that Seabrook would have to fund. CLEMC moved an ambulance to Seabrook to assist with response times, but it is not dedicated exclusively to Seabrook, so it responds to calls in Kemah or anywhere in the service area when it is needed. Councilmember expressed that there's also the issue that SVFD gets there, and luckily a lot are paramedic and EMT trained, but they don't have the equipment that they need to tend to a true emergency. It is probably frustrating for SVFD. Ms. Cook pointed out that even though there is not a CLEMC ambulance dedicated to Seabrook, there is a unit present in Seabrook a good portion of the time.

Mayor Kolupski explained that all seven cities are looking at doing something to help CLEMC or going elsewhere. The updated assessment is going to be somewhat substantial, and there will be a problem if all cities can't agree on a shared administrative cost.

Upon motion duly made and seconded, Mayor Kolupski adjourned the meeting at 9:01 p.m.

Approved this 21st day of April, 2020.

DocuSigned by:
Robin Lenio
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Robin Lenio, TRMC, City Secretary

DocuSigned by:
Thomas G. Kolupski
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Thomas G. Kolupski, Mayor

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