

The Electrical Substation Mitigation Improvements (ESMI) Committee of the City of Seabrook met for Meeting No. 5 on Monday, March 1, 2023 at 6:00 p.m. at the Public Works Training Facility, 1100 Red Bluff Road, Seabrook, Texas, to discuss, consider and if appropriate, take action on the items listed below.

THOSE PRESENT WERE:

JACKIE RASCO	COUNCIL PLACE NO. 1
BUDDY HAMMANN	MAYOR PRO TEM
	COUNCIL PLACE NO. 5
JOE MACHOL – Abs.	COUNCIL PLACE NO. 6
ADAM SHANNAHAN	CHAIR
ANGELA BARRON	VICE CHAIR
JOSE BARRON	MEMBER
SANDY HARRISON	MEMBER
ROBERT PASKEY	MEMBER
GAYLE COOK	CITY MANAGER
SEAN LANDIS	DEPUTY CITY MANAGER
THOMAS L. BROCATO	COUNSEL
ROBIN LENIO	CITY SECRETARY

Adam Shannahan, Board Chair, called the meeting to order at 6:03 p.m.

1. PUBLIC COMMENTS

Kylie Wilson, 2602 Loganberry Circle, stated that the surveys that were done in 1950 and 1951 for the Red Oak Acres Subdivision, Section 2, for lots owned by CenterPoint, but originally owned by Carl Logan and Dr. Regan Marshall, state that the land shall be subdivided as Red Oak Acres..said property and all things subordinate to said subdivision...all of the property in the above foregoing shall be restricted in its use and shall run with the title of the property...and shall be enforced by Harris County. This property was acquired by a lawsuit when HL&P sued property owners for unpaid taxes. Seabrook was incorporated in 1961 and zoning was put into place in the early 1970's. The plans were subdivided out and purchased by homeowners, and that is the way the property should stay, as residential. None of the language in the survey, except for the utility easement, allows for any other use except residential. This is a restricted covenant throughout, no matter who owns the property. The zoning has never changed on this property, by HCAD, by the Appraisal District, or by a Court of Law. The only zoning has been residential and nothing else.

2. DISCUSSION

2.1. Discuss, consider, and if necessary take action on the up to date status, of the substation project and applicable matters with special counsel related to the powers of the local municipality. *Gayle Cook, City Manager*

Gayle Cook, City Manager, stated that there was an outstanding question on this item regarding the open records requests and the information that was derived from the Office of the

City Manager. The responses to the open records requests show that the Office of the City Manager was in discussion with CenterPoint in 2018, and City Manager's office was encouraging CenterPoint to look at other locations. Informal conversations between CenterPoint and City Manager continued through 2021 with large gaps in between those conversations. In 2021, City staff attempted to pursue the Planned Unit Development process with CenterPoint, and at that time, the City understood that denials of the PUD from Planning & Zoning Commission and City Council would be powerless against CenterPoint's rights as a Public Utility. The discussion regarding this substation became more public in May 2021. When any type of potential development comes to Seabrook, there are preliminary discussions between developer, City Manager's office and the Community Development department to look at zoning implications. The City was looking at the construction of the substation the same as any other commercial development. The City had discussions with its legal counsel and CenterPoint's legal counsel that resulted in information being exchanged regarding the City's limited powers, including limited zoning powers, over matters concerning public utilities.

Mayor Pro Tem, Buddy Hammann, explained that City Administration must be neutral anytime a developer comes before them to build in the City. The Planning & Zoning Commission and the City Council make the decision for approval, not City Administration. A Planned Unit Development (PUD) is considered when a developer comes into the City and cannot meet certain zoning requirements in the district he/she wants to build. When CenterPoint came forward with plans to build a substation in a residential subdivision, City Administration started walking CenterPoint through the PUD process because with a PUD, the City Council can require certain amenities, elements or construction details that would be required to be maintained for the life of the facility, even if that facility changes ownership. When the City learned that CenterPoint had authority as a Public Utility that goes beyond the City's zoning powers, CenterPoint stopped moving forward with the PUD plans.

Thomas L. Brocato, Special Counsel, was present to discuss and assist the Committee with understanding the City of Seabrook's authority to contest the location of a proposed electrical distribution substation to be built by CenterPoint Energy in the Red Oak Acres Subdivision. With much discussion with the Committee, Mr. Brocato summarized that CenterPoint does not need the City of Seabrook's permission or require a certificate of convenience and necessity to construct the proposed substation and the City of Seabrook does not have legal authority to impact or influence the location of CenterPoint's proposed substation.

2.2 Discuss, consider, and if necessary take action on recommendations on the aesthetic plans and mitigation improvements submitted by CenterPoint Energy for an electrical substation in the Red Oak Acres Subdivision. *Adam Shannahan, ESMI Committee Chair*

After much discussion, the Committee ask the City Manager to investigate the following legal items, prioritized as 1) is there any validity to the deed language / restrictions evidenced in Section 2 of the 1950 and 1951 surveys for this property regarding the intended use of the land as residential; 2) Has CenterPoint's legal counsel looked at the Porter v Southwestern case wherein the Texas Court of Appeals opines that a city's residential zoning authority is superior to a public utility's eminent domain authority; 3) have typically required environmental studies been

completed by CenterPoint for this property, since CenterPoint has stated that the property must be suitable for their use; and 4) what are the details / projections for moving the substation construction project to an alternate site?

In addition, the Committee asked the City Manager to submit to CenterPoint the list of mitigation items show in Attachment A with items prioritized as follows:

Item 7	Will CenterPoint provide maintenance schedule to City and residents for the barrier wall?
Item 8	Will the wall be constructed along the shared property line with 2521 Loganberry Cir?
Item 9	How can citizens be involved in the decision of plantings once the wall and substation are constructed?
Item 10	What will the City do to enforce plans for tree replanting?
Item 11	Will there be an agreement between the City and CenterPoint to bind all mitigation elements and any ongoing maintenance?
Item 12	The submitted plan set appears to show 90% of trees are removed with the addition of the detention pond. Can a tree overlay of the survey give a clear answer on number of salvaged and surveyed trees?
Item 13	Can CenterPoint confirm the depth of the detention pond of 12.5' at deepest point? What is the overall static water depth?
Item 16	How can residents obtain a copy of the Comprehensive Drainage Study?
Item 21	What are the fire suppression measures for this specific location that will be taken, which division responds, expected time response and examples/report of those response times/ What are the expected worse case exposures/risks to this type of substation?
Item 23	Will CenterPoint, in writing, agree to City and homeowners that a luminary study before and after will be done and shared to the City and homeowners?
Item 24	Will CenterPoint confirm the site plan elevations for the ground elevation and where the internal luminaries will rest in relation to over/under the wall elevation?
Item 27	Will CenterPoint provide a rendering of the elevation of the substation at ground elevation to give homeowners a true site visualization of what they will see from their front yards as to equipment extending above the 14' wall line and in distance of direct view?
Item 28	What is the finished ground elevation above sea level of the substation?
Item 29	What is the base height of the substation components above the pad site?
Item 33	Will CenterPoint commit that the 14; wall will be constructed around the perimeter prior to any other phase starting?
Item 36	Will CenterPoint write a binding agreement that no future construction or add-ons will take place at this site?
Item 37	Will CenterPoint acknowledge and guarantee that a binding agreement will be approved by and between the company and the City for all mitigation, future potential mitigation, and maintenance, and security measures? This agreement would guarantee the City and CenterPoint's responsibilities in each area.

3. NEW BUSINESS

3.1 Consider and take all appropriate action on the minutes of the February 20, 2023 ESMI Committee Meeting No. 4. *Robin Lenio, City Secretary*

Motion was made by Mayor Pro Tem Hammann and seconded by Member Harrison to approve the minutes of the February 20, 2023 ESMI Committee Meeting No. 4.

MOTION CARRIED BY UNANIMOUS CONSENT

3.2 Discuss and take all appropriate action to establish an agenda for the next meeting and all future meetings. *Robin Lenio, City Secretary*

By consensus, Committee members agreed to let Chair Shannahan and City Manager discuss next meeting date, once mitigation priority list is submitted to CenterPoint and CenterPoint has had some time to respond.

Upon motion duly made and seconded, Chair Shannahan adjourned the meeting at 7:54pm.

Approved this 26th day of April, 2023.

Adam Shannahan

Adam Shannahan
Chair

Robin Lenio

Robin Lenio, TRMC
City Secretary



ATTACHMENT A

SEABROOK ELECTRICAL SUBSTATION MITIGATION IMPROVEMENT COMMITTEE LISTING REV 2-20-2023

Question	Entity	Description
1	Centerpoint	Location - Report on other locations in the immediate area and why each one was rejected.
2	Centerpoint	Why was a land swap, or purchase, agreement unable to be reached with Harris County, especially considering Harris County's willingness to coordinate such a move?
3	Centerpoint	There is a substation along Hwy 146, southbound feeder, just north of the Geon plant. Does CenterPoint own this site? If so, why can it not be expanded to service the power requirements in the area?
4	Centerpoint	What percentage of power distributed from this proposed substation will be used to service the following, but not limited to, areas: Seabrook, Kemah, Pasadena, La Porte, Deer Park, Shoreacres, Port of Houston, unincorporated areas of Galveston County, etc.?
5	Centerpoint	Why does CenterPoint not have to provide a CCN?
6	Centerpoint	How can residents obtain from CenterPoint a list of substations that were built within an existing, developed neighborhood in the greater Houston/Galveston area?
7	Centerpoint	Wall - Will you provide maintenance schedule to City and residents for the barrier wall?
8	Centerpoint	Will the wall be constructed along the shared property line with 2521 Loganberry Circle?
9	Centerpoint	How can citizens be involved in the decision of plantings once the wall and substation are constructed?
10	City	What will the City do to enforce plans for tree replanting?
11	Both	Agreement - Will there be an agreement between the City and CenterPoint to bind all mitigation elements and any ongoing maintenance?
12	Centerpoint	Trees - The submitted plan set appears to show 90% of trees are removed with the addition of the detention pond, can a tree overlay of the survey give a clear answer on number of salvaged and surveyed trees?
13	Centerpoint	Detention Pond - Can CenterPoint confirm the depth of the detention pond of 12.5' at deepest point? What is the overall static water depth?
14	Centerpoint	Flooding - Can CenterPoint confirm that by the drainage study and modeling that subsequent and added flooding risk was evaluated?
15	Centerpoint	How will CenterPoint acknowledge the responsibility caused by any flooding ?
16	Both	How can residents obtain a copy of the Comprehensive Drainage Study?
17	Centerpoint	Why was the decision made to move the pond farther north when it appears that just as many trees will need to be cut to dig it at the north end vs near the substation?
18	Centerpoint	Plans - Can CenterPoint distribute a paper or electronic copy of plans directly to homeowners?
19	Centerpoint	Terroristic Threats and Measures - What is CenterPoint's public process to report and response to terroristic threats (phone number, text, email, and guaranteed response time)?
20	Centerpoint	How is the communication link that monitors the substation parameters kept safe from malicious interruption?
21	Centerpoint	Fire Concerns - What are the fire suppression measures for this specific location that will be taken, which division responds, expected time response and examples/report of those response times? What are the expected worse case exposures/risks to this type of substation?
22	Centerpoint	Environmental Study - How can residents obtain a copy of the Soil and Environmental Impact Studies to date and any future studies on the due diligence for this site?
23	Centerpoint	Light Study - Will CenterPoint in writing agree to City and homeowners that a luminary study before and after will be done and shared to the city and homeowners?
24	Centerpoint	Lighting - Will CenterPoint confirm the site plan elevations for the ground elevation and where the internal luminaries will rest in relation to over/under the wall elevation?
25	Centerpoint	Property Valuation Changes - Will CenterPoint produce the documentation showing that 0% property devaluation occurred after construction of a substation in other noted subdivision/residential areas? What specific studies is CenterPoint referencing?
26	Centerpoint	If provided with validating documentation, how does CenterPoint plan to compensate nearby property owners for loss in property value?

27	Centerpoint	Renderings- Will CenterPoint provide a rendering of the elevation of the substation at ground elevation to give homeowners a true site visualization of what they will see from their front yards as to equipment extending above the 14' wall line and in distance of direct view?
28	Centerpoint	What is the finished ground elevation above sea level of the substation?
29	Centerpoint	What is the base height of the substation components above the pad site?
30	Centerpoint	Noise -Will CenterPoint commit to ongoing work with Geon for noise study before and after the construction? And, if the after tree removal and wall construction and certain decibel readings exceed the city's daytime level or low level sound that could be considered harmful to those living in the area, that FURTHER noise mitigation efforts would be researched and financially committed for improvements?
31	Centerpoint	Noise - Will CenterPoint produce the decibel readings at other substation sites in similar locations to the Seabrook site from a home for homeowners to understand new potential levels that could be produced with this type of equipment?
32	Centerpoint	Construction Timeline - How can residents obtain a copy of the initial and ongoing updated construction timeline with specific phases for the residents to understand the process and expectations?
33	Centerpoint	Wall Construction - Will CenterPoint commit that the 14' wall will be constructed around the perimeter prior to any other phase starting?
34	Centerpoint	Site Plan - What is the reasoning or rationale for the current layout?
35	Centerpoint	Legal Ownership Record - Will Centerpoint provide City and residents a copy of the deeds?
36	Centerpoint	Future Plans - Will CenterPoint write a binding agreement that no future construction or add-ons will take place at this site?
37	Centerpoint	City Agreement - Will CenterPoint acknowledge and guarantee that a binding agreement will be approved by and between the company and the City for all mitigation, future potential mitigation, and maintenance, and security measures? This agreement would guarantee the City and CenterPoint's responsibilities in each area.