

**MINUTES
SPECIAL MEETING
CITY OF NASSAU BAY
CITY COUNCIL
JULY 23, 2007
7:17 PM**

(Note: The meeting was posted to immediately follow the Economic Development Corporation's quarterly meeting which was posted for 7:00 pm.)

MEMBERS OF COUNCIL PRESENT: Mayor Don Matter and Councilmembers Bette Johnson, John Haugen, Ron Swofford, David Braun, Mark Denman, and Joe Stilwell.

MEMBERS OF COUNCIL ABSENT: None.

OTHER CITY OFFICIALS PRESENT: City Manager John Kennedy, City Attorney Dick Gregg, Jr., City Secretary Pat Jones, Building Official Larry Boles, Fire Marshal Tommy Cones, Police Lieutenant Joey Cashiola, and Planning Commission Chairman Roscoe Lee.

PRESIDING: Mayor Matter.

CALL TO ORDER

Mayor Matter called the meeting to order at 7:17 pm.

ROLL CALL

All members of Council were present.

OLD BUSINESS

Ordinance Amending Chapter 22, Waterways, of the Code, Pertaining to Rafting of Boats

City Secretary Jones read the caption of the ordinance (second and final reading):

CAPTION:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NASSAU BAY, TEXAS, AMENDING CHAPTER 22, WATERWAYS, OF THE CODE OF ORDINANCES; ADDING A NEW SECTION 22.31 ENTITLED "RAFTING, LINKING, OR JOINING OF WATERCRAFT"; PROHIBITING A VESSEL OR WATERCRAFT FROM RAFTING OR LINKING TOGETHER IN NUMBERS GREATER THAN SIX ANYWHERE WITHIN THE TERRITORIAL LIMITS OF THE CITY OF NASSAU BAY; PROHIBITING RAFTED VESSELS FROM BEING LESS THAN 300 FEET FROM LAND; AND PROHIBITING RAFTED VESSELS FROM BEING LESS THAN 100 FEET FROM OTHER VESSELS RAFTED TOGETHER; PROVIDING FOR CODIFICATION, PROVIDING FOR

PUBLICATION, PROVIDING FOR SEVERABILITY, AND PROVIDING A PENALTY FOR VIOLATION THEREOF.

(Said Ordinance is of record in Ordinance Book No. 11 of the City of Nassau Bay, Texas, being Ordinance No O2007-628.)

It was moved by Councilmember Johnson, seconded by Councilmember Stilwell, that the ordinance be approved on second and final reading.

Mayor Matter said that his son had to deal with a snake that got into his boat on the water this past weekend. When other boaters realized what had happened, not many boats stayed around. Some artificial snakes might help us deal with our problems, Mayor Matter humorously said.

Mayor Matter reminded that this ordinance will need some modifications in the future, but Council had discussed in a previous meeting that it would go forward with it, as is, in order to get something on the books before summer ended.

There was a discussion regarding required distance from land, posting of signage, the patrol of Texas Parks and Wildlife boats, giving out an article previously published in the City's newsletter regarding excessive wake to the boaters and those patrolling the waters, and the average number of boats thought to be on the water on a given weekend.

As discussion turned to the number of boaters out of the possible estimated 100 who would be allowed to raft together, Mayor Matter reminded that the object of this meeting was to get an ordinance enacted which would allow dealing with the original issue of excessively loud rafted boaters disturbing waterfront property owners. Revisions to the ordinance are planned for a future meeting, Mr. Matter said.

The placement of buoys and language to cover suspensions of the ordinance for special occasions like the 4th of July and the Christmas Boat Parade were mentioned as needing to be addressed in future amendments to the ordinance.

It was clarified once more that the ordinance is to be approved in its original form with amendments to be made starting with the August regular Council meeting

There being no further discussion, motion passed 7 to 0

NEW BUSINESS

Ordinance Amending Appendix A, Zoning, of the Code, Pertaining to Temporary Storage Containers

City Secretary Jones read the caption of the ordinance (first of two readings):

CAPTION

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NASSAU BAY, TEXAS, AMENDING APPENDIX A, ZONING, OF THE CODE OF ORDINANCES, ADDING SECTION 11-1201, TEMPORARY STORAGE

CONTAINERS, PROVIDING A PENALTY FOR VIOLATION; AND PROVIDING FOR SEVERABILITY, CODIFICATION, PUBLICATION, AND AN EFFECTIVE DATE.

Mayor Matter said he would like an added provision that in the event of a tropical storm or hurricane, the City could insist that all containers be moved immediately. Being unsecured, they could become projectiles in a storm, Mr. Matter said.

A discussion ensued regarding how to amend the ordinance, whether it would revert to another first reading if the language was amended, and whether the Mayor already had the power to order them removed in emergency-type situations.

City Attorney Gregg advised that mayoral emergency powers wouldn't extend to something like this and that the ordinance would need to specifically provide for it.

There was a general discussion of how to amend the ordinance this evening so that it constituted a first reading without the delay of bringing it back for an additional first reading.

After several attempts to reword section (i) of the ordinance which reads: *During a recognized emergency the Building Official may waive the requirements for permits and time limits...*, City Attorney Gregg advised it would be better to keep the ordinance as it read, holding off on the rewording so that it could be ensured the wording was right. This is more complicated than it sounded at the beginning, Mr. Gregg said.

After more discussion, City Attorney Gregg advised that a section (j) could be added to read: *During a recognized emergency, the Mayor may order the immediate removal of all such temporary storage containers.*

City Manager Kennedy said that he feared, in a worst case scenario, we are setting a company like PODS up for failure. Suppose they deliver 30-40 containers to people who request them and then not have the ability to get them out of town before the storm. Thinking about it, Mr. Kennedy said, I'm not sure we want to waive the permit and time limits. The containers aren't strong and could be blown to bits in a hurricane.

City Attorney Gregg clarified that Mr. Kennedy was suggesting that section (i) be deleted because they were all short-term use anyway.

Mr. Kennedy said that was his intent.

Mr. Gregg said this would be a lot simpler to deal with than the other. You may invite them in and not be able to get them out, he said.

City Manager Kennedy recalled that a similar situation occurred during Hurricane Rita when emergency service type organizations like ambulance companies had contracts with hospitals and nursing homes, and they were not able to fulfill their obligations because they had too many to deal with at one time. We could be setting ourselves up for failure by allowing so many of them to come into the City, unpermitted, as a storm approaches.

Mayor Matter said we still need the power to tell them to remove it.

City Attorney Gregg advised to use the same language he originally stated but to delete the current section (i) and make this (i) instead of (j).

The language of the new (i) was clarified to read: *During a recognized emergency, the Mayor may order all temporary storage container permits revoked and the temporary storage containers to be removed from the City*

There was a consensus among Council that this language was adequate

Councilmember Johnson asked if the ordinance covered containers already in the City. It was answered yes, that they are not grandfathered, and those having such containers would need to obtain a permit at which time the clock would start.

Councilmember Braun asked if this pertained to residential only.

City Manager Kennedy said we already have regulations pertaining to commercial sites.

There being no other discussion, it was the consensus of Council that the ordinance be held over for second reading at the August regular Council meeting.

City Attorney Gregg advised it was legal to consider this a first reading because the change had actually been made at this meeting.

Ordinance Amending Fire Code, Requiring Fire Sprinkler Systems for Existing Construction for Multi-Family Occupancies

City Secretary Jones read the caption of the ordinance (first of two readings):

CAPTION

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NASSAU BAY, TEXAS, AMENDING THE FIRE CODE, CHAPTER 8, ARTICLE III, FIRE PROTECTION AND PREVENTION CODES, ADDING A NEW SECTION ENTITLED FIRE SPRINKLER SYSTEMS FOR EXISTING CONSTRUCTION FOR MULTI-FAMILY OCCUPANCIES; PROVIDING A PENALTY FOR VIOLATION; AND PROVIDING FOR SEVERABILITY, CODIFICATION, PUBLICATION, AND AN EFFECTIVE DATE

It was discussed this is a second first reading because major revisions were asked for at the last meeting where this ordinance was first considered.

Fire Marshal Cones said he had added, at Council's request, three deadlines which list specific compliance requirements to be met by the years 2008, 2009, and 2010.

Councilmember Swofford pointed out the compliance dates of August 1, 2008, August 1, 2009, and August 1, 2010 are each clarified by the phrase "one year (or two or three years, as the case may be) after adoption of this code." Because our Council meeting in August will be on the 13th, that isn't exactly a true statement, Mr. Swofford said.

After a brief discussion, City Attorney Gregg advised the language "one year (or two or three years, as the case may be) after adoption of this code" be omitted from each

compliance date. Even though the ordinance won't be effective until a couple of weeks after August 1st, Council can still require August 1 as the deadline for each year, Mr. Gregg said.

In additional discussion, Councilmember Haugen suggested September 1st of each year as the compliance date because the ordinance would have been finally and definitely adopted by then.

Mayor Matter then suggested the dates be deleted, leaving the language "On or before one year (or two or three years, as the case may be) after adoption of this code, engineering ...". The date the ordinance is adopted will be on the document and will be the reference date, he said.

Other Councilmembers agreed with this, as well as City Attorney Gregg who said Council views the lack of adequate fire protection at these type sites a serious problem and because of this concern, we are adopting this ordinance under a tight schedule.

There being no further discussion, the ordinance was held over for second reading at the August regular Council meeting.

Resolution Pertaining to the NASA Area Management District and Repealing Resolution No. R2007-1744, Pertaining to the District, in its Entirety

The caption of the resolution reads as follows:

CAPTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NASSAU BAY, TEXAS, PERTAINING TO THE NASA AREA MANAGEMENT DISTRICT, APPOINTING THE INITIAL SEVEN VOTING MEMBERS OF THE BOARD OF DIRECTORS, AUTHORIZING THE BOARD TO BEGIN COLLECTING A ONE-QUARTER CENT SALES TAX AT ITS EARLIEST OPPORTUNITY; AND REPEALING RESOLUTION NO. R2007-1744, PERTAINING TO THE DISTRICT, IN ITS ENTIRETY.

Mayor Matter informed it was found out after the last Council meeting that Councilmembers cannot serve on the board of the Management District. We have also heard from the State Comptroller's office and have learned that sales tax can't be collected until a full calendar quarter has elapsed.

Because we have some additional time, Mr. Matter continued, I'd like to ask the three Councilmembers that we appointed to interview some candidates and be ready to make recommendations to Council. I think we can do this at the September meeting, Mayor Matter said.

City Manager Kennedy and City Secretary Jones cautioned that this may not be enough time for the appointments and then for the District to meet. Mr. Kennedy said we want to make sure we have everything right that we send to the Comptroller.

Mayor Matter urged everyone to do what was needed so that we don't miss the October 1st deadline.

It was mentioned August 27th was a tentative date for a budget workshop, and a special meeting could also be held on this date, if necessary.

Further action on this item was tabled at this time.

OTHER BUSINESS

An Executive Session was posted to discuss the following item but because the New Business item pertaining to these appointments was tabled, no session was conducted:

§551.074: Personnel Matters – Discussion of Appointments to NASA Area Management District.

Mayor Matter recessed this meeting at 7:47 pm so that the Special Joint Meeting between Council and the EDC, posted for 8 pm, could be held.


ADJOURNMENT

All posted meetings ended at 9:54 pm.


Minutes approved as submitted and/or corrected this 13 day of August,
A. D. 2007

CITY OF NASSAU BAY, TEXAS





Donald C. Matter
Mayor



Pat Jones, TRMC
City Secretary