
CITY COUNCIL AGENDA

Notice is hereby given that the Rockport City Council will hold a special meeting on Friday, November 30, 2018, at 3:30 p.m. The meeting will be held at Rockport Service Center, 2751 State Highway 35 Bypass, Rockport, Texas. The matters to be discussed and acted upon are as follows:

Opening Agenda

1. Call meeting to order.

Regular Agenda

2. Deliberate and act on City Council disciplinary appeal procedures.

Executive Session

City Council will hold an executive session pursuant to the provisions of Chapter 551 of the Texas Government Code, in accordance with the authority contained in:

3. Section 551.071(2) Consultation with Attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter.
4. Section 551.087 Deliberation Regarding Economic Development Negotiations – Rockport Harvey Housing.

Open Session

City Council will reconvene into open session pursuant to the provisions of Chapter 551 of the Texas Government Code to take any actions necessary related to the executive sessions noted herein, or regular agenda items, noted above, and/or related items.

5. Adjournment.

Special Accommodations

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary's office at (361) 729-2213, ext. 225 or fax (361) 790-5966 or email citysec@cityofrockport.com for further information. Braille is not available. The City of Rockport reserves the right to convene into executive session under Government Code §§ 551.071-551.074 and 551.086.

Certification

I certify that the above notice of meeting was posted on the bulletin board at the Rockport Service Center, 2751 State Highway 35 Bypass, Rockport, Texas on Tuesday, November 27, 2018, by 3:30 p.m. and on the City's website at www.cityofrockport.com. I further certify that the following News Media were properly notified of this meeting as stated above: *The Rockport Pilot* and *Corpus Christi Caller Times*.



Ruby Beaven, Assistant City Secretary

CITY COUNCIL AGENDA
Special Meeting: Friday, November 30, 2018

AGENDA ITEM: 2

Deliberate and act on City Council disciplinary appeal procedures.

SUBMITTED BY: City Manager Kevin Carruth

APPROVED FOR AGENDA: PKC

BACKGROUND: Section 40-108(a) provides the opportunity for a disciplined employee to appeal their disciplinary action to the City Manager. If the employee does not agree with the City Manager's decision, Section 40-108(b) allows the employee one final appeal to the city council. As shown in the accompanying copy of Section 40-108, it does not provide very much direction on how an appeal hearing should be conducted. The December 11 regular council meeting is expected to include a disciplinary appeal hearing. The proposed procedures provide a framework for Council to hear both sides of the issue and were developed by our labor attorney and reviewed by the Mayor, City Attorney, and City Manager.

FISCAL ANALYSIS: N/A

RECOMMENDATION: Staff recommends Council approve the procedures, as presented.

City Council Disciplinary Appeal Procedures

- (1) The appealing employee shall provide a written statement of what specific disciplinary action the employee is appealing, on what basis the employee is appealing the City's action, and what resolution the employee seeks. The appealing employee shall include copies of all documents the employee thinks relevant to their argument. The employee shall also include a list of any witnesses they intend to call and is responsible for notifying their witnesses of the date, time, and location of the hearing. The City shall be provided copies of documents regarding discipline six business days before the scheduled hearing, so as to expedite the hearing process. No documents or witnesses will be allowed after that deadline.
- (2) The Mayor shall preside at the hearing. The Mayor may consult with Council Members during the appeal on any procedural matters that may arise. However, the Mayor shall make the final decision with regard to such procedural matters. Should either party make an objection to any question(s) asked of a witness, the Mayor may, but is not required to, consult the Council Members before ruling on any objection. The formal Rules of Evidence and/or Civil Procedure need not be followed during the hearing.
- (3) The appealing employee shall explain why they believe the discipline should be overturned. Mayor and Council Members may, but are not required to, ask questions of the appealing employee.
- (4) The appealing employee may call other witnesses but shall be limited to 20 minutes in total for presentation of witness testimony. Mayor and Council Members may, but are not required to, ask questions of witnesses presented by appealing employee.
- (5) City Manager (or designee) shall explain why he believes the discipline should be upheld. Mayor and Council Members may, but are not required to, ask questions of the City Manager.
- (6) City Manager (or designee) may call other witnesses but shall be limited to 20 minutes in total for presentation of witness testimony. Mayor and Council Members may, but are not required to, ask questions of witnesses presented by the City Manager.
- (7) The Hearing shall be declared closed by the Mayor. City Council shall go into executive session (if they are not already in executive session) to discuss the evidence presented and deliberate whether to approve, disapprove, modify or rescind the disciplinary action. If Council has held the appeal in executive session, then parties shall be required to leave while the Council deliberates over its decision.
- (8) The Council shall return to open session, and a Motion shall be made by a Council Member whether the disciplinary decision shall be approved, disapproved, or modified. The Council shall then vote on the Motion. If the City Manager's decision is modified, the Council shall determine what modification of the discipline shall occur.
- (9) The Council's decision shall be final and binding and shall not be appealable to any other tribunal or district court.

Section 40-108 Appeals of Disciplinary Action

- (a) An employee may appeal any disciplinary action taken against him or her if he or she feels that he or she has been disciplined unfairly, too harshly, or inappropriately; provided, it is appealed in writing to the City Manager within five (5) working days following such action. Such action may be stayed pending decision on the appeal or may take effect at any time after issuance of the notice as determined by the disciplinary authority. The City Manager, after careful investigation of the facts, shall have broad authority to approve, disapprove, modify or rescind any disciplinary actions taken or proposed. The City Manager shall attempt to resolve the issue within ten (10) calendar days. The City Manager's decision may be appealed in writing to the City Council; provided, notice of intention to appeal is made in writing within five (5) days following the City Manager's decision. There shall be no right of discrimination prohibited by law or these rules.
- (b) As promptly as practicable after the appeal has been filed, the employee should be given notice of the hearing date and time, which shall be not less than three (3) days after the date the notice is given to the employee. The hearing shall be conducted fairly and in private, to the extent practicable, unless the employee requests it to be public. The hearing shall be confined to a consideration of the reasons for the proposed or actual disciplinary action.

Should the reasons for such disciplinary action not have previously been given, the employee may request that such reasons be given and reduced to writing, and that the hearing be recessed for one (1) day or longer in order to allow the employee to consider the reasons given. At the hearing, the supervisor or the Department Head initiating such disciplinary action may respond to questions from the employee but should keep such responses brief and objective. At the hearing, the employee may challenge any evidence presented against him or her and may call witnesses and present evidence in his or her own behalf. Formal rules of evidence need not be followed during such hearings. After the hearing, the City Council, after careful investigation of the facts, shall have broad authority to approve, disapprove, modify or rescind any disciplinary actions taken or proposed. Should it be found that the employee has been unjustly disciplined, discharged or suspended, he or she shall be reinstated and compensated for all time lost at his or her regular rate of pay. The decision of the City Council is final.