

CITY OF ROCKPORT

MINUTES

CITY COUNCIL REGULAR MEETING

6:30 p.m., Tuesday, March 23, 2021

Rockport Service Center, 3751 State Highway 35 Bypass

and

Via Video Conferencing Application ZOOM

A temporary suspension of the Open Meetings Act to allow telephone or video conference public meetings was granted by Governor Greg Abbott. These actions were being taken to mitigate the spread of COVID-19 by avoiding meetings that bring people into a group setting and in accordance with Section 418.016 of the Texas Government Code.

Due to the COVID-19 pandemic, the attorney general has said: "statutes that may be interpreted to require face-to-face interaction between members of the public and public officials are suspended; provided, however, that the governmental bodies must offer alternative methods of communicating with their public officials." Public participation is valued and citizens wishing to express their views on any topic or agenda item can electronically submit a Citizen Participation Form in order to register to speak by going to <https://rockport.seamlessdocs.com/f/CouncilCitizenParticipation> or scanning the QR code provided on the Agenda, or if attending the meeting in person register at the meeting. Using the same form, citizens can also provide written comments to the City Secretary by 4:00 p.m. on the day of the meeting. The Mayor will read the comments and they will be summarized in the minutes of the meeting.

On the 23rd day of March 2021, the City Council of the City of Rockport, Aransas County, Texas, convened in Regular Session at 6:30 p.m., at the Training Room of the Rockport Service and via video conferencing application ZOOM, and notice of meeting giving time, place, date and subject was posted as described in V.T.C.A., Government Code § 551.041.

CITY COUNCIL MEMBERS PRESENT

Mayor Patrick R. Rios
Mayor Pro-Tem J.D. Villa, Ward 2
Council Member Michael Saski, Ward 1 – *Via: ZOOM*
Council Member Bob Cunningham, Ward 3
Council Member Andrea Hattman, Ward 4

CITY COUNCIL MEMBER(S) ABSENT

STAFF MEMBERS PRESENT

City Manager Kevin Carruth
City Secretary Teresa Valdez
Director of Public Works & Building Services Mike Donoho
Community Planner Amanda Torres
Director of Finance Katie Griffin
Assistant to City Manager Kimberly Henry
Parks & Leisure Services Director Rick Martinez
Chief of Police Greg Stevens
Information Technology Director Bob Argetsinger

ELECTED OFFICIALS PRESENT

Opening Agenda

1. Call to Order.

With a quorum of the Council Members present, the Regular Meeting of the Rockport City Council was called to order by Mayor Rios at 6:34 p.m. on Tuesday, March 23, 2021, in the Training Room of the Rockport Service Center, 2751 State Highway 35 Bypass, Rockport, Texas, and via video conferencing application ZOOM.

2. Pledge of Allegiance.

Mayor Pro-Tem Villa led the Pledge of Allegiance to the U.S. flag.

3. Presentation: Texas Municipal League Institute Certified Municipal Official – Mayor Patrick R. Rios.

Mayor Pro-Tem Villa expressed he was honored to present the Certified Municipal Official certificate to Mayor Rios. Mayor Pro-Tem Villa explained the Texas Municipal League (TML) recognizes municipal elected officials participating in the Texas Municipal League Institute (TMLI) program who earned the appropriate number of continuing education units (CEUs) in the previous calendar year. Mayor Rios said TML presents the following awards:

- Certificate of Recognition – 42 CEUs
- Certificate of Achievement – 54 CEUs
- Certificate of Outstanding Accomplishment – 72 CEUs
- Certified Municipal Official – 72 CEUs including two hours of open government training (one hour of training on the Open Meetings Act and one hour on the Public Information Act).

Mayor Pro-Tem Villa stated Mayor Rios is one of 43 officials in the State that has received this certificate and Mayor Rios has received the Certified Municipal Official status for the sixth consecutive year.

Mayor Pro-Tem Villa presented Mayor Rios the certificate for Certified Municipal Official.

Mayor Rios received applause from the audience.

4. Citizens to be heard.

At this time, comments limited to three (3) minutes will be taken from the audience from persons who have signed the speaker's card located on the table in the back of the Training Room of the Service Center and delivered to the City Secretary before the meeting begins, or written comments received by 4:00 p.m. on the day of the meeting, on any subject matter that is not on the agenda, will be read by the Mayor and summarized in the minutes of the meeting. Persons wishing to address the Council and who have registered using the Citizen Participation Form will have up to three minutes to speak. In accordance with the Open Meetings Act, Council may not discuss or take action on any item that has not been posted on the agenda. While civil public criticism is not prohibited, disorderly conduct or disturbance of the peace as prohibited by law shall be cause for the chair to terminate the offender's time to speak.

There were no citizen comments.

Consent Agenda

All consent agenda items listed are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council Member so requests, in which event the item will be removed from the Consent Agenda and considered in its normal sequence on the agenda.

5. **Deliberate and act on approval of Planning Workshop Meeting of March 2, 2021, and Regular Meeting Minutes of March 9, 2021.**
6. **Deliberate and act on request from Aransas County Sesquicentennial Committee for permission to hang street banners at 2402 Highway 35 North in front of Walmart and FM 3036 at Broadway.**
7. **Deliberate and act on an Ordinance of the City Council of the City of Rockport, Texas, extending a COVID-19 pandemic Declaration of Local Disaster for the period of March 23, 2021, – April 27, 2021; establishing rules and regulations for the duration of the disaster; restricting certain activities; and establishing penalties for violations.**
8. **Deliberate and act on an Ordinance of the City Council of the City of Rockport, Texas, extending a Declaration of Local Disaster (Hurricane Hanna) for the period of March 23, 2021 – April 27, 2021; establishing rules and regulations for the duration of the disaster; restricting certain activities; and establishing penalties for violations.**

Mayor Rios read the captions of the Ordinances in Item 7 and 8.

Mayor Rios called for requests to remove any item from the Consent Agenda for separate discussion.

Council Member Hattman noted a correction to the Minutes of March 2, 2021; two names of Council Members were incorrect on the list of "City Council Members Present"

MOTION: Mayor Pro-Tem Villa moved to approve the Consent Agenda, as presented, with the correction to the Minutes of March 2, 2021. Council Member Hattman seconded the motion. Motion carried unanimously.

Public Hearing

9. **Conduct a Public Hearing on the extension of a moratorium on the submission, acceptance, processing, and approval necessary for the creation of development plats, construction or facilities related to recreational vehicle parks for land within the City of Rockport.**

At 6:43 p.m., Mayor Rios opened the Public Hearing.

Jamise Fisher, 2121 FM 3036, addressed the Council. Ms. Fisher said she is the Assistant to the owner and developer of the Oasis Resort, formerly Easy Living. Ms. Fisher said the owner was

told two years ago that he could build an RV Park and he is still waiting; the old park was torn down. Ms. Fisher expressed the owner is pleased to be in the community and looks forward to providing a luxury RV park in Rockport.

At 6:46 p.m., Mayor Rios closed the Public Hearing.

Regular Agenda

- 10. Hear and deliberate and act to accept the annual reports from Fulton, Lamar, and Rockport Volunteer Fire Departments and authorize disbursement of funds from the Utility Bill Surcharge Fund in accordance with Code of Ordinances Article IV. "Surcharge Revenue Account."**

Director of Finance Katie Griffin addressed the Council. Ms. Griffin stated the annual distribution of funds to the Fire Departments is slightly behind schedule. Ms. Griffin said the annual reports have been received and she explained the City disburses the funds as follows: Rockport Volunteer Fire Department – 77% which is \$125,003.79; Fulton Volunteer Fire Department – 23% which is \$37,338.80; and Lamar Volunteer Fire Department – 100% of natural gas utility accounts on the Lamar Peninsula which is \$3,656.03.

MOTION: Council Member Hattman moved to accept the annual report from Lamar Volunteer Fire Department and the Rockport Volunteer Fire Department and authorize disbursement of funds from the Utility Bill Surcharge Fund in accordance with Code of Ordinances Article IV. "Surcharge Revenue Account" and deny disbursement to the Fulton Volunteer Fire Department until their Fiscal Year 2019-2020 report has been received. Mayor Pro-Tem Villa seconded the motion. Motion carried unanimously.

Ms. Griffin presented the checks to Lamar Fire Chief Carl Stubbs, Rockport Fire Chief Matthew Grimes and Fulton Fire Chief Rick McLester, Jr.

- 11. Deliberate and act on first reading of an Ordinance extending a moratorium, for 120 days, on the submission, acceptance, processing, and approval necessary for the creation of development plats, construction or facilities related to recreational vehicle (RV) parks for land within the City of Rockport; providing a savings clause; providing a severability clause; finding and determining that the meeting at which the Ordinance was passed was open to the public as required by law; and providing an effective date.**

Community Planner Amanda Torres said the moratorium has been extended multiple times and staff and the consultant are close to having an RV park ordinance amendment. Ms. Torres stated the proposed amendment is not quite ready to be presented to the Council at a workshop.

Brief discussion was held among Council and Ms. Torres regarding the 120 days.

City Manager Kevin Carruth said if the amendment to the Ordinance is adopted before the 120 days, the Council can terminate the Moratorium.

MOTION: Council Member Hattman moved to approve the first reading of an Ordinance extending a moratorium, for 120 days, on the submission, acceptance, processing, and approval necessary for the creation of development plats, construction or facilities related to recreational vehicle (RV) parks for land within the City of Rockport; providing a savings clause; providing a severability clause; finding and determining that the meeting at which the Ordinance was passed was open to the public as required by law; and providing an effective date. Mayor Pro-Tem Villa seconded the motion. Motion carried unanimously.

12. Deliberate and act on second and final reading of an Ordinance amending the Official Zoning Map as stipulated under Article 4.1 of the City of Rockport Zoning Ordinance Number 1027 by changing the zoning of land from R-1 (1st Single Family Dwelling District) for property located at 1802 FM 2165; also known as 7.253 acres of land out of a 10.345 acre tract, out of the J.W. Paup Survey, A-179, City of Rockport, Aransas County, Texas, and said 10.345 acre tract being described in a deed of record under Clerk's File Number 339130, Official Public Records of Aransas County, Texas; to R-2 (2nd Single Family Dwelling District) to develop an over 55-years-of-age gated community; repealing all ordinances in conflict therewith; providing for severability; and providing an effective date.

Mayor Rios stated there had been no changes in format or content since Council approved the first reading on March 9, 2021.

MOTION: Mayor Pro-Tem Villa moved to approve the second and final reading of an Ordinance amending the Official Zoning Map as stipulated under Article 4.1 of the City of Rockport Zoning Ordinance Number 1027 by changing the zoning of land from R-1 (1st Single Family Dwelling District) for property located at 1802 FM 2165; also known as 7.253 acres of land out of a 10.345 acre tract, out of the J.W. Paup Survey, A-179, City of Rockport, Aransas County, Texas, and said 10.345 acre tract being described in a deed of record under Clerk's File Number 339130, Official Public Records of Aransas County, Texas; to R-2 (2nd Single Family Dwelling District) to develop an over 55-years-of-age gated community; repealing all ordinances in conflict therewith; providing for severability; and providing an effective date. Council Member Cunningham seconded the motion. Motion carried unanimously.

13. Deliberate and act on second and final reading of an Ordinance amending the Official Zoning Map as stipulated under Article 4.1 of the City of Rockport Zoning Ordinance Number 1027 by changing the zoning of land from R-1 (1ST Single Family Dwelling District) for property located at 1802 FM 2165; also known as 1.343 acres of land out of a 10.345 acre tract, out of the J.W. Paup Survey, A-179, City of Rockport, Aransas County, Texas, and said 10.345 acre tract being described in a deed of record under Clerk's File Number 339130, Official Public Records of Aransas County, Texas, to R-7 (Residential and Office District) to serve as a buffer between housing development, known as Pearl Street Square; repealing all ordinances in conflict therewith; providing for severability; and providing an effective date.

Mayor Rios stated there had been no changes in format or content since Council approved the first reading on March 9, 2021.

MOTION: Mayor Pro-Tem Villa moved to approve the second and final reading of an Ordinance amending the Official Zoning Map as stipulated under Article 4.1 of the City of Rockport Zoning Ordinance Number 1027 by changing the zoning of land from R-1 (1ST Single Family Dwelling District) for property located at 1802 FM 2165; also known as 1.343 acres of land out of a 10.345 acre tract, out of the J.W. Paup Survey, A-179, City of Rockport, Aransas County, Texas, and said 10.345 acre tract being described in a deed of record under Clerk's File Number 339130, Official Public Records of Aransas County, Texas, to R-7 (Residential and Office District) to serve as a buffer between housing development, known as Pearl Street Square; repealing all ordinances in conflict therewith; providing for severability; and providing an effective date. Council Member Cunningham seconded the motion. Motion carried unanimously.

14. Deliberate and act on authorization for the Mayor to sign the letter of support for the Little Bay Restoration Initiative.

Mayor Rios said this is a combined initiative that will be sent to the Texas General Land Office supporting the restoration effort for Little Bay.

Council Member Cunningham said the Aransas County Commissioners Court and the Aransas County Navigation District have signed the letter.

Mayor Rios said the Town of Fulton has also signed the letter. Mayor Rios stated if Council authorizes him to sign the letter, he will deliver the signed letter tomorrow.

MOTION: Council Member Hattman moved to authorize the Mayor to sign the letter of support for the Little Bay Restoration Initiative. Council Member Cunningham seconded the motion. Motion carried unanimously.

15. Hear and deliberate on status of COVID-19 and response efforts.

Assistant to the City Manager Kimberly Henry said there will be a walk-in vaccination tomorrow at the Fulton Convention Center from 8:00 a.m. until 5:00 p.m. and another on Thursday from 2:00 p.m. to 7:00 p.m.

Community Relations Director Vicki Pitluk stated on Monday it becomes effective that anyone 18 years of age and older are now eligible for the vaccine. Ms. Pitluk said children who are 16-17 years old can get the vaccine with parental approval.

Mayor Pro-Tem Villa said he appreciated everything that everyone is doing to get people vaccinated. Mayor Pro-Tem Villa expressed it is a lot of work.

Council Member Cunningham stated from a standpoint of economic impact, the traffic on streets showed Spring Break was still a big event.

Mayor Rios stated he thinks people are going to continue to travel by vehicle and not air.

16. Reports from Council.

At this time, the City Council will report/update on all committee assignments, which may include the following: Aransas County Alliance Local Government Corporation; Aransas Pathways Steering Committee; Building and Standards Commission; Coastal Bend Bays and Estuaries Program; Coastal Bend Council of Government; Coastal Bend Mayors Group; Park & Leisure Services Advisory Board; Planning & Zoning Commission; Rockport-Fulton Chamber of Commerce; Aransas County Storm Water Management Advisory Committee; Rockport Cultural Arts District, Swimming Pool Operations Advisory Committee; Tourism Development Council; Tree & Landscape Committee; YMCA Development Committee; Texas Maritime Museum, Fulton Mansion, Rockport Center for the Arts, Aransas County, Aransas County Independent School District, Aransas County Navigation District, Town of Fulton, and Texas Municipal League. No formal action can be taken on these items at this time.

Council Member Saski said it was important that people knew not to be afraid of long lines for vaccination; just go and get the vaccine. Council Member Saski said he hopes people come to Rockport to help industries and he hopes parents encourage their children to get jobs in the service industry in our town. Council Member Saski added it was exciting to see crowds at Market Days; everyone is ready to get outside but need to be safe.

Council Member Cunningham said the Texas General Land Office is sponsoring monthly virtual “lunch and learn” event for interest participants to learn more about the Clean Coast Texas initiative. Council Member Cunningham stated this was started last week and there is no area that does not have issues; Aransas County is one of the good ones. Council Member Cunningham stated he attended a candidate forum last week sponsored by the South Rockport Neighbors and there will be another forum sponsored by the Chamber of Commerce on April 6, 2021.

Mayor Pro-Tem Villa stated there is also a candidate forum scheduled for April 15, 2021.

Mayor Rios informed everyone that he, Mayor Pro-Tem Villa and City Manager Carruth attended the Coastal Bend Mayors Association meeting last week and it was a very informative meeting. Mayor Rios said issues that affect all the cities are discussed and one big topic is water supply; we all want to make sure we protect our source and it is affordable.

City Manager Kevin Carruth announced that tomorrow is the first day of Little League. Mr. Carruth stated park hours are going back to normal operating hours.

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:

- 17. Section 551.071 – Consultations with Attorney seeking the advice of attorney about pending or contemplated litigation or a settlement offer; and 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: (A) Ameresco and (B) Gulf Shores Villa.**

At 7:16 p.m., Mayor Rios convened the Rockport City Council into an executive session pursuant to provisions of Chapter 551 of the Texas Government Code, in accordance with the authority contained in Section 551.071 - Consultations with Attorney seeking the advice of attorney about pending or contemplated litigation or a settlement offer; and 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: (A) Ameresco and (B) Gulf Shores Villa.

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.

At 8:14 p.m., Mayor Rios reconvened the Rockport City Council into open session pursuant to the provisions of Chapter 551 of the Texas Government Code to take any necessary actions related to the executive session noted herein, or regular agenda items, noted above, and/or related items.

18. Deliberate and act on appeal of impact fees on Gulf Shore Villas development by Realtex Development Corporation.

Rick Deyoe, President of Realtex Development Corporation, 15129 Cane Harbor Boulevard, Corpus Christi, Texas, addressed the Council. Mr. Deyoe distributed a handout (below) to the Council.

THERE IS NO EXTENSION OF UTILITIES. ALL CITY UTILITIES ARE AVAILABLE RIGHT AT THE SITE. INSTEAD, THE PROPOSED DEVELOPER IS TO EXPAND THE CITY'S EXISTING WASTEWATER FACILITIES SERVING THE SITE AND SUBROUNDRING AREA BY UPGRADING THE CITY OWNED LIFT STATION AS WELL AS UPGRADING THE CITY'S EXISTING FORCE MAIN. BOTH WHICH ARE IMPACT FEE ELIGIBLE COSTS.

CITY COUNCIL AGENDA
Regular Meeting: Tuesday, March 23, 2021

AGENDA ITEM: 18

Deliberate and act on appeal of impact fees on Gulf Shore Villas development by Realtex Development Corporation.

SUBMITTED BY: Rick Deyoe, President, Realtex Development Corporation

APPROVED FOR AGENDA: PKC

BACKGROUND: Gulf Shore Villas is the Low-Income Housing Tax Credit project the City wrote a letter of support for last year and is located at 1400 FM 3036. The developer is Realtex Development Corporation and the plans are approved, site work has begun, and the contractor performing the extension of the City's utilities has been selected. On March 17, 2021, Realtex paid their permit fees of \$27,770.00 as well as their sewer impact fee of \$30,028.96 and water impact fee of \$31,644.16. In addition to the total permit and impact fees of \$74,443.12, Realtex is sharing the estimated \$300,000.00 cost of upgrading utilities with another development facility. Realtex is a normal, customer, and expected cost of any development.

Realtex believes being asked to pay for both impact fees and utility line extensions and to a case of the City "double dipping" Realtex. Realtex is availing themselves of the appeal process afforded in Section 22-415 of the Code of Ordinances and a waiver of all the \$51,673.12 in impact fees.

Please see the accompanying documents from Realtex for details of their appeal.

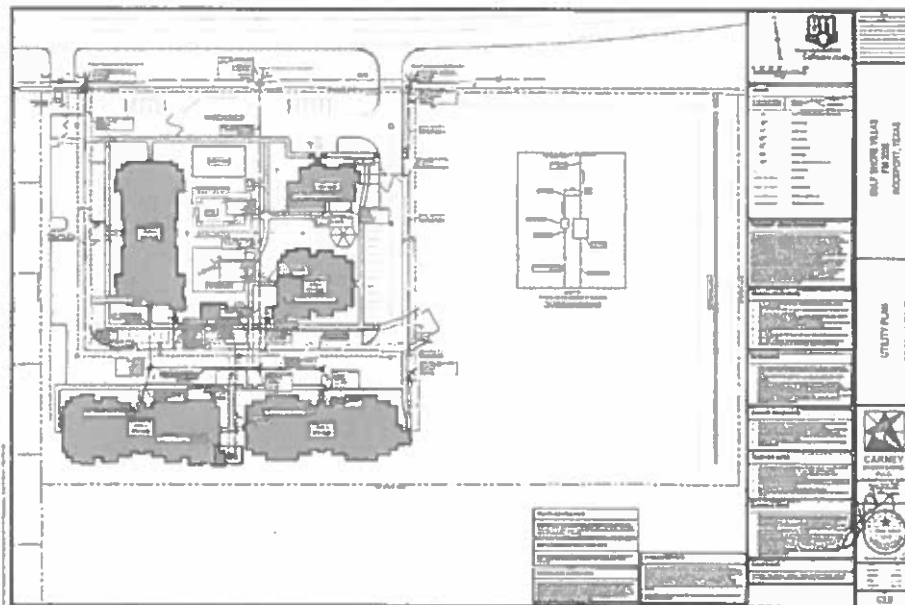
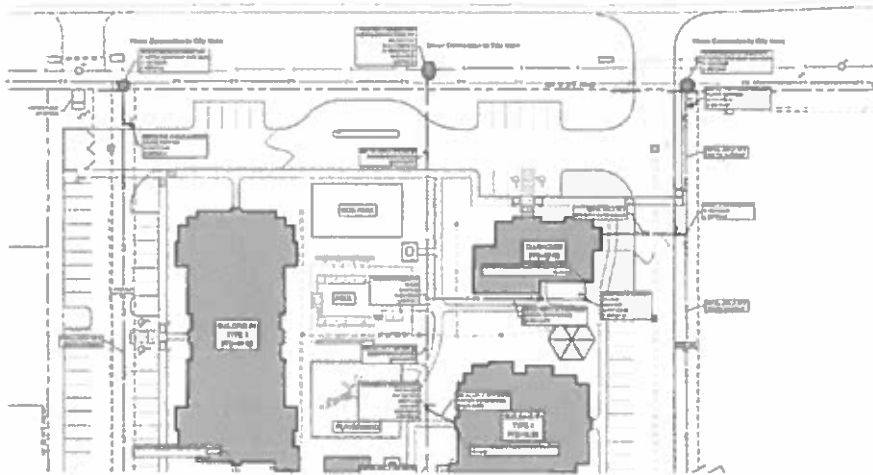
FISCAL ANALYSIS: Development costs, such as the cost of the extension of utilities, and impact fees are two different things. Extension of utilities serve the development whereas impact fees are paid from an encumbered fund to pay for improvements to those systems impacted by the development. Impact fees are levied on the developer, not the city. Therefore, by asking an impact fee to be waived only in part the cost of improvement needed for development is shifted to the city. The City Council with the city's contractor will be to do for all the work associated with the City and covering the cost of the existing Force Main to maintain the additional LR. The City Council will be asked to waive the impact fee associated with the additional LR.

- (1) construction contract price;
- (2) surveys and engineering fees;
- (3) land acquisition costs, including land purchase, court awards and costs, Attorney's fees, and expert witness fees; and
- (4) fees actually paid or contracted to be paid to an independent qualified engineer or financial consultant preparing or updating the capital improvements plan who is not an employee of the political subdivision.

For example, the sewer impact fee goes into the fund that helps pay for improvements at the wastewater plant.

If the impact fees are waived as requested, the City can expect every subsequent developer to make the same request and there would be no deferral by the City to denying the request. As a result, the developer's responsibility would be shifted to existing customers at the expense of the existing

Gulf Shore Villas Impact Fee Appeal - Mar. 23, 2021 Council Meeting Page 1 of 1



Mr. Deyoe gave an update on the project. Mr. Deyoe stated their contractor of record could not get the numbers to work so they brought in another contractor and they are trying to figure out how to make the numbers work. Mr. Deyoe said this is an affordable housing development for which rent is based on income. Mr. Deyoe stated Realtex is requesting waiver of impact fees and he cited reasons for said request. Mr. Deyoe expressed Realtex believes being asked to pay for both impact fees and utility line extensions is a case of the City “double dipping” Realtex. Mr. Deyoe asked the Council to consider that this is an affordable housing development that cannot be hit with a lot of extra costs.

Mayor Rios stated Council met in Executive Session and there are other issues that need to be looked at and worked out. Mayor Rios asked Mr. Deyoe to contact Mike Donoho, Director of

Building and Development Services and he will explain to Mr. Deyoe what is necessary to move forward.

Mike Donoho, Director of Building and Development Services asked Mr. Deyoe to call him. Mr. Donoho said the City cannot waive impact fees.

Mr. Deyoe stated he knew for a fact that the City can waive impact fees.

Mayor Rios asked Mr. Deyoe to contact Mr. Donoho to discuss this so the project can move forward.

No action was taken by Council.

19. Adjournment.

At 8:32 p.m., Mayor Pro-Tem Villa moved to adjourn. Motion was seconded by Council Member Hattman. Motion carried unanimously.



ATTEST:


Teresa Valdez, City Secretary

APPROVED:


Patrick R. Rios, Mayor