

**OFFICIAL MINUTES OF THE CITY COUNCIL
LAGO VISTA, TEXAS
MARCH 4, 2010**

BE IT REMEMBERED that on the 4th day of March, A.D., 2010, the City Council held a Joint Public Hearing at 6:30 P.M., at City Hall, 5803 Thunderbird, in said City, there being present and acting the following:

Randy Kruger	Mayor	Bill Angelo	City Manager
Darrel Hunt	Mayor Pro Tem	Frank Robbins	Assistant City Manager
Dale Mitchell	Council Member	Danny Smith	Police Chief
Richard Bohn	Council Member	Christina Buckner	City Secretary
D'Anne Gloris	Council Member	Jan Steele	Library Director
Bob Bradley	Council Member	Zach Padgett	Golf Course Director
Pat Dixon	Council Member		

Mayor Kruger called the Joint Public Hearing to order and recognized that all Council Members were present.

Ron Smith, Chairman
Jim Guy, Vice Chairman
Bob Besett
Jim Moss
Paul Smith
Linda Lee
J.R. Hall
Blaine Standiford

Chairman Ron Smith recognized that all members of the Planning and Zoning Commission were present and a quorum exists.

PUBLIC HEARING:

Mayor Kruger stated the purpose of the public hearing is to receive citizen input concerning amending the zoning ordinance and the official zoning map by rezoning about 110 acres of property in Lake Travis from the TR-1 zoning district to the R1-C and R1-E zoning districts; granting a conditional use permit for boat docks on the land being rezoned; and platting this property for sale to adjoining property owners.

Mayor Kruger gave a brief history on the property explaining how this came to be. He stated in the 1970's and 1980's NRC left a lot of land (hundreds of parcels) that was not claimed or purchased by anyone. He stated anytime they got into an easement or right-of-way discussion this property was always in contention. The property in question tonight was only a portion of this property. He stated 4 or 5 years ago the Council decided this needed to be resolved (some properties had 5 or 6 owners claiming the property) and a court action was started to try to sort out ownership of the property. It drug on for 4 or 5 years and during that time most of the people that had claim to the property dropped out of the lawsuit. Ultimately, the lawsuit was settled with one particular individual. In the settlement he relinquished his claim to some of the property and the City relinquished their claim to other properties. The portion relinquished by the other owner is what is now in question. By law, the City cannot give away the property. An appraiser was hired who valued the property at \$0.17 per square foot. The Council felt that was too high but the City cannot sell property under market value. The City then decided to declare this property to be a public easement (over the top of it) and recognized the value of that to be \$0.10 per square foot, which then left \$0.07 per square foot to charge the owner. He stated he understands that many of the people here tonight believe they own their property to the middle of the lake. He stated if you have documentation (a survey and a deed) that says that, it's yours. The problem from the City standpoint is there are boat docks all along these properties and current city ordinances do not allow boat docks to be over someone else's property (in this case the City's property). The city doesn't want to lease this property out as it is a liability. The only option for the City was to put a price on it and try to get it to the adjacent lot owners. He stated there is no attempt here to grab land; it was almost a thing that was forced on the City just to try to settle up all of the issues. He stated there was a previous case in the city involving a cove where an individual from across the lake figured out the property was not deeded to anybody. He paid little or no money for the property, re-platted the property right below everybody's lots, and then sold those lots for a significant amount of money. Lot owners with boat docks had to purchase that property. He stated he does not want that to happen to citizens in Lago Vista again and that's why we're at this position right now. He stated this is the best solution they could come up with. They are proposing the sale of this property, which could include various suggested parameters, (he noted the City has an ordinance against having a boat dock on property that is not joined together with a property that has a residence on it) and are also trying to pass a blanket conditional use permit allowing folks to put a boat dock over their other lot that they will buy.

Mayor Kruger opened the floor for comments from the Council and Commission.

Pat Dixon stated the Council has been dealing with this issue for some time and he feels this is a reasonable solution for a vexing problem and would encourage the Council to go forward. He stated he wants to hear from the public but thinks this is the best resolution to this issue.

D'Anne Gloris stated the original developers platted it like this. She stated she has seen people come in for a permit for a boat dock who thought they owned to the middle of lake, but they didn't, and their application was turned down because the boat dock was not on their property. She recalled the previous instance where a person legally bought under water lots in a cove and told adjoining lot owners to move their dock or buy the property from him for a lot of money. She stated the city is trying to prevent that from happening. She stated they have secured these lots and they are trying to get them to a fair market value. She stated the value is currently at \$0.17 per square foot and they are trying to change that to make it

less expensive for the buyer. She stated no one has to buy the lots, but if they want them, it will be from a fair seller.

Mayor Kruger stated he knows many people were promised they bought property to the middle of lake. He stated if you have a deed that says you own to the middle of the lake, we're out of this thing, but if you don't, we have to resolve this issue.

Darrel Hunt asked what type of latitude the Council has on setting the recreational assessment. He stated it is set at \$0.10 and asked if it could be set at \$0.15.

Bill Angelo stated the Council has the discretion to set the value at whatever they would like to. He stated \$0.10 seemed like a reasonable number and was recommended by the city attorney.

Darrel Hunt stated that would lower the price for the affected property owners.

Mayor Kruger stated they may not have to sell the whole property, stating perhaps someone would want to buy a sliver of it and asked Frank Robbins if that was a fact.

Frank Robbins stated yes.

Jim Guy questioned whether re-platting would be required if the City sells a sliver of the property.

Frank Robbins stated yes.

Mayor Kruger asked whether any of this is platted.

Frank Robbins stated the property must be platted to sell it. He stated the thought is, for persons owning a boat dock and a big lot, that they would only buy the part the dock is on. He showed a specific piece of property on a map indicating this person might only want to buy to the 630' line which would be a significantly lower price than buying the whole lot. He stated the city has to plat the property. He stated plats are on the agenda tonight and will be on the Planning and Zoning Commission agenda next week for consideration and will then come back to Council the following week. He stated re-platting each property would cost the City around \$500 which would be borne by those that don't want to buy the whole lot.

Mayor Kruger stated the city received several letters "in question" and several letters from owners willing to buy the lots.

Jim Guy questioned what the recourse would be in a case where a homeowner has an existing dock over city owned property and doesn't want to purchase the property.

Mayor Kruger stated having a boat dock over city property is not allowed.

Jim Guy questioned whether the city can make them remove the dock.

Mayor Kruger stated that is a possibility.

Bob Besett questioned, if a person buys a sliver, how they would get to that spot without crossing someone else's property.

Mayor Kruger stated it's adjacent to his property (pointing to the map and indicating lot 1202) and noted it's one of the largest pieces. He stated if he buys a portion for his boat dock he would still have access as it's right on his property.

Blaine Standiford stated if a person bought the sliver highlighted in yellow (pointing to the map), the city would maintain the other sliver that's still adjacent and questioned whether that sets the situation up for 5 or 10 years down the road where this issue is still on the agenda to be addressed. He stated splitting the property down the middle doesn't seem advantageous to either the city or the owner. He stated past the 630' is irrelevant. He stated, if the city still has access and would be responsible for maintaining the property, that creates a situation.

Mayor Kruger stated that could be a problematic.

Blaine Standiford stated the whole thing is to resolve an issue that's been around for 10 years or longer.

Mayor Kruger stated this has been an issue since the 1970's.

Bill Angelo stated this issue has affected virtually the whole city, pointing to a map on the back wall which shows the properties in question in the lawsuit.

Mayor Kruger stated they were claiming right-of-ways and there were properties that 4 or 5 owners were claiming. He stated there were lawsuits as a result of the developer going bankrupt and some of the payments for the lawsuit was some of this property, which was given to several people.

Dale Mitchell, regarding the price arrived at for the easement, questioned whether it was the city's intent to recover the cost incurred for going through the process and re-platting.

Mayor Kruger stated the intent was to make it cost neutral but quite a bit of legal expenses were incurred, but it was spread out over the whole city so it's not a big number.

D'Anne Gloris stated she thought the intent was fair market value, which was too expensive, and they're making an effort

to reduce it.

Mayor Kruger stated that is true but what others are saying is that since we were able to chop off \$0.10 declaring the value of the easement, we may be able to chop off more by declaring a higher value of the easement.

D'Anne Gloris stated she thought a legal precedent had been set for the value as well as recommended by the attorney. She stated you can't arbitrarily set a number if it's not advised by the attorney.

Mayor Kruger stated he would rather get through this hearing and see what folks are saying. He questioned whether the city voted on \$0.07 per square foot.

It was the consensus of the Council and staff that no official vote has been taken regarding the price.

Mayor Kruger opened the floor for comments from the audience stating he would first call on persons who filled out a written request. Mayor Kruger called on Mohsen Anami.

Mohsen Anami stated he didn't request to speak. He stated his form was marked against and neutral because the issue is confusing. He stated he owns property in Coeur du Lac and has a survey that shows his property going into the lake and he did it when there was no water. He stated his neighbor has a dock that is constantly on his side, which is not an issue, but now he wants a dock and it is an issue. He stated his specific question is, if he owns some of the lake based on the survey, is he one of the people whose property is butting against the city's property or is his neighbor. He stated there are several people in this area where there is a question on how it is going to work out. He stated a blanket agreement would be good.

Mayor Kruger stated he needs to be sure his survey and deed show he owns the property and if so he's out of the picture; it's his property.

Bill Riley (pointing to a map) stated the map that was sent out to them shows the adjoining property owners on the opposite side of the cove (Coeur du Lac) when actually there are adjoining property owners on both sides. He stated they have surveys for all of this area. He stated a blanket lease would be the solution. He stated the only problem they are going to have is when the lake goes down, in which case everybody on one side of the cove plans to move their docks down. He stated he recommends everybody work together.

Mayor Kruger stated the city is not going to be in that kind of arbitrary decision making stating that's up to them. He stated he didn't believe his side of the property was in question and asked Frank Robbins if that was correct.

Frank Robbins stated no.

Bill Riley stated they are an adjoining property owner and if the city is going to sell it, it should be split up equally and sold to both adjoining property owners.

D'Anne Gloris noted the wording was not the adjoining land owner, it was the adjoining property owner. She stated the adjoining land owner (lot 3002) would have the option to buy the city property.

Bill Riley said he would have the option to take half and the other property (indicating property on a map) would have the option to take half.

D'Anne Gloris stated no.

Bill Riley asked why.

D'Anne Gloris stated because he's the adjoining land owner not the adjoining property owner, stating maybe it's a matter of semantics.

Mayor Kruger stated he believes it's the center of the lake. He questioned whether Mr. Riley is asking for more property toward the other side.

Bill Riley stated this dock (pointing to the map) is encroaching all the time on someone else's property. He stated everyone wants to get along but if one side of the cove buys all the property there will be a problem.

Mayor Kruger agreed but stated if the city keeps it, they have a problem.

Bill Riley stated it is his understanding that it is offered to the adjoining property owners.

Mayor Kruger clarified "land owners".

Bill Riley stated this is the land and the property line goes to there (pointing to the map).

Mayor Kruger stated he was pushing it there.

Mr. Anami stated it is his understanding that his property ends where the city property starts.

Mayor Kruger stated he can't tell him that but said that might be a possibility. He asked Mr. Anami if that was his boat dock shown on the map.

Mr. Anami stated that is not his dock, it's the one that is encroaching all the time. He stated when there's water, there's no

issue. He stated when there is no water, the dock comes to his property and the city's property.

Mayor Kruger advised Mr. Anami if the dock is encroaching on his property, he needs to turn it in and the city will get it moved or issue a citation. He stated the city is trying to get rid of the property so nothing encroaches on the city property.

Mr. Anami stated he didn't want to get caught into property owner or land owner. He stated his property ends where the city property is and he wants the opportunity to buy the city property so he will not have conflict with his neighbor.

Mayor Kruger questioned whether Mr. Anami's property is adjacent to the city property.

Mr. Anami stated yes.

D'Anne Gloris stated Mr. Anami would still have an issue with his neighbor because his boat dock is on it.

Mayor Kruger asked Mr. Anami whether his property is adjacent to his neighbor's property.

Blaine Standiford stated the question is the line, whether it's to the left of the line or the right of the line, questioning who would have claim to that property.

Mayor Kruger stated basically the lot lines are drawn straight out to the middle of the lake. He stated if property owners can draw their lot lines straight out into the middle they can buy it.

D'Anne Gloris asked Mr. Riley whether he anticipated this being a problem when he re-platted the PDD. She questioned whether this was one big lot when he purchased it and subdivided it.

Mr. Riley stated yes and it was rezoned. He stated the survey lines were there as far as the cove...

D'Anne Gloris stated she's not asking that. She stated she's talking about the encroachment of one property onto another. She stated (speaking to Mr. Anami) this wouldn't have been a problem when it was one big lot and usually you wouldn't be putting a dock into the littlest cove. She told Mr. Anami if he has a problem with his neighbor's dock and complains, the city would contact the homeowner and have them move it.

Mayor Kruger stated having a boat dock down in that little point is probably a bad decision.

D'Anne Gloris stated the question was what would happen if they don't buy the lot and have a boat dock. She stated they might have to move the boat dock.

Mr. Anami stated it would be fair if both persons on either side of the cove could buy enough of the city property, straight from their property line, to put a dock.

Mayor Kruger stated that's what they're talking about.

Richard Bohn clarified that they're stopping at the middle.

Mayor Kruger stated yes, wherever that line is.

D'Anne Gloris stated lot 3002 would have the first right to that property

Mayor Kruger stated if you draw your line straight out into lake then that property is available for you to purchase.

Mr. Anami questioned how much of the property the other property owner has a right to buy.

Richard Bohn stated just to the middle of the lake.

Bob Bradley asked for clarification stating it was his understanding that one side of the PDD is already deeded to the middle of the lake and they won't fall into the city owned property.

Frank Robbins stated yes.

Mayor Kruger stated we can't answer that question. He stated we don't know if that was part of the settlement or whether they were truly deeded out there. He stated Mr. Riley says they are.

Bob Bradley stated that's according to what they have here.

Mayor Kruger stated no it has nothing to do with that.

Mayor Kruger stated Mr. Riley was, at one time, the owner of all of that property that goes out to the middle of that slew and he has since sold some of it off but the city has no claim to that property.

Mr. Riley stated he knew that.

Mayor Kruger called on Don Christopher.

Don Christopher stated he didn't wish to speak but he would comment on that piece of land. He questioned if you adjoin one side and you adjoin the other side, why don't you have some right to buy some of that land.

Mayor Kruger stated that is a question to be considered if the adjoining lot owners don't want the property.

Mr. Christopher questioned what would happen if both owners want to buy the property. He asked if they would be able to bid on the land or whether there would be a set amount.

Mayor Kruger stated it would be a set amount.

Mr. Christopher asked whether it would be on a first come first serve basis.

Mayor Kruger stated if it's adjacent to the lot, it's that owner's right to buy it, if he doesn't want to buy it then maybe you're in the game again.

Mr. Christopher stated his question is whether his land is adjacent to it or not.

Mayor Kruger stated he had no clue and doesn't know where his property is.

Mr. Christopher stated he land is number 4 and he still thinks you could apply this side to that side.

Mayor Kruger stated he sees what they are driving that but doesn't think they're going to do that.

Mr. Riley questioned how the land was platted in the first place (the city owned land).

Mayor Kruger stated all of the lines are to the center of lake.

Mr. Riley stated on all of the other lots, the lines went straight out from their lot line and asked why that didn't happen over here.

Mayor Kruger asked Frank Robbins for input.

Blaine Standiford clarified (noting a difference in the map in the packet and the map on the wall) stating the property owner's lines go east west and the city's go north and south.

Mayor Kruger called on Diana Dworaczyk.

Diana Dworaczyk stated she was present on behalf of her husband, Kurt Lemke, who is out of town. She stated her concerns are in the form of questions and she is against this because she needs more information before she can make an intelligent decision. She stated the letter she received said there were 3 tracts totaling 110 acres but when she looks at the plat she sees 102 acres and questioned whether this was a mistake.

Frank Robbins stated no there are three plats. One plat is 102 acres and the total of all three is 110.

Diana Dworaczyk stated the letter said there were maps attached but she only received one map and questioned if that was because she only has property on the one map.

Frank Robbins answered in the affirmative.

Diana Dworaczyk questioned what changing the zoning from TR-1 to R-1C and R-1E means.

Mayor Kruger stated it is a residential zoning that would allow you to put boat docks on it.

Diana Dworaczyk questioned whether it would only allow boat docks not houses.

Mayor Kruger stated you can't put houses under water.

Diana Dworaczyk stated you could put a stilt house.

Mayor Kruger stated that is not permitted.

Diana Dworaczyk asked how the lots were sized and questioned whether the line was the original property or whether the city arbitrarily decided to go to the center of the lake.

Mayor Kruger stated the original developer NRC, National Resort Corporation, went defunct in the 1980's and left a mess. He stated this was before the city incorporated in 1984.

Diana Dworaczyk questioned how the city decided she was supposed to buy 800 feet of property off of her property line.

Bill Angelo stated no, that's how the property was platted back in the 1970's by NRC.

Diana Dworaczyk stated the LCRA says the old river bed is still owned by the State and questioned whether they know if the line goes to the center of the river or where exactly it is.

Mayor Kruger stated all they know is where the line goes where it was originally bought at

Diana Dworaczyk stated she spoke to LCRA with regard to what they see as their role for this property, stating they are the

ones keeping the water over it, and questioned the Council whether they have spoken with the LCRA in this process.

Mayor Kruger stated no, but this property was claimed 20 to 40 years ago.

Diana Dworaczyk stated they say they have a permanent water use easement over this property.

Mayor Kruger and Bill Angelo answered they absolutely do.

Diana Dworaczyk questioned whether that is represented on this plat.

Mayor Kruger asked Diana Dworaczyk whether she owns any of that property currently.

Diana Dworaczyk asked which property.

Mayor Kruger replied the one past your line that goes to the center of the lake.

Diana Dworaczyk stated no.

Mayor Kruger asked Diana Dworaczyk if she was interested in owning it.

Diana Dworaczyk stated she did not know, that's what she was here to find out.

Mayor Kruger asked her how they could help her in that endeavor.

Diana Dworaczyk replied they could answer the questions about property the city is asking her to buy.

Mayor Kruger stated he doesn't know about LCRA, he just knows they took some property that was claimed many years ago and wound up getting it. He stated some developers were trying to get their hands on it and hold up some property owners and the city is trying to prevent that.

Diana Dworaczyk stated she understood that and she's trying to figure out what's best for her. She asked what the city's costs basis is for the property.

Mayor Kruger stated the city is required by law to sell the property at market value.

Diana Dworaczyk stated the letter says specifically fair market value.

Mayor Kruger stated that's right, fair market value which was established with an appraisal from a reputable appraisal company. He stated the Council felt that was too high and deducted \$0.10 initially making it \$0.07 per square foot.

Diana Dworaczyk questioned whether the city has an idea of how much money they've spent on it.

Mayor Kruger stated no they do not have an idea because they've been through four years of legal and would have to go back and accumulate all of that.

Diana Dworaczyk read the definition of fair market value in real estate terms: "The highest price that a buyer, willing but not compelled to buy, would pay and the lowest price a seller, willing but not compelled to sell, would accept." She stated they are not in a negotiation here about what they can both agree on is a fair market price. She stated she is being compelled to buy it at a price.

Mayor Kruger stated you are not being compelled and you absolutely do not have to buy that property. He stated you can't put a boat dock on it. He stated putting a boat dock on someone else's property is not legal.

Diana Dworaczyk stated that has been going on for many years and there is a precedent in this city.

Mayor Kruger stated it has not been going on for that many years many boat docks are legal. He stated they need to move on and they've answered her questions the best they can.

Diana Dworaczyk questioned whether the city has clear title to the land.

Bill Angelo stated they have a court order that says they own the land.

Diana Dworaczyk asked if that was the same as a clear title.

Bill Angelo stated he wouldn't call it a clear title but they have a court order.

Peter Squier asked if the city will provide a title policy with it.

Bill Angelo stated no.

Diana Dworaczyk clarified that the city cannot guarantee her they have clear title.

Mayor Kruger stated that is a true statement.

Diana Dworaczyk stated it was said that this has happened in the past and questioned how they have handled the
Page 6 of 13

precedence's that have happened in the past in this same situation. She asked if they have done this in the same way.

Mayor Kruger stated, with regard to the cove mentioned earlier, a developer came to the city, stating he owned all the property under water and asked for it to be platted. The city could not legally tell him he could not plat it. He platted it adjacent to all other lot owners and then told them they could not put their boat docks over his property. Many of them agreed to buy the lots at a fairly high price. Mayor Kruger stated that property could be used as a comparison to set the value.

Diana Dworaczyk questioned whether there have been any other such instances.

Mayor Kruger stated no, not to his knowledge. He stated he is aware of claims to other people's property but he doesn't know of any other resolutions.

D'Anne Gloris stated they are trying to prevent situations like this from happening again to citizens of Lago Vista.

Diana Dworaczyk stated the Appraisal District has the property appraised at \$0.03 per square foot and questioned how the city has it appraised at \$0.17 per square foot.

Mayor Kruger stated they had an appraiser who said it's valued at \$0.17 per square foot.

Bill Angelo stated the city can provide her with a copy of the appraisal.

Diana Dworaczyk stated there is mention of a blanket conditional use permit for 81 acres and consolidation of lots and asked what that was about.

Mayor Kruger stated lots have to be joined when you put improvements on them. He stated, in this case, they will probably pass an ordinance that would not make you do that.

Diana Dworaczyk questioned where the 81 acres is.

Mayor Kruger stated it's part of the 102 acres.

Diana Dworaczyk stated she doesn't really have an issue with having to buy the property but asked what the property would be appraised at in the future and expressed concern with the amount of taxes she will have to pay.

Mayor Kruger stated he could not predict what the Appraisal District will appraise it at. He stated not joining the lots might keep the price down but that is only conjecture.

Jackie Tate stated generally the appraisal district will value the property at the price you paid for it.

Diana Dworaczyk suggested the Council postpone making these decisions until these issues are worked out.

Hector Aguilar indicated a 17 acre tract of city property on a map, questioning who could purchase it and stating his concern that someone could put a huge marina there.

D'Anne Gloris stated, from the property line, each lot is to go straight out to the middle of the lake.

Hector Aguilar questioned who could buy this property.

Bill Angelo stated the POA.

Diana Dworaczyk questioned whether the POA could sell it.

Frank Robbins identified multiple properties on a map. He stated the property the POA might be able to buy is not on the agenda for rezoning or conditional use. He stated the city has told the POA if they are interested in anything other than what the current zoning allows that is a separate issue. The city is not rezoning the property that could be purchased by the POA. It will remain TR-1 and it cannot have a marina.

An unknown member of the audience asked what the difference was between the POA and the individual property owners, questioning if the city is going to leave it unsold and as is, why they won't do that with the homeowners.

Mayor Kruger stated if you do not want a boat dock you do not have to buy the property.

Bryan Wilke stated he owns a lot on Quail Run Cove. He stated he has a survey plat that says he owns to the original river bank but his deed says he doesn't. He thinks the Council is doing everyone a favor, however, he noticed he is being taxed on all of the land he owns and the land the city owns.

Blaine Standiford stated he could appeal the back taxes with the Appraisal District.

Bryan Wilke stated he has been paying taxes on it for 19 years which he estimates to be approximately \$4,000 in just city taxes and stated he would like to appeal with the city and just take the land back.

Mayor Kruger stated he's not sure they would consider that but that could be taken up on a personal level not at tonight's meeting.

Phil LaGrone stated he purchased his lot at 1204 Dusk Court in the late 1980's. He stated the original plat (Emerald Bend) showed dashed lines that went to the center of the channel. He stated he had no illusions that he owned that property but the inference was that he had the use of the property to put a dock on with the proper permits. He stated he also has a deed that says he has the right to use the property.

Mayor Kruger suggested he get with Frank Robbins.

Phil LaGrone stated the piece he would be buying would be virtually useless as it was dry last summer. He stated it abuts his neighbor's property and he would have to cross his property to use his new added property. He indicated his property on a map. He stated these should be going to the center of the channel.

Lloyd Roddenbeck stated he owns property a couple of lots up from Phil. He asked if the city owns the property.

Mayor Kruger said they have a court order.

Lloyd Roddenbeck clarified that there is not really a title to the property. He asked if the taxes have been paid that are on that lien.

Mayor Kruger stated he did not believe there were any taxes on that.

Lloyd Roddenbeck stated he checked with the County yesterday and there is currently \$17,700 dollars owed on the 106 acre tract.

Mayor Kruger stated they will take care of the taxes.

Lloyd Roddenbeck expressed his concern with regard to there not being a title policy. He asked whether the property owners ever had the right to have a boat dock out there.

Mayor Kruger stated no.

Lloyd Roddenbeck clarified the City permitted people to have boat docks without the right.

Mayor Kruger stated yes. He then stated he didn't know.

Frank Robbins stated there are four or five different categories of boat dock permitting: 1.) they were grandfathered and built before 1986 2.) some permits have been issued recently on land on the lot when the lake was up and when the lake went down the dock is off of their property which is what is now our property 3.) a lot were not permitted.

Lloyd Roddenbeck asked whether the rules for boat docks have changed and asked if there were historical records he could get a copy of.

Bill Angelo stated there have been amendments and they could provide him with some of them. He stated he didn't know what the changes were between 1984 and 2000 but could provide him with any changes since 2000.

Lloyd Roddenbeck stated he purchased a property that was built in 1982 and doesn't know what applied to it back then.

Bill Angelo stated in 1982 nothing applied to it because there was no city.

Mayor Kruger asked Mr. Rodenbeck if he has a dock on it now.

Mr. Roddenbeck stated yes. He questioned whether the lots would be available to anyone else if not purchased.

Mayor Kruger stated he answered that off hand earlier and thinks he might have been incorrect. He stated that will have to be taken into consideration but based on what he's hearing tonight he thinks probably not.

Mr. Roddenbeck stated he has two pieces that would cost him \$21,000.00, stating it is a huge impact to a family. He stated it might be cheaper for him to use a lawyer to investigate these things. He stated he doesn't want to be an enemy of anybody but he has already gathered a lot of information with regard to deeds on the property. He asked what the minimum amount of property is that he would have to buy. He questioned whether he could buy two strips to the center to put his anchors on or a one yard wide strip to the center of the lake to put his dock on. He stated in order to help them the city could give him the rights to the center of the lake and lock everyone else from buying it. He stated a boat dock can't be over 1500 square feet so sell them a 100' or 200' strip out to the center. He stated he needs to find a way to quit paying the property taxes on it. He asked if they have considered getting three appraisals and stated he called an appraiser who told him the land is \$3,000 per acre under the water which would cost him \$10,000 per acre under water for 25 years. He stated he told him the only value he's getting is the boat dock. He asked why everyone doesn't have the right to buy to the center of the lake. He questioned, in the event they want to get a title policy and find there are judgments on the property would the city be willing to figure out a way to pay more or less to get clear titles on it.

Mayor Kruger stated that is not a decision that they can make right now. He stated their attorneys tell them the judgment is proper and has moved all of those claims off of it.

Mr. Roddenbeck questioned if the property was never in bankruptcy or foreclosure, and questioned if the city got it in judgment.

Bill Angelo stated they have a judgment.

Mr. Roddenbeck questioned whether research was done on the rights that run with the land. He stated he found one right which says all easements run with the land. He stated the city said they were going to make an easement and as an Emerald Bend land owner they have all easements and those rights run with the land. He stated he is curious how this will apply. He stated he does not know how else to look for that without getting a lawyer involved.

Mayor Kruger asked Mr. Roddenbeck what his objective is.

Mr. Roddenbeck stated his objective is to live on the lake and have his boat dock in his back yard and he would love to think he has a city that's there to protect him. He stated he would love to see this go into some sort of conservatorship or title to LCRA. He stated he's not interested in paying any more taxes. He stated he would love to see it go to LCRA with agreements that everybody has the rights to the land as it was platted with Emerald Bend. He stated his interest is to make sure everybody in this room gets to keep their boat dock and doesn't have to come up with some crazy amount of money. He stated they may have to come up with some legal fees. He stated he does not believe everyone will be paying the same amount.

Mayor Kruger asked why he doesn't believe that.

Mr. Roddenbeck stated because he has to buy eight acres of land and his neighbor has to buy 2 acres of land. He stated he does not believe he's buying land, he's buying the rights to keep his boat dock there. He stated he's paying money to keep someone from taking a right from him. He stated there is a law against taking and this is really close to that. He asked if he could buy a one hundred foot wide strip to the center of the lake.

Mayor Kruger stated his answer is yes.

Mr. Roddenbeck asked if the new conditional boat permit will affect the grandfather permit he has.

Mayor Kruger stated he doesn't think so but he doesn't know what permit he has.

Mr. Roddenbeck stated he may not have a permit but his dock is grandfathered. He stated his concern is that the new permit will say you need a green roof.

Bill Angelo stated that's two different issues. He stated if his boat dock was put in before there was a permit the City would not question his ability to have a boat dock without a permit. He stated if the boat dock is on land owned by the City they would question that.

Mr. Roddenbeck stated his dock is not currently on city property because the lake is up but he would just park it on dirt if he had to. He asked if they could buy a smaller strip and stated he's scared to get the conditional use permit because grandfather rules are sometimes better than new rules.

Bill Angelo stated if you're grandfathered you wouldn't need to get a conditional use permit.

Mr. Roddenbeck asked how that would be determined.

Bill Angelo stated they would determine the age of the dock.

Blaine Standiford stated if only a 100 foot strip is purchased no one here can say that 10 years from now it wouldn't be available for sale to someone else. He stated Mr. Roddenbeck might be better off buying a 300 foot wide strip that's 50 feet out so no one could encroach him on the sides. He stated he thinks that is still something to discuss.

Mayor Kruger stated that is problematic but if Mr. Roddenbeck owns a 100' strip he could sell his property with the boat dock that stays on that strip.

Mr. Roddenbeck stated the City made an easement but the property owners have the rights to the easement for the run of the land on Emerald Bend. He stated the key thing is to secure the property and there is no reason the plat can't state that the property cannot go to anyone but the city. He stated he objects to paying taxes on the property and in the event the city wants property tax on the property that's a different battle.

Mayor Kruger stated that is not the intent and he cannot believe the taxes would be very big on that property.

Mr. Roddenbeck stated there was a \$2,500 value on the property when Mr. Eckert owned it 4 years ago and it has gone up to \$169,000. He stated he asked the tax man what it would be valued at tomorrow if he bought it for seven cents (per square foot). He stated the tax man said he didn't know and asked what the property around him was valued. Mr. Roddenbeck stated he bought the lot next door for \$60,000.00 and in one year it tripled and he lost. He stated the value of the property is whatever they want it to be. He asked if he is going to be forced to buy an albatross that he can never get rid of until he moves out of Lago and if so, stated he owns a business in Lago and it's going to make him to move out of Lago. He stated he doesn't want an albatross and he wants to live here and retire here.

Mayor Kruger stated they want him here. He stated he has protested his taxes many times and whatever he has paid for a property is what it has been valued at.

Mr. Roddenbeck stated that is for the first year.

Mayor Kruger stated yes, but it doesn't go up \$60,000.00 in one year.

Several members of the audience spoke out stating it does.

Mayor Kruger asked Mr. Roddenbeck if the property he was referring to had a house on it.

Mr. Roddenbeck stated he was referring to the vacant lot next to his house which tripled in value in one year and it was flooded under water on July 5 and he still pays taxes on it, the value of which is \$240,000.00. He stated there is a precedent, court case, that a neighbor lost, who had to move his boat dock off of someone else's property. He stated they are looking for that to bring to the city to say there was a precedent somewhere that said those were rights and that was in 1967.

Robert Seib stated he has a boat dock in that cove that has been there since 1997 and he has a permit. He questioned that he is now being told he has to buy the land to keep the dock stating it is like putting a gun to his head.

Mayor Kruger replied to Mr. Seib stating he suspects he received a permit to build a boat dock on his property.

Mr. Seib stated he moved the dock there in 1997, before the ordinance that said you can't have a boat dock without a permanent structure, but he owns the house across the street and got a permit to allow him to keep the dock. He asked why he can't keep it there now.

Mayor Kruger stated because he does not own the property.

Mr. Seib stated he has the rights to it and that was stated in his deed when he bought it.

Michelle Seib stated they purchased the land in 1997 and asked why they are just now finding out that there's a strip of land they don't own that they thought they did.

Mayor Kruger stated he cannot answer that but typically, whenever you do a survey and title search, it is defined where your property runs. He stated if they have a title and survey that says their property runs down there then they own it and the city doesn't have a claim. He stated a price has not yet been set, they will be discussing this and no decision will be made tonight.

Mr. Seib stated the title company told him they had rights to the property to the middle of the lake and that this was stated in his title policy.

Mayor Kruger stated they may need to take a look at that.

Kelley McFadden questioned that they are being asked to buy property without a title policy and questioned whether this will happen to them again.

Mayor Kruger stated no.

Kelley McFadden stated they are having to pay for the property a second time. She expressed concern stating the city isn't sure if they own the property and they're not going to give her a title policy on it.

Mayor Kruger stated they feel confident they own the property.

Bill Angelo stated the City doesn't give title policies, the insurance company does.

Kelley McFadden stated if she could obtain a clear title she would not have a problem but questioned implications that that probably won't happen.

Mayor Kruger stated it probably won't.

Kelley McFadden stated it was her understanding she owned the land when she bought it and now it's the city's understanding that they own the property but not enough to guarantee her title on it.

Mayor Kruger stated they cannot guarantee title.

Kelley McFadden questioned how the city could sell property that they can't get clear title to.

Mayor Kruger stated title companies and title policies come from insurance companies.

Kelley McFadden asked Mayor Kruger if he would purchase a home that he couldn't get clear title to.

Mayor Kruger stated absolutely not.

Kelley McFadden stated they are being asked to buy property they can't get title to.

Mayor Kruger stated he is not asking her to do anything. He stated the city owns that property and in order to put a boat dock on it we're going to have to go through this process. He stated he has not yet told her what the price is.

Kelley McFadden stated she is trying to prevent this from happening again in the future. She stated she would be happy to buy the property if she knew this wasn't going to happen again.

Mayor Kruger stated the city has the best title that is available on that property.

Kelley McFadden stated she thought she had that when she bought it.

Mayor Kruger stated she didn't as it was not recorded.

Ron Uriegas stated he and the group of people on the back row are from the same neighborhood on Mockingbird. He stated he and his neighbors are against this issue. He clarified they are against the issue of taxing or selling a property that they understand they have title to but the city will not guarantee them that someone won't come by next year and give them the same challenge of having to purchase the property from them.

Mayor Kruger clarified that they are not against putting their boat dock over someone else's property.

Mr. Uriegas stated that was correct.

Mayor Kruger stated that's where they are at. He stated you don't own the property and you want to put a boat dock on it.

Mr. Uriegas stated that's the city's understanding based on a document they have that's a court case.

Mayor Kruger stated that's his understanding based on everyone that has come forward with their title and the boundaries do not go to the middle of the lake. He stated the city has a judgment that says they own the property and they have been through four years of court and they are trying to work out a solution. He stated a price has not yet been set on this property.

Doug Casey suggested a fair way to set the price would to determine how much money was spent in court costs and disburse that amongst the properties. He stated there's a legitimate case that's saying they're not buying land, they are buying rights to their boat docks.

Mayor Kruger stated they could do that, but this case went on four or five years and included other properties, not just these underwater lots. He stated by law, the city cannot give away property and can only sell it at market value. He stated they have one appraisal that says it's worth \$0.17 per square foot. It was not an in house appraisal. The appraisal came out higher than they wanted but they came up with a scheme that took \$0.10 off of the price. He stated he's not sure how far they can push this.

Shewn Franks questioned whether the appraiser took into consideration the fact that a clear title cannot be obtained on this property. He suggested this may be able to be used to get the price down.

Mayor Kruger stated they may consider getting another appraisal and they may try to lean on them a little bit to be a little more realistic. He stated \$0.17 per square foot gets close to \$28,000.00 per acre.

Jacque Tate stated the land owners in Briarcliff went through a similar situation and suggested that might be a basis of value to look at.

Bill Angelo stated he believes the appraisers did consider the Briarcliff property issue and they also used all of the LCRA sales.

Jacque Tate asked how long they are giving the land owners a right to exercise the option on the purchase.

Mayor Kruger stated they have no time limit. He stated as soon as someone wants to put a boat dock on top of it they'll have to talk. He requested time to work through this stating he believes it will be another 6 or 8 weeks before they come to a final decision on this.

Chris Crawford referred to a graph indicating the owners' option to buy to the 630' lake level and asked the council to consider calculating the 90th percentile depth of the lake suggested getting property owners down to that. He suggested the agreement state they have first right of refusal or it is the city's in perpetuity. He further suggested the possibility of putting it to a vote of the citizens.

Mayor Kruger stated his suggestion would be under consideration.

Chris Crawford stated this wouldn't kill everyone on the amount or the taxes and would enhance the value of the properties if they want to sell. He stated right now the city has a gun to their head because if they don't buy (the property) they cannot sell their house.

Mayor Kruger stated, whether the city owns the property or not, he cannot sell it to someone else because he doesn't own it.

Bill Riley questioned whether the city has considered leasing the property.

Mayor Kruger stated there are two issues with that, the liability associated with that and the bookkeeping.

Diana Dworaczyk stated the city still has liability issues if people choose not to buy the property.

Phil LaGrone stated if this property belongs to the city then he has been paying for water front property for several years and he doesn't really have waterfront property.

Mayor Kruger stated trying to define waterfront property on Lake Travis is difficult. He stated it went down to 630' this
Page 11 of 13

year, it is now up to around 670' and it has been as high as 713'.

Chris Crawford expressed concern regarding the placement of anchors on other people's property even if he purchases the land from the city.

Mayor Kruger stated you cannot legally put an anchor on someone else's property unless you have their permission.

John Leak, of 1203 Fawn Park, stated if the city enforced the ordinance that you have to have a home on the lot in order to have a boat dock and people bought a strip going out into the middle of the water, they could have their boat dock, pay less money, the remaining property would have little or no value to someone else because there's no way they can build a house on property that doesn't belong to them. He stated as long as they have a first right of refusal to buy it from the city then they could always be in a position to buy that if they wanted to. He further stated even though a price has to be set by an appraisal that doesn't mean it has to be cash. He suggested that could be amortized over a five or ten year period of time.

Josh Norris, referring to the issue of trespassing on City property now, questioned whether people would be trespassing on their property if they buy it from the city.

Bill Angelo stated no because the city has a recreation easement.

Josh Norris asked why they cannot just pay a permit to use the property.

He stated that might be a possibility. Mayor Kruger reiterated that they have not set a price and a final decision has not been made. He stated they should be appreciative because they are encroaching on property that they don't own and it is a real possibility that some one could buy it and try to hold them up for it.

Ed Tidwell questioned what is keeping him from buying the land.

Mayor Kruger stated currently the city is.

Ed Tidwell questioned whether the court order is sufficient enough to get an insurance company to supply a title on the property.

Mayor Kruger stated the city bought a strip of land from the school district, for which they had a court order, and the title company took exception to that.

Lloyd Roddenbeck stated he believes the property rights were already given to them under the doctrine of strips and gores and stated he will need more than four to six weeks to do research.

Mayor Kruger stated the city will be sympathetic to his needs.

Dale Mitchell suggested that information obtained by our attorneys during the court case be shared with the property owners.

Bill Angelo stated the city would share whatever they have as it is public record. He stated the properties that are in question were platted by NRC as individual lots and NRC retained ownership of them until they dissolved. He stated an individual came in, contacted ex directors of NRC, got them to sell to him the property with a deed without warranty and that's when the city got involved.

Peter Squier, real estate developer and owner of the corner of Dusk and Mockingbird, commended the Council for getting this settled. He stated people are not going to be able to get a good title policy and they will also not be able to get a general warranty deed, they will get a special warranty deed, so there is a risk that someone could come along and challenge it. He suggested the city indemnify individuals up to the amount of the price they pay for the property. He suggested adding additional restrictions which would lessen the use of the property and keep the property taxes down. He stated there should be no boat restrictions as basic Texas law states any body of water can be moved around on no matter what. He stated he believes the city will still have liability issues if everyone's on board but one individual doesn't buy the property or they make an exception to allow an owner to buy a strip. He suggested the city consider selling all of the property to a new entity, whether that is the property owners, the city or the POA, then there would be no issue with crossing lines and it would be just as people think of it now.

Mayor Kruger stated that may be a possibility but he believes that may be very problematic if someone wants to sell their property out of that piece later on.

Peter Squier stated there would be guaranteed rights to what's behind you. He stated it would be like a condominium association.

Lloyd Roddenbeck stated it could be given to LCRA and they could manage it with agreements to the owners.

Mayor Kruger stated LCRA may not want the property.

Lloyd Roddenbeck stated he has already spoken with LCRA. He stated they do not sell land below 660' but they might if it were given to them. He stated they would make agreements to guarantee they'd never sell it and the property owners would have the rights to their property lines.

Bill Angelo stated every five years LCRA decides they want to divest themselves of property.

Mayor Kruger stated they have received a lot of good constructive comments and they are going to work on it. He requested they be given time to work on this and come up with a reasonable solution.

Bill Angelo stated if anyone has any questions the city would be happy to spend as much time with them as needed.

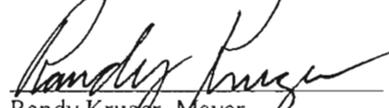
Frank Robbins asked the Council whether they wanted this issue to proceed to the Planning and Zoning Commission next week.

Mayor Kruger stated he wanted to hold up so he can meet with the city attorney to see if any of the suggestions have any merit.

There being no further comments, Mayor Kruger closed the public hearing.

Mayor Kruger adjourned the Joint Public Hearing at 8:28 p.m.

Respectfully submitted,


Randy Kruger, Mayor


Rob Smith, Chairman
Planning and Zoning Commission

Jim Guy

ATTEST:


Christina Buckner, City Secretary

On a motion by Council Member Darrel Hunt, seconded by Council Member D'Anne Gloris, the above and foregoing instrument was passed and approved this 5th day of August, 2010.

The above and foregoing instrument was passed and approved by the Planning and Zoning Commission on the 12th day of August, 2010.