

**OFFICIAL MINUTES OF THE CITY COUNCIL
LAGO VISTA, TEXAS
MAY 6, 2010**

BE IT REMEMBERED that on the 6th day of May, 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		
Bob Bradley	Council Member		
Pat Dixon	Council Member		

Mayor Kruger called the Joint Public Hearing to order and recognized that all Council Members were present. D'Anne Gloris arrived at 6:34 p.m.

Ron Smith, Chairman
Jim Guy, Vice Chairman
Bob Besett
Jim Moss
Paul Smith
Linda Lee
Blaine Standiford, Alternate

Chairman Ron Smith recognized that all members of the Planning and Zoning Commission were present except alternate J.R. Hall and a quorum exists.

PUBLIC HEARING:

Mayor Kruger stated the purpose of the public hearing is to receive citizen input concerning the sale of three tracts totaling about 110 acres in Lake Travis that are owned by the City of Lago Vista to adjoining property owners; subdividing and platting this property; rezoning this property from TR-1, temporary zoning, to R-1E and R-1C, single family residential; and granting conditional use permits for this property for boat docks only.

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

Dale Mitchell commended staff for their work on this item.

Mayor Kruger opened the floor for comments from the audience.

Lloyd Rodenbeck stated he has spoken with an attorney regarding options for the group and questioned what type of title he would receive.

Frank Robbins stated a special warranty deed as been drafted by the City attorney and offered to provide individuals with copies.

Mr. Rodenbeck stated he wants to know that the property will be his and no else will have claim to it. He stated if can't get that then he's against this 100%. He questioned how the City is relieving their liability if they are offering to sell people portions of the property at 640' and expressed concerns with previous statements by the City that liability was their main issue.

Mayor Kruger stated it is their desire to relieve the City of any liability but they have to do what's legal and consider all of the citizens of the City. He stated there are many options and it is flexible down to the lease purchase of the property.

There was discussion from all that the audience did not have the information provided to the Council and Commission and it was announced that anyone wishing to receive such information would have it provided to them.

Mr. Rodenbeck stated he has an opportunity for a legal case against the City to take the entire property from them but stated he wasn't aware that there was a lease purchase option and would like to receive this information.

Frank Robbins stated the Council hasn't decided anything at this point and they will not tonight. He stated there are 2 things in the back up regarding the sale of the property; an ordinance drafted by the City attorney with a standard special warranty deed and lease, and a resolution regarding the sale of the property. One of the considerations is whether the Council wants to allow people to buy a smaller piece of property or not, and if so, to what point. He stated Council would probably make their decision regarding these items at the May 20, 2010 Council meeting and then staff would contact individuals with the details. He stated they are still taking input at this point.

Mayor Kruger stated the alternative is a lease/purchase with 5 year financing. The price is currently at \$0.05 per square foot which is the bottom of the appraisal. He stated they are looking at the opportunity for a group of people or individuals to buy the property and the city will do all of the paperwork to make it legal other than a survey or plat. He stated the City has spent money to reconcile this property which has been claimed by multiple persons and they believe there is value in that that can be passed on to the property owners.

Mr. Rodenbeck expressed his concerns with regard to the notification he received from the City stating it was rude and suggested the City make a decision and think about things before they send out letters of demand. He questioned what the price would be if they purchased the property at a later date.

Mayor Kruger stated that was a good question but he couldn't answer that at this time. He suggested a time limit might be set.

Bill Angelo stated the City has no control over what the appraisal district values the property at.

Diana Dwovaczyk spoke in opposition to the item stating they are being coerced into buying something that they thought they already owned. She expressed concerns with regard to receiving a clear title on the property and questioned the placement of anchors on adjacent property.

Mayor Kruger stated the City won't do anything about anchors unless someone protests.

Ms. Dwovaczyk questioned what would happen if someone doesn't buy the property and asked if it would be offered to anyone else.

Mayor Kruger stated the City would keep it and they have no intention of selling it to anyone else.

Ms. Dwovaczyk asked for clarification of "adjacent" property asking whether that would be the biggest land owner that's adjacent to it.

Bill Angelo stated the only way the City can sell property without going through a bid process is if it is immediately adjacent to adjoining property and it's not independently developable in and of itself.

Ms. Dwovaczyk stated, for instance, that her neighbor's property touches the property adjacent to her also and asked if he could buy it.

Mayor Kruger stated he didn't want a fight between property owners and asked to keep things moving.

Randy Hutcheson questioned whether back taxes were owed on this property.

Mayor Kruger stated he didn't believe there were any back taxes owed.

Lloyd Rodenbeck stated the County records show \$14,000 is owed.

Mr. Hutcheson expressed concerns with regard to his taxes increasing due to the addition of the property and stated it appears he has already been paying taxes on the entire property. He questioned whether the next City Council could change their mind if he doesn't buy the property and the city keeps it. He also asked if the five year lease/purchase includes interest.

Randy stated the next Council could change their mind, but if it's sold, it can't be changed. He stated the property hanging out there is City property and he can't answer to how it could be disposed of in the future. He stated there is no interest on the lease, there is an option to buy and all money paid on the lease will be put towards the purchase.

Chris Crawford stated his dock anchors extend way out and questioned, if he purchased the property to 640', whether there is some way to not worry and, when the lake goes down and the dock is at 640', whether some kind of temporary occupancy could be issued.

Mayor Kruger stated he doubted it. Mayor Kruger stated the City cannot give permission to put anchors or a dock on other people's property. He stated the City is offering to approve a blanket conditional use permit to put boat docks on that property and is waiving the need for a permit, but if the City owns the property, they cannot give permission to put boat docks over it. He stated, from a practical purpose, he doesn't know how the City will identify where anchors are but the City cannot give permission to allow them on other people's property. It is against city ordinance to put a boat dock on property without a primary residence. He stated there are already approximately 32 docks that are technically illegal and they are trying to take care of that too.

D'Anne Gloris questioned whether it was possible to issue conditional use permits for dock anchors on City property if the property is owned up to the 640'.

Frank Robbins stated the conditional use permit is going to go all the way out to the end of the property the City owns. He stated it's impractical, on an individual basis, to figure out where a conditional use permit is depending on where somebody would buy because we don't know where they're going to buy right now. He stated the draft ordinance on the conditional use permitting does not grant a conditional use permit if there is no principal structure, but that can be changed as the blanket conditional use hasn't been decided yet.

D'Anne Gloris stated, in the past, code enforcement has been complaint driven, so if there are no complaints...

Mayor Kruger stated it is unlikely that the City will have anchor patrol, but the City cannot authorize anchors to be put on City property.

Chris Crawford stated if the lake dries up and docks are sitting at 630', then they have to come back to Council. He referenced a previous encounter with the Council in 1998 when they were told they had to tear out half of their house and move air conditioning units. He stated they had to call in U.S. Senators and the issue was dropped, but they were given a verbal commitment from the Council that were going to get a letter stating everything's cool, but they have never received that letter and it's been hanging over their heads for 12 years. He stated he does not want to come back to Council.

Doug Casey confirmed Mr. Crawford's statement and stated they have a video of this.

Mayor Kruger stated the way to not come back is to buy to the middle of the lake. He stated the city is offering an easy

payment plan and will work with individuals and help them get permits. He stated the new appraisal value is from \$0.17 to \$0.05 per square foot. He stated he understands everyone's frustration, but suggested just buying the property and being done with it.

Jim Orr questioned whether people would like the City to do nothing and asked what would happen if the City just walked away and did nothing.

Mayor Kruger stated the property is currently owned by the City, having boat docks on City property is in violation of City ordinances, and the City should be responding to their ordinances.

Bill Angelo stated the other option is to go back to court and have the ruling changed and let it revert back to whoever claimed it to begin with.

Tim Murray questioned what it would take to change the ordinance.

Bill stated you can only change an ordinance with an ordinance.

Mayor Kruger stated the city would have to be very careful about that.

Bill Angelo stated that opens up a real can of worms.

Doug Casey stated even if the ordinance was repealed, that wouldn't relieve the City of liability.

Kyle Rodenbeck stated it is his understanding that the City is offering a grandfather of properties with a primary structure to be able to get a conditional use permit. He stated his father owns a piece of property next to it that he could later build a house on but stated it is his understanding that he wouldn't be grandfathered but even if he bought the property behind it, he would never be able to have a dock on it.

Bill Angelo stated he could request a conditional use permit on that property to have a boat dock.

D'Anne Gloris added without a primary structure.

Bill Angelo stated with or without a primary structure.

Kyle Rodenbeck questioned whether the Council feels this is how it was supposed to be divided when it was originally divided. He stated there is an anchor issue. He stated, hypothetically, if you own a water front lot you have a right to put a dock on the common property and the right to have to the center of the lake would be the general plan. He stated it's not conceptually possible to put an anchor straight out.

Mayor Kruger stated he could not answer how it was planned out in the 70's but stated they are trying to work through this situation.

Kyle Rodenbeck expressed concerns with regard to the granting of conditional use permits stating they are not transferable and can be revoked.

Peter Squier applauded the City for their work on this and made a suggestion that, since the City cannot give them a good title, the City give them an indemnification with a limit of damage equal to what they pay, stating if the title is uncontested for 4 years, the title company will write a good policy. He made another suggestion that, due to the fact that taxes are likely to go up substantially, and the City is exempt from taxes, the City keep the property and allow people with docks to use their dock on city land and the city can have dock leases which will create a long term revenue stream, and there would be no selling or title issues. He further stated since the City is exempt from taxes this would keep their property taxes lower.

Mayor Kruger stated that was considered, but it was his understanding that people who owned docks didn't want to pay a lease. He stated most of these properties are an acre or less which amounts to around \$2,000 and can be financed over 5 years. He stated the problem is with certain properties, such as the 18 acre tract.

D'Anne Gloris stated the argument for extortion is greater if people are required to lease the property.

John Leak stated leasing could be one of the options.

Lloyd Rodenbeck questioned how much the Lago Vista Property Owner's Association is having to pay and whether they would have to move their encroaching dock if they don't buy the property. He questioned whether it is really believed that people were sold water front property and not given the right to have a boat docks stating stated he believes an attorney could present a case that this property was designed to go to the POA and then they would be paying leases to the POA.

Mayor Kruger stated the POA is not buying that property, they have not had any discussions with the POA regarding this matter, and guaranteed the POA would not pay less than everyone else would have to pay. He stated he is not aware that the POA has docks on this property and is pretty sure the POA owns the property where the marina is located.

Ed Tidwell, indicated properties on a map and questioned if they would be dry docked when the lake goes down.

Mayor Kruger stated they are and that is a problem in that area.

Peter Squier questioned what responses have been received to this item.

Frank Robbins stated 16 responses were received.

Mayor Kruger stated 15 people want to buy the property.

Lloyd Rodenbeck asked how people can respond to purchasing the property without knowing what the conditions are.

Mayor Kruger stated the Council will rule on this at the next Council meeting and then individuals can make their decisions.

Kyle Rodenbeck asked the Council to consider changing conditional use permits and allowing them to be transferable.

Mayor Kruger stated that won't happen.

Frank Robbins stated if you have an existing dock on city owned property with no principal structure on the adjacent property, the Planning and Zoning Commission and Council will be making a decision whether or not to grandfather the dock and allow it to remain with a conditional use permit. He stated this grandfathering will run with the land regardless of who owns the property. He stated there is an additional provision in the code for a conditional use permit for individuals that own the property across the street and do not have an existing boat dock. He stated these will be considered on an individual basis and are not part of the Council's consideration.

Diana Matthews stated they have considered buying another lot and building another home with the desire to move their dock to the new lot. She expressed concerns with regard to the resale of her home requesting a perpetual conditional use permit since the permit does not go with land and the next buyers would lose the grandfather and not be able to have a dock.

Mayor Kruger stated if she has an existing dock and an existing residence then that dock still has a conditional use permit, but if the dock is moved to another location it is no longer grandfathered.

Bill Angelo stated if she moved the dock, in all likelihood, when the new owner applies for a conditional use permit the City would look at affirmatively at that because of the previous action taken.

D'Anne Gloris questioned whether a conditional use permit would be required since there is an existing house on the lot.

Bill Angelo stated the house is not on the lot where the dock is.

Mayor Kruger questioned whether these lots can be consolidated.

Bill Angelo stated they can, at their own expense, but if there is a title problem with the property, it's going to cloud the title of the proper they're combining with.

Tim Murray stated he has an existing house and dock and owns 2 adjacent lots. He stated when the lake goes down his dock may end up on the lot next door and asked if this was an issue.

D'Anne Gloris stated as long as he doesn't complain on himself he should be O.K.

Britania O'Brien stated she owns land without a structure. She asked for clarification to her understanding that she cannot get the conditional use permit if she purchases the land from the city but doesn't have a structure.

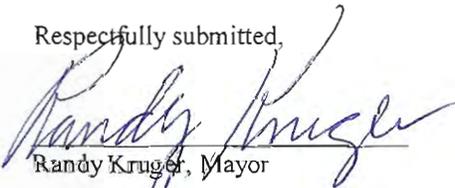
Frank Robbins stated the Council has an option to grandfather all existing docks with or without structures or to pass a blanket conditional use permit to those with an existing principal structure. He stated people with existing conditional use permits only need to buy the property. He questioned the Council whether they want to grandfather all existing docks with or without a primary structure, stating if they say no then people will come in and ask for conditional use permits and buy the property. He referenced one previous case where the Council granted a conditional use permit for a dock without a house for a 2 year time frame stating it's too complicated.

Mayor Kruger stated he cannot speak for the entire Council but the most likely scenario is that they will grandfather and issue conditional use permits on lots without primary residences.

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

Mayor Kruger adjourned the Joint Public Hearing at 7:29 p.m.

Respectfully submitted,


Randy Kruger, Mayor


Jim Moss, Chairman Pro Tem
Planning and Zoning Commission

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 20th day of May, 2010.

The above and foregoing instrument was passed and approved by the Planning and Zoning Commission on the 10th day of June, 2010.