

CITY OF FORT STOCKTON, TEXAS
 MINUTES OF: SPECIAL CITY COUNCIL MEETING
 DATE OF MEETING: SEPTEMBER 5, 2019
 TIME OF MEETING: 5:30 P.M.
 PLACE OF MEETING: CITY COUNCIL CHAMBER

VOTED NAY
 VOTED AYE
 SECONDED
 MOVED

ROLL CALL WAS ANSWERED BY COUNCIL MEMBERS:
 RUBEN FALCON, JAMES WARNOCK, MIKE URETA JR.,
 PAM PALILEO & PAUL CASIAS

MAYOR: JOE CHRIS ALEXANDER
 CITY MANAGER: FRANK RODRIGUEZ III
 CITY SECRETARY: DELMA A. GONZALEZ
 CITY ATTORNEY:

Mayor Alexander called the Special Meeting to order at 5:30 p.m. after declaring a quorum present.

Mayor Alexander gave the Invocation.

Council Member Warnock led the Pledge of Allegiance & Pledge to the Texas Flag.

Mayor Alexander read the Mission Statement:

"The Mission of the City of Fort Stockton Municipal Government is to Promote & Value Public Confidence and Trust by the Accountable and Responsible Use of Community Resources; to Ensure Public Safety; Improve Public Services; Promote Local Recreation and Entertainment; and Generate Economic Development."

Mayor Alexander recessed from the Special Meeting @ 5:33 p.m. to convene into the:

FIRST ORDER OF BUSINESS:

1. **2nd PUBLIC HEARING ON THE PROPOSED 2019-2020 BUDGET & TAX RATE:** On the Proposed 2019 -2020 Budget & Tax Rate which will Raise More Total Property Taxes than Last Year's Budget by \$223,445.32 (15.36%) and of That Amount \$21,547.13 is Tax Revenue to be Raised from New Property Added to the Tax Roll this Year; As presented by City Manager Rodriguez & Staff.

Mayor Alexander asked for comments from the public.

Steve Fountain, 1101 W. Second Street, Fort Stockton, Texas, had several inquiries regarding the proposed budget.

City Manager Rodriguez reported that Dwayne Bonham requested \$76,800, as the prior year's amount, for the Chamber of Commerce. He conveyed that the additional amount will benefit operations being that most of the contract work increased while some remained the same. He requested that the City reconsider this revision to the budget.

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Council Member Falcon expressed that he did not have an issue in reconsidering this before the 2nd Public Hearing being that CVB members were not in attendance for the budget workshop when this item was discussed.

Mayor Alexander asked for additional comments from the public. There being none, the public hearing was closed @ 5:59 p.m.

SECOND ORDER OF BUSINESS:

2. Discuss/Act upon Variance Request from Property Owners Armando & Margarita Gonzalez, Lot Four (4), Block Twenty-Nine (29), St. Gall Addition, Fort Stockton, Pecos County, Texas, for Authorization to Place a Double-Wide Manufactured Mobile Home in a Single Family-3 (SF-3) Residential Dwelling District &/or Adjacent to and on the Corner of Ryan Street and Water Street.

Steve Fountain believed that this meeting was non-compliant with the City's Code of Ordinances, Section 3. Appeals (c) Give the public notice thereof of posting such notice in the mail addressed to all owners of real property located within 200' of the property on which the appeal is made and by publishing such notice of hearing in a newspaper of general circulation in the city of Fort Stockton. Both the posted and published notices shall be given at least 10 days prior to the date set in the hearing.

3(a) Appeals to the Board of Adjustment can be taken by any aggrieved or by an officer of a department or the municipality affected by the decision of the building official. Such appeal shall be taken within 15 days after the decision has been rendered by the building official.

He inquired when the clock started to "tick" on the building official.

Building Official Stoddard explained that when individuals approach him to request a permit, he has the right to approve or deny their request. His approval or denial is not in writing but he does have to provide specific reasons. The appeal process is customarily a continuance after the Planning & Zoning and City Council. If aggrieved thereafter, property owners can opt to appeal an outcome whether a particular decision of his or not. Mr. & Mrs. Gonzalez were not granted a permit, went before the Planning & Zoning Commission, City Council, were aggrieved and in attendance that evening regarding a variance.

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Steve Fountain inquired if this was an appeal due to the lack of action from last week's meeting?

Building Official Stoddard replied that it was based on a previous decision from an agent of the City.

Steve Fountain inquired if an appeal was filed on this matter and if so, by who and when. Did they file through an attorney and when?

Mayor Alexander replied, "Yes."

City Secretary Gonzalez replied that Property Owners Margarita and Armando Gonzalez filed the paperwork that day and did not file through an attorney.

Steve Fountain stated that the City's ordinance required a 10-day notice.

City Secretary Gonzalez responded that the Updated Version of the Municipal Law stated Notice. State law requires that notice of the Board of Adjustment hearing will be given to the public and due notice to the parties in interest, but does not specify how those parties are identified, what form the notice is to take, or how the notice is to be distributed. Tex. Loc. Gov't Code §211.010 (d).

The notice was provided to the public on the City's website, media, and posted in City Hall's foyer. Property owners within a 200' radius of the property were previously notified in the Planning & Zoning process which were the same individuals for this process. In considering the statute, the City did abide with it.

Steve Fountain responded that the statutes were a recommendation or guide, City ordinances superseded the general reference guide. The City's rules specified a higher level of detail than what was in the general state guide. A general state guide did not surpass the established rules/policies of the City of Fort Stockton.

Attorney Adrian Valdez, on behalf of Property Owners Margarita & Armando Gonzalez, conveyed that they previously requested and were in attendance regarding the placement of a mobile home on their lot. In April, they relied on the statements of three (3) City representatives on three (3) different occasions that gave their assurances that their request would be approved and that they could place their mobile home on the lot. Between May – July, they purchased the lot, then a mobile home, sold their prior home, and were now in-between homes. They

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incurred moving costs, set-up costs, and total expenses of approximately \$171,000.00.

Steve Fountain declared that he was not judging the validity of the grievance that was filed but whether the hearing could legally be held that day. The merits of Attorney Valadez' argument or case should be heard.

City Secretary Gonzalez asserted that the City was not in conflict with the statute but abiding with it.

Steve Fountain uttered once again that he was looking at the City's policy.

City Secretary Gonzalez affirmed that State law superseded local law.

Steve Fountain immediately replied that what City Secretary Gonzalez was referencing was not State law but a recommendation manual.

Attorney Valadez declared that State law supersedes -----

Steve Fountain remarked that the entire scope of his question was if whether the rules of the City that is posted on the website were being complied with. Also, if this was an appeal based on a decision because there was not a recognized decision that the appeal could be based on.

Mayor Alexander asserted that he asked that this item be placed on the agenda because City Council had not voted on this due to failure of a second motion at the prior meeting. A decision needed to be made.

Attorney Valadez informed Fountain "And you do understand that the family could be homeless."

Steve Fountain replied that he was not citing whether it should be heard or not but City Council could have had a second on the motion and voted at the prior meeting.

Mayor Alexander responded "But we didn't. Chill out, Okay!" He placed this on the agenda and it wasn't whether they had an appeal or not but wanted the item re-heard.

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Steve Fountain uttered again that the City was not complying with the City's ordinances on putting it on the agenda and providing proper notification. He was citing the City's policy for the Board of Adjustment.

City Secretary Gonzalez emphasized once more that the requirements from the Notice were State law that General Law municipalities abide with.

Attorney Valadez asked the City to reconsider this case.

City Manager Rodriguez conveyed that inaccurate information was provided by the City and addressed internally. He spoke to the Mayor extensively regarding this particular item who directed that it be placed on the agenda. The City assumed ownership and was responsible for the information provided to the family. This variance for a hardship needed to be considered again. It was argued by Steve Fountain but City Secretary Gonzalez identified that State law supersedes the local Code.

Council Member Falcon remarked that to hear an appeal, it would be 10 days from September 5th. "So, we are not hearing the appeal, right? If this is the appeal, then we cannot hear it."

Mayor Pro-Tem Ureta replied that the verbiage was different from the prior agenda items and they were now convening as the Board of Adjustment. There was some credence to what Steve stated and his reason for not making a motion the first time because they were being asked to do something that conflicted with the City's ordinance which he will not do. He asked City Manager Rodriguez to ensure that an opinion was obtained for the appropriate process. He was uncomfortable with this and needed to do the proper process.

Council Member Falcon recalled that no action was taken by City Council so there was nothing to appeal. He asked, "What was the appeal?"

Mayor Pro-Tem Ureta remarked "Our failure to second the motion; it died. We did not table it to bring it back."

Council Member Falcon wanted assurance that they were not addressing an appeal.

Mayor Pro-Tem Ureta replied that it was simply a variance request and they were the Board of Adjustment.

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City Secretary Gonzalez conveyed that the Board of Adjustment was a quasi-judicial board and the only Board that could take action on this item.

Mayor Pro-Tem Ureta replied "Correct, this is not an appeal of what City Council did before."

Council Member Falcon understood that they were now convening as the Board of Adjustment and not as City Council.

City Secretary Gonzalez confirmed his statement. The documents provided to them addressed 3 exceptions that only a Board of Adjustment can process; Administrative Appeals, Special Exceptions, and Variances. In 2008, City Council adopted an ordinance authorizing Council Members to function as the Board of Adjustment for the 3 specified exceptions.

Mayor Pro-Tem Ureta acknowledged once again that this was a variance and not an appeal.

Council Member Falcon remarked that the Planning & Zoning Commission's recommendations were forwarded to City Council for approval or disapproval. In meeting as the Board of Adjustment, he asked if this variance also needed to be presented to City Council.

City Secretary Gonzalez answered "No, the Board of Adjustment was the ultimate authority for the three exceptions unless property owners objected to City Council's decision which was then directed to the District Court."

Council Member Falcon asked, "Have all of the notifications been done?"

City Secretary Gonzalez re-read the statute once again on the Notice requirements for a Board of Adjustment Hearing and conveyed that the hearing was posted in the City's foyer, media, & website to the parties in interest. The statute did not specify how property owners were to be notified within the 200' radius unlike the Planning & Zoning process.

Council Member Falcon confirmed that this was not an appeal hearing and that the notice was posted in the City's foyer, media, and website. As the Board of Adjustment they were authorized to resolve this variance.

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Steve Fountain stated that since the merits of "it" were not discussed, he inquired what changed from the prior week with the three Council Members' vote since there was no second or vote?

Mayor Pro-Tem Ureta replied that it was the hardship... plus at the time they were not the Board of Adjustment and did not have the authority to issue a variance.

Council Members Palileo and Casias reiterated Mayor Pro-Tem Ureta's statement.

Steve Fountain insisted "But you did off Mr. Warnock's motion."

Mayor Pro-Tem Ureta replied "Do you not understand what I am saying? There were two different agenda items. They were meeting as a Council."

Motion was made, seconded, and carried unanimously to approve Variance Request from Property Owners Armando & Margarita Gonzalez, Lot Four (4), Block Twenty-Nine (29), St. Gall Addition, Fort Stockton, Pecos County, Texas, for Authorization to Place a Double-Wide Manufactured Mobile Home in a Single Family-3 (SF-3) Residential Dwelling District &/or Adjacent to and on the Corner of Ryan Street and Water Street.

Mayor Alexander closed the Board of Adjustment Meeting @ 6:20 p.m. to reconvene into the Special City Council Meeting.

THIRD ORDER OF BUSINESS:

3. Questions from the Media.

FOURTH ORDER OF BUSINESS:

4. Adjourn.

Motion was made, seconded and carried unanimously to adjourn the Special City Council Meeting @ 6:22 p.m.

ATTEST:

Delma A. Gonzalez, City Secretary

Joe Chris Alexander, Mayor

FALCON
 WARNOCK
 URETA
 PALILEO
 CASIAS

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 X X
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FALCON
 WARNOCK
 URETA
 PALILEO
 CASIAS

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