

*SPECIAL MEETING  
MONDAY, MARCH 28, 2011  
6:00 P.M.*

*A Special Meeting of the Anahuac City Council was held in the Council Chambers of Anahuac City Hall located at 501 Miller Street, Anahuac, Texas on Monday, March 28, 2011 at the above noted time.*

*There were present:*

*Sue Hawthorne  
Cheryl Sanders  
Linda Palmer  
Danny Thompson  
Dana Evans  
Kimberly Upston  
Richard Baker  
Dan Irby*

*Mayor  
Mayor Pro Tem  
Councilwoman  
Councilman  
Councilwoman  
City Secretary  
City Attorney  
Public Works Director*

*Those not present:*

*None*

*Guests:*

*Dayna Haynes  
Monroe Kreuzer, Jr.  
Chris Hill  
Francis L. Hughes  
Hall Whitley  
Julie Harvill  
Bobby Hall  
Bob Pascasio*

*The Progress  
Citizen  
Citizen  
Citizen  
Citizen  
Employee  
Bayside Clinic  
Bayside Clinic*

*At 6:03 p.m. Mayor Hawthorne called the Special Meeting to order and led the invocation. Councilwoman Sanders led the pledges to the American and Texas flags.*

*Mayor Hawthorne called on Monroe Kreuzer Jr. to speak. He thanked the City for starting the fire hydrant inspections. He also explained some easy things to do to make sure that the hydrants are kept in good condition.*

*Mayor Hawthorne asked if there was a motion to adjourn to Closed Session. Councilwoman Sanders made the motion and Councilwoman Palmer seconded the motion. All in favor and motion carried. At 6:05 p.m. Council adjourned to Closed Session to discuss the following items:*

- a) Pursuant to Section 551.071 of the Texas Government Code "Consultation with Attorney" about a possible litigation issue.*
- b) Pursuant to Section 551.074 of the Texas Government Code "Personnel Matters" concerning approving a contract with Lance Avant for the position of City Administrator.*

*Council returned to open session at 6:27 p.m.*

*The following action was taken on the closed session items:*

- a) No action was taken on this item.*
- b) This item was pulled from the agenda and no action was taken.*

*Discussion moved to the revised plat for the development of a new clinic on Ross Sterling. Bobby Hall spoke about how Bayside would like to move an easement on their property to a different location. He said they would like to build a new clinic where the existing one is but, the new building will cover some of the existing utility easement. Mr. Hall said the land is not a subdivision because it was not recorded as such; it is recorded as a partition in a specific court case. He said because of how many owners there were they divided it up by lots and blocks and laid out streets.*

He said there aren't any alleys, but there are utility easements. He said that Bayside owns lots 9 thru 16. Mr. Hall said the existing clinic sits on the north side of the easement. He said they are currently having it surveyed and a drainage plan will have to be made. He said they would like to get the ball rolling because they are dealing with CDBG funds and they are on a timeline to get the project done by March 31, 2012.

Mr. Hall said it would affect the other property owners because the utility easement would be moved to a different location and property owners would have to change their access to it if they ever decided to build behind the clinic.

Monroe Kreuzer spoke about concerns he had with the sewer for that area. He said because it is so deep at that location we have trouble with the gravity flow sewer and the people behind the clinic will have issues and the City will have trouble taking care of the sewer. Bob Pascasio said the problem would exist either way because of the existing lines and there would have to be pumps installed anyway. Mayor Hawthorne asked if Bayside has a grinder system. Mr. Pascasio stated they did.

Mr. Kreuzer stated once we abandon things the City cannot take them back. Richard Baker said you can if you pay for them under condemnation. Mr. Pascasio said Bayside is not asking for additional property. They are asking for an easement to be moved on their property and they were giving up 20 feet of their property for the easement. He said the easement will still be there on their property for future connections to utilities.

Bob Pascasio went on to say they are doing this because they would like to put the new building up to the existing flat work from the old buildings parking lot to save money. Mayor Hawthorne asked whether Chambers County Commissioners Court approved the revised plat. Mr. Pascasio stated they did last Tuesday.

Richard Baker asked Bobby Hall how the streets were dedicated to the public if the property had been platted. Mr. Halls stated the streets were not dedicated to the public. Mr. Baker then asked how Bayside is working out the easement with the owners. Mr. Pascasio said they are still providing an easement and the streets are not within their property. Mr. Baker said the easement is for the owners, too. He asked if Bayside had all of the owners of the properties on board with moving the easement.

Mr. Pascasio said because the property is not a subdivision they were not required to ask the other property owners. Mr. Baker said it may or may not be a subdivision and if it is a private easement you might have to notify the other owners. Bobby Hall said the plat was recorded in the partition suit and it was put in the map records to let the public know it was there but, it was never accepted by the Court as a subdivision.

Mr. Baker said at minimum it would be a private easement. Mr. Hall agreed. Mr. Baker said the owners have an interest in the private easement. He also asked if Bayside had taken care of all of the people who have an interest in the private easement. Mr. Pascasio said no because, under the law they were cited by their legal counsel they are not required to.

Mr. Baker said this right-of-way was never publicly dedicated. Councilman Thompson asked if there was a map of the property on record. Mr. Hall said there was in the court records and in the map records because past employees at the County gathered maps and put them there. Councilman Thompson stated the City has an obligation to the people to get their permission.

Mr. Baker said it is a due process thing and the property owners are entitled to notice. Mr. Pascasio pointed out the time schedule again and said the project cannot move forward until they know where the building would be situated. Mr. Baker asked if Mr. Pascasio knew of a statutory procedure about the City acting like having it pending for a certain amount of time before the City can act. Mr. Pascasio said they were provided a set of codes from Don Brandon from Chambers County and they gave those to their attorneys and their attorneys said they were not required to because it was not a platted subdivision.

Mayor Hawthorne asked if Commissioners Court agreed. Mr. Pascasio said yes. Mr. Baker said he was familiar with the County's statute on roadways. Councilman Thompson stated that cities are different and Texas Municipal League has written the guidelines for cities to follow. Councilman Thompson referred to the guidelines he provided dealing with easements and alleyways. Bobby Hall said this case was different than that. Councilman Thompson said if it is mapped, then the property owner would have a reasonable expectation that the easement will

*always be there and that they would have to give permission to abandon or move it. Mr. Baker said you could also give them an opportunity to be heard. He also said if the City removes itself then the private property owners can pursue it but, the City has the right to regulate the use of the alleys and things.*

*Councilwoman Sanders asked Mr. Baker what he recommends. He said he would like to know if there is supposed to be a notice before you act because he doesn't want anyone to claim due process or if there is just a posting requirement. Councilwoman Sanders said the Council has tentatively scheduled a meeting for the following Monday and asked Mr. Baker if that would be enough time to find out more information. Mr. Baker said it would be enough time.*

*Councilwoman Sanders made a motion that if Richard Baker says everything is okay then the City will consider the revised plat. Councilwoman Evans seconded the motion. All in favor and motion carried.*

*The compliance with the implemented policies and procedures of the City was discussed next. Councilwoman Sanders pointed out the policies were included in the Council's packets. She said she just wanted to make sure that all policies and procedures were being followed and have been approved by Council. She also wanted to make sure all employees were aware of the policies and had access to copies of the policies. Kimberly Upston said all employees receive a copy of the personnel policies when they are hired.*

*Councilwoman Sanders said she was aware that a past employee was not following the purchasing policies and that is part of the reason they were no longer employed. She wants to make sure that with all of the new employees, everyone is aware of the policies and are following them.*

*Councilwoman Evans asked about the use of City vehicles and if there was a policy on that. Kimberly Upston said she had a copy of the personnel policy and she would look. Councilman Thompson asked if he could get a list of the policies. Ms. Upston said she could e-mail it to him.*

*Ms. Upston said she found the section that dealt with City vehicles. She read aloud the section of the policy. The policy states City-owned vehicles may be used only for City business, except as otherwise specifically authorized by department policy approved by the City Administrator. There was no action taken on this item.*

*Discussion moved to requiring all City of Anahuac employees, present and future, to fill out an employment applications for personnel files. Councilwoman Evans said it had come to light that not all employees have employment applications on file. She then made a motion that all current and future employees fill out an employment application to be placed in their personnel files. Councilwoman Sanders seconded the motion. All in favor and motion carried.*

*Conducting criminal background checks on all City of Anahuac personnel whether elected, appointed, or service is contracted for was then discussed. Councilwoman Evans said because not all employees had applications on file, no one knew whether or not the background checks were done. She asked Ms. Upston whether or not everyone had signed the authorization for a background check. Ms. Upston stated that everyone had. Councilwoman Evans said she feels that Council members should have their backgrounds checked to be fair across the board to the employees because she would like to have it done again on all of the employees as well.*

*Councilwoman Evans asked if a computer program had been set up. Kimberly Upston said it hadn't and Constable Langford conducts all background checks on employees. Mayor Hawthorne said he does the checks and then shows them to Ms. Upston. She said the City does not keep the background checks and Constable Langford shreds the reports after they are reviewed. Councilwoman Evans asked Richard Baker if the checks should be kept on file. He said the City does not have access to his databases. Ms. Upston said all personnel files are public information and she would rather not keep them.*

*Councilwoman Evans asked who sees the report before it gets shred. Ms. Upston said herself and sometimes the public works director besides Constable Langford. Councilwoman Evans asked if Constable Langford could provide Council with something that says the check was done and everything is clear. Ms. Upston said she could ask him to do that and that could be kept in the files but, she would rather not keep the actual background checks in the files.*

Monroe Kreuzer said it is a violation for an officer to run background checks for anything other than criminals. He said that there is a way to do background checks for employment but, they would be different than the ones that law enforcement uses. He said it would be a violation for an officer to give that information to anyone. Richard Baker said you have to be authorized by law to access the databases that officers use. Mr. Kreuzer said you cannot distribute that information by law.

Dan Irby said Constable Langford calls and lets us know if the person is clear and if they are not he does not disclose why they are not. Councilman Thompson said you can log on to the DPS website and do background checks on persons for a fee. He said we could keep that information in the files but, if it comes across law enforcement telephone or radio we cannot keep it. Ms. Upston stated she still did not feel comfortable keeping the background checks because they are public information if kept in the files.

Councilwoman Sanders asked how we could prove the check was done if there is a possible litigation issue if we do not have the check and something comes up. Mr. Baker said if we made a reasonable effort and he would have to see the website to know for sure what information and what authorization is granted. Councilwoman Sanders said any person can go there and put in someone's information and get a background check after they pay a fee. She said all you would need is their driver's license number and date of birth.

Councilman Thompson said the City needs files or something because there are instances where employees have been written up many times but, when they left the City there weren't any because the employee had removed them. Monroe Kreuzer suggested that the City contact the school district to find out what they do because they have to run background checks on all of their employees. Mayor Hawthorne said she would contact the superintendent.

Councilwoman Sanders suggested we also contact TML to ask their advice. Richard Baker couldn't say for elected people. Councilwoman Sanders said people that are contracting with the City should be bonded and they have to have background checks in order to be bonded.

Councilwoman Evans said she would like to bring back the item for further discussion and action. Councilman Thompson said you could ask for volunteers from the elected officials.

There was no action taken on this item.

Accepting nominations to the AMDD board was pulled from the agenda by Councilwoman Evans.

Discussion moved to the Texas Commission on Environmental Quality inspections of the storage tanks. Dan Irby stated the copies of the inspections are in the Council packets. The two tanks inspected were the 200,000 gallon elevated storage tank and the 300,000 ground storage tank. He said the ground storage tank was in bad shape. The inspectors found that the beams inside were rusted and flaking and the City really needed to address it or in the next five years there would be major problems.

Councilwoman Evans asked if TCEQ wanted this inspection. Councilwoman Sanders asked where the ground storage was. Councilman Thompson said it was at the old processing plant where the dumpsters are. Mayor Hawthorne asked if the comments were a course of action to make repairs. Mr. Irby said yes.

Councilwoman Evans asked if TCEQ representatives were who inspected the tank. Dan Irby said TCEQ picked a company to do the inspections. Councilwoman Evans asked if Mr. Irby had the previous inspection reports. He said he would need to look and was not sure if he had them. Mayor Hawthorne asked if the inspections could be done in house. Mr. Irby said no, TCEQ would have to approve that.

Richard Baker asked if the column N/A meant not applicable or not acceptable. Mr. Irby said it meant not applicable. Councilwoman Sanders asked if some of the items that need to be done can be done by employees. Mr. Irby said some things can be done by employees but, the inside of the tank has to be done by those specializing in this type of work. Councilwoman Sanders asked if we would be losing anything bringing the tank down for repairs. Mr. Irby said the tank is already down and we would not be losing anything.

Councilwoman Evans asked if the company that did the inspections would be bidding on the job. Mr. Irby said they could be one of the ones that bid on the project. Councilwoman Sanders asked why the tank was down. Mr. Irby said it was because the water plant is down.

Mayor Hawthorne asked if Mr. Irby was asking if he could go out for bids. Mr. Irby said it would be like the other storage tank and go for so long that TCEQ wouldn't give us a choice they would tell us to shut it down. Mr. Baker said Council could instruct Mr. Irby to go out for bids. The mayor also asked whether we would have to advertise for bids. Mr. Baker said it would depend on the amount. Councilman Thompson said we could get an evaluation to see how much the cost was going to be.

Councilwoman Evans asked if Mr. Irby was with the inspectors when they did the inspections. Mr. Irby said he was on the ground while the inspector was in the tank because the City does not have the gear to be able to enter the tanks. Councilwoman Sanders asked what all would they need to go into the tanks. Mr. Irby stated you would need to take the man ways off of the very top and climb in and walk on the beams inside the tank. He said that the tank would have to be drained also for repairs. He said the inspectors shined their lights down as far as they could.

Monroe Kreuzer said the tank was re-done about 20 years ago. He said they took the top off of it and replaced the beams and top with top quality material. He said the problem is that the chlorination of the water eats away at the beams over time. He said it was a company out of Channelview.

Councilwoman Sanders made a motion to give permission to the Public Works Director to go out for quotes to remedy the problems in the inspections of the elevated storage tank and the ground storage tank. Councilman Thompson seconded the motion. All in favor and motion carries.

Restarting the water plant by replacing the charcoal filters and sand filters in one side and repairing in the canal pumps was discussed. Councilman Thompson said even after reading the report provided to Council, the only problem the plant has is the turbidity. He said if the City would change the charcoal filters and sand filters it would take care of that problem. He said the plant is a dual operation plant and if one side was fixed then the other side could be repaired.

Mayor Hawthorne asked Dan Irby for his thoughts. He said it wasn't just the turbidity. Councilwoman Sanders asked how much it would cost to change the filters. Mr. Irby said he did not know, he would have to check. Chris Hill asked why the plant was shut down in the first place. Councilman Thompson said it was a reduction gear that caused the shut down. Mr. Hill asked if the gear was fixed. Mayor Hawthorne said it did get fixed but, there was also the issue of the turbidity. She said the loan from the Texas Water Development Board would fix the turbidity issues and she said Mr. Bourque had put in this report all of the things that would need to be done to put the plant back into full production.

Councilwoman Sanders asked how much it would cost. Mayor Hawthorne said the loan amount is \$670,000. Councilwoman Sanders asked if that was just to do the filters. Mayor Hawthorne said it also included some design changes. Councilman Thompson said the design changes were not necessary.

Councilwoman Palmer said it wasn't just design changes; it was cleaning out the plant and coating it also. Councilman Thompson said the City could get one half of the plant running while coating and cleaning the other half. Mr. Irby said TWDB had told him that they would not repair the plant in stages, it would have to be done all at once.

Councilman Thompson said there are plant operators that are approved by TCEQ that will come and evaluate plants at no charge. Councilwoman Sanders said she didn't have a problem with someone coming in and telling us exactly what needs to be fixed at the water plant. She said at first it was let's get this fixed and let's get this fixed right. She said now it had taken longer but, if we are going to have to replace four pumps and also the charcoal and the filtering that is going to be expensive.

Councilman Thompson said that is why he would like to have the people from TCEQ to come and evaluate the plant to see if all of that has to be done. Dan Irby said that even if the people come and evaluate it, we still couldn't do anything with it until the money is released from TWDB.

Councilwoman Sanders said she didn't see what the problem would be to have someone come and give us an evaluation besides our engineers. Mayor Hawthorne said on the April 11th meeting, staff will be bringing all of the information to Council to make an informed decision. She said the costs of getting the water plant started again and purchasing water would be included in that information.

Mayor Hawthorne asked if it was Maggie Wright that Mr. Irby speaks with. He said it was.

Councilman Thompson made a motion to have TCEQ approved operators to evaluate the water plant. Councilwoman Sanders seconded the motion. All in favor and motion carried. Mayor Hawthorne asked Mr. Irby to contact Maggie Wright on the inspection request.

Discussion moved to replacing the remaining bad water mains and which streets they service and estimated costs. Councilman Thompson said the last time they talked about the water plant, it was brought up that there were a lot of mains that needed to be replaced. He said there really aren't that many mains, just one on Lee Street. Mayor Hawthorne asked Dan Irby how many mains needed to be replaced. Mr. Irby said Lee Street, N. Main Street, and he did not know how many others need to be replaced.

Councilwoman Palmer said she would like to see them replaced to do away with the red water because it doesn't matter what type of water you put in there, whether from our plant or purchased, that if you have old pipes you will still have red water. Councilwoman Sanders said we need to review the contracts and maps to see what lines were replaced and which ones weren't. Councilman Thompson said that the engineers should have a map showing everything because they were supposed to be overseeing the project. Councilwoman Sanders said at the time, a past employee was to be overseeing the project to save money but, we still need to find out what was supposed to be done and what was supposed to be replaced to see if it was done.

Councilman Thompson stated we still need to address the old lines that are putting rust in the water. Councilwoman Sanders asked what the project would entail. Councilman Thompson said we need to notify people and shut that line off.


Dan Irby stated that the budget was tight. Councilman Thompson asked how much would it cost for a City employee to dig up the line and cut it off. Councilwoman Sanders stated we need to look at the cost of the water that is going through the line. Mayor Hawthorne asked Dan Irby what it would take to get the job done. Mr. Irby said we would send an employee down to dig it up and find the valve to cut it off and if they couldn't find a valve they would just have to cut the line and cap it off.


Mayor Hawthorne asked if the line was already identified. Councilwoman Palmer said there is a new line running beside the old one and so it would just be letting everyone know. Mr. Irby said yes.

Councilman Thompson made a motion to abandon the line on South Main Street that was supposed to be replaced. Councilwoman Evans seconded the motion. All in favor and motion carried.

With no other business at hand there was a motion made by Councilwoman Sanders and seconded by Councilman Thompson to adjourn. All in favor and motion carried.

At 7:26 p.m. the Special Meeting of the City of Anahuac City Council was adjourned.

  
Kimberly Upston, City Secretary  
City of Anahuac

  
Sue Hawthorne, Mayor  
City of Anahuac