

**Meeting Minutes
City of League City
Planning and Zoning Commission
Regular Meeting, Monday, June 17, 2024
Council Chambers, 200 W. Walker Street, League City, TX 77573**

1. Call to Order and Roll Call of Members

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3. Citizen Communications

Chuck DiFalco – 2118 Eastland Court – Mr. DiFalco stated that Municipal Governments and decision makers, which can apply to City Council and Commissions such as Planning and Zoning, should not just look at the items and vote on them, but should be held to a higher standard to address public interests, and that is how you should think. When passing an ordinance, he does not think that decision makers should think that just because staff says an item meets the ordinance standards, that elected and appointed officials should not consider the public good because sometimes things just don't meet the smell test. He gave an example of the gas well on the west side of League City and the flame test that was conducted in the early morning hours. This site met the standards, but decision makers need to ask themselves if it is good or not.

Peggy Zahler – 802 Rampart – Ms. Zahler talked about the electrical grid and two State hearings and workshops that she has recently monitor and attended. She said that the Grid has critical issues, citing statistics and data, from those meetings. She talked about the dependability of the Grid and growth. She talked about preparation and based on our current usage the possibility of rolling blackouts in August. As a Texas citizen, she cares, and we should ask our elected officials how we will have a reliable Grid in the future.

4. Public Hearing and Action Items

A. Hold a public hearing and make a recommendation to City Council on an amendment to Chapter 125 of the Code of Ordinances of the City of League City by creating regulations related to Battery Energy Storage Systems (BESS).

Kris Carpenter, Planning Director, gave a presentation on behalf of the City of League City.

Mr. Maaz opened the public hearing at 6:21 p.m.

Chuck DiFalco – 2118 Eastland Court – Mr. DiFalco talked about safety issues in this ordinance. He is most interested in the setbacks because setbacks are related to safety. He had issues with the fact that it sounded like the facilities would take electricity from the Grid in low demand and sell it back during high demand. The presentation made it sound like it is a public utility, but it is not. These are private utilities. So, what they are doing is not serving a public good but a private good, using arbitrage, buy low; sell high. He would like to know what public good requirements are going to be placed on these facilities. When Texas is close to a brown out or black out, are these BESS facilities required to sell back to Grid, whether it is profitable or not? What are the requirements placed on these facilities that are compulsory to sell back to the Grid? This is what is meant by public good. He would like Planning and Zoning Commission, and demands that City Council look

at the incident at one of these facilities in Arizona, and would this ordinance, had it been in place there, have prevented such an emergency?

Becky Eldridge – Oaks of Clear Creek – There are two BESS facilities proposed for Highway 3. One is the Berkman and the other Wizard. She asked if the 1,500 foot between facilities been looked at with these two facilities? If these two facilities were to be built, she would like that to be looked at since both are being built across from her neighborhood and Parr Elementary.

Peggy Zahler – 802 Rampart – Ms. Zahler stated that she is greatly influenced by the fact that we have had a BESS facility in League City for a couple of years, and we weren't aware of it. It makes her wonder if we haven't had a history of issues with this facility; and we didn't have an ordinance at that time, then what history, other than the issues at a facility in another part of the country, what is causing a great deal of concern about the proposed ordinance. She stated that at the hearings that she attended, the State is going to be very focused on thermal generation. There was very little discussion in the Senate hearing regarding battery use at all. As a co-chair of the HOA Alliance, she states that she has had ample opportunity to hear from HOAs and has had discussions with the applicants of the BESS sites who have done community outreach, but it seems to her that other than the location issues and the 200-foot setback, that there is room for plenty of discussion. Residents would like to see an alert system modeled after the alert system used for the Plants. She would like to see the City use the expertise and knowledge of the Plants. Other than that, she thinks staff has done an excellent job and is in support of this ordinance.

Mr. Maaz closed the public hearing at 6:30 p.m.

Ruth Morrison stated a concern about the two proposed sites being so close to an elementary school. She stated that she would like to see a requirement that they can't be put with a certain distance from an elementary school, other than the 200-foot distance. Her concern is that in case of an event, that there will be little kids who could be sheltered in place in an elementary school for a really long time. And that is a safety concern that everyone should consider.

Mr. Carpenter stated that additional setback requirements will be based on modelling studies. If the plume modeling indicates there is a danger to the elementary school, the setback will be increased far enough that there is no danger. The setback language in the ordinance will consider the data from plume models and large scale fire testing. Setbacks will be determined based on the data that is received.

Ms. Morrison asked if there was any way to require that they sell electricity back into the local Grid.

Mr. Carpenter stated that he understands that the power goes back into the substation by which the facility is located. He does not think we can control where it goes, based on that. It will go to the area that the substation serves.

Ms. Morrison stated that the last time the commission considered BESS sites, she said that everyone was in favor of having these facilities in League City, however, the question was "where" would we have them. She stated that she was glad we are addressing some of these issues but wishes we could decide exactly where they would go.

Mr. Carpenter stated that they would require a Special Use Permit and it would be the job of City Council to approve specific locations.

Matthew Propst asked about whether the ordinance would be written with the UL standards, or would it be written referencing the most currently published UL standards?

Mr. Carpenter stated that we would be using the most currently published standards.

Dr. Propst asked about the height of the masonry wall being at the height of the batteries. He asked what would happen if the batteries would be changed and the height of the batteries increased.

Mr. Carpenter stated that the intent of the section of the ordinance that the tallest point of the container will be the height of the wall. If a new container is installed, if necessary, a higher wall would be required.

Dr. Propst asked about the Decommissioning Bond.

Mr. Carpenter stated that we will have the Decommissioning Bond assessed by a Professional Engineer. We will have an escalator clause put in there as well to account for inflation.

Dr. Propst asked about the 1,500-foot setback requirement and setbacks from a school question posed by Becky Eldridge during the Public Hearing.

Mr. Carpenter stated that the requirement is that one BESS facility cannot be within 1,500 feet of another BESS facility. In this case, the two that already have applications in prior to this ordinance will be brought to City Council. City Council could grant a variance on the requirement, since the applications were already in progress prior to this ordinance.

Dr. Propst asked about the Nonconforming Clause.

Mr. Carpenter stated that the Nonconforming Clause means that if there is an existing site, they will still have to conform to the current code requirements from a safety standpoint.

Dr. Propst asked what the definition is of "worst case scenario".

Mr. Carpenter stated that we would consult with Plume Model consultants that are the experts in what is the worst-case scenario for that event.

Dr. Propst agreed with the concern about facilities being built too close to schools and asked if that is being factored into the studies.

Mr. Carpenter stated that there are different technologies at each facility and that the setback for one may only be 30 feet and for others it may be 300 feet and that is what the required studies will tell us.

Paul Maaz asked about the distance from the residents and schools. Mr. Maaz asked if the two current

applicants conform to this rule.

Mr. Carpenter stated that both applicants are not within 200 feet of a residential zoned property.

Mr. Maaz asked if the 200-foot rule is driven by the ordinance or is it just a good number.

Mr. Carpenter stated that the 200-foot rule is from the NFPA regulations. That distance is what would require an evacuation of a building if there were an emergency event. If we receive data that there is danger beyond 200 feet, we will increase the setback based on the data received.

Mr. Maaz stated that this is the biggest issue, the distance of the facilities from a residence. He also stated that Council Tressler brought up the responsibility of the applicants to responsible for all costs incurred for all the studies. He asked how will staff ensure that the City will not be responsible for costs incurred from all these measures and study requirements.

Mr. Carpenter stated that the services provided by the experts will be billed and paid prior to any applications moving forward in the process.

Mr. Maaz stated that his concern was that if an applicant did not like the result of a study that they might not pay.

Mr. Carpenter stated that we will ensure that we are reimbursed for all costs that are incurred.

Frank Dominguez stated that staff has done a good job putting the ordinance together. He stated that his issues have to do with energy policies of the State and the Federal Government.

Pam Arnold stated that ordinance is important for the regulation and framework of regulating these installations. It is interesting that one has existed for a couple of years in the City without incident. She asked if the existing site and will it be subject to the Nonconforming Clause or will it be grandfathered.

Kris Carpenter said that there are some things that we can enforce on existing facilities that were built before the requirements came into effect, mostly fire related issues.

Mike Lugo, Fire Chief, stated that if there was a change of 25 percent or more to the structure, that they will have to conform to the most current code standards that have been adopted. We will look at the containers and how they are built and all of the safety standards.

Ms. Arnold asked if there has been any safety concerns or incidents at the existing BESS site.

Chief Lugo stated that he is not aware of any issues.

Ms. Arnold asked for a definition of "Payment in Lieu of Taxes".

Mr. Carpenter talked about the depreciation of value of these sites that was brought up by the applicants. The depreciation from year one to year twenty was a 15 percent depreciation per year.

“Payment in Lieu of Taxes” will be an agreement between the applicant and Council that will capture that lost revenue, based on the depreciation. Instead of paying a tax, they will pay a dollar amount each year that will be determined by Council. That will give us control over the potential depreciation of the facilities.

Ms. Arnold stated that the ordinance is necessary, and location of the facilities is the key. She thanked staff for their efforts putting the ordinance together.

Mr. Maaz asked about the responses from the public and if the concerns are reflected in this ordinance. He asked if this would satisfy the public’s concerns.

Mr. Carpenter said he can’t be sure everyone will be satisfied; however, staff’s perspective is that all the questions were answered.

Mr. Maaz stated that he appreciates the action of Council asking for the ordinance for something to go by.

Dr. Probst made a motion to recommend approval of the amendment to Chapter 125 of the Code of Ordinances of the City of League City by creating regulations related to Battery Energy Storage Systems (BESS), per staff’s recommendations.

Ms. Morrison seconded the motion.

The motion passed by a vote of 5-0-0.

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6. Adjournment

Dr. Probst made a motion to adjourn the meeting.

Mr. Dominguez seconded the motion.

Mr. Maaz adjourned the meeting at 6:50 p.m.