

# **Minutes of the Livingston Parish Council**

## **Livingston, Louisiana**

### **May 2, 2019**

The Livingston Parish Council met in a special session duly called, advertised, and convened at its regular meeting place, the Parish Council Chambers, Governmental Building, 20355 Government Boulevard, Livingston, Louisiana, on Thursday, May 2, 2019, at the hour of nine o'clock (9:00) a.m. with the following Livingston Parish Council members present:

Jeff Ard  
Garry "Frog" Talbert  
Maurice "Scooter" Keen

John Wascom  
R.C. "Bubba" Harris

Tracy Girlinghouse  
Shane Mack

Absent: Jeff Averett, Tab Lobell

Present: Sam Digirolamo, Director of Planning and the Department of Public Works  
Also present, but not for the entirety of the meeting: Layton Ricks, Parish President  
Also absent: Christopher Moody, Parish Legal Counsel

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The chair announced the rules concerning a Special Meeting of the Council. He thanked everyone that was present for their attendance.

He explained that Public Input would be accepted from any member of the audience wishing to address the proposed ordinance. He asked that everyone speak in an orderly fashion and be fair to all.

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The chair addressed agenda item 5, "Review and discussion of proposed ordinance L.P. No.19-12 to amend Section 13-76, "Methods of Reducing Flood Losses," Part (4), by establishing criteria for adding fill dirt to individual lots, tracts, and parcels of land" and called upon Councilman Garry "Frog" Talbert, explaining that he was the author of the ordinance and was also the Ordinance committee chairman. He requested that Councilman Talbert go through the ordinance document line by line to explain the meaning of the ordinance as they have done in previous Ordinance committee meetings.

Councilman Talbert advised that he would do as requested, but wanted to note that he had invited some engineers to speak, in addition to, drainage and flood representatives to address the reason, but he would oblige the chair's wishes and go through each section for discussion. He stated that the purpose of the ordinance was to protect the floodplain. He questioned if copies of the proposed ordinance had been distributed to the audience and then began to address Section 13-76, Part (4)(A). He stated this section will become part of the permit process if it is approved. He also indicated that this will determine the calculation of how much fill would be needed concerning the base flood elevation on new construction.

#### **Section 13-76. - Methods of reducing flood losses.**

- A. A proposed Certificate of Elevation shall be submitted for any structure to be built or placed on a lot, prior to any permit being issued, which shall include, but not limited to the following information:**
- 1. Address**
  - 2. Contractor**
  - 3. Proposed elevation**
  - 4. Base flood elevation**
  - 5. Lowest natural ground for the property adjacent to the structure**
  - 6. Explanation of how the elevation of the proposed structure is going to be achieved (fill, piers, chain wall, etc....)**

The chair stated his questions and concerns regarding Section (4)(A).

Public input: Eddie Aydele – Alvin Fairburn and Associates: answered the chair's many questions

The chair stated that he wished to question how these proposed changes would affect the Parish President's office in their permitting process and does the Parish have the resources to implement these changes?

Public input: Sam Digirolamo, Parish Planning Director and Department of Public Works Director

Mr. Digirolamo explained that he was not involved in the permitting process and did not know how it would be implemented until it was adopted.

Public input: Tim Kinchen, resident of Walker: questioned how does requiring an elevation certificate in Flood Zone X protect against flooding or drainage?

Councilman Talbert explained that the whole purpose of Section (A) is to determine how much dirt or fill you intend to put on that property to get to the elevation of the top of your slab. He continued to explain that it is purely a matter of calculation, depending on the size of your lot, being twenty-four (24") or thirty-six inches (36"), and where you fall within that calculation. If you do not fall within that calculation, then part (6) will tell the Permit office on how you plan on achieving the elevation of your slab if you fall outside of that twenty-four (24), thirty-six (36") inches of Section (B).

The chair requested that Councilman Talbert move on to explain Section (B).

Councilman Talbert accommodated the chair's request and read through Part (B) of the ordinance explaining along the way what the statements meant:

- B. Individual Lots, Tracts, Parcels, etc.... that are located within the Special Flood Hazard Area (SFHA) as defined by the most recent Flood Insurance Rate Map (FIRM) which are not part of an overall engineered project.**
- 1. Fill shall be limited to 24" or less below the Base Flood Elevation (BFE) on lots smaller than ½ acre (21,780 sq. ft.) Should more fill need to be placed, one of the following will need to be provided:**
    - a. Documentation (stamped by a Civil Engineer or Land Surveyor licensed in the State of Louisiana) to show there is an equal volume of storage provided below natural ground on the same property as the volume of fill below the BFE used on site above the 24" limitation.**
    - b. Drainage calculations, by a licensed civil engineer in the state of Louisiana, for the property proving that by allowing additional fill there are no adverse effects to the adjacent waterways, properties, landowners, structures, and floodplain for the 100-year design storm.**
  - 2. Fill shall be limited to 36" or less below the Base Flood Elevation (BFE) on lots a ½ acre or above (21,780 sq. ft.) Should more fill need to be placed, one of the following will need to be provided:**
    - a. Documentation (stamped by a Civil Engineer or Land Surveyor licensed in the State of Louisiana) to show there is an equal volume of storage provided below natural ground on the same property as the volume of fill below the BFE used on site above the 36" limitation.**
    - b. Drainage calculations, by a licensed civil engineer in the state of Louisiana, for the property proving that by allowing additional fill there are no adverse effects to the adjacent waterways, properties, landowners, structures, and floodplain for the 100-year design storm.**

Councilman Talbert paused here and wished to recount an email that he had received from an engineer to clarify this completely:

He read aloud the email: The engineer stated *that it will be difficult for an engineer to certify this, it can be argued that any fill, placed in a special flood hazard area will have a negative effect. If the intent is not fill mitigation, but just to ensure run off from one property to the other does not adversely affect the neighbor, you could also add a provision that the tow and the fill is further than some distance from the property line, than the condition met.*

Councilman Talbert wanted everyone to note that if the property is in a special hazard flood zone, it is basically impossible for an engineer to say that you will not negatively impact your neighbor

because placing any dirt has a negative impact on the flood plain. He called on anyone who wished to refute the engineer's statements to come forward.

The chair advised that he had a couple of questions. He invited anyone else who had questions to raise their hand and he would call upon them.

Public input: Randy Delatte, resident of Maurepas-stated that "he knows that the engineers know the technical terms, which he can do and the Council can do, but a lot of other people don't ...we not looking for anything technical, we looking to see how the ordinance affects us as a homeowner and instead of going line by line saying this and that, we want to know why we come up with the number of two foot or three foot for fill, we want to see proof that this works, that's what we want to talk about, is that possible to do in this meeting?..."

The chair responded that they could do that but believed that they could still go through the ordinance line by line.

- 3. Fill shall be limited to the foundation structure(s) and shall not extend more than 36" horizontally beyond the limits of the foundation before it slopes.**
- 4. Side slope of the fill under the structure(s) shall not be steeper than a 3' Horizontal to a 1' vertical slope**
- 5. Fill shall not be placed closer than 8' to any property line in order to facilitate the collection and transportation of any increased runoff via swales if required**
- 6. Compaction tests shall be required when the footer of the proposed structure does not extend at least 12" into undisturbed soil.**
  - a. There shall be 1 compaction test per 12" lift per 1,000 sq. ft. of fill**
  - b. The fill shall meet one of the following standards:**
    - i. 90% modified proctor**
    - ii. 95% standard proctor**
- 7. If a structure(s) must be elevated over 24" or 36" respectively and cannot demonstrate an equal volume of storage provided below natural ground on the same property as the volume of fill used on the site (below BFE) or provide drainage calculations, by a licensed Civil Engineer in the State of Louisiana, for the property proving that by allowing additional fill there are no adverse effects to the adjacent waterways, properties, landowners, structures and floodplain for the 100-year design storm then piers and or chain-wall shall be utilized to make up the difference in elevation. This foundation design must be stamped by a licensed civil engineer or architect in the state of Louisiana.**

Councilman Talbert wished to answer why twenty-four (24) and thirty-six (36) numbers were inserted. The chair called on Councilman Talbert to address this question.

Councilman Talbert acknowledged that twenty-four (24) and thirty-six (36) are arbitrary numbers. He stated that if this ordinance was doing what it ought to be, it would be zero (0) and zero (0). He explained that they were trying to take a step in the right direction and show that there was benefit for everyone in the flood plain. The chair wished to summarize Councilman Talbert's statements.

Councilman Talbert further explained that the numbers came from research of ordinances in other parishes. He stated that those are limits that are in place historically that show an improved impact on the floodplain, some of it being related to lot size. He advised that it is virtually impossible to

stack dirt up on a small lot size and protect your neighbor from a localized runoff if you get too high. The chair allowed Councilman Talbert to explain this section of the ordinance.

The chair allowed an open discussion regarding the proposed fill ordinance that Ascension Parish is considering.

Public input: Dana Rushing

Councilman John Wascom questioned if the proposed ordinance would have helped anyone in the 2016 Flood?

Public input: Eddie AydeU, Alvin Fairburn and Associates

The chair allowed Mr. AydeU to answer Councilman Wascom's questions.

The chair allowed Councilman Talbert and Councilman Wascom to continue the lengthy, open discussion with Eddie AydeU.

The chair questioned the acreage amount in the proposed ordinance.

Councilman Talbert explained this in detail.

Public input: Tim Kinchen, resident of Walker: read an article from the Advocate concerning Ascension Parish's fill ordinance; is against one size fits all ordinance for fill

The chair questioned who would be evaluating the documentation needed as required in part (B) and how much would this cost an average home builder?

Public input: Billy Taylor, of McLin Taylor: answered the chair's questions

The chair continued to ask questions as to which, Councilmen Talbert answered in length to the chair's satisfaction.

Councilman Talbert presented pictures on the Council chamber's monitors of examples of homeowners that built up fill dirt for new construction and discussed the repercussions of this. The chair advised because of the time frame of the meeting; this meeting did not have to be the end of this discussion regarding this ordinance. He indicated that the Public Hearing would be held on Thursday, May the 9<sup>th</sup> at six-thirty (6:30) p.m. and invited anyone to come and discuss the ramifications of the proposed ordinance.

Councilman Talbert continued the open discussion by explaining parts (3), (4) and (5) and answered the questions of the chair.

Councilman Talbert advised that there were representatives from gravity drainage districts and also engineers that had been invited to the meeting that would be able to elaborate on the many questions that were being generated. The chair indicated that they could hold another meeting to continue these discussions as they were on a limited time frame and needed to end the meeting soon.

Councilman Tracy Girlinghouse and Councilman Talbert both sought to allow the meeting to continue as these representatives were in attendance at the current meeting and wished for them to be allowed to speak.

The chair agreed and invited these representatives to come to podium and speak. Councilman Talbert called upon representatives from a gravity drainage district and requested their feedback regarding the benefit of protecting the flood plains of the parish.

Randy Delatte spoke, unrecognized, from the audience, questioning if protecting the flood plain was the same as protecting the homeowner? He stated, “that was the question that we want answered”. (He continued to speak argumentatively from the audience, unrecognized, and his statements could not be understood on the audio/video.)

Public input:

Mr. Wesley Kinnebrew, manager of Gravity Drainage District No. 1, was invited to come to podium and speak. He addressed Mr. Delatte’s comments that he had made and also the other members of the audience and stated: “...that he was one hundred percent (100%) for the homeowner...”.

Mr. Kinnebrew wished to offer a scenario located on Amite Church Road and presented 11 X 14 color handouts to the Councilmembers of a rain event that happened the previous week in his district. He explained that the pictures that they were reviewing were from a two (2) year time difference and demonstrated the consequences of fill build up from new home construction and what happened to their existing neighbor during that rain event. Mr. Kinnebrew was allowed to speak and give his personal opinion from the experience that he had gained throughout the years. He repeated testimonies from individuals that had been affected by the 2016 Flood. He described the gravity drainage’s job of questioning what it is happening downstream and upstream to protect the citizens in their district. He explained in detail his very expansive knowledge of drainage and the history of flood events in his district.

Councilman R.C. “Bubba” Harris testified of his knowledge and history of flood events in the parish and questioned if anyone could explain the definition of “a hundred (100) year flood”.

Public input: Jamie Seals, Quality Engineering and Surveying, LLC: explained that Base Flood Elevation is the one hundred (100) year flood, being based off of a model.

The chair questioned everyone’s opinion as to what the root cause may be for the extreme flooding events happening in the parish? Could it be the extremely large developments that they’ve placed in Livingston Parish? Or is the root cause private citizens building on two (2) or three (3) acres? Many of the Councilmembers voiced that it was a combination of building events. The chair further gave opinion and stated that he believed that it was the massive product and projects that are changing the flow of water.

Mr. Kinnebrew challenged his statements and advised that the cause had a great deal to do with drainage.

The chair allowed an open discussion regarding engineered dirt versus un-engineered dirt and the need to take action and do something now.

Public input: Shane Moyer, suggested that an engineer should quantify the numbers and acreage of the ordinance and also questioned what the hurry was to pass the ordinance?

The chair and Councilmembers responded to Mr. Moyer’s questions. The chair advised that he must leave the meeting and turned his duties over to the co-chair, Councilman Talbert.

*\*\*The chair left the Council chambers at ten twenty-five (10:25) a.m.*

Public input: Gerald Burns, questioned the ordinance’s intent to include the entire parish and opposed the ordinance

Lawson Covington, Covington Real Estate: questioned a grandfather clause for subdivisions

Jamie Seals, Quality Engineering and Surveying: responded to Mr. Covington’s questions

The co-chair allowed an open discussion regarding subdivision developments and consideration for being grandfathered.

Public input: Muriel Laws, questioned what is the urgency of the ordinance? She urged the Councilmembers to have more discussion and allow the public more input before considering adopting this ordinance.

Councilman Wascom advised of the committee meetings and their recommendation to send the ordinance to the Master Plan Review committee.

Public input: Randy Delatte, questioned if the ordinance affected a drainage impact study or a traffic impact study?

The co-chair explained that this ordinance is affecting every permit that is issued in the parish and described in detail its purpose.

He allowed Mr. Delatte to speak extensively and responded in a very lengthy open discussion. Mr. Delatte described himself as “an expert in flooding in his area” and cautioned against a one-fix ordinance for the whole parish.

Public input: Nancy Gervais, resident of Avants Road: described flooding in her area, the proximity of her drainage district’s office to her home, and the need to have her ditches cleaned that would alleviate the flooding in her area

Several members acknowledged her request and informed her to submit her address, and the co-chair advised that her requests and concerns would be taken care of.

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Having no further business, a motion to adjourn was requested until the next regular meeting scheduled on Thursday, May 9, 2019, at the hour of six-thirty (6:30) p.m. in Livingston, Louisiana.

**LPR NO. 19-139a**

MOTION was offered by R.C. “Bubba” Harris and duly seconded by Maurice “Scooter” Keen to adjourn the May 2, 2019 special meeting of the Livingston Parish Council.

Upon being submitted to a vote, the vote thereon was as follows:

YEAS: MR. HARRIS, MR. ARD, MR. KEEN, MR. GIRLINGHOUSE, MR. TALBERT,  
MR. MACK, MR. WASCOM

NAYS: NONE

ABSENT: MR. LOBELL, MR. AVERETT

ABSTAIN: NONE

Thereupon the chair declared that the Motion had carried and was adopted.  
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/s/ Sandy C. Teal  
Sandy C. Teal, Council Clerk

/s/ Shane Mack  
Shane Mack, Council Chairman