



CITY COUNCIL REGULAR MEETING CITY OF BAY CITY

Tuesday, October 13, 2020 at 6:00 PM
COUNCIL CHAMBERS | 1901 5th Street

COUNCIL MEMBERS

Mayor: Robert K Nelson

Mayor Pro Tem: Jason W. Childers

Council Members: William Cornman, Brent P. Marceaux, Becca Sitz, Julie Estlinbaum

Bay City is committed to developing and enhancing the long-term prosperity, sustainability, and health of the community.

AGENDA

THE FOLLOWING ITEM WILL BE ADDRESSED AT THIS OR ANY OTHER MEETING OF THE CITY COUNCIL UPON THE REQUEST OF THE MAYOR, ANY MEMBER(S) OF COUNCIL AND/OR THE CITY ATTORNEY:

ANNOUNCEMENT BY THE MAYOR THAT COUNCIL WILL RETIRE INTO CLOSED SESSION FOR CONSULTATION WITH CITY ATTORNEY ON MATTERS IN WHICH THE DUTY OF THE ATTORNEY TO THE CITY COUNCIL UNDER THE TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT OF THE STATE BAR OF TEXAS CLEARLY CONFLICTS WITH THE OPEN MEETINGS ACT (TITLE 5, CHAPTER 551, SECTION 551.071(2) OF THE TEXAS GOVERNMENT CODE).

CALL TO ORDER

INVOCATION & PLEDGE

Texas State Flag Pledge: *"Honor The Texas Flag; I Pledge Allegiance To Thee, Texas, One State Under God, One And Indivisible."*

Councilman Bill Cornman

CERTIFICATION OF QUORUM

MISSION STATEMENT

The City of Bay City is a community that fosters future economic growth, strives to deliver superior municipal services, invests in quality of life initiatives and is the gateway to the great outdoors. We encourage access to our unique historical and eco-cultural resources while maintaining our small-town Texas charm.

Councilman Bill Cornman

APPROVAL OF AGENDA

PUBLIC COMMENTS

State Law prohibits any deliberation of or decisions regarding items presented in public comments. City Council may only make a statement of specific factual information given in response to the inquiry; recite an existing policy; or request staff places the item on an agenda for a subsequent meeting.

CONSENT AGENDA ITEMS FOR CONSIDERATION AND/OR APPROVAL

- 1. [Minutes](#) from the Regular City Council meeting on September 22, 2020**

REGULAR ITEMS FOR DISCUSSION, CONSIDERATION AND/OR APPROVAL

- 2. Appointment ~ Consider, and/or approve the re-appointment of Associate Municipal Court Judge Mark Finlay.**
Susan Thompson, Municipal Court Judge
- 3. Policy ~ Discuss, consider, and/or approve the 2021 City of Bay City Holiday Schedule.**
Rhonda Clegg, Director of Human Resources
- 4. Resolution ~ Resolution of the City Council of the City of Bay City, Texas requesting financial assistance from the Texas Water Development, Authorizing the filing of an application for assistance; and making certain findings in connection therewith.**
Jessica Russell, CDC Director
- 5. Ordinance ~ Ordinance amending the City Code of Ordinances Chapter 2; Article II ("Meetings and Rules of Order") deleting the requirement of electronic recording of City Council Proceedings; providing for a cumulative and conflicts clause, providing for a severability clause; and providing for an effective date.**
Jeanna Thompson, City Secretary
- 6. Discussion ~ Discuss, consider, and/or approve a software upgrade with Neptune.** Shawna Burkhart, City Manager
- 7. Discussion ~ Discuss, consider, and/or approve to begin trial testing of the Badger meters.** Shawna Burkhart, City Manager
- 8. Discussion ~ Discuss TxDOT proposal to upgrade traffic signals and add turn lanes at two locations on Highway 60.** Shawna Burkhart, City Manager

CLOSED / EXECUTIVE SESSION

- 9. Personnel**
~ CLOSED MEETING TO DISCUSS PERSONNEL MATTERS IN ACCORDANCE WITH TITLE 5, SECTION 551.074 OF THE TEXAS GOVERNMENT CODE (TO DISCUSS APPOINTMENT, EMPLOYMENT, EVALUATION, RESPONSIBILITIES AND DUTIES, REASSIGNMENT, DISCIPLINE OR DISMISSAL OF AN OFFICER OR EMPLOYEE, OR TO HEAR A COMPLAINT OR CHARGE AGAINST AN OFFICER OR EMPLOYEE: CITY MANAGER.
- 10. Presentation**

~ EXECUTIVE SESSION PURSUANT TO SECTION 551.087 OF THE TEXAS GOVERNMENT CODE (DELIBERATION REGARDING ECONOMIC DEVELOPMENT).

11. Legal

~ EXECUTIVE SESSION PURSUANT TO SECTION 551.071 OF THE TEXAS GOVERNMENT CODE (CONSULTATION WITH COUNSEL ON LEGAL MATTERS). THE CITY COUNCIL WILL DISCUSS OR DELIBERATE REGARDING OAG OPINION.

OPEN SESSION

Discuss, consider and/or take action on item(s) listed in Executive/Closed Session, (if any).

ITEMS / COMMENTS & MAYOR AND COUNCIL MEMBERS

ADJOURNMENT

AGENDA NOTICES:

Action by Council Authorized: The City Council may vote and/or act upon any item within this Agenda. The Council reserves the right to retire into executive session concerning any of the items listed on this Agenda, pursuant to and in accordance with Texas Government Code Section 551.071, to seek the advice of its attorney about pending or contemplated litigation, settlement offer or on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas conflict with the Open Meetings Act and may invoke this right where the City Attorney, the Mayor or a majority of the Governing Body deems an executive session is necessary to allow privileged consultation between the City Attorney and the governing body, if considered necessary and legally justified under the Open Meetings Act. The City Attorney may appear in person, or appear in executive session by conference call in accordance with applicable state law.

Attendance By Other Elected or Appointed Officials: It is anticipated that members of other city board, commissions and/or committees may attend the meeting in numbers that may constitute a quorum of the other city boards, commissions and/or committees. Notice is hereby given that the meeting, to the extent required by law, is also noticed as a meeting of the other boards, commissions and/or committees of the City, whose members may be in attendance. The members of the boards, commissions and/or committees may participate in discussions on the same items listed on the agenda, which occur at the meeting, but no action will be taken by such in attendance unless such item and action is specifically provided for on an agenda for that board, commission or committee subject to the Texas Open Meetings Act.

Executive Sessions Authorized: This agenda has been reviewed and approved by the City's legal counsel and the presence of any subject in any Executive Session portion of the agenda constitutes a written interpretation of Texas Government Code Chapter 551 by legal counsel for the governmental body and constitutes an opinion by the attorney that the items discussed therein may be legally discussed in the closed portion of the meeting considering available opinions of a court of record and opinions of the Texas Attorney General known to the attorney. This provision has been added to this agenda with the intent to meet all elements necessary to

satisfy Texas Government Code Chapter 551.144(c) and the meeting is conducted by all participants in reliance on this opinion.

CERTIFICATION OF POSTING

This is to certify that the above notice of a Regular Called Council Meeting was posted on the front window of the City Hall of the City of Bay City, Texas on **Friday, October 9, 2020 before 6:00 p.m.** Any questions concerning the above items, please contact Mayor Robert K. Nelson at (979) 245-2137.

CITY OF BAY CITY
MINUTES • SEPTEMBER 22, 2020

**COUNCIL
CHAMBERS | 1901
5th Street**

City Council Regular Meeting

6:00 PM

**1901 5TH STREET
BAY CITY TX, 77414**



Mayor

Robert K. Nelson

Councilman

William Cornman

Mayor Pro Tem

Jason W. Childers

Councilman

Brent P. Marceaux

Councilwoman

Becca Slitz

Councilwoman

Julie Estlinbaum

Bay City is committed to developing and enhancing the long-term prosperity, sustainability, and health of the community.

CALL TO ORDER

Meeting was called to order by Mayor Robert K. Nelson at 6:04pm.

INVOCATION & PLEDGE

Texas State Flag Pledge: *"Honor The Texas Flag; I Pledge Allegiance To Thee, Texas, One State Under God, One And Indivisible."*

Councilwoman Becca Sitz

CERTIFICATION OF QUORUM**PRESENT**

Mayor Robert K. Nelson
Mayor Pro Tem Jason W. Childers
Councilman William Cornman
Councilman Brent P. Marceaux
Councilwoman Becca Sitz
Councilwoman Julie Estlinbaum

MISSION STATEMENT

The City of Bay City is a community that fosters future economic growth, strives to deliver superior municipal services, invests in quality of life initiatives and is the gateway to the great outdoors. We encourage access to our unique historical and eco-cultural resources while maintaining our small-town Texas charm.

Councilwoman Becca Sitz

APPROVAL OF AGENDA

Motion made by Mayor Pro Tem Childers to approve the agenda, Seconded by Councilman Marceaux.

Voting Yea: Mayor Nelson, Mayor Pro Tem Childers, Councilman Marceaux, Councilwoman Sitz, Councilwoman Estlinbaum. Motion carried.

PUBLIC COMMENTS

State Law prohibits any deliberation of or decisions regarding items presented in public comments. City Council may only make a statement of specific factual information given in response to the inquiry; recite an existing policy; or request staff places the item on an agenda for a subsequent meeting.

David Torrez, 66 yr native, discussed miss-justice with our local government and use of common sense when you know rain is coming and should be cleaning drains. Mr. Torrez also complained about the condition of streets, trash pick up, sewer, and crimes not getting solved. He stated that we now have a City Manager and she needs to tell people what to do.

CONSENT AGENDA ITEMS FOR CONSIDERATION AND/OR APPROVAL

Motion made by Mayor Pro Tem Childers to approve with corrections, Seconded by Councilman Marceaux.

Voting Yea: Mayor Nelson, Mayor Pro Tem Childers, Councilman Cornman, Councilman Marceaux, Councilwoman Sitz, Councilwoman Estlinbaum

1. **MINUTES OF COUNCIL WORKSHOP ON SEPTEMBER 8, 2020**
2. **MINUTES OF REGULAR COUNCIL MEETING ON SEPTEMBER 8, 2020**
3. **MINUTES OF SPECIAL CALLED COUNCIL MEETING ON SEPTEMBER 14, 2020**

REGULAR ITEMS FOR DISCUSSION, CONSIDERATION AND/OR APPROVAL

4. **ORDINANCE ~ DISCUSS, CONSIDER AND/OR APPROVE AN ORDINANCE OF THE CITY OF BAY CITY, TEXAS, ADOPTING A FEE SCHEDULE ATTACHED HERETO AS EXHIBIT "A" AND LABELED "APPENDIX B" TO BE ADDED TO THE CODE OF ORDINANCES OF THE CITY OF BAY CITY, TEXAS; ADOPTING FEES AND CHARGES FOR VARIOUS CITY SERVICES AND CONSOLIDATING THOSE FEES AND CHARGES FOR CONVENIENCE; PROVIDING FOR REPEAL; PROVIDING FOR RATIFICATION; PROVIDING A PENALTY; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

Scotty Jones, Finance Director, reviewed the Fee Ordinance. Service center fees omitted till after resolution with Runnels family.

Motion made by Mayor Pro Tem Childers to approve the Fee Ordinance, Seconded by Councilman Marceaux. Voting Yea: Mayor Nelson, Mayor Pro Tem Childers, Councilman Cornman, Councilman Marceaux, Councilwoman Sitz, Councilwoman Estlinbaum. Motion carried.

5. **RESOLUTION ~ DISCUSS, CONSIDER AND/OR APPROVE A RESOLUTION AUTHORIZING THE AWARD OF A CONTRACT FOR ADMINISTRATIVE SERVICES AND SOFT COSTS PROJECT MANAGEMENT SERVICES FOR OF THE HOME OWNER REHABILITATION ASSISTANCE PROGRAM.**

Scotty Jones, Finance Director, stated that five households have been approved and permits pulled, eight more that in the process. Ms. Jones recommended Grantworks.

Motion made by Councilwoman Estlinbaum to approve the resolution, Seconded by Councilman Cornman. Voting Yea: Mayor Nelson, Mayor Pro Tem Childers, Councilman Cornman, Councilman Marceaux, Councilwoman Sitz, Councilwoman Estlinbaum. Motion carried.

6. RESOLUTION~ DISCUSS, CONSIDER AND/OR APPROVE A RESOLUTION OF THE CITY OF BAY CITY TEXAS ADOPTING TCAP'S PROFESSIONAL SERVICES AGREEMENT AND GEXA ENERGY'S COMMERCIAL ELECTRIC SERVICE AGREEMENT FOR POWER TO BE PROVIDED ON AND AFTER JANUARY 1, 2023.

Scotty Jones, Finance Director, stated that the difference is the Hedging, we can move out in 6 months. She would like to try out to see how it works out. Anne Marie Odefey, City Attorney, added that they will send notice and we have 90 days to decide as they will start buying now for the future. Councilman Marceaux's concern is that it is not truly defined to, and adding that the hedging program did not get the most flattering reviews; but with the ability to get out of it makes him more comfortable.

Motion made by Councilwoman Sitz to approve the resolution, Seconded by Mayor Pro Tem Childers.

Voting Yea: Mayor Nelson, Mayor Pro Tem Childers, Councilman Cornman, Councilman Marceaux, Councilwoman Sitz, Councilwoman Estlinbaum. Motion carried.

CLOSED / EXECUTIVE SESSION

There was no executive session.

OPEN SESSION

Discuss, consider and/or take action on item(s) listed in Executive/Closed Session, (if any).

ITEMS / COMMENTS & MAYOR AND COUNCIL MEMBERS

ADJOURNMENT

Motion made by Councilwoman Sitz to adjourn the meeting, Seconded by Councilman Cornman.

Voting Yea: Mayor Nelson, Mayor Pro Tem Childers, Councilman Cornman, Councilman Marceaux, Councilwoman Sitz, Councilwoman Estlinbaum. Motion carried and the meeting adjourned at 6:36 pm.

PASSED AND APPROVED, this ____ day of _____, 2020.

ROBERT K. NELSON, MAYOR
CITY OF BAY CITY, TEXAS

JEANNA THOMPSON
CITY SECRETARY



HUMAN RESOURCES DEPARTMENT 2020-M-03

TO: All Employees
FROM: Rhonda Clegg, Director of Human Resources
DATE: October 13, 2020
SUBJECT: 2021 Holiday Schedule for the City of Bay City

2021 CITY OF BAY CITY HOLIDAY SCHEDULE

<u>DATE</u>	<u>HOLIDAY</u>	<u>DAY OF WEEK</u>	<u>TOTAL # OF DAY(S)</u>
January 1, 2021	New Year's Day	Friday	1
January 18, 2021	Martin Luther King, Jr.	Monday	1
February 15, 2021	President's Day	Monday	1
April 2, 2020	Good Friday	Friday	1
May 31, 2021	Memorial Day	Monday	1
July 5, 2021	Independence Day	Monday	1
September 6, 2021	Labor Day	Monday	1
November 11, 2021	Veterans Day	Thursday	1
November 25, 2021	Thanksgiving Day	Thursday	1
November 26, 2021	Thanksgiving Day After	Friday	1
December 24, 2021	Christmas Eve	Friday	1
December 25, 2021	Christmas Day	Monday	1
December 31, 2021	New Year's Eve	Friday	1

Please pass this information on to the employees within your departments, as well as the departments for which you are the liaison.

Thank you.
Human Resources

RESOLUTION NO. R-2020-___

RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BAY CITY, TEXAS REQUESTING FINANCIAL ASSISTANCE FROM THE TEXAS WATER DEVELOPMENT, AUTHORIZING THE FILING OF AN APPLICATION FOR ASSISTANCE; AND MAKING CERTAIN FINDINGS IN CONNECTION THEREWITH.

THE STATE OF TEXAS §
COUNTY OF MATAGORDA §
CITY OF BAY CITY §

WHEREAS, the City Council of the City of Bay City, Texas (the "City") hereby finds and determines that there is a need for the City to apply for financial assistance from the Texas Water Development Board (the "TWDB"); and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BAY CITY, TEXAS, THAT:

Section 1. That an application is hereby approved and authorized to be filed with the TWDB seeking financial assistance in an amount not to exceed \$88,740.00 to provide for the costs of The Regional Drainage Study.

Section 2. Robert K. Nelson, Mayor, is hereby designated the authorized representative of the City of Bay City for purposes of furnishing such information, executing such documents as may be required in connection with the preparation and filing of such application for financial assistance and the rules of the Texas Water Development Board.

Section 3. The following firms and individuals are hereby authorized and directed to aid and assist in the preparation and submission of such application and appear on behalf of and represent the City of Bay City before any hearings held by the TWDB on such application, to-wit:

Financial Advisor: James Gilley, U.S. Capital Advisors LLC
Bond Counsel: Jonathan K. Frels, Bracewell LLP
Engineer: Matt Breazeale, Jones & Carter, LLC

PASSED AND APPROVED this 13th day of October 2020.

The Honorable Robert K. Nelson, Mayor,
City of Bay City, Texas

ATTEST:

Jeanna Thompson, City Secretary
City of Bay City, Texas

ORDINANCE ~ AN ORDINANCE AMENDING THE CITY CODE OF ORDINANCES CHAPTER 2; ARTICLE II (“MEETINGS AND RULES OF ORDER”) DELETING THE REQUIREMENT OF ELECTRONIC RECORDING OF CITY COUNCIL PROCEEDINGS; PROVIDING FOR A CUMULATIVE & CONFLICTS CLAUSE, PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.



EXECUTIVE SUMMARY

BACKGROUND:

In 1990, Council approved an Ordinance requiring an electronic recording of city council proceedings at each regular, special, and executive meeting. The Ordinance also provided accommodating citizens with the necessary access and equipment to review the recordings at City Hall. The ordinance was written at a time of tape recordings were done of meetings.

Since its approval, over the 30 years we have upgraded the equipment 4 times, added a software application, and then updated to a new software application that included video. Council meetings are now available to view in real time or later on a personal device. The language of the Ordinance has become dated and with the continued changes in technology, as well as unforeseen circumstances, mandating a recording puts the burden on Council to always provide a means to record.

Though we will always make the best effort to record all meetings, circumstances can and will arise where it may not be possible due to power outages, equipment failure, or alternative locations.

In addition, because the City does written minutes, State retention of audio/video is 90 days after minutes approval. Audio/video data storage requires 66% more electronic space than data storage of imaged minutes.

FINANCIAL IMPLICATIONS: Anticipated savings of cutting cost to audio/video storage

RECOMMENDATION: Recommend City Council approve Ordinance to delete the requirement of electronic recording of city council proceedings.

ATTACHMENTS: Ordinance

ORDINANCE NO. _____

**ORDINANCE AMENDING THE CITY CODE OF ORDINANCES
CHAPTER 2; ARTICLE II (“MEETINGS AND RULES OF ORDER”)
DELETING THE REQUIREMENT OF ELECTRONIC RECORDING OF
CITY COUNCIL PROCEEDINGS; PROVIDING FOR A CUMULATIVE &
CONFLICTS CLAUSE, PROVIDING FOR A SEVERABILITY CLAUSE;
AND PROVIDING FOR AN EFFECTIVE DATE.**

Be it Ordained by the City Council of the City of Bay City that the following amendments are adopted as Amendments to Chapter 2; Article II; Section 2-48 of the Code of Ordinances.

Section One. The following additions and deletions are to be made to Section 2-48 of Chapter 2, Article II of the Code of Ordinances. All additions and deletions are shown as such.

Sec. 2-48. - Records. *All records of meetings held by the City of Bay City shall be made in accordance with Texas Government Code Chapter 551.*

- (a) ~~Electronic recording of city council proceedings.~~ Electronic recordings shall be made of all discussion, debate and votes of all kinds at each regular, special and executive meeting of the city council.
- (b) ~~Storage and access.~~ Each electronic tape or other storage device for each such meeting shall be stored by the city secretary in a safe place. Any person may, during business hours when the secretary's office is open for business, listen to all or any part of any regular or special meeting tape. The secretary will provide the equipment for listening and the secretary or the secretary's designee shall handle the tape and the equipment. The person desiring to hear the material will be furnished with earphones or speaker. Executive session tapes shall only be made available in strict accordance with V.T.C.A., Government Code § 551.001 et seq.
- (c) ~~Other recording devices.~~ Nothing in this division shall be interpreted as prohibiting any person from transcribing by audio tape or audiovisual tape any part or all of any regular or special meeting of the city council.

Section Two. Cumulative and Conflicts. This Ordinance shall be cumulative of all provisions of ordinances of the City of Bay City, Texas, except where the provisions of the Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed. Any and all previous versions of this Ordinance to the extent that they are in conflict herewith are repealed.

Section Three. Severability. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

Section Four. Effective Date. This Ordinance shall become effective immediately upon its passage, approval and publication as provided by law.

PASSED AND APPROVED on this ____ day of _____, 2020.

Robert K. Nelson, Mayor
City of Bay City

ATTEST:

APPROVED AS TO FORM:

Jeanna Thompson, City Secretary
City of Bay City

Anne Marie Odefey, City Attorney

<u>Council Member:</u>	<u>Voted Aye</u>	<u>Voted No</u>	<u>Absent</u>
Robert K. Nelson Mayor	_____	_____	_____
Julie L. Estlinbaum	_____	_____	_____
Bill Cornman	_____	_____	_____
Jason Childers, Mayor Pro Tem	_____	_____	_____
Becca Sitz	_____	_____	_____
Brent Marceaux	_____	_____	_____

Shawna Burkhart

From: Ryan Simper <Ryan.Simper@txdot.gov>
Sent: Friday, August 28, 2020 2:56 PM
To: Shawna Burkhart
Cc: Barry Calhoun; Mayor's Office; Clayton Harris; Jeffrey Kalina
Subject: Signal Upgrades in Bay City

Ms. Burkhart,

Per your letter of August 18, 2020, TxDOT will not pursue upgrades for the SH 35 signals at Ave. G and Ave. H. However, with Ave. G and Ave. H no longer in the plan, we are now considering upgrading the signals on SH 60 at 6th Street and 8th Street (to maintain a total of five signal upgrades as part of our consultant contract). Similar to the upgrades along SH 35, we would want to maximize operational efficiency by adding left turn lanes. As such, the impacts along SH 60 at 6th Street would be virtually identical to the SH 35 locations. There would be quite a bit of lost parking to consider. For SH 60 at 8th Street, the loss of parking would not be as significant (three parallel spots in front of K-2's), but a portion of the decorative sidewalk (and likely the trees) would need to be removed in front of 9'ers.

TxDOT requests the City's consideration and confirmation to move forward with either or both of these signals. Should you have any questions or concerns, I would be happy to address them.

Thank you,
Ryan S. Simper, PE
Area Engineer – Wharton Area Office
TxDOT – Yoakum District
(979) 532-3143

