



BAY CITY

MINUTES • MARCH 23, 2017

Council Chambers

Regular Meeting

7:00 PM

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

1. CALL TO ORDER

2. CERTIFICATION OF QUORUM

3. INVOCATION & PLEDGE OF ALLEGIANCE - COUNCILMAN STEVEN JOHNSON

Texas State Flag Pledge:

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

Attendee Name	Title	Status	Arrived
Mark Bricker	Mayor	Present	
Chrystal Folse	Mayor Pro-Tem	Present	
William Cornman	Councilman	Present	
Julie Estlinbaum	Councilwoman	Present	
Steven Johnson	Councilman	Present	
Carolyn Thames	Councilwoman	Present	

4. APPROVAL OF AGENDA

Mayor Mark Bricker advised that items 7:7 and 7:8 would be tabled for another meeting. Mayor Pro Tem Chrystal Folse made a motion to approve and Councilwoman Carolyn Thames seconded the motion. The agenda was approved.

5. 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.

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Bay City resident, David Torres, addressed the Mayor and Council with concerns about the city sidewalks and the on-going insurance issue.

Bay City resident, Bobby Head, spoke about a piece of concrete that had caved in on 8th Street between Avenue D and Avenue E. He also stated that he believes that the Council members do not receive enough compensation.

Bay City resident, Eric Schroeder, addressed the Mayor and Council in regards to the city charter chapter 4.04. He also spoke about concerns of a Council member running for election. The Mayor asked to address policy issues at the next meeting.

6. CONSENT AGENDA ITEMS FOR CONSIDERATION AND/OR APPROVAL

The following items may be acted upon in a single motion. No separate discussion or action on any of these items will be held unless requested by a member of the City Council. Public comment on consent agenda items may be heard without removing the item from the consent agenda. Each person providing public comment will be limited to 3 minutes.

7. REGULAR ITEMS FOR DISCUSSION, CONSIDERATION AND/OR APPROVAL:

1. Ordinance

DISCUSS, CONSIDER AND/OR APPROVE AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAY CITY, TEXAS ANNEXING TO THE CITY OF BAY, TEXAS A TOTAL OF 19.17 ACRES OF LAND LOCATED JACKSON ELECTRIC COOPERATIVE SUBDIVISION, I.&G.N. RAILROAD ABSTRACTS 339 and 275, MATAGORDA COUNTY, TEXAS, AND EXTENDING THE BOUNDARY LIMITS OF THE CITY SO AS TO INCLUDE THE HEREINAFTER DESCRIBED PROPERTY WITHIN THE CITY OF BAY CITY'S CITY LIMITS; ADOPTING A SERVICE PLAN PROVIDING FOR THE EXTENSION OF MUNICIPAL SERVICES TO THE AREA SO ANNEXED AND GRANTING ALL INHABITANTS AND OWNERS OF PROPERTY ALL OF THE RIGHTS AND PRIVILEGES OF OTHER CITIZENS AND BINDING ALL INHABITANT BY THE ACTS, ORDINANCES, AND REGULATIONS OF THE CITY OF BAY CITY; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

Marla Jasek, Assistant Director of Public Works

Public Works Director, Barry Calhoun, addressed the Mayor and Council stating that this is a voluntary annexation that was requested. There have been two public hearings on this annexation.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	William Cornman, Councilman
SECONDER:	Julie Estlinbaum, Councilwoman
AYES:	Folse, Cornman, Estlinbaum, Johnson, Thames

ORDINANCE

Enacted and approved this 23rd day of March, 2017, at Bay City

2. Ordinance

DISCUSS, CONSIDER AND/OR APPROVE AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAY CITY, TEXAS ANNEXING TO THE CITY OF BAY, TEXAS A TOTAL OF 27.77 ACRES OF LAND LOCATED IN THE R.P.T. STONE ¼ LEAUGE ABSTRACT 92 AND ELISHA HALL LEAGUE ABSTRACT 45, MATAGORDA COUNTY, TEXAS, BEING COMIRMISED OF SKYEMC SECTION II, AND PORTIONS OF SECOND STREET SPUR AND CHARLES HALEY DRIVE, AND EXTENDING THE BOUNDARY LIMITS OF THE CITY SO AS TO INCLUDE THE HEREINAFTER DESCRIBED PROPERTY WITHIN THE CITY OF BAY CITY'S CITY LIMITS; ADOPTING A SERVICE PLAN PROVIDING FOR THE EXTENSION OF MUNICIPAL SERVICES TO THE AREA SO ANNEXED AND GRANTING ALL INHABITANTS AND OWNERS OF PROPERTY ALL OF THE RIGHTS AND PRIVILEGES OF OTHER CITIZENS AND BINDING ALL INHABITANT BY THE ACTS, ORDINANCES, AND REGULATIONS OF THE CITY OF BAY CITY; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

Marla Jasek, Assistant Director of Public Works

RESULT:	APPROVED [UNANIMOUS]
MOVER:	William Cornman, Councilman
SECONDER:	Carolyn Thames, Councilwoman
AYES:	Folse, Cornman, Estlinbaum, Johnson, Thames

ORDINANCE

Enacted and approved this 23rd day of March, 2017, at Bay City

3. Ordinance

DISCUSS, CONSIDER AND/OR APPROVE AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAY CITY, TEXAS ANNEXING TO THE CITY OF BAY, TEXAS A TOTAL OF 9.81 ACRES OF LAND LOCATED IN THE LIVE OAK ESTATES SUBDIVISION, SECTION 1, INCLUDING PORTIONS OF 12TH STREET, MATAGORDA COUNTY, TEXAS, AND EXTENDING THE BOUNDARY LIMITS OF THE CITY SO AS TO INCLUDE THE HEREINAFTER DESCRIBED PROPERTY WITHIN THE CITY OF BAY CITY'S CITY LIMITS; ADOPTING A SERVICE PLAN PROVIDING FOR THE EXTENSION OF MUNICIPAL SERVICES TO THE AREA SO ANNEXED AND GRANTING ALL INHABITANTS AND OWNERS OF PROPERTY ALL OF THE RIGHTS AND PRIVILEGES OF OTHER CITIZENS AND BINDING ALL INHABITANT BY THE ACTS, ORDINANCES, AND REGULATIONS OF THE CITY OF BAY CITY; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

Marla Jasek, Assistant Director of Public Works

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Steven Johnson, Councilman
SECONDER:	Chrystal Folse, Mayor Pro-Tem
AYES:	Folse, Cornman, Estlinbaum, Johnson, Thames

ORDINANCE

Enacted and approved this 23rd day of March, 2017, at Bay City

4. Ordinance

DISCUSS, CONSIDER AND/OR APPROVE AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAY CITY, TEXAS ANNEXING TO THE CITY OF BAY, TEXAS A TOTAL OF 3.27ACRES OF LAND LOCATED I.&G.N. RAILROAD SURVEY NUMBER 4, ABSTRACT 274, AND 5, ABSTRACT 273, MATAGORDA COUNTY, TEXAS, AND EXTENDING THE BOUNDARY LIMITS OF THE CITY SO AS TO INCLUDE THE HEREINAFTER DESCRIBED PROPERTY WITHIN THE CITY OF BAY CITY'S CITY LIMITS; ADOPTING A SERVICE PLAN PROVIDING FOR THE EXTENSION OF MUNICIPAL SERVICES TO THE AREA SO ANNEXED AND GRANTING ALL INHABITANTS AND OWNERS OF PROPERTY ALL OF THE RIGHTS AND PRIVILEGES OF OTHER CITIZENS AND BINDING ALL INHABITANT BY THE ACTS, ORDINANCES, AND REGULATIONS OF THE CITY OF BAY CITY; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

Marla Jasek, Assistant Director of Public Works

This is a voluntary annexation and all property owners are in agreement.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Carolyn Thames, Councilwoman
SECONDER:	Julie Estlinbaum, Councilwoman
AYES:	Folse, Cornman, Estlinbaum, Johnson, Thames

ORDINANCE

Enacted and approved this 23rd day of March, 2017, at Bay City

5. Ordinance

DISCUSS, CONSIDER AND/OR APPROVE AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAY CITY, TEXAS ANNEXING TO THE CITY OF BAY, TEXAS A TOTAL OF 26.78 ACRES OF LAND LOCATED IN THE GOLDEN GLEN SUBDIVISION, SAVE AND EXCEPT LOTS 1, 2, AND 3, BLOCK 2, MATAGORDA COUNTY, TEXAS, AND EXTENDING THE BOUNDARY LIMITS OF THE CITY SO AS TO INCLUDE THE HEREINAFTER DESCRIBED PROPERTY WITHIN THE CITY OF BAY CITY'S CITY LIMITS; ADOPTING A SERVICE PLAN PROVIDING FOR THE EXTENSION OF MUNICIPAL SERVICES TO THE AREA SO ANNEXED AND GRANTING ALL INHABITANTS AND OWNERS OF PROPERTY ALL OF THE RIGHTS AND PRIVILEGES OF OTHER CITIZENS AND BINDING ALL INHABITANT BY THE ACTS, ORDINANCES, AND REGULATIONS OF THE CITY OF BAY CITY; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

Marla Jasek, Assistant Director of Public Works

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Chrystal Folse, Mayor Pro-Tem
SECONDER:	Carolyn Thames, Councilwoman
AYES:	Folse, Cornman, Estlinbaum, Johnson, Thames

ORDINANCE

Enacted and approved this 23rd day of March, 2017, at Bay City

6. Property

DISCUSS THE FRANCHISE AGREEMENT IN APPENDIX A ARTICLE II DIVISION 1 OF THE CITY CODE OF ORDINANCES AND CONSIDER USE OF THE AVENUE G RIGHT-OF-WAY BETWEEN COTTONWOOD CREEK AND 12TH STREET FOR EXPANSION OF THE AEP SUBSTATION LOCATED ON THE SOUTHWEST CORNER OF 12TH STREET AND AVENUE G

John M. Garcia, AEP and Marla Jasek, Asst. Director Public Works

Public Works Director, Barry Calhoun, addressed the Mayor and Council to inform them of what AEP wants to do because of growth within the city. They would like to expand their substation. This requires Council approval in order to proceed as they need to expand into the ROW and easement. The expansion would reduce the width of the ROW on Avenue G. John Garcia, AEP, stated that this was one of the oldest substations in the city and it needs to be upgraded in order to keep up. Councilman Stephen Johnson asked if the transformers would be replaced. Mr. Garcia stated that they would not be replaced and that they will be just switching out equipment. Councilman Bill Cornman asked Mr. Garcia if the substation could be expanded further once this expansion takes place. Mr. Garcia advised that it could not. They

would have to expand other substations in order to keep up with the load. Mr. Calhoun stated that he would continue working with AEP and then get with the city attorney so an ordinance could be created. Once this happens, it would be brought back to Council for approval.

RESULT: WITHDRAWN

7. Ordinance

DISCUSS, CONSIDER, AND/OR APPROVE AMENDING CHAPTER 106 - TELECOMMUNICATION OF THE CITY OF BAY CITY CODE OF ORDINANCES TO ALLOW SPECIFIED STRUCTURES AND PROVIDE A VARIANCE PROCESS.

Marla Jasek, Assistant Director of Public Works

RESULT: TABLED

Next: 4/13/2017 7:00 PM

8. Property

DISCUSS, CONSIDER, AND/OR AUTHORIZE THE MAYOR TO EXECUTE AN ENCROACHMENT AGREEMENT, APPROVED BY THE CITY ATTORNEY, BETWEEN THE CITY AND STAR 35 LAUNDRY LOCATED AT 2008 AVE L, BAY CITY, TEXAS.

Marla Jasek, Asst. Director Public Works

RESULT: TABLED

Next: 4/13/2017 7:00 PM

9. Resolution

DISCUSS, CONSIDER, AND/OR APPROVE A RESOLUTION ADOPTING THE 2016 MATAGORDA COUNTY, TEXAS HAZARD MITIGATION PLAN.

Marla Jasek, Assistant Director of Public Works

Public Works Director, Barry Calhoun, stated that this plan was presented last year by Assistant Director of Public Works, Marla Jasek. This plan is a FEMA requirement and has already been adopted by Matagorda County and Palacios. Mr. Calhoun advised that this is a plan that the city revisits every year.

RESULT: APPROVED [UNANIMOUS]

MOVER: William Cornman, Councilman

SECONDER: Steven Johnson, Councilman

AYES: Folse, Cornman, Estlinbaum, Johnson, Thames

RESOLUTION

Enacted and approved this 23rd day of March, 2017, at Bay City

10. Report

DISCUSS THE CITY OF BAY CITY BECOMING A RAILROAD QUIET ZONE CITY.

Councilman Bill Cornman

Councilman Bill Cornman addressed the Mayor and other Council members in regards to the city becoming a railroad quiet zone. He stated that we needed someone on the staff to work on this. We need to determine the costs associated with it. We need to have discussions with TXDOT and the railroads to see if this is something that can proceed with. Councilwoman Julie Estlinbaum and Mayor Pro Tem Chrystal Folse both agree that we should pursue this. Mayor Mark Bricker stated that he would address it in the directors meeting and ask for volunteers. Mayor Bricker advised that he would put this issue on the next meeting.

8. EXECUTIVE SESSION

1. Report

PURSUANT TO TEXAS GOVERNMENT CODE, SECTION 551.071 (CONSULTATION WITH CITY ATTORNEY), CITY COUNCIL WILL CONSULT WITH THE CITY ATTORNEY REGARDING THE LEGAL REMEDIES AVAILABLE TO THE COUNCIL TO RESPOND TO A COMPLAINT AGAINST THE MAYOR.

Councilwoman Chrystal Folse

This item was addressed at 10:11 PM in Open Session. There was no action taken.

2. Report

PURSUANT TO TEXAS GOVERNMENT CODE, SECTION 551.071 (CONSULTATION WITH CITY ATTORNEY), CITY COUNCIL WILL CONSULT WITH THE CITY ATTORNEY REGARDING COUNCIL MEMBER PAST AND CURRENT COMPENSATION AND GROUP HEALTH INSURANCE BENEFITS OF MAYOR PRO TEM CHRYSTAL FOLSE UNDER SECTION 4.04 OF THE CITY CHARTER.

Mayor Mark A. Bricker

Mayor Pro Tem, Chrystal Folse, stepped down due to a conflict of interest. She would return to her seat once the discussion for this item is over. Mayor Mark Bricker stated that he was sorry for anyone reading the paper. He advised that there was no ill intent on his part or the part of Mayor Pro Tem Chrystal Folse. He stated that he saw an expenditure report about Council insurance in late August. The Mayor stated that he takes responsibility in Finance or HR not catching this oversight. He advised that both he and Mayor Pro Tem Folse never knew anything was wrong and they have to find a way to address it. No one is at fault. Councilman Bill Cornman stated that he agreed with the Mayor and that the Mayor's Facebook post was unfortunate and not in good taste. Councilman Cornman made a motion to have City Attorney, Shannon Kackley, create a resolution for a settlement that is suitable to all parties. He would like the resolution to be viewable in the next Executive Session so that it can be brought to Open Session for approval. Councilwoman Julie Estlinbaum seconded the motion. The motion carries.

3. Report

PURSUANT TO TEXAS GOVERNMENT CODE, SECTION 551.071 (CONSULTATION WITH CITY ATTORNEY), CITY COUNCIL WILL CONSULT WITH THE CITY ATTORNEY REGARDING THE PUBLICATION OF THE EXECUTIVE SESSION AUDIOTAPE FROM THE MARCH 14, 2017 SPECIAL CALLED MEETING.

Mayor Mark A. Bricker

No action was taken. Mayor Mark Bricker stated that the pause button didn't work and the from now on Executive sessions will be held in the conference room. Councilman Bill Cornman stated that it was a mistake and that there were no ill intentions.

9. OPEN SESSION**1. Report**

CITY COUNCIL SHALL RECONVENE IN OPEN SESSION AND MAY DISCUSS, CONSIDER, AND OR TAKE ACTION ON ANY ITEM LISTED ABOVE THAT WAS CONSIDERED AND DISCUSSED IN EXECUTIVE SESSION (IF NECESSARY).

The Executive Session items were discussed and no action was taken on two of them.

10. ITEMS / COMMENTS & MAYOR AND COUNCIL MEMBERS

Councilman Bill Cornman stated that the last week for household hazardous waste is now the week of October 27th. He advised that he had a meeting setup with Public Works Director Barry Calhoun, Matt of WCA and Lisa Kroat who runs the "Household Hazardous Waste Day" for April 5, 2017.

Mayor Pro Tem Chrystal Folse stated that the Little League Opening Day and the Boys and Girls Club Opening Day would be held on Saturday.

11. 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 Agenda City Council August 8, 2013 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.

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 Thursday, March 16, 2017 before 7:00 p.m. Any questions concerning the above items, please contact Mayor Mark A. Bricker at (979) 245-2137.

Rhonda Clegg
City Secretary