



CITY OF BAY CITY

MINUTES • OCTOBER 22, 2019

Council Chambers

Workshop – City Council

5:00 PM

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

1. CALL TO ORDER

Attendee Name	Title	Status	Arrived
Robert K. Nelson	Mayor	Excused	
Brent P. Marceaux	Councilman	Present	
William Cornman	Councilman	Excused	
Becca Sitz	Councilwoman	Present	
Jason W. Childers	Mayor Pro Tem	Present	
Julie Estlinbaum	Councilwoman	Present	

2. CERTIFICATION OF QUORUM

Mayor Pro Tem, Jason Childers certified a quorum.

3. APPROVAL OF AGENDA

The agenda was approved as written by motion. The motion was made by Councilwoman, Julie Estlinbaum and seconded by Councilwoman, Becca Sitz,

4. REGULAR ITEMS FOR DISCUSSION, CONSIDERATION AND/OR APPROVAL

1. Appointment

~ DISCUSS, CONSIDER AND/OR APPROVE THE APPOINTMENT OF MEMBERS TO THE JOINT AIRPORT ZONING BOARD.

Airport Manager, James Mason

Airport manager, James Mason presented this agenda item to Council members. The appointment process was reviewed and it was determined that appointments will be considered and will be approved at a future Council meeting.

2. Presentation

~ DISCUSS AND CONSIDER PLANS TO CHANGE PARKING DOWNTOWN DUE TO CONCERNS.

Mayor, Robert K. Nelson

Council members discussed the downtown parking on HWY 60 and HWY 35 in the downtown Bay City area. A map outlining the area was reviewed. Communication with business and land owners is requested.

3. Resolution

~ DISCUSS, AND CONSIDER A CHARTER AMENDMENT RESOLUTION.

Mayor, Robert K. Nelson

Reviewed with Council by City Attorney, Anne Marie Odefey.

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.

None

6. 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.

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 Tuesday, October 15, 2019 before 5:00 p.m. Any questions concerning the above items, please contact Mayor Robert K. Nelson at (979) 245-2137.

The facility is wheelchair accessible and accessible parking spaces available. Request for accommodations or interpretive services must be made 48 hours prior to the meeting. Please contact the City Secretary's Office at 979-245-5311 or email, dholubec@cityofbaycity.org for further information.

David Holubec
City Secretary



City Council
1901 5Th Street
Bay City, TX 77414

SCHEDULED

Meeting: 10/22/19 05:00 PM
Department: City Secretary
Category: Appointment
Prepared By: David Holubec
Initiator: David Holubec
Sponsors:
DOC ID: 4012

AGENDA ITEM (ID # 4012)

**~ DISCUSS, CONSIDER AND/OR APPROVE THE
APPOINTMENT OF MEMBERS TO THE JOINT AIRPORT
ZONING BOARD.**

COMMENTS - Current Meeting:

Airport manager, James Mason presented this agenda item to Council members. The appointment process was reviewed and it was determined that appointments will be considered and will be approved at a future Council meeting.

Pursuant to Local Government Code Chapter 241. Municipal and County Zoning Authority Around Airports Sec.241.014

Sec. 241.014. JOINT AIRPORT ZONING BOARD. (a) A political subdivision to whose benefit an airport is used in the interest of the public or in which an airport owned or operated by a defense agency of the federal government or the state is located may create a joint airport zoning board with another political subdivision in which an airport hazard area or a controlled compatible land use area relating to the airport is located. The political subdivisions must act by resolution or ordinance in creating the joint board.

(b) The joint airport zoning board has the same power to adopt, administer, and enforce airport hazard area zoning regulations or airport compatible land use zoning regulations under this section as that given a political subdivision by Sections [241.011](#) and [241.012](#).

(c) The joint airport zoning board must consist of two members appointed by each of the political subdivisions creating the board and, in addition, a chairman elected by a majority of the appointed members.



City Council
1901 5Th Street
Bay City, TX 77414

SCHEDULED

Meeting: 10/22/19 05:00 PM
Department: City Secretary
Category: Presentation
Prepared By: David Holubec
Initiator: David Holubec
Sponsors:
DOC ID: 4022

AGENDA ITEM (ID # 4022)

**~ DISCUSS AND CONSIDER PLANS TO CHANGE PARKING
DOWNTOWN DUE TO CONCERNS.**

Consider re-stripping for parallel parking in areas of downtown.

COMMENTS - Current Meeting:

Council members discussed the downtown parking on HWY 60 and HWY 35 in the downtown Bay City area. A map outlining the area was reviewed. Communication with business and land owners is requested.



City Council
1901 5Th Street
Bay City, TX 77414

SCHEDULED

Meeting: 10/22/19 05:00 PM
Department: City Secretary
Category: Resolution
Prepared By: David Holubec
Initiator: David Holubec
Sponsors:
DOC ID: 4019

AGENDA ITEM (ID # 4019)

**~ DISCUSS, AND CONSIDER A CHARTER AMENDMENT
RESOLUTION.**

COMMENTS - Current Meeting:

Reviewed with Council by City Attorney, Anne Marie Odefey.

RESOLUTION NO. _____

A RESOLUTION DECLARING AMENDMENTS TO THE CITY OF BAY CITY HOME RULE CHARTER TO BE ADOPTED.

WHEREAS, on May 4, 2019 the City of Bay City held an election on the adoption of certain amendments to the City's Home Rule Charter; and

WHEREAS, at said election a majority of the votes cast for the adoption of each proposed amendment was passed by a majority vote of those voting in said election; and

WHEREAS, Texas Local Government Code Section 9.05 (b) provides that an amendment to a charter does not take effect until the governing body of the municipality enters an order in the records of the municipality declaring that the amendment is adopted; and

WHEREAS, pursuant to notice of a public meeting held in compliance with the Texas Open Meetings Act, the City Council of the City of Bay City, Texas, convened in a meeting of the City Council on this the 12th day of September, 2019 for the purpose of entering an order into the records of the City and declaring that the amendments to the City Charter are adopted.

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

Section 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by Bay City Council and made a part hereof for all purposes as findings of fact.

Section 2. Proceedings. That an election was duly called on May 4, 2019 and final votes were canvassed on May 9, 2019 on the question of the adoption of amendments to the City of Bay City Home Rule Charter; and the following charter sections were approved as amended at said election based on the canvass:

SECTION 1.02 – Form of Government

The municipal government provided by this Charter is the Council/Mayor-City Manager form of government.

**ARTICLE III
THE CITY MANAGER**

3.01. City Manager.

(a) **Appointment and Qualifications.** The City Council shall employ a City Manager who shall be the chief administrative and executive officer of the city. The City Manager shall be employed solely based on education, experience and fitness for the position, and shall be required to reside in the City or within the ETJ, (extraterritorial jurisdiction), of the City of Bay City within twelve months from the date of hire. The City Manager shall be employed for a salary and on terms to be

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Amended
and this
section
in place
all new.*

Attachment: Charter Amendment Resolution (4019 : Charter Amendment Resolution)

determined by City Council. City Council may remove the City Manager with a majority vote of the council, on terms to be determined by City Council. No member of the City Council shall be employed as City Manager during the time for which they are elected nor for one (1) year thereafter.

(b) Responsibilities of the City Manager. The City Manager shall be responsible to the City Council for the efficient and economical administration of the city government. The City Manager shall have the power to appoint and to remove all department heads, subject to the approval of the City Council. The City Manager shall have the power to appoint and remove all other employees in the administrative service of the city. The City Manager may authorize the head of a department to appoint and remove subordinates in their respective department.

(c) Except for the purpose of inquiry, the City Council and its members shall deal with the administrative service solely through the City Manager. They shall not in any manner take part in the appointment or removal of any person subordinate to the City Manager, other than department heads, nor shall they give any instructions to any subordinate of the City Manager.

(d) Duties of the City Manager. The City Manager shall supervise the administration of the affairs of the city, see that ordinances of the city are enforced, act as the chief conservator of the peace within the city, recommend to the City Council concerning the affairs of the city, attend all meetings of the City Council with the right to discuss but not to vote, inform the City Council on the city's finances, prepare the annual budget, and perform such other duties as the City Council may require which are consistent with this Charter.

ARTICLE IV THE COUNCIL

4.01. Number, Selection, Term of Office, and Term Limits of the Council

(a) The Council shall be composed of five Councilmembers, who shall serve three (3) year terms. All Councilmembers to be selected at large. Councilmembers No. 1 and 2 shall be elected in the 2020 election and Councilmembers No. 3, 4, and 5 elected in the 2019 election. No Councilmember shall be elected to serve for more than three consecutive three-year terms.

4.02. Mayor and Mayor Pro Tem

(a) The Mayor of the City shall preside over the meetings of the Council and perform such other duties consistent with the office as may be imposed upon him by this Charter and ordinances and resolutions passed in pursuance thereof. The Mayor shall have no administrative duties. The Mayor may participate in the discussion of all matters coming before the Council, and shall be entitled to a vote, but shall have no veto power. The Mayor shall sign all ordinances and resolutions, contracts and conveyances approved and adopted by Council and all bonds issued under the provisions of the Charter approved and adopted by Council and/or by the citizens of the City at an election for that purpose. The Mayor shall be recognized as the official head of the City by the Courts for the purpose of serving civil process, by the Governor for the purpose of enforcing military law, and for all ceremonial purposes. In time of danger or emergency, the Mayor may with the consent of

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#4.02
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the Council take command of the police and govern the City by proclamation and maintain order and enforce all laws.

(b) The Mayor shall be elected to serve a three (3) year term beginning in 2019 and shall not be elected to serve more than three (3) consecutive terms.

(c) The Mayor Pro Tem shall be selected by the Council at the first regular meeting after each general election, or upon a vacancy in the office of Mayor Pro Tem, from among the members of the Council and shall perform all duties of the Mayor in the Mayor's absence or disability and shall vote as a Council Member.

(d) For the purposes of this Charter, the Mayor is a member of the Council and shall have all the rights, responsibilities and administrative duties and shall possess the same qualifications as any other Councilmember in addition to those set forth in this Section. All references in this Charter to the Council or to a Councilmember shall include and apply to the Mayor

(a) Appointment and Qualifications. The City Council

Section 4.03 – Qualifications

A Councilmember shall be a citizen of the United States of America and a qualified voter of the State of Texas; shall have resided for at least one year preceding the election within the corporate limits of the City or for one year within territory which has been annexed by the City; shall have attained the age of at least twenty-one years on the first day of the term to be filled; and shall not at the same time hold any other elective or appointive public office of emolument.

Section 4.04 – Powers of the Council

All powers and authority which are expressly or impliedly conferred on or possessed by the City in Article II of this Charter shall be vested in and exercised by the Council; however, the Council may not exercise powers which are conferred exclusively on other city officers by this Charter.

Section 4.05 – Compensation

The Council shall annually in the budget adopt the compensation for Councilmembers for attendance at meetings and for other duties and may offer each Councilmember any group health insurance available to full-time City employees at the Councilmember's expense.

Section 4.06 – Investigative Body

The Council shall have the power to inquire into the official conduct of any department, agency, office, officer, or employee of the City; for that purpose, shall have the power to administer oaths, subpoena witnesses, compel the production of books, papers and other evidence material to the inquiry. The Council shall provide, by ordinance, penalties for failing or refusing to obey any such subpoena or to produce any such books, papers or other evidence; and shall have the power to

punish in the manner provided by such ordinance. No member of the Council shall ever vote upon any matter involving the consideration of his own official conduct.

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Section 4.07 – Meetings of Council

(a) Regular Council Meetings – The Council shall have no less than two regular meetings each month, and as many additional meetings, as necessary, to transact the business of the City. The Council shall fix, by ordinance, the days and time of the regular meetings. All meetings of the Council shall be held at the City Hall of Bay City and shall be open to the public, unless State law allows or requires otherwise.

(a)(1) The City Manager or Councilmembers, individually or by motion, may place items on the agenda prior to the next agenda being posted.

rev per prop 1
(a)(2) Any interested party may request, in writing, for an item that falls within the City's legal jurisdiction to be placed on the agenda, with a Councilmember's or the City Manager's sponsorship. The agenda item shall be scheduled as soon as possible, but no later than thirty days from the date of written request.

(b) Special Meetings – Special meetings shall be called and posted by the City Secretary at the request of the City Manager or by a majority of the Councilmembers.

(c) Minutes – Minutes of all regular and special open meetings of the Council shall be recorded as public record.

(d) Executive Sessions – The Council may recess to an executive session for any purpose permitted by State law. The general subject matter for consideration shall be expressed in the agenda or the motion calling for the session. Final action shall not be taken by Council until the matter is placed on the agenda and a vote taken in an open meeting.

(e) Rules of Procedure – The Council shall, by ordinance, determine its own rules and order of business. A majority of the Council shall constitute a quorum for all meetings.

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Section 4.08 – Council Voting

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(a) Council Action – The Council may legislate and act only by ordinance, resolution, or motion. Each member of Council, if present, may vote upon all matters before Council. However, a Councilmember shall abstain when the matter involves the consideration of the Councilmember's official conduct or when required by State law.

revision per prop 1
(b) Majority Vote – A majority vote of a quorum present may transact City business and procedural matters. However, to be effective, the following actions must be by at least four (4) affirmative votes of Councilmembers: ordinances, annexations and de-annexations, legal matters, contracts in excess of the state bidding limits, removing and reinstating city officers and employees, creating and changing city positions and departments, changing the personnel policy or financial interest, and declaring any office vacant.

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Section 4.09 – Councilmembers and Administrative Divisions

- (a) The following Administrative Divisions are created:
 - (1) Parks and Recreation and Airport
 - (2) Finance, Safety and Insurance, Records Management, and City Hall
 - (3) Police, Fire, Municipal Court, and Fire Marshal
 - (4) Public Works
 - (5) Public Utilities, Inspections, and Maintenance
- (b) The City Council may create, change, abolish or consolidate the Administrative Divisions.
- (c) Each Councilmember shall serve as the liaison officer, on behalf of the Council, for one Administrative Division for a one-year term. In June 1989, each Councilmember shall begin with the same Administrative Division as his place number and rotate down numerically one Administrative Division each succeeding year.
- (d) Each Councilmember shall have equal responsibility for every division in the City regardless of whether he is the designated liaison officer.

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Section 4.10 – Finance Committee

- (a) A Finance Committee is created to review all expenditures of the City, including regular budgeted salary payments and review all financial policies. City Council shall appoint a Finance Chairman and Assistant Chairman. *remove Mayor per prop 1*
- (b) The Finance Committee shall meet at least once a quarter to review expenditures and policies as necessary.
- (c) At least once a quarter, Council shall vote to approve the City expenditures made since the last Council approval.

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Section 4.11 – Vacancies, Forfeiture, and Removal

- (a) Vacancies – The office of a Councilmember shall become vacant upon his death, resignation, removal from office in any manner authorized by law, or forfeiture of his office.
- (b) Forfeiture of Office - A councilmember shall forfeit his/her office if, during a term of office, he/she:
 - (1) is no longer a US citizen or qualified voter of the city or lacks any qualification for the office prescribed by this Charter or by other law;
 - (2) violates any express prohibition of this Charter;
 - (3) is convicted of a felony or is convicted of a crime involving moral turpitude; or
 - (4) fails to attend three (3) consecutive regular meetings of the council without being excused by the council.

(c) Filing Unexpired Term - When any member of Council no longer possesses all the qualifications specified in this section, the office shall immediately and automatically become vacant. The Council shall be the judge of the qualifications of its members and for these purposes shall have the power to conduct a tribunal, subpoena witnesses and require the production of records. The Council shall, by affirmative vote of the majority of the entire membership, be the final judge in matters involving forfeiture of office by a councilmember.

ARTICLE V ORDINANCES

Section 5.01 – Ordinances

(a) Enacting Clause – The enacting clause of every ordinance shall be, "BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BAY CITY, TEXAS".

(b) One Subject – All ordinances, resolutions and motions shall be confined to one subject which is clearly expressed in the title. Appropriation ordinances shall be confined to that subject alone.

(c) Proposing An Ordinance – The City Manager or any Councilmember may place a proposed written ordinance on the agenda of any Council meeting, but only after the City Attorney has approved it as to form.

(d) Legal Approval as to Form – Before any ordinance shall be adopted, the City Attorney shall either approve it by signature as to form or shall file detailed written legal objections with the City Secretary. The Council may pass an ordinance in spite of legal objections.

(e) Reading by Caption Allowed – It shall not be necessary to the validity of any ordinance that it be read by caption more than one time or considered at more than one session of the Council. If read by caption, the full printed ordinance shall be provided to the Council and available to the public at City Hall prior to vote.

(f) Mayor's Signature – Every ordinance passed shall be signed by the Mayor (or the Mayor Pro Tem in the Mayor's absence) to signify Council's approval. However, the failure or refusal of the Mayor to sign an ordinance shall not prevent the ordinance from going into effect.

(g) Authentication and Recording – All ordinances and resolutions shall be numbered numerically and consecutively in the order in which passed. The City Secretary shall authenticate, by his signature, all ordinances and resolutions passed by the Council; and record them in full and properly index, as a public record.

(h) Effective Date – Every ordinance shall become effective upon date of the Council's affirmative vote, or at any later time specified in the ordinance.

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remove veto

remove veto

(i) Publication of Ordinance Providing Penalties – Any ordinance imposing a penalty, fine or forfeiture shall become effective only after the caption has been published in the City's official newspaper at least one time within ten days after passage. The City Secretary shall note on every ordinance, that must be published and in the Council minutes, the date and medium of publication and attach the relative Publisher's Affidavit. Such notation shall be prima facie evidence of compliance with the requirements of this section.

(j) Amendment and Repeal – After adoption, an ordinance shall not be amended or repealed except by the adoption of another ordinance amending, repealing, or re-codifying the original ordinance.

(k) Proof of Ordinance – An ordinance may be proved prima facie by a printed code of ordinances purporting to be printed by authority of the City, or by a copy of the Ordinance certified by the City Secretary.

Section 5.03 – Code of Ordinances

(a) It shall be mandatory upon the Council to cause all general ordinances to be totally re-codified and reprinted before the expiration of any ten consecutive years after the last preceding full recodification. General ordinances are those ordinances of a permanent nature which affect the residents of the City at large. Every general ordinance enacted after the original codification required above shall be enacted as an amendment to the code. Council shall codify all general ordinances passed during the preceding fiscal year at least annually.

(b) The printed code of general ordinances adopted by Council shall be cited officially as the Code of Ordinances, City of Bay City, Texas, and shall be effective without the necessity of any part of the code being published in any newspaper, unless otherwise required by law. The caption, descriptive clause, and other formal parts of the ordinances of the City may be omitted without affecting the validity of the ordinances when they are published as a code.

(c) A code and all updates shall be given to the Bay City Public Library and High School Library, furnished to City officers and departments, and available in the City Manager's and City Secretary's offices, as well as the City website for public reference. The Code may be purchased by the public at a reasonable price fixed by the Council.

ARTICLE VI NOMINATIONS AND ELECTIONS

Section 6.03 – How to Get Name on Ballot

Any qualified voter of the City who meets the qualifications of a mayoral candidate or a city council candidate (Section 4.02) may have his or her name printed upon the official ballot for a particular office at any election by:

(a) Filing his sworn application and loyalty affidavit with the City Secretary at least forty-five days prior to the election.

revise per
prop 1

revise
per
prop 1

remove mayor
sec 4

(b) Simultaneously with the application, a Councilmember candidate shall file a petition signed by 150 qualified voters residing in the City and endorsing the candidate or provide a cash filing fee of \$150.00.

per prop 1
made mayor = council

ARTICLE VII ADMINISTRATIVE

Section 7.01 – Compensation, Benefits, Employment

(a) Compensation – The Council and City Manager shall set the compensation and benefits, if any, of all officers, department heads, and employees of the City.

(b) Benefits – The Council shall have the power, but shall not be required, to provide for all or any group of City employees benefits including but not limited to: (1) a retirement plan; (2) health, life, and accident insurance, or any of these. Except as required by State law, the City may or may not contribute toward the cost of any benefit.

(c) Employment – Only the City Manager or the Council has authority to propose any employment contract for a specific period of time or terms of employment other than those provided for in the Bay City Personnel Policy. To be valid, such an employment contract will have to be in writing, signed by both the employee and the Mayor, and approved by affirmative vote of at least four (4) Council members.

Section 7.04 – Nepotism

No person related within the second degree by affinity, or within the third degree by consanguinity, to the City Manager or any elected officer of the City, shall be appointed to any office, position, clerkship, or other service of the City. This prohibition shall not apply; however, to any person who shall have been continuously employed by the City for a period of six months prior to the election of any city official so related to him or for thirty days prior to the appointment of any City officer related to him.

Section 7.05 – City Officers and Administrative Departments

(a) City Officers – City officers are: Mayor, Councilmembers, City Secretary, City Attorney, City Treasurer, Municipal Judges, and Chief of Police.

(b) Organization – By ordinance, the Council may create, discontinue, re-designate, or combine any of the departments appointed officers, City positions, deputies, assistant officers, and assistant department heads. The City Manager shall have an opportunity to make written recommendations to the Council prior to any vote to change administrative organization. Any ordinance changing administrative organization shall require a two-thirds majority, or four of six affirmative votes, of Council.

(c) Supervision of Departments – The head of each department shall be a director or officer who shall have supervision and control over his department. Two or more departments may be headed by the same individual. *remove mayor as Supervisor*

(d) Appointment – City officers and directors of departments shall be appointed by the City Manager with the consent of the Council (unless this Charter specifies appointment by the Council only) within or a maximum of one hundred twenty (120) days. Appointment shall be within sixty (60) days after vacancy occurs. Each appointee shall not take office until his appointment is approved by Council.

Consent of the Council shall be by three affirmative votes of Councilmembers as an agenda item at a regular or special Council meeting within sixty days of nomination.

Should the Council vote to deny consent to an appointment, the City Manager shall name a new nominee for Council consideration and consent within thirty days of date the first nominee was not confirmed. The Council may reconsider a negative vote once as a regular agenda item, but only within thirty days of original vote denying consent.

If the Council does not consent to the City Manager first or second nominee, any two Councilmembers may nominate a new nominee, but appointment shall only be upon four affirmative votes of Councilmembers. (No Councilmember may nominate more than one nominee at a time.) If no Council nominee is confirmed within thirty days of vote not confirming the City Manager's last nominee, then the nomination process shall begin again under this Section 7.05(d) with the City Manager's next nominee.

(e) Interim – Interim City officers and directors of departments shall be appointed by the City Manager with the consent of Council for a maximum of sixty days. A permanent City officer or department head shall be nominated and submitted to Council for approval within sixty days of a vacancy occurring in the permanent position.

(f) Removal – Department Heads and non-elected officers of the City appointed by the City Manager may be suspended by the City Manager, with or without pay, and/or removed by the City Manager with the prior consent of the Council. Other employees of the City shall be removed by their respective department head with the consent of the City Manager.

However, all non-elected City officers and any employees may be suspended with or without pay and/or removed by four affirmative votes of the Council, with or without the recommendation of the City Manager, as an agenda item at a regular or special Council meeting.

(g) Appeal

(1) The suspension and/or removal shall permanently terminate the officer's or employee's appointment or employment with the City unless the Council shall provide for an appeals hearing at City Hall.

revisions per prop 1

(2) Following the hearing, a majority of the Council may remove the suspension and reinstate the officer or employee to his office or position of employment with or without all wages and benefits lost during the time of his suspension. If not reinstated, the officer's or employee's termination shall be effective as of the date of his suspension. The action of the Council shall be final on the question of termination or removal of the suspension and reinstatement.

(h) Reorganization – By ordinance, the Council may create, discontinue, re-designate, or combine any of the departments, appointed officers, City positions, deputies, assistant officers, and assistant department heads. The City Manager shall have an opportunity to make written recommendations to the Council prior to any vote to change administrative organization.

Section 7.06 – City Secretary

The City Secretary shall be appointed by the City Manager upon confirmation by four affirmative votes of Council and shall be provided an office in the City Hall sufficient to maintain official City records. The City Secretary may appoint, with Council's consent, such deputy city secretaries as may be authorized by Council.

(a) Duties of City Secretary or Deputy City Secretaries

(1) Be present at and record the minutes of all official meetings of the Council.

(2) Be the custodian of all municipal records; authenticate and catalogue by subject and chronological order all ordinances and resolutions; legally index, certify, and keep the originals of deeds, liens, releases, insurance policies, contracts, and other legal documents of the City.

(3) Make available to the public the City records required by State law, City ordinance, and any current Personnel Policy.

(4) Affix the City Seal to all instruments requiring the Seal.

(5) Perform any and all other acts and duties as may be required by the City Manager, Council, or this Charter.

Section 7.07 – Fire Marshal and Volunteer Fire Department

(a) Fire Marshal – The City Manager, with consent of Council, shall appoint a Fire Marshal. The Fire Marshal shall be responsible for the enforcement of ordinances pertaining to building codes and general protection of City residents from fire.

(b) Volunteer Fire Department – Authority is hereby granted to maintain a volunteer fire department. The members in good standing of the volunteer fire department shall set their own rules and regulations for membership and organization, and shall elect a Fire Chief as their chief administrative officer and as a liaison with the City Manager and Council.

Revisions per prop 1

remove "may"

ARTICLE VIII LEGAL AND JUDICIAL

Section 8.01 – Attorney for the City

- (a) The City Attorney shall be appointed by the City Manager upon confirmation by four affirmative votes of Councilmembers. The City Attorney shall have been licensed to practice law at least three years in the State of Texas.
- (b) The City Attorney shall be the legal advisor of, and the attorney for, the City Manager, City, Mayor, Councilmembers, and all of the officers and departments of the City. He shall represent the City in all litigation and legal proceedings; however, the Council may retain special legal counsel for any purpose and at any time it deems appropriate and necessary.
- (c) The City Attorney shall approve every ordinance as to form before it is acted upon by the Council.
- (d) The Council may authorize Assistant City Attorneys to be appointed by the City Attorney with the consent of the Council.

Section 8.03 – Judges of Municipal Court

- (a) The Presiding Judge and any Associate Judges of the Court shall be appointed by the City Manager upon confirmation by four affirmative votes of Councilmembers.
- (b) The Presiding Judge and all Associate Judges shall be a citizen of the United States of America and a qualified voter of the State of Texas; shall have resided for at least one year preceding his appointment within the corporate limits of the City or for one year within territory which has been annexed by the City; and shall have attained the age of at least twenty-five years on the first day of his appointment. Said appointment shall be for a term of three years.
- (c) The Presiding Judge shall be the Administrative Judge and responsible for the administration of the Municipal Court and the legality of its procedures.

ARTICLE X BUDGET

Section 10.03 – Proposed Budget and Budget – A Public Record

All proposed and final budgets and all supporting schedules shall be a public record. They shall be filed with the City Secretary and submitted to each Councilmember. The City Manager shall provide copies for distribution to all interested persons and to the Bay City Public Library.

Revisions per prop 1

Attachment: Charter Amendment Resolution (4019 : Charter Amendment Resolution)

Section 10.04 – Workshops and Council Changes to the Proposed Budget

- (a) Workshops – The City Manager or Council shall schedule as many public workshops as necessary to review and revise the proposed budget.
- (b) Council Changes – The Council may, by majority vote, add, delete, and/or alter any proposed line item and amount at any workshop and/or Council meeting. The Chief Administrative Officer shall incorporate all Council changes in the proposed budget prior to the next Council workshop or meeting at which the budget will be considered.

ARTICLE XII
BORROWING, BONDS, AND AUDIT

Section 12.08 – Audit and Examination of City Books and Accounts

At the close of each fiscal year, a complete audit of all City finances and utilities shall be made by a licensed Public Accountant, who shall be selected by the City Manager with approval of Council. The audit accountant shall not regularly maintain or keep any of the City's accounts or records.

The audit shall include a recapitulation of any audits made during the fiscal year. All audit reports shall be filed with the City Secretary and available for public inspection, made a part of City archives, and a copy given to the Bay City Public Library.

The Council shall annually publish a condensed one-page summary of the certified audit in the City's official newspaper.

ARTICLE XIV
PLANNING COMMISSION

Section 14.02 – Power and Duties

The powers and duties of the Planning Commission shall be determined by ordinance and may include the following:

- (a) Make and/or amend a Master Plan for the physical development of the City;
- (b) Review plats for subdividing land within the City's corporate limits and extra territorial jurisdiction;
- (c) Submit to the City Manager a list of recommended capital improvements by priority which in the opinion of the Commission are necessary or desirable;
- (d) Consult with department heads and the Chief Administrative Officer concerning planning for their areas;
- (e) Perform such additional duties and powers as may be prescribed by ordinance.

revising per prop 1

Section 14.03 – The Master Plan

The Master Plan for the physical development of the City of Bay City shall contain the commission's recommendations for development and beautification of the City. A copy of the Master Plan, or any part or amendment, shall be filed with the City Manager and each Councilmember. Any minority opinion of the Commission may be attached.

The City Manager shall promptly submit such plan to the Council with his recommendations. Recommendations affecting the Master Plan may be made to the Council by any City department through its department head.

At least one public hearing must be held before the Council may adopt any of such recommendations.

ARTICLE XV INITIATIVE, REFERENDUM, AND RECALL

Section 15.02 – Initiative

(a) Limitation on Initiative Ordinance – The citizens of the City shall have power to "initiate" any ordinance, not in conflict with this Charter or State law, except an ordinance appropriating money or authorizing the levy of taxes, and to adopt or reject it at the polls.

(b) Signatures Required – Any initiative ordinance may be submitted to Council by a petition signed by the greater number of one thousand qualified voters of the City or ten percent of qualified voters who voted at the last regular municipal election.

(c) Public Hearing – A public hearing on the proposed initiative shall be scheduled by the City Manager within fifteen days of the City Secretary's certification of the initiative petition.

(d) Election – An election to adopt or reject the initiative ordinance or action shall be ordered by Council and held on the next practical uniform election date that is prescribed by state law. If the ordinance proposed by initiative is enacted by Council before the election, then there will be no election.

(e) Results of Initiative Election – If a majority of the qualified voters voting in the initiative election adopt the ordinance, the ordinance shall become effective from date of election, or if different, the effective date specified in the initiative ordinance.

(f) Limitation on Initiative – The Council shall not consider an ordinance or action on the same subject within twelve months of date of a successful initiative election on that subject.

1 added paragraph

Section 15.03 – Referendum

(a) **Limitation on Referendum** – The citizens of Bay City may call a referendum election to rescind any Council ordinance or Council vote except those affecting personnel and appropriation ordinances.

(b) **Signatures Required** – Any referendum ordinance may be submitted to Council by a petition signed by the greater number of one thousand qualified voters of the City or ten percent of the qualified voters who voted at the last regular municipal election.

(c) **Public Hearing** – A public hearing on the proposed referendum shall be scheduled by the City Manager within fifteen days of the City Secretary's certification of the referendum petition.

(d) **Election** – An election to adopt or reject the referendum ordinance or action shall be ordered by Council and held on the next practical uniform election day that is prescribed by state law. If the ordinance questioned by referendum is retracted by Council before the election, then there will be no election.

(e) **Results of Referendum Election** – If a majority votes to uphold the ordinance and/or Council action in question, the ordinance and/or Council action shall be effective as of the date the Council initially voted. If a majority votes to revoke the ordinance and/or Council action in question, that ordinance and/or Council action shall be null and void from the effective date of the certification of the petition.

(f) **Limitation on Referendum** – The Council shall not consider an ordinance or action on the same subject within twelve months of date of a successful referendum election on that subject.

Section 15.05 – Petition

(a) **Time Limit** – Any petition under this article must be completed, filed with the City Secretary, and certified within sixty days of date of the first signature or the petition will be invalid.

(b) **Petition Committee** – The five initial signers of the petition shall be the Petition Committee and shall designate two of themselves as the chairperson and co-chairperson of the petition. The Petition Committee shall act as liaison with the signers, circulators, City Manager, Council, and City Secretary.

(c) **Affidavit of Circulators of Petition** – Signatures may be on separate petition papers. Attached shall be an affidavit of the circulator that he, and he only, personally circulated that petition paper, that each signature appended was made in his presence, and that he believes each signature to be the genuine signature of the person whose name purports to be, the date of the first signature, and date of last signature.

(d) **Signatures** – Each qualified voter shall personally write the following items in ink or indelible pencil and on the same line: his signature, his printed name, his City voting precinct number, his resident address by street and number or other description sufficient to identify his

revising per prop 1

residence, and, optionally, his telephone number for clarification of information by the City Secretary.

(e) Filing of Recall Petition – All papers comprising a petition shall be assembled and filed as one instrument with the City Secretary. Within ten days after an initial petition is filed and within five days after any supplemental petition is filed, the City Secretary shall determine whether the petition is signed by the requisite number of qualified voters and he shall certify or not certify the petition accordingly.

(f) Disallowance of Signature – The City Secretary has absolute discretion to disallow a signature if it and/or the identifying data is illegible or insufficient. The City Secretary shall declare void any petition paper which does not have an affidavit attached as required in this article. The City Secretary shall write an "X" in red ink opposite the names of signers found not qualified to vote or disallowed.

(g) Supplement to Petition – The City Secretary shall immediately notify the chairperson filing the petition if the number of qualified signatures is less than the required number. The petition may be supplemented by filing supplemental petition papers bearing additional qualified signatures, but only if the supplemental petition can be filed before the fifty-fifth day after the first signature on the initial petition.

(h) Certification of Petition – The City Secretary shall report the results to the Council at its next regular meeting after a certification or non-certification, stating the number of persons found on the petition that are qualified to vote and the number of persons found on the petition who are not qualified to vote or are disallowed. All petitions filed shall immediately be a public record.

(i) Limitation to Refiling – If the petition, as supplemented, is found to have total signatures of qualified voters in a number less than required, the City Secretary shall promptly return the petition as supplemented to the chairperson filing it. Once the sixty days have elapsed, a new petition for the same purpose shall not be filed within six months of date the original petition was filed.

ARTICLE XVI AMENDMENT AND REVIEW

Section 16.02 – Charter Review Commission

Every fifth year after the most recent Charter amendment, Council shall take a vote during a City Council meeting to decide whether it is necessary to review the Charter for further amendments. If a Majority of Council vote is that it is necessary to review and revise any provisions of this Charter, then Council may appoint a Charter Review Commission of nine qualified voters which shall occur no more often than the fifth anniversary after the Charter's most recent amendment. Council and the Mayor shall serve on the Commission as ex-officio, non-voting members. The City Secretary shall serve as secretary to the Commission in a non-voting capacity. The City Attorney shall serve on the Commission in a non-voting, legal advisory capacity.

*per revisions
III prop*

(a) Duties of the Commission:

(1) Determine which Charter provisions the Council seeks recommended revisions and inquire into the operation of the City Government as it relates to the Charter provisions that may require revision. The Commission shall have the power to hold public hearings, compel the attendance of any officer or employee of the City, and compel the production of any City records.

(2) Propose recommendations for City departments to insure compliance with this Charter.

(3) Propose Charter amendments, if any, to the Council.

(b) Term of Office:

The term of office of any Charter Review Commission shall be six calendar months from the appointment date, however, Council may extend the term for good cause shown. Prior to the end of the term, a written report shall be presented to Council, and all Commission records shall be filed with the City Secretary as a public record.

(c) Action by the Council:

Upon receipt of any written report from the Commission, the Council shall within ten days, make copies available to the public at City Hall and publish a synopsis of the report in the official City newspaper. The Council shall consider the report at a public hearing within thirty days of receiving it. The Council may, in its sole discretion, order any amendments recommended by the Commission and/or the Council to be submitted individually to the voters of the City at the next eligible uniform election date.

ARTICLE XVII GENERAL PROVISIONS

Section 17.01 – Personal Interest

No officer, official, or employee of the City shall have a financial interest, direct or indirect, in any contract with the city, nor shall be financially interested, directly or indirectly, in the sale to the City of any land, or rights or interest in land, materials, supplies, or service. The above provision shall not apply where the interest is represented by ownership of stock in a corporation involved, provided such stock ownership amounts to less than 1% of the corporation stock. Any violation of this section shall constitute malfeasance in office, and any officer, official, or employee of the City found guilty thereof shall forfeit his office or position. Any violation of this section with the knowledge, express or implied, of the person or corporation contracting with the City shall render the contract voidable the City Council.

Revises per prop 1

Section 17.13 – Definitions

Council – the Mayor and five Councilmembers of Bay City, Texas, transacting City business in compliance with State law and this Charter.

L.G.C. – abbreviation for Local Government Code of Vernon's Texas Codes Annotated.

Majority vote of a Council Quorum – a majority of at least Councilmembers present and casting positive votes. A majority can be three positive votes of four Councilmembers.

Majority vote of Council – requires at least four positive votes from four Councilmembers.

May – means the action is optional at the discretion of the party authorized to act.

Person – shall include more than one person, a firm, a corporation, and the plural of these.

Qualified voter – in this charter is a person who is: (1) qualified to vote under the Texas Election Code, Section 11.002; (2) is registered to vote in Matagorda County, Texas; and (3) resides within the City limits of Bay City, Texas.

Shall – means the action is mandatory by the party authorized to act.

State law – the Constitution and Statutes of the State of Texas.

Utility system – means a water, sewer, gas, or electrical system.

V.A.C.S. – abbreviation of Vernon's Annotated Civil Statutes.

V.A.T.S. – abbreviation for Vernon's Annotated Texas Statutes.

Section 3. Adoption. The amendments provided for herein are declared adopted by the City Council of the City of Bay City and this resolution shall be entered into the records of the City of Bay City as an order of adoption of the charter amendments.

Section 4. Effective Date. The amendments stated in this resolution are declared to take effect upon the entry of this order in the City of Bay City's records.

Section 5. Open Meetings. It is hereby officially found and determined that the meeting at which this resolution is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, *Chapt. 551, Tex. Gov't. Code*, having been posted and remaining posted continuously for at least 72 hours preceding the date of this meeting.

APPROVED AND ADOPTED on this the ____ day of _____, 2019.

Robert Nelson, Mayor

ATTEST:

David Holubec, City Secretary

Attachment: Charter Amendment Resolution (4019 : Charter Amendment Resolution)