



BAY CITY

MINUTES • FEBRUARY 8, 2018

Council Chambers

Workshop

5:30 PM

1901 5TH STREET
BAY CITY, TX 77414

I. CALL TO ORDER

Attendee Name	Title	Status	Arrived
Becca Sitz	Councilwoman	Present	
Jason Childers	Councilman	Present	
Mark A. Bricker	Mayor	Present	
Chrystal Folse	Councilwoman	Present	
William Cornman	Mayor Pro-Tem	Present	
Julie Estlinbaum	Councilwoman	Present	

II. APPROVAL OF AGENDA

The agenda was unanimously approved as written by motion. The motion was made by Councilwoman Chrystal Folse and seconded by Councilwoman Julie Estlinbaum.

III. FUTURE ACTION ITEMS

1. Policy

~ DISCUSS AND CONSIDER THE PROPOSED 2017-2018 CHARTER REVIEW COMMISSION'S RECOMMENDED CHANGES TO THE CITY OF BAY CITY HOME RULE CHARTER.

Charter Commission

Commission member, Edna Simpson-Kocurek presented the final rough draft of recommendations from the Charter Review Commission.

Meeting guest, Jerry Evans, addressed the Council with issues he wanted to bring to light regarding the City Charter revisions over the last several review periods. Spoke (5:51PM) Ended: (6:18PM)

Charter Commission member, Marilyn Alvarado spoke regarding Mr. Evan's comments.

Meeting guest, Bobby Head, spoke regarding the original Charter and his concern that portions have been removed without the vote of the citizens, over the years.

Marilyn Alvarado - Where were you Mr. Evans

2. Agreement

~ DISCUSS, CONSIDER AND/OR APPROVE A RESOLUTION OF THE CITY OF BAY CITY, TEXAS: (A) EVIDENCING SUPPORT FOR A PROPOSED DEVELOPMENT TO BE BUILT IN BAY CITY; (B) AUTHORIZING LOCAL POLITICAL SUBDIVISION FUNDING SUPPORT FOR THE DEVELOPMENT; (C) IDENTIFYING THE DEVELOPMENT AS CONTRIBUTING MORE THAN ANY OTHER TO THE CONCERTED REVITALIZATION EFFORTS OF THE CITY; (D)

AUTHORIZING SUCH OTHER ACTIONS NECESSARY OR CONVENIENT TO CARRY OUT THIS RESOLUTION.

Mayor, Mark A. Bricker

Brown Claybar, with the ITEX Group, presented their plans to renovate the Bay Breeze Apartments. They are seeking local support in order to seek a grant from the Texas Department of Housing and Community Affairs, involving tax credits.

3. Presentation

~ DISCUSS THE CREATION OF "BAY CITY TOURISM COUNCIL" BY ORDINANCE.

Tourism Manager, Heidi Martinez

Heidi Martinez, Tourism Manager, presented the ordinance creating the Bay City Tourism department.

4. Policy

~ DISCUSS, AND CONSIDER THE PROPOSED BAY CITY TOURISM COUNCIL BYLAWS.

Tourism Manager, Heidi Martinez

Heidi Martinez, Tourism Manager, presented the newly created bylaws for the Bay City Tourism department.

5. Contract

~ DISCUSS AND CONSIDER THE CONTRACT BETWEEN THE CITY OF BAY CITY AND THE BAY CITY CHAMBER OF COMMERCE FOR THE OPERATION AND ADMINISTRATION OF THE BAY CITY CIVIC CENTER.

Finance Director, Scotty Jones

Scotty Jones, Finance Director, presented the contract being developed between the City and the Bay City Chamber of Commerce for the management of the Bay City Civic Center. The final version will be presented, once finalized.

6. Presentation

~ DISCUSS AND CONSIDER THE REPORT FROM THE CITY REGARDING POSSIBLE PROPERTIES AND FUNDING FOR THE RELOCATION OF THE RECYCLING CENTER (UPDATE).

Mayor, Mark A. Bricker

Barry Calhoun, Public Works Director, gave Council and Mayor an update on the direction that is possible for the relocation of the recycling center. The City owns a specific piece of property near the existing center that could be utilized for a newly constructed center. Stuart Lynn estimated a new building may cost around \$183,000.00 with a 90 day turn around. A final budget of around \$250,000 could be possible when considering demolition of the existing center.

IV. EXECUTIVE SESSION

1. Presentation

~ PURSUANT TO SECTION 551.087 OF THE TEXAS GOVERNMENT CODE (DELIBERATION REGARDING ECONOMIC DEVELOPMENT), THE CITY COUNCIL WILL DELIBERATE THE OFFER OF A FINANCIAL OR OTHER INCENTIVE OR TO DISCUSS OR DELIBERATE REGARDING COMMERCIAL OR FINANCIAL INFORMATION RELATING TO DOWNTOWN DEVELOPMENT AND LEASE OF CITY PROPERTY.

Mayor, Mark A Bricker

7:14PM Executive Session to discuss the lease of city property.
7:32PM Open Session resumed.

2. Report

RECEIVE AND DISCUSS AN UPDATE REGARDING THE PRIOR PROPOSED PURCHASE OF PROPERTY AT THE CORNER OF HIGHWAY 35 AND 5TH STREET IN BAY CITY, TEXAS BY THE BAY CITY COMMUNITY DEVELOPMENT CORPORATION.

Bay City Economic Development Director, D C Dunham
None required

V. OPEN SESSION

1. Presentation

~ CITY COUNCIL MEMBERS SHALL RECONVENE IN OPEN SESSION AND MAY DISCUSS AND CONSIDER ANY ITEM LISTED ABOVE THAT WAS CONSIDERED AND DISCUSSED IN EXECUTIVE SESSION (IF NECESSARY).

Mayor, Mark A. Bricker
No action

VI. ITEMS/COMMENTS FROM MAYOR AND COUNCIL MEMBERS

None

VII. 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 Workshop was posted on the front window of the City Hall of the City of Bay City, Texas on Monday, February 5, 2018 before 5:30 p.m. Any questions concerning the above items, please contact Mayor Mark A. Bricker at (979) 245-2137.

David Holubec
City Secretary



City Council
1901 5Th Street
Bay City, TX 77414

SCHEDULED

Meeting: 02/08/18 05:30 PM
Department: City Secretary
Category: Policy
Prepared By: David Holubec
Initiator: David Holubec
Sponsors:
DOC ID: 2985

DISCUSSION ITEM (ID # 2985)

**~ DISCUSS AND CONSIDER THE PROPOSED 2017-2018
CHARTER REVIEW COMMISSION'S RECOMMENDED
CHANGES TO THE CITY OF BAY CITY HOME RULE
CHARTER.**

COMMENTS - Current Meeting:

Commission member, Edna Simpson-Kocurek presented the final rough draft of recommendations from the Charter Review Commission.

Meeting guest, Jerry Evans, addressed the Council with issues he wanted to bring to light regarding the City Charter revisions over the last several review periods. Spoke (5:51PM)
Ended: (6:18PM)

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Marilyn Alvarado - Where were you Mr. Evans



**City of Bay City, Texas
2017 Charter Review Commission**

To: Mayor and Councilmembers
 From: Dustin Hodges, Chairperson
 Date: 02/08/2018
 Subject: Recommended Changes for City of Bay City Home Rule Charter

SUMMARY

On behalf of the Charter Review Commission, I respectfully offer this report as the official and final record of our proceedings. Over the course of eleven regular meetings and two public hearings, we were able to review the City of Bay City's Home Rule Charter, evaluate possible revisions, and develop recommendations for moving forward. The resources provided and utilized in formulating the final recommendations include (but are not limited to):

- Public and Staff Input
- Legal Counsel
- Individual Research into relevant Texas cities
- Former Charter Review Commission Members
- Former City Officials
- Blodgett, Terrell, Scott Houston, and Kelly McBride, eds. 2010. *Texas Home Rule Charters*. Austin: Texas Municipal League.
- Zech, Charles E. 2008. *An Analysis of Texas Home Rule Charters*. San Marcos: Texas State University.

The Charter Review Commission's final recommendations can be found under Appendix "A".

BACKGROUND

Section 16.2. Charter Review Commission, of the City of Bay City Home Rule Charter, provides that "Council shall appoint a Charter Review Commission of nine qualified voters in June of the second year after approval of this Charter and every fifth June thereafter." In accordance with Section 16.2, the City Council established a Charter Review Commission on July 6th, 2017, with the passage of Resolution No. 2017-20 (attached as Appendix "B"). Nine citizens were selected to serve on the Commission and were required to submit a final report of any recommendations to City Council within six months of the first meeting.

- | | |
|--------------------------------------|------------------------------------|
| • Marilyn Alvarado | • Floyce Brown |
| • Erik Frankson | • Abby Herreth |
| • Dustin Hodges (Chairperson) | • Edna Simpson-Kocurek (Secretary) |
| • Susan Reed | • Roland Rodriguez |
| • Jessica Russell (Vice-Chairperson) | |

COMMITTEE MEETINGS

The first Charter Review Commission meeting was held on July 11, 2017. This meeting was utilized to adopt a tentative meeting schedule for the next six months as well as establishing the methodology for the charter

review process. All of the regular meetings, with the exception of October 5th held at the Civic Center, were held in City Hall Council Chambers beginning at 6:00 p.m. The two public hearings conducted were held at the Bay City Civic Center with the first hearing beginning at 6:00 p.m. and the second public hearing conducted at 7:00 p.m. three weeks later.

All Committee meetings were conducted in accordance with the Texas Open Meetings Act. Agendas were posted in advance, minutes of the proceedings were prepared, and members of the public were allowed to attend the meetings. Members of the public were in attendance at some meetings. Copies of the agendas and minutes are provided as Appendix “C”.

Date	Topic
July 11, 2017	Kickoff Meeting
July 24, 2017	Presentation on Texas Home-Rule Charters; Gathered Council Input
August 7, 2017	Review Previous Commission’s Minutes; Review Articles 3 & 4
August 21, 2017	Articles 5 & 6; Presentations from Police Chief & City Sec.
September 12, 2017	Presentation from 2012 Commission; Article 7
September 26, 2017	Public Hearing
October 5, 2017	Article 8; Discuss List of Action Items
October 17, 2017	Public Hearing
November 6, 2017	Articles 9-12; Presentations from HR Dir. & Finance Director
November 21, 2017	Articles 13-17; Discuss Council Precincts; Pres. from Public Works Dir.
December 6, 2017	Initial Review of Proposed Revisions
December 19, 2017	Final Review
January 9, 2018	Review of Final Report to be Submitted to Council

COMMITTEE GOALS

Determine if, or where, revisions can be made that would be reasonable and helpful to the City of Bay City. Review the charter for areas that should conform to federal and state law where conflict or inconsistencies occur. Receive and discuss comments and suggestions made by citizens. Review the charter to clarify and condense existing charter sections to improve effective application of the charter. Improving the readability of the charter, thus increasing the opportunity for citizens to read and understand the charter. Review the charter for any other provisions of the charter as determined necessary. Enhance efforts for open access to information and transparency in government.

STAFF RESOURCES

The staff representatives to the Commission were David Holubec, City Secretary, and Marissa Valentine, Executive Assistant-Mayor’s Office, both provided significant support for every meeting and the entire process. Police Chief Lister, City Secretary David Holubec, Human Resources Director Rhonda Clegg, Finance Director Scotty Jones, Public Works Director Barry Calhoun each gave presentations that were informational about the respective department’s operations, and if, or how, the City Charter could be revised as it relates to their

department. City Secretary David Holubec also provided the 2012 Charter Review Commission's agendas, minutes, and final report.

LEGAL COUNSEL

Prior to evaluating specific provisions of the charter and suggested amendments, Mr. Zech presented the Commission with an overview of the history of home-rule cities in Texas, and offered his perspective on how home-rule charters are best amended. A summary of that information is provided as Appendix "D." In essence, charters function much like constitutions in that they provide the basic framework for the municipal organization, identifying key offices, establishing essential duties, enumerating broad powers, and erecting certain limitations. Mr. Zech cautioned the Commission against cluttering the charter with too many details that might unduly encumber current or future City operations, city councils, or prevent the City from being timely in responding to changes in the law, technology, or community priorities. Finally, Zech urged the Commission to prioritize clarity, brevity and flexibility. Based in part on staff input and legal guidance, as well as the Commission's own discernment, the Commission drafted the proposed amendments accordingly.

CONCLUSION

The Charter Review Commission recommends to Council that whole or part of 144 articles of the charter be submitted to the voters for amendment consistent with the edits contained in Appendix "A". In preparing these proposed amendments, Commissioners expressed a mutual desire to offer charter amendments consistent with the norms common among most Texas cities. Commissioners were also concerned with the practical and legal effects of any amendments, and the common-sense application of amendments on the citizenry. It is the will of the Commission that a charter amendment election be conducted on May 5, 2018, to ask the voters to approve these amendments.

We have completed all duties and requirements requested. The members of the Charter Review Commission wish to thank the Mayor and City Council for extending the opportunity to serve our community. The Commission also deeply appreciates those who attended the public hearings and voiced their opinions on the future of our city.

Dustin Hodges, Chairperson

Jessica Russell, Vice-Chairperson

Edna Simpson-Kocurek, Secretary

Floyce Brown

Erik Frankson

Abby Herreth

Marilyn Alvarado

Susan Reed

Roland Rodriguez

APPENDIX A

(COBC Home Rule Charter Proposed Amendments)

DRAFT

APPENDIX B

(Resolution No. 2017-20)

DRAFT

APPENDIX C

(Agendas and Minutes from the 2017 Charter Review Commission's Meetings)

DRAFT

APPENDIX D

(Legal Review Memo of COBC Home Rule Charter)-

DRAFT

PART I - CHARTER^[1]

HOME RULE CHARTER FOR CITY OF BAY CITY TEXAS

Footnotes:

--- (1) ---

Editor's note— Printed herein is the Charter of the City of Bay City, Texas, as amended through 2013 by Res. No. 2014-01, adopted by referendum on November 5, 2013. Amendments to the Charter as amended through 2013 are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the Charter as amended through 2013. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citations to state statutes has been used. Additions made for clarity are indicated by brackets.

PREAMBLE

We, the citizens of Bay City, Texas, do HEREBY adopt this Home Rule Charter pursuant to the laws of the State of Texas and:

- Take pride in the sense of *community* which exists,
- ~~Enjoy-Embrace~~ the *diversity* of our population,

The CRC voted unanimously to approve the revision shown.

- Emphasize the importance of continual means of *communication*,
- Encourage *economic growth and development* , and
- Plan a better *environment* in which to live, work, and recreate.

ARTICLE I. - INCORPORATION, FORM OF GOVERNMENT, AND BOUNDARIES

Section 1.01. - Incorporation.

The residents of the City of Bay City (situated in Matagorda County, Texas) living within its legally established boundaries are incorporated forever as a political subdivision of the State of Texas under the name of the "CITY OF BAY CITY, TEXAS" (referred to hereafter as the "City") with all the powers, privileges, rights, duties, and immunities which are provided for by this Charter, City Ordinances and Texas State law.

Section 1.02. - Form of Government.

The municipal government provided by this Charter is the Mayor-Council Form of Government. All powers of the City shall be exercised as stated in this Charter, or if not stated, then as provided by Ordinance or State law.

The issue of Mayor-Council vs Council-Manager received vigorous discussion during multiple regular meetings and the two public hearings. The decision to switch to Council-Manager was called to a vote on 12/6/17 and was defeated by a tie vote.

Section 1.03. - The Boundaries.

The boundaries of the City shall be the same as now exist and are hereafter established in annexation and detachment ordinances and proceedings.

~~Section 1.04. - Boundary Changes.~~

~~The City shall have the power to change its boundaries by annexing territory for full or limited purposes, or by deannexing territory, as may be authorized by, and in the manner and form prescribed by, any general law of Texas. Annexation or deannexation may be initiated by the City, with or without the consent of the territory's inhabitants. Annexation may also be initiated by petition of a landowner of unoccupied or sparsely occupied land, or by petition of the residents of a territory. All annexations or deannexations shall be accomplished by ordinance acted upon after a public hearing.~~

Per legal review this section was unnecessary and repetitive of state law. Therefore, the CRC voted unanimously to remove Section 1.04.

ARTICLE II. - POWERS OF THE CITY

~~Section 2.01. - General Powers.~~

~~Without the necessity of express enumeration in this Charter, and in addition to the powers enumerated in this Charter, the City shall have all powers now or hereafter granted to municipal corporations by the Constitution and laws of the State of Texas, together with all the implied powers necessary to carry into execution such granted powers.~~

~~Section 2.02. - Specific Powers.~~

~~The City may:~~

- ~~(a) use a corporate seal;~~
- ~~(b) sue and be sued by action of its Council, may implead and be impleaded in all courts in all matters;~~
- ~~(c) contract and be contracted with;~~
- ~~(d) cooperate with the government of the State of Texas (or its political subdivisions) and the Federal Government;~~
- ~~(e) own or acquire property within or without its boundaries for any municipal purpose in fee simple or in any lesser interest or estate, by purchase, gift, devise, lease, or condemnation; and may sell, lease, hold, manage, control, and police any property now owned by it or which it may later acquire whether within or without the City limits;~~
- ~~(f) pass and enforce ordinances, not inconsistent with this Charter and State law, upon any subject expedient for the life; general welfare; health; morals; comfort; safety; amusement; quiet; prosperity; and convenience of the City, its inhabitants, and property; and may provide suitable penalties for the violations of any ordinance;~~
- ~~(g) prevent, summarily abate, or remove nuisances;~~
- ~~(h) construct, own, lease, operate, and regulate all public utilities;~~
- ~~(i) assess, levy, and collect taxes for general and special purposes on all lawful subjects of taxation;~~

- ~~(j) borrow money on the faith and credit of the City by the issuance and sale of bonds, certificates of obligation, warrants, or notes of the City; or secured by the revenue of municipally owned utilities or other municipal enterprises;~~
- ~~(k) appropriate the funds of the City for all lawful purposes;~~
- ~~(l) create and administer a park trust fund for the purchase of land and capital improvements for municipal parks. Any funds and interest from sale or lease of any municipal park shall be promptly placed in the park trust fund;~~
- ~~(m) create and establish improvement districts as authorized by Local Government Code No. 372.041;~~
- ~~(n) control the speed and excessive noise of railroad cars; the construction and grade of railroad tracks, turnouts and switches; and the erection of signal lights and safety devices at street crossings.~~

~~Section 2.03. – Eminent Domain.~~

~~The City shall have full authority to exercise the power of eminent domain when necessary or desirable to carry out any of the powers conferred upon it by this Charter, State law, or City ordinance. The City may take the fee in the lands so condemned, or take a lesser estate or interest in land, and its authority shall include the right to condemn public property for such purposes.~~

~~Section 2.04. – City Property and Streets.~~

- ~~(a) The City shall have exclusive control of all its property. Property is defined as including, but not limited to, streets, highways, sidewalks, bridges, parks, recreational facilities, squares, city buildings, airports, landfills, undeveloped land, utility, and/or drainage easements. The City may layout, establish, open, alter, widen, lower, raise, extend, grade, drain, pave, repave, supervise, maintain, care for, construct, remodel, abandon, discontinue, abolish, lease, or sell its property. The foregoing list of City property is intended to illustrate the types of City property and is not intended to vest the City with title to any private property.~~
- ~~(b) City property shall include all oil, gas, and other minerals not reserved by predecessors in title, and all included waterways not subject to prior or superior authority.~~
- ~~(c) The City may remove or require the removal of all obstructions and encroachments affecting any City property and V.A.T.S. 1175 is expressly adopted in this Charter. Exclusive control shall also include, but not be limited to, the right to regulate, locate, relocate, remove, or prohibit the location of all utility pipes, lines, poles, wires, or other property; and to remove tree limbs, bushes, or other plant growth extended onto or over City property.~~
- ~~(d) Assessments for Improvements. The City may provide, by ordinance, that the cost of making improvements shall be paid for by the property owners owning property in the territory specifically benefitted, but not in excess of the enhanced value by reason of the improvements; and a personal charge shall be made against the property owners, as well as a lien, by special assessment against the property.~~

~~The Council, or its appointed commission, may set and levy a special assessment and issue assignable or negotiable certificates covering the costs in deferred payments bearing a reasonable rate of interest.~~

Per legal review this section was unnecessary and repetitive of state law. Therefore, the CRC voted unanimously to remove Sections 2.02 – 2.04.

~~Section 2.05. - Tort Liability and Mandatory Written Notice.~~

- (a) Before the City shall be liable for damages for the death or personal injuries of any person or for damages to or destruction of property of any kind (which does not constitute a taking or damaging of property under Article 1, Section 17, Constitution of the State of Texas), the person injured (if living), or his representatives (if deceased), or the parent or guardian of a minor child, or the legal guardian of a person declared non compos mentis, or the owner or his agent or attorney of the property damaged or destroyed, shall give the Mayor or City Secretary written notice of such death, injury, damage, or destruction within six months after it has been sustained.
- (b) The written notice shall state specifically when, where, and how the death, injury, damage, or destruction occurred; the apparent extent of the injury, damages, or destruction; the dollar amount of damages sustained and claimed; both the mailing address and the actual residence of the claimant by street number and name, town, state, and zip code on the date the claim is presented; the actual residence of the claimant by street number and name, town, state, and zip code for six months immediately preceding the occurrence of such death, injury, damage, or destruction; and the names and complete addresses of all witnesses upon whom it is relied to establish the claim for damages.
- (c) The failure to so notify the Mayor or City Secretary within the time and manner specified shall release the City from any liability. No act of any officer or employee of the City shall waive compliance, or stop the City from requiring compliance, with the provisions of this Section as to notice.
- (d) The notice requirements of this section will not apply, if State law mandates that actual notice to the City is sufficient that a death has occurred, the claimant has received some injury, or the claimant's property has been damaged.

ARTICLE III. - THE MAYOR

Section 3.01. - Head of City Government.

The Mayor shall be the chief administrator and executive officer of the City, and shall be responsible for the proper administration of its affairs. The Mayor shall preside at all meetings of the Council, and shall be recognized as the head of the city government for ceremonies, receiving civil process, emergency measures, and military purposes.

Section 3.02. - Qualifications.

The Mayor 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 3.03. - Term.

A Mayor shall be elected in 1989 and every third year thereafter by a majority vote of the qualified voters voting at the election. His term of office shall be three years or until his successor has been elected and qualified. No one person shall be elected in the capacity of mayor for more than three consecutive three year terms.

The CRC held significant discussion regarding eliminating term limits for the Mayor. The item was brought to a vote and failed, thereby leaving 3.03 as is.

Section 3.04. - Compensation.

The Council shall annually in the budget adopt the compensation and expense account for the Mayor and offer the Mayor any fringe benefits available to other full-time employees including, ~~but not limited to, health insurance and retirement.~~

The CRC voted unanimously to strike the language indicated in Section 3.04 due to it being redundant.

Section 3.05. - Vacancy and Forfeiture.

- (a) Vacancy — The office of the Mayor 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 — The Mayor shall forfeit his/her office if, during a term of office, the Mayor:
 - (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) ~~When the mayor no longer possesses all of 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 an affirmative vote of a majority of the entire membership, be the final judge in matters involving forfeiture of office by the Mayor. The Council shall be the judge on whether there is a forfeiture of office by the Mayor and for this purposes shall have the power to conduct a tribunal, subpoena witnesses and require the production of records. The Council shall create a tribunal process by ordinance and prohibit the Council from amending the process once the process begins. Upon completion of a tribunal process the Council shall, by an affirmative vote of a majority of the entire membership, vote on whether there has been a forfeiture of office by the Mayor based on this Section. Should it be determined that a forfeiture of office has occurred the Office of Mayor shall immediately become vacant.~~

The CRC voted unanimously to re-word Section 3.05 (c) as shown based on the feedback received from the legal review. The old language left open the possibility for problems to arise during a tribunal process.

Section 3.06. - General Powers of the Mayor.

The Mayor shall exercise such powers, prerogatives, and authorities as are implied or expressly conferred on him by State law, this Charter, or the Council, by ordinance.

Section 3.07. - Tie Vote.

The Mayor shall only be entitled to vote in the case of a tie. The Mayor may not vote if this Charter requires three affirmative votes of Councilmembers.

Section 3.08. - Power of Veto.

The Mayor shall have the power to veto any ordinance or resolution passed by the Council, except those ordinances or resolutions which are not subject to the initiative or referendum process under the provisions of this Charter. To be effective, the veto must be in writing, setting forth the Mayor's reason and

filed with the City Secretary within five calendar days of the passage of the ordinance or resolution. The City Secretary shall deliver the Mayor's veto message to each Councilmember immediately upon receipt.

Section 3.09. - Removal of Appointed, Non-Paid Advisory Person by Mayor.

Except as may be otherwise provided by law, by ordinance, or by this Charter, the Mayor shall be the exclusive authority to remove all non-paid advisory persons. The action of the Mayor shall be final with consent of a majority vote of Council.

Section 3.10. - Other Duties and Powers.

Unless otherwise provided by State law, ordinance, or this Charter, the powers and responsibilities of the Mayor shall include, but shall not be limited to, the following:

- (a) To appoint, subject to the prior consent of the Council, all officers and department heads of the City and the members of all boards, commissions, committees, and agencies of the City.

The CRC voted unanimously to strike the word "prior" since it could possibly be misconstrued as a blatant violation of the Texas Open Meetings Act. (1/23/18) Upon further discussion, and in conjunction with feedback from the City Attorney, the CRC decided against removing the word "prior".

- (b) To exercise control over all departments and divisions of the City and to supervise all officers and employees of the City.
- (c) To recommend to the Council such measures, resolutions, and ordinances as he may deem necessary and proper.
- (d) To keep the Council fully advised as to the financial condition and needs of the City.
- (e) To perform such other duties as may be prescribed by this Charter or required of him by ordinance.

Section 3.11. - Mayor Pro Tem.

At the first regular meeting following the induction of newly elected Councilmembers, the Council shall, by three affirmative votes of Councilmembers, elect one Councilmember as Mayor Pro Tem for a one-year term. The Councilmember elected as Mayor Pro Tem shall have had prior tenure as Councilmember of the City of Bay City. The Mayor Pro Tem shall act as Mayor during the absence, disability, or disqualification of the Mayor, and shall have the power to perform every act the Mayor could perform if present.

Section 3.12. - Acting Mayor.

In the event of absence, disability, or disqualification of both the Mayor and the Mayor Pro Tem at any particular meeting of the Council, the remaining members of the Council shall, by majority vote, designate one of their members as Acting Mayor for that particular meeting; and the Acting Mayor shall have the power to perform every act the Mayor could perform if present.

Section 3.13. - Retention of Voting Privileges.

While performing the duties of Mayor, the Mayor Pro Tem or Acting Mayor may still vote as a Councilmember.

ARTICLE IV. - THE COUNCIL

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

The Council shall be composed of five Councilmembers and the Mayor. All Councilmembers to be selected at large. Councilmembers No. 1 and 2 shall be elected one year and Councilmembers No. 3, 4, and 5 elected the following year. No Councilmember shall be elected to serve for more than three consecutive ~~two~~three-year terms.

Initially, the CRC voted in the majority to amend the section by removing term limits but not extending term lengths. However, during the 1/9/18 meeting, the CRC voted in the majority to amend the section by extending the terms from two to three years and leaving the term limits as is. It was pointed out that the term-limits option was supported overwhelmingly last election while the issue of term lengths was a much narrower outcome.

Section 4.02. - 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 4.03. - 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 4.04. - 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.~~

The CRC voted unanimously to strike the language indicated in Section 4.04.

Section 4.05. - 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.

Section 4.06. - Meetings of Council.

- (a) Regular Council Meetings — The Council shall have no less than two regular meetings each month, one of which may be a workshop, 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.

The CRC voted unanimously to add the language indicated in Section 4.06 (a) so as to provide the Council with more flexibility to conduct City business.

- (1) The Mayor or Councilmembers, ~~individually or by motion~~, may place items on the agenda prior to the next agenda being posted.

The CRC voted unanimously to strike the language indicated in Section 4.06 (a)(1) as it was deemed unnecessary.

- (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 Mayor'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 Mayor 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.~~

Per legal review this section was unnecessary and repetitive of state law. Therefore, the CRC voted unanimously to remove Section 4.06 (d).

- (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.

Section 4.07. - Council Voting.

- (a) Council Action — The Council may legislate and act only by ordinance, resolution, or motion. Each member of Council, if present, ~~may shall~~ vote upon all ~~matters ordinances, resolutions, motions, or appointments~~ 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.

The CRC, in a majority vote, recommends the indicated revisions based upon the discussion of past experiences.

- (b) Majority Vote — A majority vote of a quorum present may transact City business and procedural matters, and the Mayor may vote in a tie. However, to be effective, the following actions must be by at least three affirmative votes of Councilmembers and the Mayor may not vote: ordinances, annexations and deannexations, 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, matters involving the Mayor's official conduct or financial interest, and declaring any office vacant.

- (c) Override of Mayor's Veto — At any meeting of the Council held not less than seven or more than thirty days after the Mayor has vetoed any ordinance or resolution, the Council may override such veto by four affirmative votes. The ordinance or resolution shall be considered final on the day it was passed and shall not be subject to further veto.

Section 4.08. - 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, Public Utilities, Inspections, and Maintenance~~

~~(b) The City Council may create, change, abolish, or consolidate the Administrative Divisions.~~

Per legal review this section was unnecessary and repetitive of state law. Therefore, the CRC voted unanimously to remove Sections 4.08 (a) and (b).

- (c) Each Councilmember shall serve as the liaison officer, on behalf of the Council, for one Administrative Division, board and/or commission 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. The role of liaison office includes inquiry and budget matters, but shall not interfere with the day-to-day operations of the City.

The CRC voted unanimously to make the changes indicated in Section 4.08 (c) based upon the information provided from the Mayor and Councilmembers on the subject.

- (d) Each Councilmember shall have equal responsibility for every division in the City regardless of whether he is the designated liaison officer.

Section 4.09. - 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, which may include the Mayor, ~~to serve a one-year term.~~

The CRC voted unanimously to strike the language indicated in Section 4.09 (a) due to the difficulty and amount of time it takes to fill any vacancies on the Finance Committee.

- (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.

Section 4.10. - 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) ~~When any member of the council no longer possesses all of 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 an affirmative vote of a majority of the entire membership, be the final judge in matters involving forfeiture of office by a councilmember. The Council shall be the judge on whether there is a forfeiture of office by a Councilmember and for this purposes shall have the power to conduct a tribunal, subpoena witnesses and require the production of records. The Council shall create a tribunal process by ordinance and prohibit the Council from amending the process once the process begins. Upon completion of a tribunal process the Council shall, by an affirmative vote of a majority of the entire membership, vote on whether there has been a forfeiture of office by a Councilmember based on this Section. Should it be determined that a forfeiture of office has occurred the Councilmember's position shall immediately become vacant.~~

The CRC voted unanimously to re-word Section 3.05 (c) as shown based on the feedback received from the legal review. The old language left open the possibility for problems to arise during a tribunal process.

- (d) Filling Unexpired Term — Unless an election is required by Texas state statute, the Council, by three affirmative votes, may, but is not required to, appoint a person to fill the vacated Council position until a successor is elected at the next regular or municipal election to fulfill the unexpired term.

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 Mayor, 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 — Unless vetoed, every ordinance passed shall be signed by the Mayor (or the Mayor Pro Tem in the Mayor's absence) to signify his 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 vote overriding Mayoral veto, or at any later time specified in the ordinance.
- (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 recodifying 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 5.02. — Code of Technical Regulations.~~

~~The Council may adopt any standard code of technical regulations by ordinance.~~

Per legal review this section was unnecessary and repetitive of state law. Therefore, the CRC voted unanimously to remove Section 5.02.

Section 5.03. - Code of Ordinances.

- (a) It shall be mandatory upon the Council to cause all general ordinances to be totally recodified 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 Mayor'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.~~

The CRC voted unanimously to make the changes shown in Section 5.03 (c) based upon the City Secretary's input regarding the current process for publishing updates of the Code of Ordinances.

ARTICLE VI. - NOMINATIONS AND ELECTIONS

~~Section 6.01. - Elections.~~

~~The City Council, by ordinance, shall order all elections and set the date, polling place, hours, and any other necessary details. Notice of elections shall be published in the official newspaper of the City not less than thirty days before each regular election and not less than ten days prior to any run-off election.~~

Per legal review this section was unnecessary and repetitive of state law. Therefore, the CRC voted unanimously to remove it.

Section 6.02. - Regulation of Election.

~~(a) Elections shall be held in compliance with the State Election Code, this Charter, and City ordinance.~~

Per legal review this section was unnecessary and repetitive of state law. Therefore, the CRC voted unanimously to remove it.

- (b) The Council shall appoint the election judges and other election officials.
- (c) Voting Precincts — City elections shall be held at the voting place designated in the ordinance calling an election. When the total number of qualified voters justifies it, Council may subdivide the City into two or more convenient, well-defined voting precincts containing approximately the same number of qualified voters in each. The qualified voters actually residing in such a voting precinct shall vote in that precinct in all City elections.

Section 6.03. - How to Get Name on Ballot.

Any qualified voter of the City who meets the qualifications of a mayoral candidate (Section 3.02) 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.
- (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. A Mayoral candidate shall file a petition signed by 300 qualified voters residing in the City and endorsing the candidate or provide a \$300.00 cash filing fee.

~~Section 6.04. - Mayor and Councilmember Ballots.~~

~~The names of all candidates for the office of Mayor or Councilmember (except such as may have withdrawn, died, or become ineligible) shall be printed on the official ballot without political party designations. The order of the names of candidates for places on the ballot shall be determined by lot.~~

Per legal review this section was unnecessary and repetitive of state law. Therefore, the CRC voted unanimously to remove it.

Section 6.05. - Election of Mayor and Councilmember by Majority.

The regular, run-off, or special election of a Mayor and/or Councilmember shall be by majority vote of the qualified voters voting at such election.

~~Section 6.06. — Canvassing Election Returns.~~

~~Immediately after each election, the election officials shall deliver all original returns to the City Secretary for safekeeping. The Council shall canvass the returns and declare results of the election in the time period prescribed by state law.~~

~~Section 6.07. — Recount.~~

~~The Council shall canvass any recount as soon as possible after receiving the Recount Commission report and declare results of the recount.~~

Per legal review these sections are unnecessary and repetitive of state law. Therefore, the CRC voted unanimously to remove them.

Section 6.08. - Induction of Council into Office, Meeting of Council.

At the first regular Council meeting in June, or as soon thereafter as practicable, the newly elected Mayor and/or Councilmembers shall take the oath of office, assume their respective duties, and be issued certificates of office.

Section 6.09. - Council to be Judge of Election Qualifications.

- (a) The Council shall be the judge of the election and qualifications of its own members and the Mayor; and for such purposes, shall have power to subpoena witnesses and require the production of records. The decision of the Council shall be subject to judicial review in the proper court.
- (b) No informalities in conducting a City election shall invalidate it, if the election is conducted fairly and in substantial compliance with applicable State law, this Charter, and City ordinances.

ARTICLE VII. - ADMINISTRATIVE

Section 7.01. - Compensation, Benefits, Employment.

- (a) Compensation — The Council 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.~~

Per legal review this section was unnecessary and repetitive of state law. Therefore, the CRC voted unanimously to remove it.

Except as required by State law, the City may or may not contribute toward the cost of any benefit.

- (c) Employment — Only the Mayor 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 three Councilmembers.

~~Section 7.02. – Conditions of Employment.~~

~~As a condition of employment, all non-elected officers and employees of the City shall:~~

- ~~(a) Personnel Policy — Conform to the general procedures in the Bay City Personnel Policy and within their specific department. The personnel policy is a general, but non-comprehensive, guideline for procedures between the City and its employees. The personnel policy is for information and is not an employment contract. The Council, in its sole discretion, may unilaterally amend the personnel policy at any time with or without notice, and for any reason it deems appropriate. The Council may administer the policy substantially in whole, in part, and shall periodically update the policy as needed.~~

Per legal review this section was unnecessary and repetitive of state law. Therefore, the CRC voted unanimously to remove it.

Section 7.03. - Bond for City Employees.

All municipal officers and employees who receive or payout any City monies shall be bonded before they enter office. The Council shall set the amount of each bond and the City shall pay the expense.

Section 7.04. - Nepotism.

No person related within the second degree by affinity, or within the third degree by consanguinity, to the Mayor 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, redesignate, or combine any of the departments appointed officers, City positions, deputies, assistant officers, and assistant department heads. The Mayor 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 five 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. The Mayor may head one or more departments, but only on a temporary basis not to exceed sixty days.
- (d) Appointment — City officers and directors of departments shall be appointed by the Mayor 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 Mayor 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 Mayor's 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 Mayor's last nominee, then the nomination process shall begin again under this Section 7.05(d) with the Mayor's next nominee.

- (e) Interim — Interim City officers and directors of departments shall be appointed by the Mayor 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 Mayor may be suspended by the Mayor, with or without pay, and/or removed by the Mayor 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 Mayor.

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 Mayor, 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.
 - (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, redesignate, or combine any of the departments, appointed officers, City positions, deputies, assistant officers, and assistant department heads.~~ The Mayor shall have an opportunity to make written recommendations to the Council prior to any vote to change administrative organization.

The CRC voted unanimously to make the changes indicated in Section 7.05 (h) in order to assist with streamlining the respective process.

Section 7.06. - City Secretary.

The City Secretary shall be appointed by the Mayor 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 Mayor, Council, or this Charter.

Section 7.07. - Fire Marshal and Volunteer Fire Department.

- (a) Fire Marshal — The Mayor, with consent of Council, ~~shall~~may 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.

The CRC voted unanimously to make the changes indicated in Section 7.07(a) due to the difficulty of filling the position of Fire Marshal.

- (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 Mayor and Council.

ARTICLE VIII. - LEGAL AND JUDICIAL

Section 8.01. - Attorney for the City.

- (a) The City Attorney shall be appointed by the Mayor upon confirmation by three 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, 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 8.02. - Municipal Court.

A Municipal Court of the City shall be established and maintained for the trial of misdemeanor offenses, and shall have all powers prescribed by State law.

Section 8.03. - Judges of Municipal Court.

- (a) The Presiding Judge and any Associate Judges of the Court shall be appointed by the Mayor upon confirmation by three affirmative votes of Councilmembers.
- (b) The ~~presiding~~ 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.

~~Section 8.04. - Municipal Court Procedure.~~

- ~~(a) The City Attorney or an Assistant City Attorney shall serve as City Prosecutor in the Municipal Court.~~
- ~~(b) A Municipal Court Clerk and any Deputy Clerks of the Court shall be authorized by the Council, appointed by the Presiding Judge with the consent of the Council, and be under the direction of the Presiding Judge.~~
- ~~(c) The Municipal Court Clerk or any Deputy Clerks shall have the power to administer oaths and affidavits, make certificates, affix the seal of the Court thereto, and perform all acts in issuing processes and conducting the business of the Court.~~
- ~~(d) The Council shall determine what costs, if any, shall be charged for proceedings in and processes issued by the Court. All costs and fees imposed by the Municipal Court shall be paid into the City Treasury for the use and benefit of the City.~~
- ~~(e) All jurors shall be residents of the City, possess the qualifications of a juror in State District Court, and be summoned as a juror in Justice Court is summoned.~~

Per legal review this section was unnecessary and repetitive of state law. Therefore, the CRC voted unanimously to remove it.

ARTICLE IX. - DEPARTMENT OF FINANCE

Section 9.01. - Creation and Purpose of the Department of Finance.

A Department of Finance may be created by Ordinance as determined by City Council upon prior consultation with the Chief Administrative Officer. The City shall maintain a Purchasing Policy ~~by Ordinance~~.

ARTICLE X. - BUDGET

~~Section 10.01. - Fiscal Year.~~

~~The fiscal year of the City shall begin on the 1st day of October and end on the last day of September of the succeeding year. All funds collected by the City during any fiscal year, including both current and delinquent revenues, shall belong to that fiscal year and may be applied to the payment of expenses incurred during that fiscal year. (Excepted are funds to pay interest and create a sinking fund for the City's bonded indebtedness.)~~

~~All revenues uncollected at the end of any fiscal year, and any unencumbered funds actually on hand, shall become resources of the next succeeding fiscal year.~~

~~By ordinance, and for good cause, the Council may change the fiscal year if the City's finances are not jeopardized.~~

Per legal review this section was unnecessary and repetitive of state law. Therefore, the CRC voted unanimously to remove it.

Section 10.02. - Preparation and Submission of Budget.

A proposed budget shall be submitted containing a financial plan for the next fiscal year. It shall be submitted to Council ~~by July 1st~~ 45 days in advance of each fiscal year and shall contain the following:

The CRC voted unanimously to make the changes indicated based upon information received from Finance Director Scotty Jones and the impossibility of July 1st due to other agencies timelines.

- (a) A budget message outlining the proposed financial policies and priorities of the City for the fiscal year and the impact those policies and priorities will have on future years. The message shall explain any significant changes in financial policies, debt, and revenue as compared to the previous fiscal year, any factors affecting the ability to raise resources through issuance of debt and include such other issues as deemed desirable.
- (b) A consolidated statement of anticipated receipts and proposed expenditures for all funds and departments, ~~and tax income.~~

The CRC voted unanimously to remove the language indicated due to it being unnecessary.

- (c) Parallel columns opposite each revenue and expenditure line item shall show:
 - (1) For prior fiscal year — amount budgeted and amount actually collected or spent;
 - (2) For current fiscal year — amount budgeted, amount actually collected or spent by June 1st, and estimated deficit or excess; and
 - (3) For next fiscal year — proposed budget amount.
- (d) A summary estimate of deficits and excess funds for each department and the City as a whole for the current fiscal year.
- (e) Bonds and loans — An individual schedule of requirements for all bond issues and loans outstanding, showing rates of interest, date of issue, maturity date, amount authorized, amount issued or spent, principal paid and due, interest paid and due, and purpose for the bond or loans.

- (f) Capital Improvements — Each capital improvement shall be a line item with parallel columns opposite showing:
 - (1) For all past fiscal years appropriate — the amount budgeted, amount actually spent, source of funds (i.e. depreciation reserve, grant, bond, etc.), deficit or excess amount over budget;
 - (2) For current fiscal year — amount budgeted, amount actually spent by June 1st, source of funds, and estimated deficit or excess;
 - (3) For next fiscal year — amount to be budgeted, source of funds.
- (g) General fund and special fund resources in detail.
- (h) Property valuation analysis.
- (i) Tax rate analysis.
- (j) Tax levies and tax collections by year for the last five years.
- (k) The proposed appropriation ordinance.
- (l) The proposed tax levying ordinance.
- (m) Objectives as established by Council.
- (n) Goals to meet objectives of Council.
- (o) Methods to measure milestones, outcomes, and performance related to the goals.

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 Mayor shall provide copies for distribution to all interested persons and ~~to the Bay City Public Library~~ published on the City website.

The CRC voted unanimously to make the changes shown to reflect the same process for publishing the City's Code of Ordinances.

Section 10.04. - Workshops and Council Changes to the Proposed Budget.

- (a) Workshops — The Mayor 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.

Section 10.05. - Public Hearing on Proposed Budget.

The Council shall fix the time and place for one or more public hearings on the proposed budget.

Section 10.06. - Proceedings on Proposed Budget after Public Hearing.

After the conclusion of any public hearing, the Council may increase or decrease the items of the proposed budget, except items in proposed expenditures fixed by law. If the Council increases the total proposed expenditures, it shall also provide for an increase in the total anticipated revenue at least equal to proposed expenditures.

Section 10.07. - Contingent Appropriation.

Provision shall be made in the annual budget for a contingent appropriation in an amount not more than seven (7) percent of the total budget to be used in case of unforeseen items of expenditure. Such contingent appropriation shall be under the control of the Chief Administrative Officer and distributed by him/her after approval by the city council. Council, with recommendation from the Chief Administrative Officer, may adjust the percentage of the contingency appropriation for cause.

Section 10.08. - Estimated Expenditures Shall Not Exceed Estimated Resources.

The total estimated expenditures of the general fund, available utility fund, and debt service fund shall not exceed the total estimated resources (prospective income plus cash on hand). The classification of revenue and expenditure accounts shall conform as nearly as local conditions will permit to the uniform classification as promulgated by the American Institute of Certified Public Accountants or some other nationally accepted classification.

Section 10.09. - Adoption of Budget.

The budget shall be adopted, by ordinance, by a majority vote of Councilmembers.

Section 10.10. - Effective Date of Adoption.

The budget shall be adopted in final form not sooner than five days after the last public hearing on the proposed budget and not later than ten days prior to the beginning of the fiscal year. If the Council fails to adopt a budget, the then existing budget together with its tax-levying ordinance and its appropriation ordinance, shall remain in effect month-to-month on a pro rata basis until a new final budget is adopted.

Section 10.11. - Effective Date of Budget, Certification, Copies made Available.

Upon final adoption, the budget shall be in effect for the fiscal year and effective as of the first day of the fiscal year. A copy of the budget, as finally adopted, shall be filed with the City Secretary, the County Clerk of Matagorda County, and the Bay City Public Library. Copies of the final budget shall be made available for the use of all City officers, department heads, departments, committees, and for the use of interested persons and civic organizations.

Section 10.12. - Budget Establishes Appropriations.

From the effective date of the budget, the proposed expenditures shall be appropriated to the line item as stated.

Section 10.13. - Budget Establishes Amount to be Raised by Taxation.

From the effective date of the budget, the total amount budgeted shall be a determination of the amount of levy for the City in the corresponding tax year. In no event shall property tax levy exceed the legal limit provided by the laws and the constitution of the ~~state~~ State of Texas.

Section 10.14. - Budget Amendments after Adoption.

- (a) Supplemental Appropriations — If, during the fiscal year, the City Treasurer certifies that there are available for appropriation revenues in excess of those estimated in the budget, the Council, by ordinance, may make supplemental appropriations for the fiscal year up to the amount of the excess.
- (b) Emergency Appropriations — To meet a public emergency created by a natural disaster or man-made calamity affecting life, health, property, or the public peace, the Council may make emergency appropriations not to exceed ten per cent of the current fiscal year's budgeted receipts. Those appropriations may be made by an emergency ordinance. To the extent that there are no available unappropriated revenues to meet such appropriations, the Council may, by emergency ordinance, authorize the issuance of emergency notes payable not later than the last day of the fiscal year.

- (c) Estimated Expenditures Shall Not Exceed Estimated Resources — The total estimated expenditures of the general fund and debt service fund shall not exceed the total estimated resources of each fund (prospective income plus cash on hand). The classification of revenue and expenditure accounts shall conform as nearly as local conditions will permit to the uniform classification as promulgated by the National Committee on Government Accounting or some other nationally accepted classification.

Section 10.15. - Capital Program.

- (a) Submission to Council — On a yearly basis, a five (5) year Capital Program shall be prepared and submitted to Council prior to the final date for submission of the budget defined in Section 10.02.
- (b) Contents — The Capital Program shall include the following:
- (1) A clear general summary of its contents;
 - (2) A list of all capital improvements which are proposed to be undertaken during the five (5) fiscal years next ensuing, with appropriate supporting information as to the necessity of such improvements (at Council's discretion, other capital purchases, such as equipment, may be included);
 - (3) Cost estimates, method of financing, and recommended time schedules for each such improvement; and
 - ~~(4) Goals, milestones and measurements in sufficient detail as to define the performance of each capital improvement.~~

The CRC voted unanimously to remove this subsection based upon information received from the Finance Director on the difficulty of actually tracking this information at this point and time.

Section 10.16. - Council Action on Capital Program.

The Council shall give notice of a public hearing on the proposed Capital Program and shall hold said hearing in the same manner as provided for the annual budget. The hearing for the proposed Capital Program and the notice of same may be in conjunction with the annual budget. The Council shall, by resolution, adopt the Capital Program with or without amendment after the public hearing and not later than 10 days before the beginning of the fiscal year.

~~ARTICLE XI. -- TAX~~

~~Section 11.01. -- Department of Taxation.~~

~~The Council shall have the power to levy, assess, and collect taxes within the jurisdiction of the City for any municipal purpose. The tax rate shall be calculated, publicized, and adopted in accordance with Texas law.~~

~~Except as otherwise provided by law or this Charter, the Council shall have the power to establish by way of ordinance or resolution such rules, regulations, and procedures to enforce and facilitate the collection and payment of all taxes due to the City as it may deem expedient, and may provide such penalty and interest as prescribed by State of Texas law for the failure to pay such taxes.~~

~~ARTICLE XII. -- BORROWING, BONDS, AND AUDIT~~

~~Section 12.01. -- Borrowing.~~

~~The Council shall have the power, except as prohibited by law, to borrow money by whatever method it may deem to be in the public interest, including Certificate of Obligation.~~

~~Section 12.02. -- General Obligation Bonds.~~

~~The City shall have the power to borrow money on the credit of the City and to issue general obligation bonds for permanent public improvements or for any other lawful public purpose, and to issue refunding bonds to refund outstanding bonds of the City previously issued.~~

~~Section 12.03. -- Revenue Bonds.~~

~~The City shall have the power to borrow money for the purpose of constructing, purchasing, improving, extending, or repairing public utilities, recreational facilities, or any other lawful self-liquidating municipal function, and to issue revenue bonds to evidence the obligation created by them. Those bonds shall be a charge upon and payable solely from the properties, interest pledged, and/or income from both the property and/or interest. The holders of the revenue bonds shall never have the right to demand payment out of monies raised or to be raised by taxation.~~

~~Section 12.04. -- Sale of Bonds, Bonds Incontestable.~~

~~No bond (other than refunding bonds) issued by the City shall be sold for less than par value and accrued interest. All bonds of the City, having been issued, sold, and delivered to the purchaser, shall then be incontestable. All refund bonds issued in exchange for outstanding bonds previously issued shall be incontestable after the exchange.~~

~~Section 12.05. -- Use of Bond Proceeds.~~

~~The proceeds of all bonds sold by the City shall be used only for the purpose for which issued. A property tax paying resident citizen may prevent the diversion or anticipated diversion of bond proceeds to an unauthorized purpose by injunction and/or any other legal remedy.~~

~~Section 12.06. -- Definitions.~~

- ~~(a) Bonds are defined as bonds, certificates of obligation, or any other obligation creating or evidencing the indebtedness of the City.~~
- ~~(b) Refunding bonds are defined as:~~
 - ~~(1) Bonds issued in exchange for and in lieu of outstanding bonds of the City; and~~
 - ~~(2) Bonds sold and the proceeds used to redeem outstanding bonds; and~~
 - ~~(3) The issuance of bonds to redeem outstanding bonds of the City in advance of their stated maturity; and~~
 - ~~(4) Refunding bonds issued in any manner allowed by the general law of the State.~~

~~Section 12.07. -- Sinking Fund.~~

~~It shall be the duty of the Council to levy an annual tax sufficient to pay the interest on and provide the necessary sinking fund required by law on all outstanding general obligation bonds of the City. The interest and sinking fund shall be deposited in a separate account and shall not be diverted to or used for any other purpose than to pay the interest and principal on such bonds. The sinking fund maintained for the redemption of any debt may be invested in any interest bearing bonds of the United States government, the State of Texas, or any other lawful investments.~~

~~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 Mayor 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.~~

Per legal review, Articles XI and XII are unnecessary and repetitive of state law. Therefore, the CRC voted unanimously to remove both Articles XI and XII.

ARTICLE XIII. - FRANCHISES AND PUBLIC UTILITIES

Section 13.01. - ~~Inalienability of Public Property~~Public Utility Franchise Defined.

As used herein Public Utility Franchise means any franchise for the provision of the following services to the public; electricity, natural gas, water, sewage, sanitation, telephone, and transportation.

~~The right of control and use of the public streets, highways, sidewalks, alleys, parks, public squares, and public places of the City is hereby declared to be inalienable by the City, except by ordinances not in conflict with this Charter. No act or omission by the Council or any officer or agent of the City shall be construed to grant, renew, extend, or amend by estoppel or indirection any right, franchise, or easement affecting public streets, highways, sidewalks, alleys, parks, public squares, public places, and other City real property.~~

Per legal review, the City would have difficulty enforcing Section 13.01 as worded due to various legislation passed since the section was first implemented.

~~Section 13.02. - Power to Grant Franchise.~~

~~The Council shall have the power, by ordinance, to grant, renew, and extend all franchises of all public utilities operating within the City (including cable television), and, with consent of the franchise holder, to amend them as provided herein or required by Federal or State law.~~

Section 13.03. - No Indeterminate Term, No Exclusive Franchise.

No franchise shall be granted for an indeterminate term, nor shall any franchise be granted for a term of more than twenty years. No franchise shall be exclusive unless permitted by State or Federal Law.

~~Section 13.04. - City's Right to Purchase Franchise Assets.~~

~~No franchise shall be granted, renewed, extended, or amended, except on condition that the City shall have the right at any time within five years of the expiration of the term, to purchase the property of the franchise holder at a price to be determined according to the method agreed upon in the ordinance granting, renewing, extending, or amending the franchise.~~

Per legal review Sections 13.02 and 13.04 are unnecessary and repetitive of state law. Therefore, the CRC voted unanimously to remove them.

Section 13.05. - Ordinance Granting Franchise.

Every ordinance granting, renewing, extending, or amending a public utility franchise shall be considered at two regular meetings of the Council, and shall not be adopted in final form until thirty days after the first consideration. Within five days following each consideration of the ordinance, the full text of the ordinance shall be available to the public at City Hall and the caption published once in the official newspaper of the City. The ordinance shall not become effective until sixty days after the date of its adoption in final form by the Council.

Section 13.06. - Transfer of Franchise.

If a public utility franchise is transferred, the City shall have the right to terminate said franchise unless the City has given prior approval of the transfer.

Section 13.07. - Regulation of Franchise.

Every grant, renewal, extension, or amendment of a public utility franchise, whether so provided in the ordinance or not, shall be subject to the right of the Council to:

- (a) Forfeit any franchise, by ordinance, at any time, for failure of the holder to comply with the terms of the franchise, but only after notice and hearing.
- (b) Impose reasonable regulations to insure safe, efficient, and continuous service to the public.
- (c) Require expansion and extension of plants and facilities necessary to provide adequate service to the public.
- (d) Require every franchise holder to furnish to the City, without cost to the City, full information regarding the location, character, extent, and condition of all facilities of the franchise holder in, over, and under the streets, alleys, and other public property of the City; and to regulate the location, relocation, and removal of facilities.
- (e) Maintenance Shared Pro Rata. Collect from every public utility operating in the City its fair and just proportion of the expense of excavating, grading, paving, repaving, constructing, reconstructing, draining, repairing, maintaining, lighting, sweeping, and sprinkling the portions of the alleys, bridges, culverts, viaducts, and other public places and ways of the City as may be occupied or used in whole or in part by the utilities; or to compel the public utility to perform its just share of these acts at its own expense.
- (f) Shared Usage of Poles, Etc. Require every franchise holder to allow other public utilities to use its tracks, poles, wires, pipes, or other facilities, including bridges and viaducts, if Council finds the use to be in the public interest. Provided that Council shall fix a reasonable rental to be paid to the owner of the facility for usage, after notice to the interested parties and a hearing of the facts.
- (g) Accounts, Audit, and Records.
 - (1) Examine and audit at any time the accounts and other records of any franchise holder.

- (2) Require annual and other reports, including reports on the local operations of the utility, in the form, and with the information required by Council.

- (h) Require and collect any lawful compensation and rental.

Section 13.08. - Regulation of Rates.

The Council may, by ordinance, after notice and hearing, regulate the rates of every public utility franchise holder operating in the City, provided that no ordinance shall be passed as emergency measure. The Council shall employ, at the expense of the franchise holder, a professional rate consultant to conduct investigations, present evidence, and advise the Council.

At no time, in fixing rates and charges for utility services with the City, shall there be included any part of the value of any franchise granted by the City. Any franchise holder requesting an increase in its rates shall have the burden of establishing by clear and convincing evidence the value of its investments and the amount and character of its expenses and revenues.

No legal action to contest any rate fixed by the Council shall be instituted by the public utility or holder of a utility franchise, until the holder or utility has filed a motion for rehearing with the Council, setting out specifically each ground of its complaint against the rate fixed by the Council, and until after Council has acted on the motion or had a period of sixty days within which to act upon the motion for rehearing.

~~Section 13.09. Sale of Electricity, Water, Sewer Services, and Any Other Utilities.~~

- ~~(a) The City may purchase, construct, or operate a utility system inside or outside the municipal boundaries, and may regulate the system in a manner that protects the interests of the City. The City may own land inside or outside its boundaries for these purposes.~~
- ~~(b) The City may extend the lines of its utility systems outside the municipal boundaries and may sell water, sewer, gas, or electric service to any person outside its boundaries. The City may contract with persons outside its boundaries to permit them to connect with those utility systems on terms the Council considers to be in the City's best interest. This subsection does not authorize the extension of electric lines into the corporate limits of another municipality.~~
- ~~(c) If the City owns and operates a utility system, the City may prescribe the kind of water or gas mains, sewer pipes, and electric appliances that may be used inside or outside the City limits. The City may inspect those facilities and appliances, require that they be kept in good condition at all times, and prescribe the necessary rules, which may include penalties, concerning them.~~

Per legal review this section was unnecessary and repetitive of state law. Therefore, the CRC voted unanimously to remove it.

Section 13.10. - Accounts of Municipally Owned Utilities.

Accounts shall be kept for each public utility owned and operated by the City, in a manner which shows the true and complete financial results of City ownership and operation (including all assets appropriately subdivided into different classes; all liabilities subdivided by classes; depreciation reserve, other reserves, and surplus; revenues; operating expenses including depreciation, interest payments and rental; and any other disposition of annual income).

The accounts shall show the actual capital cost to the City of each public utility owned; the cost of all extensions, additions, and improvements; and the source of funds spent for capital purposes. They shall show as nearly as possible the cost of any service furnished to or rendered by any utility to any other city or governmental department.

The Council shall require and publish an annual report showing the financial results of City ownership and operation, giving the information specified in this section, or required by Council.

ARTICLE XIV. - PLANNING COMMISSION

Section 14.01. - Establishment and Organization.

The City Council is hereby authorized to establish a Planning Commission for the City with the number, qualifications, terms, and meetings of the members thereof to be determined by ordinance.

The Commission shall be responsible to Council.

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~~ Recommend or propose changes to the Master Plan for the physical development of the City;

The CRC voted unanimously to make the changes shown based upon feedback received from current members of the Planning Commission.

- (b) Review plats for subdividing land within the City's corporate limits and extra territorial jurisdiction;
- (c) Submit to the Mayor 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.

Section 14.03. - The Master Plan.

The Master Plan for the physical development of the 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 Mayor and each Councilmember. Any minority opinion of the Commission may be attached.

The Mayor 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 15.01. - In General.

- (a) The time table and the petition procedure for initiative, referendum, and recall shall be the same throughout this article.

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 Mayor 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.

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 Mayor 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 15.04. - Recall.

- (a) **Limitation on Recall** — Only one petition may be filed for each elected official whose removal from office is demanded. No recall petition shall be filed against an office holder within the first six months after he takes office or within the six months immediately preceding the date of the next regular election for his office. No office holder shall be subjected to more than one recall election during a single elective term of office.
- (b) **Signatures Required** — The citizens of Bay City may recall any elected city official, with or without cause, by filing with the City Secretary a petition signed by the greater number of one thousand five hundred qualified voters of the City or twenty percent of the qualified voters who voted at the regular municipal election.

- (c) Reason for Recall — The petition shall contain a general statement of the reason for removal, but neither the office holder, nor the City Secretary, nor the Council, shall have any power to question or contest the sufficiency of the general statement.
- (d) Public Hearing on Recall Petition — After certification of the recall petition, the affected office holder may resign and/or request a public hearing to be held at a regular or specially called Council meeting within fifteen days of date the recall petition was certified
- (e) Recall Election — The Council shall order and hold one recall election for all certified petitions on the next practical uniform election day that is prescribed by state law. If the affected office holder resigns prior to date of recall election, no recall election will be held for that office holder.
- (f) Results of Recall Election — If a majority of the votes cast at a recall election shall be against the recall and removal of the office holder, he shall continue in office. If a majority of the votes cast at the election be for the recall and removal of the office holder, the Council shall declare the office vacant effective as of date of official canvass. The Council shall officially canvass the votes no earlier than two days or later than six days after the recall election. The vacancy shall be filled in accordance with this Charter. An office holder thus recalled and removed shall be ineligible to hold any office in the City for a period of thirty-six months after the date of the recall election.

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, Mayor, 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 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 16.01. - Amending the Charter.

Amendments to this Charter ~~may~~shall be framed and submitted to the voters of the City in the manner provided by State law.

The CRC voted unanimously to make the change indicated due to the fact any amendments made to the Charter *must* be framed and submitted to the voters.

Section 16.02. - Charter Review Commission.

Council shall appoint a Charter Review Commission of nine qualified voters in June of the second year after approval of this Charter and every fifth June thereafter. Council shall serve on the Commission as ex-officio, ~~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.

The CRC voted unanimously to strike the language shown based upon it being unnecessary for Council to have a voting role during the Charter Review process due to the fact, in the end Council would just have to vote again during the concluding stages of the process.

(a) Duties of the Commission:

- (1) Inquire into the operation of the City Government and determine whether any Charter provisions 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 this Charter Review Commission shall be six calendar months from appointment date. 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 in an election as provided by State law within six months after the term of the Charter Review Commission expires.

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 by the Mayor and/or the City Council.~~

Per legal review this section was unnecessary and repetitive of state law. Therefore, the CRC voted unanimously to remove it.

Section 17.02. - Assignment, Execution, and Garnishment.

Real and personal City property shall not be liable for sale or appropriation under any writ of execution. Funds belonging to the City, in the hands of any person, firm, or corporation, shall not be liable to garnishment, attachment, or sequestration; nor shall the City be liable to garnishment on account of any debt it may owe or funds or property it may have on hand or owing to any person. Neither the City, nor any of its officers or agents, shall be required to answer any such writ of garnishment on any account whatever. The City shall not be obligated to recognize any assignment of wages or funds by its employees, agents, or contractors unless so required by State and/or Federal law.

Section 17.03. - Security or Bond Not Required.

It shall not be necessary in any suit or proceeding in which the City is a party for any bond, undertaking, or security to be executed by the City. The City shall have all remedies of appeal provided by law at all courts in this State without bond or security of any kind, but shall be liable as if such bond, undertaking, or security had actually been executed or given.

Section 17.04. - Effect of Charter on Existing Law, Contracts, and Assessments.

All City ordinances, resolutions, rules, and regulations, now in force and not in conflict with the provisions of this Charter, shall remain in force until altered, amended, or repealed by Council after this Charter takes effect. All rights of the City under existing franchises, special assessments, contracts, and all existing authority for the issuance of bonds, not in conflict with the provisions of this Charter, shall be preserved in full force and effect.

Section 17.05. - Judicial Notice.

This Charter shall be deemed a public act, may be read in evidence without pleading or proof, and judicial notice shall be taken thereof in all courts and places.

Section 17.06. - Severability Clause.

If any section, subsection, paragraph, sentence, or clause of this Charter is held to be invalid or unconstitutional by a court of competent jurisdiction, the same shall not invalidate nor impair the validity of the remaining Charter.

Section 17.07. - Rearrangement and Renumbering.

The Council shall have the power, by ordinance, to renumber and rearrange all articles, sections, and paragraphs of this Charter or any amendments. Upon the passage of any such ordinance, a copy certified by the City Secretary shall be forwarded to the Secretary of State for filing.

Section 17.08. - Interim Municipal Government.

The Mayor, and the five Councilmembers in office at the time of the adoption of this Charter or any amendments thereto, shall continue to serve under this Charter until the expiration of their terms of office or until their successors have been elected and qualified for their respective offices under this Charter. All benefits presently in effect shall continue until the end of the affected person's current term.

Section 17.09. - Publicity of Records.

All public records required by law, or this Charter, to be open for public inspection shall be made available at such reasonable times and places as may be established by the Council.

Section 17.10. - Grammatical Clarifications.

The use of any gender herein shall be applicable to all genders. The present or past tense shall include the future. The singular and plural number shall each include the other, unless otherwise expressly provided. Council may, by ordinance, make any grammatical or typographical corrections to this Charter so long as such corrections do not affect the intent of the Charter.

Section 17.11. - Federal and State law.

This Charter and all present and future City ordinances, resolutions, and rules are intended to be in conformity with all applicable Federal and State law as now enacted or hereafter amended. This Charter will be automatically amended to conform to mandatory State and/or Federal law on the effective date of the new Federal and/or State law.

Section 17.12. - Official Newspaper of the City.

The Council, by resolution, shall designate the official newspaper of the City for required publications of notice.

Section 17.13. - Definitions.

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

The CRC, in a majority vote, agreed to make the changes shown in order to be consistent with the definition of Council in Section 4.01.

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 two positive votes of three Councilmembers, or in a tie, a positive vote of the Mayor and one Councilmember.

Majority vote of Council — requires at least three positive votes from three Councilmembers, and the Mayor may not vote in a tie, if this Charter requires three affirmative votes of 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.

CHARTER COMPARATIVE TABLE

This table shows the location of amendments to the Charter.

Ordinance Number	Date	Section	Code Section
R-2014-01	1- 9-2014	2	1.01—1.04, 2.01—2.05, 3.01—3.13, 4.01—4.10, 5.01—5.03, 6.01—6.09, 7.01—7.07, 8.01—8.04, 9.01
		Rpld	9.02—9.07
			10.01—10.14
		Added	10.15, 10.16
			11.01
		Rpld	11.02—11.10
			12.01—12.08, 13.01—13.10, 14.01—14.03, 15.01—15.05,

			16.01, 16.02 17.01—17.13
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**DENTON NAVARRO ROCHA BERNAL
& ZECH,**

**ATTORNEY CLIENT PRIVILEGE
NOT A PUBLIC RECORD
MEMORANDUM**

TO: BAY CITY CHARTER COMMISSION

CC: BAY CITY MAYOR MARK A. BRICKER

FROM: CHARLES E. ZECH, CITY ATTORNEY'S OFFICE

ISSUE: CHARTER REVIEW

DATE: JULY 31, 2017

The following Article's and Sections may be deleted as unnecessary and repetitive of state law:

Section 1.04 – Boundary Changes
 Section 2.02 – Specific Powers
 Section 2.04 – City Property and Streets
 Section 4.06 (d) – Executive Sessions
 Section 5.02 – Code of Technical Regulations
 Section 6.06 – Canvassing Election Returns
 Section 6.07 – Recount
 Section 7.01 (b) – Benefits
 Section 7.02 – Conditions of Employment
 Article XI – Tax
 Article XII – Borrowing, Bonds, and Audit
 Section 13.01 – Inalienability of Public Property
 Section 13.02 – Power to Grant Franchise
 Section 13.09 – Sale of Electricity, Water, Sewer Services, and Any Other Utilities

Sections 3.05 (c) and 4.10 (c)

These sections refer to a “tribunal” to be conducted in an inquiry as to whether there is a forfeiture of an office. I would recommend that the tribunal process either be specified in the City Charter or that the Charter require City Council to create a tribunal process by ordinance and prohibit the City Council from amending the process once a the process begins.

Section 4.08 (a) and (b) are unnecessary in that the sections both authorizes the Council to create and abolish the listed Administrative Departments.

Article VI – Nominations and Elections should be reviewed close to determine what, if any, of the sections are repetitive of or inconsistent with state law. Most election requirements are dictated by state law and the majority of this Article could probably be deleted. Request direction on whether the Commission wants a more detailed review.

Section 8.04 (d) is in conflict with state law.

Article X Budget

State law dictates the process for the adoption of the budget. Recommend having staff review the Charter process as against state law requirements for purpose of determining what is unnecessary to the Charter as repetitive of state, in conflict with state and the necessity of this section.

Article XIII – Franchises and Public Utilities

The state and federal legislatures have slowly been eroding the power of municipalities over certain “franchises” as such much of this section may not be enforceable. In addition, neither public utility nor franchise is specifically defined. Request direction as to whether the Commission wants a more detailed review.

Article XV – Initiative Referendum and Recall

Recommend a policy review of the how signatures are calculated. Calculating signature requirements as a percentage of those who “voted in the last regular municipal election” could result in wild swings of necessary signatures based on the popularity of the last election.

Section 17.01 Personal Interest

This section far exceeds the requirements of state law and could create unintended consequences. I would recommend having a discussion as to whether the standard should be that of state law.

Follow-Up Questions for Charlie

Article III – Mayor

- Feedback on Deputy Mayor idea? Strong Mayor Gov’t version of an Assistant City Manager?
- What is the legal definition of “Residency”?

Article IV – The Council

- Section 4.04 – Compensation
 - Cut option of benefits out completely
 - Amend language to “Council shall annually in the budget adopt a monthly flat rate of compensation for Councilmembers for attendance...”. Feedback?
 - Moving Article V to underneath Article IV?

Article V:

- Section 5.01: a, f, g, h, i, j, & k seem to be redundant of what State Law already requires, verify?
- Section 5.03 (c) – David Holubec (City Secretary currently) would like to remove language requiring that a copy of the Code of Ordinances be given to the Bay City Public Library and High School Library. Would this go against State Law?
- Is there a list of items which state law requires Council to act by ordinance vs general approval?
- Adding ordinance review requirement—every 3 years (or so) Council must review an ordinance to make sure it is still necessary, relevant, outdated, etc.
 - Examples of other cities doing this?

Article VI – Nominations & Elections

- Section 6.02 (b) – What grants Council the authority to appoint election judges & other election officials.
- Section 6.09 (b) – I have in my notes, “clarity of language”. Not sure why I’ll check the minutes.

Article VII – Administrative

- Section 7.02 (a) – Police Chief Robert Lister drew attention to the language, “at any time with or without notice, and for any reason it deems appropriate...” this language seems pretty troubling for obvious reasons. Anything saying we can’t remove it? Any ideas why it might be there to begin with?
- Section 7.05 (all of it) – City Officers & Administrative Departments
 - Goal: Streamline the process of making changes to the organizational structure so that the Mayor is not encumbered when performing duties and making decisions related to the day-to-day functions of the City. How do we do that without eroding Council’s authority to approve appointments of City Officers and Directors?



City Council
1901 5Th Street
Bay City, TX 77414

SCHEDULED

Meeting: 02/08/18 05:30 PM
Department: City Secretary
Category: Agreement
Prepared By: David Holubec
Initiator: David Holubec
Sponsors:
DOC ID: 2994

DISCUSSION ITEM (ID # 2994)

~ DISCUSS, CONSIDER AND/OR APPROVE A RESOLUTION OF THE CITY OF BAY CITY, TEXAS: (A) EVIDENCING SUPPORT FOR A PROPOSED DEVELOPMENT TO BE BUILT IN BAY CITY; (B) AUTHORIZING LOCAL POLITICAL SUBDIVISION FUNDING SUPPORT FOR THE DEVELOPMENT; (C) IDENTIFYING THE DEVELOPMENT AS CONTRIBUTING MORE THAN ANY OTHER TO THE CONCERTED REVITALIZATION EFFORTS OF THE CITY; (D) AUTHORIZING SUCH OTHER ACTIONS NECESSARY OR CONVENIENT TO CARRY OUT THIS RESOLUTION.

COMMENTS - Current Meeting:

Brown Claybar, with the ITEX Group, presented their plans to renovate the Bay Breeze Apartments. They are seeking local support in order to seek a grant from the Texas Department of Housing and Community Affairs, involving tax credits.



City Council
1901 5Th Street
Bay City, TX 77414

SCHEDULED

Meeting: 02/08/18 05:30 PM
Department: City Secretary
Category: Presentation
Prepared By: David Holubec
Initiator: David Holubec
Sponsors:
DOC ID: 2991

DISCUSSION ITEM (ID # 2991)

**~ DISCUSS THE CREATION OF "BAY CITY TOURISM
COUNCIL" BY ORDINANCE.**

COMMENTS - Current Meeting:

Heidi Martinez, Tourism Manager, presented the ordinance creating the Bay City Tourism department.

RESOLUTION NO. _____**A RESOLUTION OF THE CITY COUNCIL OF BAY CITY, TEXAS ADOPTING THE TOURISM COUNCIL BYLAWS.**

WHEREAS, the City of Bay City is a home rule city governed by its City Charter and it has a population of less than 20,000 inhabitants; and

WHEREAS, the Bay City City Council established the Tourism Council; and

WHEREAS, the Bay City Code of Ordinances requires Bylaws to govern the Tourism Council; and

WHEREAS, the Bay City City Council adopts the initial Bylaws to govern the Tourism Council.

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

The Bay City City Council hereby adopts the Bylaws attached as **Exhibit A** as the initial bylaws of the Bay City Tourism Council.

PASSED AND APPROVED ON THIS ____ DAY OF FEBRUARY 2018.

Mark A. Bricker, Mayor
City of Bay City

ATTEST:

APPROVED AS TO FORM:

David Holubec. City Secretary

M. Shannon Kackley, Asst. City Attorney

Attachment: Resolution Adopting the Tourism Council Bylaws (2991 : Ordinance - Creating Bay City Tourism Council)

EXHIBIT A
TOURSIM COUNCIL BYLAWS

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BAY CITY, TEXAS, AMENDING THE CITY CODE OF ORDINANCES, CHAPTER 102 (ENTITLED "TAXATION"), ARTICLE III (ENTITLED "HOTEL-MOTEL OCCUPANCY TAX") ESTABLISHING THE TOURISM COUNCIL; PROVIDING FOR A CUMULATIVE & CONFLICTS CLAUSE, PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 2.02 of the City Charter authorizes the City to pass any ordinance not inconsistent with the City Charter and State law, upon any subject expedient for the life; general welfare; health; morals; comfort; safety; amusement; quiet; prosperity; and convenience of the City; and

WHEREAS, the City Council desires to establish a Tourism Council and set forth its organization and procedures for its operations; and

WHEREAS, City Council finds that the establishment of a Tourism Council is in the best interest of the City.

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

Section one. The Code of Ordinances, Chapter 102 (entitled "Taxation"), Article III (entitled "Hotel-Motel Occupancy Tax") is hereby amended by creating the Tourism Council and adding the language that is set out in **Exhibit "A"** attached hereto and incorporated by reference as if fully set forth herein.

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 _____ 2018.

Mark A. Bricker, Mayor
City of Bay City

ATTEST:

David Holubec, City Secretary
City of Bay City

APPROVED AS TO FORM:

M. Shannon Kackley, Asst. City Attorney
DENTON NAVARRO ROCHA BERNAL & ZECH,
PC

EXHIBIT A

CHAPTER 102 - TAXATION

ARTICLE III – HOTEL-MOTEL OCCUPANCY TAX

Section 102-78. Established, composition.

- (a) The Tourism Council is established. It shall be under the supervision of the mayor and city council. It shall consist of five (5) to nine (9) members appointed by the Mayor and approved by City Council. Members shall represent the following categories:
 - 1. the arts community
 - 2. the hotel/motel industry
 - 3. the restaurant industry
 - 4. major tourist attractions
 - 5. eco-tourism
 - 6. representatives from local county tourist destinations
- (b) The term of appointment shall be two (2) years, beginning on January 1st. Members shall be appointed in December prior to the beginning of each term. Members shall serve no more than three (3) consecutive two-year terms and shall be eligible for reappointment after one full term has passed. Vacancies that occur during a term shall be filled as soon as possible and in the same manner as the appointment. An appointment to fill a vacated term is not included as a term for purposes of counting consecutive terms.
- (c) The Tourism Council is an advisory body only. It does not have authority to expend funds, incur an obligation on behalf of the City, to make rules, or to adjudicate any matter.
- (d) The City Tourism Manager is the City's liaison to the Tourism Council.
- (e) Decisions shall be made based on consensus of the present Members of the meeting.
- (f) Members shall serve without compensation. Members may be reimbursed for expenses if the expense(s) is first authorized and approved by the Tourism Manager.

Section 102-79. Duties and Responsibilities.

- (a) Members shall comply with the Hotel Tax Laws (Chapter 351 of the Texas Tax Code).
- (b) The Tourism Council shall focus on the following:
 - 1. Developing and regularly updating a Strategic Plan to include objectives for preservation and appreciation of historic and cultural attributes of the Bay City Community and the application of the arts and other activities for the promotion of tourism; and

2. Developing guidelines and evaluating proposals for the City's awarding of sponsorship funds, in compliance with local and state law.

Section 102-80. Meetings.

- (a) Tourism Council meetings shall be conducted in accordance with these creation and procedure sections and the Tourism Council Bylaws.
- (b) Special Meetings may be called by the Tourism Manager or Mayor.

Section 102-81. Subcommittees.

- (a) When deemed necessary by a majority of the Tourism Council, subcommittees may be formed for specific projects related to Tourism Council matters.
- (b) Subcommittees may include non-Members; however, subcommittees shall be chaired by a Tourism Council Member.
- (c) No subcommittee, or Member of a subcommittee, has the authority to expend funds, incur an obligation on behalf of the City or the Tourism Council, to make rules, or to adjudicate any matter.

Section 102-82. Bylaws. The Tourism Council shall prepare Bylaws. The Bylaws, and any amendments thereto, are not effective until approved by City Council.



City Council
1901 5Th Street
Bay City, TX 77414

SCHEDULED

Meeting: 02/08/18 05:30 PM
Department: City Secretary
Category: Policy
Prepared By: David Holubec
Initiator: David Holubec
Sponsors:
DOC ID: 2992

DISCUSSION ITEM (ID # 2992)

**~ DISCUSS, AND CONSIDER THE PROPOSED BAY CITY
TOURISM COUNCIL BYLAWS.**

IN PARTNERSHIP WITH OUR CITIZENS, THE BAY CITY TOURISM COUNCIL PROVIDES SUGGESTIONS AND ADVOCATES FOR TOURISM PROGRAMS, FACILITIES AND SERVICES WHICH RESPOND TO CHANGING NEEDS TO PROMOTE OUR COMMUNITY.

COMMENTS - Current Meeting:

Heidi Martinez, Tourism Manager, presented the newly created bylaws for the Bay City Tourism department.



Bay City Tourism Council

ARTICLE 1. PURPOSE AND RESPONSIBILITIES

I. PURPOSE

The Bay City Tourism Advisory Council ("Tourism Council") is hereby established for aiding and promoting the tourist and convention industry; raise the public visibility of local activity. The tourism council shall serve as an advisory body only.

II. RESPONSIBILITIES

Each member shall represent and advocate for what is best for the City of Bay City and the surrounding areas, putting aside personal and special interests.

The Tourism Council shall be focused on such activities as:

- a) Developing and regularly updating a Strategic Plan to include objectives for preservation and appreciation of historic and cultural attributes of the Bay City community; advertising and marketing; application of the arts and other activities for the promotion of tourism;
- b) Developing guidelines and evaluating proposals for the City's awarding of sponsorship funds, in compliance with local and state law.

ARTICLE 2. MEMBERSHIP

The Tourism Council shall be composed of five (5) to nine (9) members. Members shall be recommended by the Tourism Manager, and appointed by the Mayor, subject to Council's consent. Members shall be appointed in December prior to the new calendar year term.

- a) The members shall serve two-year terms. A successor shall be selected prior to the expiration of the member's term. Members shall serve no more than three consecutive two-year terms and shall be eligible for reappointment after one full term has passed.
- b) Members shall be appointed from the following categories: the arts community, the hotel/motel industry, the restaurant industry, major tourist attractions, eco-tourism, and representatives from local county tourist destinations (i.e. Matagorda, Palacios and Sargent).
- c) Members shall comply with Hotel Motel Tax Laws (Chapter 351 of Texas Tax Code).
- d) Vacancies that occur during a term shall be filled as soon as reasonably possible and in the same manner as an appointment. The time a Member spends serving during a vacated term is not included as a term for purposes of counting consecutive terms.

- e) All Members serve without compensation. The Tourism Council and its Members have no authority to expend funds, to incur or make an obligation on behalf of the City, to make rules, or to adjudicate any matter. Members may be reimbursed for expenses if the expense(s) is first authorized and approved by the Tourism Manager.
- f) Partnerships to the advisory council are including but not limited to the Bay City Parks and Recreation, Bay City Mainstreet Program, Bay City Community Development, Matagorda County Economic Development and Bay City, Sargent, Matagorda and Palacios Chambers of Commerce.

ARTICLE 3. MEETINGS AND SUBCOMMITTEES

I. MEETINGS

Regular Meetings of the board may be held bimonthly at City Hall in the Council Chambers as determined by the Tourism Manager.

- a) The Tourism Advisory Council shall meet a minimum of six times a year.
- b) Agenda items may be placed on the agenda by the Tourism Manager or at the request of a Member. Written notice to the Tourism Manager must be given seven business days in advance to be included on agenda. The Member requesting the agenda item is responsible for the presentation and any other relevant information.
- c) Special Meetings may be called by the Tourism Manager or Mayor.
- d) A Member shall notify the Tourism Manager if unable to attend a meeting. Excessive absenteeism may result in the Member being removed.
- e) Decisions will be made based on the consensus of the present Members of the meeting.
- f) Tourism Council meetings shall be conducted in accordance with these Bylaws.

II. SUBCOMMITTEES

When deemed necessary by a majority of the Tourism Council, Subcommittees may be formed for specific projects related to Tourism Council matters.

- a) Subcommittees may include non-Members; however, it must be chaired by a Tourism Council Member.
- b) No Subcommittee, or Member of a Subcommittee, has the authority to expend funds, incur an obligation on behalf of the City or the Tourism Council, to make rules, or to adjudicate any matter.

ARTICLE 4. AMENDMENTS

The Tourism Council's proposed Bylaws and amendments to the Bylaws must be approved by City Council.



City Council
1901 5Th Street
Bay City, TX 77414

SCHEDULED

Meeting: 02/08/18 05:30 PM
Department: City Secretary
Category: Contract
Prepared By: David Holubec
Initiator: David Holubec
Sponsors:
DOC ID: 2993

DISCUSSION ITEM (ID # 2993)

**~ DISCUSS AND CONSIDER THE CONTRACT BETWEEN THE
CITY OF BAY CITY AND THE BAY CITY CHAMBER OF
COMMERCE FOR THE OPERATION AND ADMINISTRATION
OF THE BAY CITY CIVIC CENTER.**

COMMENTS - Current Meeting:

Scotty Jones, Finance Director, presented the contract being developed between the City and the Bay City Chamber of Commerce for the management of the Bay City Civic Center. The final version will be presented, once finalized.

**AGREEMENT BY AND BETWEEN THE CITY OF BAY CITY, TEXAS AND
THE BAY CITY CHAMBER OF COMMERCE AND AGRICULTURE TO OPERATE
AND MANAGE THE BAY CITY CIVIC CENTER**

This Agreement Bay and Between the City of Bay City Texas and the Bay City Chamber of Commerce and Agriculture to Operate and Manage the Bay City Civic Center ("Agreement") is entered into by the City of Bay City, a Texas municipal corporation (the "CITY") and the Bay City Chamber of Commerce and Agriculture (the "Chamber"). CITY and Chamber are singularly referred to as "Party" and collectively referred to as "the Parties."

WITNESSETH:

WHEREAS, the CITY owns the Bay City Civic Center; and

WHEREAS, the Chamber, in addition to promoting the health, safety, morals, and general welfare of Bay City, Texas, enhances and promotes tourism and the convention and hotel industry, and solicits and operates programs to attract conventions and visitors to the CITY; and

WHEREAS, the Chamber has historically operated and managed the Bay City Civic Center on behalf of the CITY; and

WHEREAS, the CITY desires for the Chamber to continue to operate and manage the Bay City Civic Center in accordance with the terms herein; and

WHEREAS, the Chamber understands the Civic Center is a CITY building and it should be managed and operated as if it were being managed and operated by the CITY itself.

NOW THEREFORE: For and in consideration of the following mutual promises and obligations, and for the benefit of the CITY and the health, safety morals and or general welfare of its residents, the Parties agree as follows:

1. In consideration of the payments from the CITY to the Chamber and free rent, the Chamber agrees operate and manage the Civic Center in accordance with **Attachment I - Scope of Work**.
2. The Chamber may use Exhibit Hall in the Civic Center for up to four (4) fundraising events per year at no cost to the Chamber. The Chamber shall pay the regular rental rate for any fundraising event in excess of four (4) events that occurs in a year. A year under this Agreement is from October 1st to September 30th.
3. The Chamber shall provide for its own phone service and shall pay the City two hundred dollars (\$200.00) per month to the CITY for the Chamber's electrical usage.
4. The Chamber shall present a report to the Mayor's office at least quarterly regarding the operations of the Civic Center. A monthly report detailing the rental activity (i.e. deposits received and refunded, rental fees paid, etc.) of the Civic Center should be provided to the CITY's Finance Director.

Contract Number: _____

5. This Agreement will commence immediately upon execution hereof and terminate upon the completion of all obligations herein contained or **September 30, 2020**, whichever is sooner.
6. The CITY shall pay the Chamber for the services described in **Attachment I – Scope of Work**, as follows:
 1. from the effective date through September 30, 2018 **Determined by City Council**
 2. from October 1, 2018 through September 30, 2019 **Determined by City Council**
 3. from October 1, 2019 through September 30, 2020 **Determined by City Council**

The City shall make payments to the Chamber quarterly.

7. The Chamber shall use the funds provided by the City in accordance with Chapter 351 of the Texas Tax Code.
8. This Agreement may be terminated by either Party with ninety (90) day's prior written notice.
9. This Agreement is not assignable and funds received as a result hereof shall only be used by the Parties stated herein.
4. In the event that all of the above-described funds are not used for the purposes set out in **Attachment 1 – Scope of Work** of this Agreement and in accordance with all terms and provisions hereof, the Chamber agrees to refund any amounts to the CITY which were not used in accordance with these terms within thirty (30) days of the end of the completion of all obligations herein contained or **September 30, 2020**, whichever occurs earlier.
5. None of the performance rendered hereunder shall involve, and no portion of the funds received hereunder shall be used, directly or indirectly, for the construction, operations, maintenance, or administration of any sectarian or religious facility or activity, nor shall said performance rendered or funds received be utilized so as to benefit, directly or indirectly, any such sectarian or religious facility or activity.
6. The CITY shall contract directly with vendors for maintenance, repair, cleaning, and upkeep of the Civic Center. The Chamber shall notify the City immediately if any vendor is underperforming. In addition, the Chamber shall immediately notify the CITY of an issues with the Civic Center.
7. **INSURANCE**

The Chamber agrees to comply with the following insurance provisions:

- (A) Prior to the fulfillment of any obligations under this Agreement, the Chamber shall furnish copies of all required endorsements and a completed Certificate(s) of Insurance to the CITY's Finance Department, which shall be clearly labeled "the Bay City Chamber of Commerce and Agriculture" in the Description of Operations block of the Certificate. The Certificate(s) shall be completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf. The CITY will not accept Memorandum of Insurance or Binders as proof of insurance. The certificate(s) or form

Contract Number: _____

must have the agent's signature and phone number and be mailed with copies of all applicable endorsements, directly from the insurer's authorized representative to the CITY. The CITY shall have no duty to pay or perform under this Agreement until such certificate and endorsements have been received and approved by the CITY's Finance Department. No officer or employee, other than the CITY's Mayor, shall have authority to waive this requirement.

- (B) The CITY reserves the right to review the insurance requirements of this Section during the effective period of this Agreement and any extension or renewal hereof and to modify insurance coverage and their limits when deemed necessary and prudent by CITY's Mayor based upon changes in statutory law, court decisions, or circumstances surrounding this Agreement. In no instance will the CITY allow modification whereupon City may incur increased risk.
- (C) The Chamber shall obtain and maintain in full force and effect for the duration of this Agreement, and any extension hereof, at the Chamber's sole expense, insurance coverage written on an occurrence basis, unless otherwise indicated, by companies authorized to do business in the State of Texas and with an A.M. Best's rating of no less than A- (VII), in the following types and for an amount not less than the amount listed:

<u>TYPE</u>	<u>AMOUNTS</u>
Broad Form Commercial General Liability Insurance to include coverage for the following: - Premises operations - Independent Contractors - Products/completed operations - Personal Injury - Contractual Liability	For <u>Bodily Injury</u> and <u>Property Damage</u> of \$1,000,000 per occurrence; \$2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage
Business Automobile Liability - Owned/leased vehicles - Non-owned vehicles - Hired Vehicles ** if transportation of participants is conducted	<u>Combined Single Limit</u> for <u>Bodily Injury</u> and <u>Property Damage</u> of \$1,000,000 per occurrence

- (D) The CITY shall be entitled, upon request and without expense, to receive copies of the

Contract Number: _____

policies, declarations page, and all endorsements thereto as they apply to the limits required by this Agreement, and may require the deletion, revision, or modification of particular policy terms, conditions, limitations or exclusions (except where policy provisions are established by law or regulation binding upon either of the Parties hereto or the underwriter of any such policies). The Chamber shall be required to comply with any such requests and shall submit a copy of the replacement certificate of insurance to CITY at the address provided below within 10 days of the requested change.

Finance Director
City of Bay City
1901 5th Street
Bay City, Texas 77414

(E) The Chamber agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following required provisions:

- Name the CITY and its officers, officials, employees, volunteers, and elected representatives as additional insureds by endorsement, as respects operations and activities of, or on behalf of, the named insured (Bay City Chamber of Commerce and Agriculture) performed under contract with the CITY
- Provide for an endorsement that the “other insurance” clause shall not apply to the CITY where the CITY is an additional insured shown on the policy;
- Provide advance written notice directly to the CITY of any suspension, cancellation, non-renewal, or material change in coverage, and not less than ten (10) calendar days advance written notice for nonpayment of premium.

(F) Within five (5) calendar days of a suspension, cancellation, or non-renewal of coverage, the Chamber shall provide a replacement Certificate of Insurance and applicable endorsements to the CITY. The CITY shall have the option to suspend the Chamber’s performance should there be a lapse in coverage at any time during this Agreement. Failure to provide and to maintain the required insurance shall constitute a material breach of this Agreement.

(G) In addition to any other remedies, the CITY may have upon the Chamber’s failure to provide and maintain insurance or policy endorsements to the extent and within the time herein required, the CITY shall have the right to order the Chamber to stop work hereunder, and/or withhold any payment(s) which become due to the Chamber hereunder until the Chamber demonstrates compliance with the requirements hereof.

(H) Nothing herein contained shall be construed as limiting in any way the extent to which the Chamber may be held responsible for payments of damages to persons or property resulting from the Chamber’s or its subcontractors’ performance of the work covered under this Agreement.

Contract Number: _____

- (I) It is agreed that the Chamber's insurance shall be deemed primary and non-contributory with respect to any insurance or self insurance carried by the CITY for liability arising out of operations under this Agreement.
- (J) It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this Agreement and that no claim or action by or on behalf of the CITY shall be limited to insurance coverage provided.
- (K) The Chamber and its subcontractors are responsible for all damage to their own equipment and/or property.

8. INDEMNITY

THE CHAMBER COVENANTS AND AGREES TO FULLY INDEMNIFY AND HOLD HARMLESS, THE CITY AND THE ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS, VOLUNTEERS AND REPRESENTATIVES OF THE CITY, INDIVIDUALLY AND COLLECTIVELY, FROM AND AGAINST ANY AND ALL COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, PROCEEDINGS, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY AND SUITS OF ANY KIND AND NATURE, INCLUDING BUT NOT LIMITED TO, PERSONAL OR BODILY INJURY, DEATH AND PROPERTY DAMAGE, MADE UPON THE CITY DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO THE CHAMBER'S ACTIVITIES UNDER THIS AGREEMENT, INCLUDING ANY ACTS OR OMISSIONS OF THE CHAMBER, ANY AGENT, OFFICER, DIRECTOR, REPRESENTATIVE, EMPLOYEE, CONSULTANT OR SUBCONTRACTOR OF THE CHAMBER, AND ITS RESPECTIVE OFFICERS, AGENTS EMPLOYEES, DIRECTORS AND REPRESENTATIVES WHILE IN THE EXERCISE OF PERFORMANCE OF THE RIGHTS OR DUTIES UNDER THIS AGREEMENT. THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE NEGLIGENCE OF CITY, ITS OFFICERS OR EMPLOYEES, IN INSTANCES WHERE SUCH NEGLIGENCE CAUSES PERSONAL INJURY, DEATH, OR PROPERTY DAMAGE. IN THE EVENT THE CHAMBER AND THE CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS FOR THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.

The provisions of this INDEMNIFICATION are solely for the benefit of the Parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

The Chamber shall advise the CITY in writing within 24 hours of any claim or demand against the CITY or the Chamber known to the Chamber related to or arising out of the Chamber's activities under this Agreement.

Contract Number: _____

Defense Counsel – the City shall have the right to select or to approve defense counsel to be retained by the Chamber in fulfilling its obligation hereunder to defend and indemnify the CITY, unless such right is expressly waived by the CITY in writing. The Chamber shall retain the CITY's approved defense counsel within seven (7) business days of the CITY's written notice that the CITY is invoking its right to indemnification under this Agreement. If the Chamber fails to retain Counsel within such time period, the CITY shall have the right to retain defense counsel on its own behalf, and the City shall be liable for all costs incurred by the CITY. The CITY shall also have the right, at its option, to be represented by advisory counsel of its own selection and at its own expense, without waiving the foregoing.

Employee Litigation – In any and all claims against any party indemnified hereunder by any employee of the Chamber, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation herein provided shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Chamber or any subcontractor under worker's compensation or other employee benefit acts.

9. The Chamber shall not engage in employment practices which have the effect of discriminating against any employee or applicant for employment, and, will take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to their race, color, religion, national origin, sex, age, handicap, or political belief or affiliation.
10. The Chamber shall provide services as described in **Attachment I – Scope of Work**, in a non-discriminating manner without regard to a person's race, color, religion, national origin, sex, age, handicap, or political belief or affiliation.
11. The Chamber agrees and understands that, it and all persons designated by it to provide services in connection with this Agreement, is (are) and shall be deemed to be an independent contractor(s), responsible for its (their) respective acts or omissions, and that the CITY shall in no way be responsible for the Chamber's actions, and that none of the Parties will have authority to bind the other or to hold out to third parties, that it has such authority.
12. For purposes of this Agreement, all official communications and notices between the Parties shall be deemed sufficient if in writing and mailed, registered or certified mail, postage prepaid, to the addresses set forth below:

CITY:

Mayor Mark A. Bricker
City of Bay City
1901 5th Street
Bay City, Texas 77414

CHAMBER:

Mitch Thames
Bay City Chamber of Commerce and Agriculture

Agreement to Use Funds6
10/01/12

Contract Number: _____

P.O. Box 768
Bay City, TX 77404-0768

Notices of changes of address by either Party must be made in writing delivered to the other Party's last known address within five (5) business days of the change.

14. If any provision of this Agreement is for any reason held to be unconstitutional, void, or invalid, the remaining provisions or sections contained herein shall remain in effect and the section so held shall be reformed to reflect the intent of the parties.
15. The signer of this Agreement for the Chamber represents, warrants, assures and guarantees that the he or she has full legal authority to execute this Agreement on behalf of the Chamber and to bind the Chamber to all of the terms, conditions, provisions and obligations herein contained.
16. This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the Parties created hereunder are performable in Matagorda County, Texas.
17. This Agreement constitutes the sole and only agreement of the Parties hereto and supersedes any prior understanding or written or oral agreements between the parties respecting the within subject matter.
18. No Amendment, modification, or alteration of the terms hereof shall be binding unless the same be in writing, dated subsequent to the date hereof and duly executed by the Parties hereto. The amendment, modification, alteration, or termination of this Agreement must be approved by City Council of the CITY and the governing board of the Chamber.
19. The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by either Party shall not preclude or waive its right to use any or all other remedies. Said rights and remedies are given in addition to any other rights the Parties may have by law, statute, ordinance, or otherwise.
20. No waiver by the Parties hereto to any default or breach of any term, condition, or covenant of this Agreement shall be deemed to be a waiver of any other breach of the same or any other term, condition, or covenant herein.
21. In the Event the CITY or the Chamber breaches any of the terms of this Agreement whereby the Party not in default employs an attorney(s) to protect or enforce its rights hereunder and prevails, then the defaulting party agrees to pay the other party reasonable and necessary attorney's fees and expenses and the court costs so incurred by such other party.
22. Neither the CITY nor the Chamber shall be required to perform any term, condition, or covenant in this Agreement so long as such performance is delayed or prevented by force majeure, which shall mean acts of God, civil riot, floods, and any other cause (other than financial, labor, or material supplies) which is not reasonably within the control of the CITY or the Chamber and which by the exercise of due diligence the CITY and the Chamber is unable, wholly or in part, to prevent or overcome. However, abatement of this Agreement

Contract Number: _____

under this provision shall not cease for a cumulative time of more than sixty days or the CITY may elect to declare this Agreement in default and terminated.

23. By executing this Agreement, the Chamber verifies that it does not boycott Israel, and agrees that during the term of this Agreement will not boycott Israel, as that term is defined in Section 808.001 of the Texas Government Code, as amended.

Signature page to follow:

DRAFT

Contract Number: _____

IN WITNESS OF WHICH this Agreement has been executed on this ____ day of February 2018.

CITY OF BAY CITY

By: _____

Mark A. Bricker, Mayor

Date: _____

ATTEST:

David Holubec, City Secretary

Approved as to Form:

M. Shannon Kackley, Assistant City Attorney**BAY CITY CHAMBER OF COMMERCE
AND AGRICULTURE**

By: _____

Mitch Thames, Executive Director

Date: _____

ATTEST:

Secretary

Attachment I: Scope of Work

Attachment I

Scope of Work:

The Chamber agrees to abide by the following provisions and provide the following services:

The Chamber shall operate and manage the Bay City Civic Center. The Chamber's services include, but is not limited to the following:

1. Book Civic Center events.
2. Ensure lease agreements are executed.
3. Collect all fees related to the use of the Civic Center and deposit them in the designated City Account.
4. Provide accounting records to the City Finance Director.
5. Answer all questions pertaining to the use of the Civic Center.
6. Recommend a fee schedule to City Council.
7. Check on and monitor all weekday events held from 8:00 am to 5:00 pm.
8. Facilitate the execution of a contract with the City for:
 - a. Set up and take down of chairs, tables, and stage, as needed.
 - b. Making rooms ready for use.
 - c. Day-to-day maintenance.
9. Arrange and facilitate contractors for repairs and maintenance that cannot be performed by either the custodial vendor or City personnel.
10. Provide the Mayor a report quarterly, or at a more frequent interval, regarding the operation of the Civic Center.
11. Function as the intermediary management for funds and proceeds from the Civic Center. All revenue and expenses for the Civic Center shall be handled through the City's Finance Office.
12. The Chamber shall employ sufficient qualified personnel as may be required to ensure the proper use and occupancy of the Civic Center including but not limited to ensure that the Civic Center use is maximized and users are provided accurate and quality booking/scheduling services.
13. The Chamber shall ensure that each person employed by the Chamber to provide services at the Civic Center at all times maintain a neat, clean appearance and conduct themselves in a polite and professional manner. The Chamber shall replace any employee who fails to follow this Agreement and the written policies and practices of the Chamber and the City.
14. Monitor the Civic Center for any needed maintenance or repairs. Monitor security, electrical, plumbing, and janitorial needs and services. If a repair cannot be performed by either City personal or the custodial vendor, the Chamber shall solicit repairs from a licensed repair service utilizing the City's Purchasing Policy. The Chamber shall submit the repair bills to the Finance Department for payments.

Contract Number: _____

15. Approve all leases for space in the Civic Center for terms that do not exceed one year. Leases for terms greater than one year require approval by City Council.
16. Provide a list of rental policies and rules governing the Civic Center. Any changes to the rental policies and rules require approval by City Council.
17. Not cause or permit any changes, alterations, paint, or stain of the Civic Center or its furnishings.

The Chamber may use the Civic Center for office use for its employees and for the management of the Civic Center.

The Chamber shall use the funds received from the CITY under this Agreement in accordance with Chapter 351 of the Texas Tax Code.

DRAFT



City Council
1901 5Th Street
Bay City, TX 77414

SCHEDULED

Meeting: 02/08/18 05:30 PM
Department: City Secretary
Category: Presentation
Prepared By: David Holubec
Initiator: David Holubec
Sponsors:
DOC ID: 2990

DISCUSSION ITEM (ID # 2990)

**~ DISCUSS AND CONSIDER THE REPORT FROM THE CITY
REGARDING POSSIBLE PROPERTIES AND FUNDING FOR
THE RELOCATION OF THE RECYCLING CENTER (UPDATE).**

COMMENTS - Current Meeting:

Barry Calhoun, Public Works Director, gave Council and Mayor an update on the direction that is possible for the relocation of the recycling center. The City owns a specific piece of property near the existing center that could be utilized for a newly constructed center. Stuart Lynn estimated a new building may cost around \$183,000.00 with a 90 day turn around. A final budget of around \$250,000 could be possible when considering demolition of the existing center.



City Council
1901 5Th Street
Bay City, TX 77414

SCHEDULED

Meeting: 02/08/18 05:30 PM
Department: City Secretary
Category: Presentation
Prepared By: David Holubec
Initiator: David Holubec
Sponsors:
DOC ID: 2988

DISCUSSION ITEM (ID # 2988)

~ PURSUANT TO SECTION 551.087 OF THE TEXAS GOVERNMENT CODE (DELIBERATION REGARDING ECONOMIC DEVELOPMENT), THE CITY COUNCIL WILL DELIBERATE THE OFFER OF A FINANCIAL OR OTHER INCENTIVE OR TO DISCUSS OR DELIBERATE REGARDING COMMERCIAL OR FINANCIAL INFORMATION RELATING TO DOWNTOWN DEVELOPMENT AND LEASE OF CITY PROPERTY.

COMMENTS - Current Meeting:

7:14PM Executive Session to discuss the lease of city property.

7:32PM Open Session resumed.



City Council
1901 5Th Street
Bay City, TX 77414

SCHEDULED

Meeting: 02/08/18 05:30 PM
Department: City Secretary
Category: Report
Prepared By: David Holubec
Initiator: David Holubec
Sponsors:
DOC ID: 3004

DISCUSSION ITEM (ID # 3004)

**RECEIVE AND DISCUSS AN UPDATE REGARDING THE
PRIOR PROPOSED PURCHASE OF PROPERTY AT THE
CORNER OF HIGHWAY 35 AND 5TH STREET IN BAY CITY,
TEXAS BY THE BAY CITY COMMUNITY DEVELOPMENT
CORPORATION.**

COMMENTS - Current Meeting:

None required



City Council
1901 5Th Street
Bay City, TX 77414

SCHEDULED

Meeting: 02/08/18 05:30 PM
Department: City Secretary
Category: Presentation
Prepared By: David Holubec
Initiator: David Holubec
Sponsors:
DOC ID: 2989

DISCUSSION ITEM (ID # 2989)

**~ CITY COUNCIL MEMBERS SHALL RECONVENE IN OPEN
SESSION AND MAY DISCUSS AND CONSIDER ANY ITEM
LISTED ABOVE THAT WAS CONSIDERED AND DISCUSSED
IN EXECUTIVE SESSION (IF NECESSARY).**

COMMENTS - Current Meeting:

No action