



BAY CITY CITY COMMISSION

Regular Meeting Official Proceedings

Bay City, Michigan November 16, 2020

The Commission met virtually at 6:36 PM and was called to order by Mayor Kathleen L. Newsham.

Commissioners Present: Jesse Dockett, Kristen Rivet, Kathleen Zanotti, Brentt Brunner, Rachelle Hilliker, Christopher Girard, Kerice Basmadjian, Ed Clements and Cordal Morris, 9; Mayor Kathleen L. Newsham.

Absent: None.

ELECTION OF OFFICERS

Nominations were opened for the Office of President of the City Commission.

Commissioner Girard nominated Commissioner Dockett.

Nominations were closed by unanimous consent.

Commissioner Dockett elected Commission President by the following vote:

Yes, Commissioners Dockett, Rivet, Zanotti, Brunner, Hilliker, Girard, Basmadjian, Clements, Morris, 9.

No, None.

Nominations were opened for the Office of Vice President of the City Commission.

Commissioner Brunner nominated Commissioner Girard.

Nominations were closed by unanimous consent.

Commissioner Girard elected Commission Vice President by the following vote:

Yes, Commissioners Dockett, Rivet, Zanotti, Brunner, Hilliker, Girard,

Basmadjian, Clements, Morris, 9.
No, None.

Nominations were opened for the Office of Sergeant-at-arms of the City Commission.

Commissioner Clements nominated Commissioner Rivet.

Nominations were closed by unanimous consent.

Commissioner Rivet elected Sergeant-at-arms by the following vote:

Yes, Commissioners Dockett, Rivet, Zanotti, Brunner, Hilliker, Girard, Basmadjian, Clements, Morris, 9.

No, None.

Commissioner Brunner moved to allow public input on the consent agenda. There was no objection. No one came forward.

RECESS

The Commission recessed at 6:48 PM for completion of items on the Finance/Policy agenda. The meeting reconvened at 7:00 PM. It was noted that attendance of the Commission remained the same as at the time of the recess.

PUBLIC INPUT

Commissioner Dockett moved to allow citizens to address the City Commission regarding any item on the agenda or any other matter There was no objection (Public comments on specific agenda items appear after those items).

ACCOUNTS, CLAIMS, INVESTMENTS & WIRE TRANSFERS

Of City Manager:

Accounts and Claims in the amount of \$1,619,501.90 and Investments and Wire Transfers in the amount of \$529,118.82 (11/09/20) and Accounts and Claims in the amount of \$446,767.87 and Investments and Wire Transfers in the amount of \$372,666.17, less adjustments in the amount of \$2,635.77 (11/16/20) and recommending payment of same.

Commissioner Clements moved adoption of recommendation.

Adopted by the following vote:

Yes, Commissioners Dockett, Rivet, Zanotti, Brunner, Hilliker, Girard, Basmadjian, Clements, Morris, 9.

No, None.

PAYROLL

Of City Manager:

Reporting Payroll in the amount of \$992,364.99 (11/12/20) and recommending payment of same.

Commissioner Clements moved adoption of recommendation.

Adopted by the following vote:

Yes, Commissioners Dockett, Rivet, Zanotti, Brunner, Hilliker, Girard, Basmadjian, Clements, Morris, 9.

No, None.

REPORTS OF OFFICERS

Of the Mayor:

It is recommended the appointment of Michael Lutz, Essexville, to the Building Code Board of Appeals, term to expire August 1, 2022, be approved.

Commissioner Clements moved adoption of recommendation.

Adopted by the following vote:

Yes, Commissioners Dockett, Rivet, Zanotti, Brunner, Hilliker, Girard, Basmadjian, Clements, Morris, 9.

No, None.

Of City Manager:

It is recommended budget amendments in the amount of \$0 for the Fiscal Year 2020/2021 budget be approved.

Commissioner Clements moved adoption of recommendation.

Adopted by the following vote:

Yes, Commissioners Dockett, Rivet, Zanotti, Brunner, Hilliker, Girard, Basmadjian, Clements, Morris, 9.

No, None.

Of City Manager:

It is recommended adoption of 2020 Schedule of Non-Union Benefits for full-time non-union City employees

be approved.

Commissioner Clements moved adoption of recommendation.

Adopted by the following vote:

Yes, Commissioners Dockett, Rivet, Zanotti, Brunner, Hilliker, Girard, Basmadjian, Clements, Morris, 9.

No, None.

Of City Manager:

It is recommended the Maintenance and Management Agreement for Wenonah Park be approved.

Commissioner Clements moved adoption of recommendation.

Adopted by the following vote:

Yes, Commissioners Dockett, Rivet, Zanotti, Brunner, Hilliker, Girard, Basmadjian, Clements, Morris, 9.

No, None.

Of City Manager:

It is recommended ratification of Change Order No. 1 to the contract with

Saginaw-Ace Paving Company, Saginaw, MI, for the S. Trumbull Paving Contract in the increased amount of \$13,328, be approved.

Commissioner Clements moved adoption of recommendation.

Adopted by the following vote:

Yes, Commissioners Dockett, Rivet, Zanotti, Brunner, Hilliker, Girard, Basmadjian, Clements, Morris, 9.

No, None.

Of City Manager:

It is recommended the following Ordinance be received for first reading and referred to next meeting for second reading and possible adoption.

Of Commission as a Whole:

Ordinance No. 2020-9

Be it Ordained by the City of Bay City: that the Code of Ordinances of the City of Bay City, Chapter 82, Peddlers and Solicitors, Article IV, Mobile Food Vehicles, Sections 82-151 through 82-156, be added to read as follows:

Article IV. Mobile Food Vehicles.**Sec. 82-151. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meaning subscribed to them in this section, except where the context clearly indicates a different meaning:

Mobile Food Vehicle means any motorized or non-motorized vehicle, trailer, or other device designated to be portable from which food or beverages is vended, served, or offered for sale.

Operate shall mean all activities associated with the conduct of business, including set up and take down and/or actual hours where the mobile food vehicle is open for business.

Vendor means any individual engaged in the business of mobile food vending; if more than one individual is operating a single mobile food vehicle, the vendor shall mean all individuals operating such mobile food vehicle.

Sec. 82-152. Scope.

The provisions of this article apply to mobile food vehicles engaged in the business of cooking, preparing and distributing food or beverages with or without charge upon or in public and private restricted spaces. This article does not apply to a religious, charitable or non-profit organization of which supplies food or beverages without charge. This article does not apply to food vending pushcarts and stands lawfully located on sidewalks.

Sec. 82-153. License required.

(a) It shall be unlawful for any person to operate within the city a mobile food vehicle without having obtained from the city clerk a license for that purpose.

(b) A person desiring to operate a mobile food vehicle shall make written application for such license to the city clerk. The application for a license shall be on forms provided by the city clerk and shall include the following:

(1) Name, signature, phone number, email contact and business address of the applicant.

(2) A description of the preparation methods of food product offered for sale, including the intended menu.

(3) Information on the mobile food vehicle, including the year, make and model of the vehicle and dimensions, which shall not exceed 36 feet in length or 9 feet in width.

(4) Information setting forth the proposed hours of operation, area of operation, plans for power access, water supply and wastewater disposal.

(5) Copies of all necessary licenses or permits required by the Bay County Health Department.

(6) Insurance coverage:

a. Proof of general comprehensive liability insurance with limits no less than \$1,000,000 combined single limit coverage issued by an insurer licensed to do business in this state and which names the city as an additional insured.

b. Proof of a public liability and property damage motor vehicle policy with limits of no less than \$1,000,000 issued by an insurer licensed to do business in this state.

(c) The fees for a license required under this article shall be those fees on file with the city clerk which have been approved and filed by the city manager and which the city commission has been notified of for at least 30 days in compliance with section 2.1.

(d) Each mobile food vehicle license shall expire on December 31 of each year.

(e) A license issued under this article shall not be transferrable from person to person and shall not be transferred between vehicles.

(f) All licenses shall be prominently displayed on the mobile food vehicle.

Sec. 82-154. Regulations.

(a) No operator of a mobile food vehicle shall park, stand or move a vehicle and conduct business within areas of the city where the license holder has not been authorized to operate. The city commission shall, by resolution, identify those streets and public areas where parking by mobile food vehicles is permitted.

(b) Mobile food vehicles are permitted in all nonresidential zoning districts established

by Chapter 122 (zoning) of the city's code of ordinances.

(c) Mobile food vehicles are permitted on individual lots occupied for residential uses in residential zoning districts for two nonconsecutive twenty-four hour periods in any calendar year.

(d) The customer service area for mobile food vehicles shall be on the side of the vehicle that faces a curb, lawn or sidewalk when parked. No food service shall be provided in the driving-lane side of the vehicle. No food shall be prepared, sold, or displayed outside of the mobile food vehicle.

(e) No mobile food vehicle vendor shall provide or allow any dining area within 10 feet of the mobile food vehicle, including but not limited to tables and chairs, booths, stools, benches or stand-up counters.

(f) Customers shall be provided with single-service articles, such as plastic utensils and paper plates, and a waste container for their disposal. All mobile food vehicle vendors shall offer a waste container for public use which the vendor shall empty at its own expense. All trash and garbage originating from the operation of mobile food vehicles shall be collected and disposed of off-site by the operators each day. Spills of food or food by-products shall be cleaned up by the vendor, and no dumping of gray water on the streets is allowed. Vendors shall not dispose of waste, trash or garbage into city owned/public containers.

(g) No mobile food vehicle shall make or cause to be made any unreasonable or excessive noise. The operation of all mobile food vehicles shall meet the city noise ordinance, including generators. No loud music, other high-decibel sounds, horns, or amplified announcements are allowed.

(h) Signage is only allowed when placed on mobile food vehicles. No separate freestanding signs are permitted.

(i) No flashing or blinking lights, or strobe lights are allowed on mobile food vehicles or related signage when the vehicle is parked and engaged in serving customers. All exterior lights with over 800 lumens shall contain opaque hood shields to direct

illumination downward.

(j) Mobile food vehicles, when parked on public streets, shall be parked in conformance with all applicable parking restrictions and shall not hinder the lawful parking or operation of other vehicles.

(k) A mobile food vehicle shall not be parked on the street overnight or left unattended and unsecured. Any mobile food vehicle found to be unattended shall be considered a public safety hazard and may be impounded.

(l) A vendor shall not operate a mobile food vehicle within 500 feet of any fair, festival, special event or civic event that is licensed or sanctioned by the city unless the vendor has obtained permission from the event sponsor.

(m) The issuance of a mobile food vehicle license does not grant or entitle the vendor to the exclusive use of any service route or parking space to the license holder.

(n) A vendor shall not operate on private property without first obtaining written consent to operate from the affected private property owner. The affected private property owner shall obtain administrative site plan approval from Planning and Zoning Department staff in accordance with Chapter 122 (zoning), as a prerequisite to the vendors occupancy and use of the property.

(o) No mobile food vehicle shall use external signage, bollards, seating or other equipment not contained within the vehicle. When extended, awnings for mobile food vehicles shall have a minimum clearance of seven feet between the ground level and the lowest point of the awning or support structure.

(p) Any power required for the mobile food vehicle located on a public way shall be self-contained, and a mobile food vehicle shall not use utilities drawn from the public right-of-way. Mobile food vehicles on private property may use electrical power from the property being occupied or an adjacent property, but only when the property owner provides written consent to do so. All power sources must be self-contained. No power cable or equipment shall be extended at or across any city street, alley or sidewalk.

(q) Mobile food vehicles shall not be parked within 150 feet of an existing brick-and-mortar restaurant during the hours when such restaurant is open to the public for business.

Sec. 82-155. Hours of operation.

Mobile food vehicles on public property in nonresidential zoning districts may operate between the hours of 7 a.m. and 11 p.m. On private property within nonresidential zoning districts, a mobile food vehicle may only operate between the hours of 6 a.m. and 12 p.m. Other restrictions regarding hours of operation may be established by resolution of the city commission. No mobile food vehicle may be left unattended for more than two hours and any mobile food vehicle not in operation shall be removed between the hours of 11 p.m. and 7 a.m. in residential areas.

Sec. 82-156. Enforcement.

(a) Any license holder operating a mobile food vehicle in violation of any provision of this article or any rules and regulations promulgated by the city shall be responsible for a municipal civil infraction, punishable by a civil fine of \$250 per day. Each day of violation shall constitute a separate and distinct offense.

(b) Once a license has been issued, it may be revoked, suspended or not renewed by the city clerk for failure to comply with the provisions of this article and any rules and regulations promulgated by the city. The holder of a license shall have the right to appeal a revocation, suspension or non-renewal of a license to the city manager within 10 days after receiving notice of such revocation, suspension or non-renewal from the city clerk, and such appeal shall be made in writing and filing it with the city manager stating that an appeal from the decision of the city clerk is desired.

Commissioner Hilliker moved to allow for public input. There was no objection.

Alex Dewitt, 1309 S. Erie Street, stated his opposition to the ordinance.

Commissioner Dockett moved to refer back to staff. There was no objection. Referred by unanimous consent .

REPORTS OF COMMITTEE

Of Election Commission: Presenting minutes of regular meeting July 14, 2020. Received.

The Commission adjourned at 7:07 PM.

KATHLEEN L. NEWSHAM, MAYOR

TEMA J. LUCERO, CITY CLERK

