



**BAY CITY
CITY COMMISSION**

**Regular Meeting
Official Proceedings**

**Bay City, Michigan
December 7, 2020**

The Commission met virtually at 6:48 PM and was called to order by Mayor Kathleen L. Newsham.

A moment of silence was held in remembrance of Pearl Harbor Day.

Commissioners Present: Jesse Dockett, Kristen Rivet, Kathleen Zanotti, Brentt Brunner, Rachelle Hilliker, Christopher Girard, Ed Clements and Cordal Morris, 8; Mayor Kathleen L. Newsham.

Excused: Commissioner Girard moved to excuse Commissioner Kerice Basmadjian, 1. There was no objection. Excused by unanimous consent.

Absent: None.

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

PUBLIC INPUT

Commissioner Hilliker moved to allow citizens to address the City Commission regarding any item on the agenda or any other matter. There was no objection.

Alex Dewitt, 1309 S. Erie Street, spoke on the Human Relations Committee, the relief act that he proposed and the downtown traffic lights.

Mike Bacigalupo, 913 Washington Avenue, stated there will be another Christmas sculpture brought back next season.

MINUTES

On motion, minutes of the June 15, 2020 and July 6, 2020, regular meetings, reported correct by the City Clerk, were approved without reading.

**ACCOUNTS, CLAIMS,
INVESTMENTS & WIRE TRANSFERS**

Of City Manager:

Accounts and Claims in the amount of \$481,902.20 and Investments and Wire Transfers in the amount of \$692,987.62 (11/23/20), Accounts and Claims in the amount of \$714,889.23 and Investments and Wire Transfers in the amount of \$1,496,065.90 (11/30/20) and Accounts and Claims in the amount of \$454,920.91 and Investments and Wire Transfers in the amount of \$527,582.21 less adjustments in the amount of \$28,868.70 (12/07/20) and recommending payment of same.

Commissioner Brunner moved adoption of recommendation.

Adopted by the following vote:

Yes, Commissioners Dockett, Rivet, Zanotti, Brunner, Hilliker, Girard, Clements, Morris, 8.

No, None.

PAYROLL

Of City Manager:

Reporting Payroll in the amount of \$989,527.22 (11/25/20) and recommending payment of same.

Commissioner Brunner moved adoption of recommendation.

Adopted by the following vote:

Yes, Commissioners Dockett, Rivet, Zanotti, Brunner, Hilliker, Girard, Clements, Morris, 8.

No, None.

REPORTS OF OFFICERS

Of the Mayor:

It is recommended the appointment of Craig Windt and Thomas Baird, both of Bay City, terms to expire November 20, 2023, to the Human Relations Committee be approved.

Commissioner Brunner moved

adoption of recommendation.

Adopted by the following vote:

Yes, Commissioners Dockett, Rivet, Zanotti, Brunner, Hilliker, Girard, Clements, Morris, 8.

No, None.

Of the Mayor:

It is recommended the appointment of Kevin Novellino, Bay City, to the Midland Street Management

Board, term to expire June 30, 2023, be approved.

Commissioner Brunner moved adoption of recommendation.

Adopted by the following vote:

Yes, Commissioners Dockett, Rivet, Zanotti, Brunner, Hilliker, Girard, Clements, Morris, 8.

No, None.

Of the Mayor:

It is recommended the reappointment of Karl Opheim and Robert Meyer, both of Bay City, and Magen Samyn, Essexville, to the Columbus Avenue Management Board, terms to expire October 31, 2023, be approved.

Commissioner Brunner moved adoption of recommendation.

Adopted by the following vote:

Yes, Commissioners Dockett, Rivet, Zanotti, Brunner, Hilliker, Girard, Clements, Morris, 8.

No, None.

Of City Manager:

It is recommended the MERS defined contribution and defined benefit plan provision updates be approved.

Commissioner Brunner moved adoption of recommendation.

Adopted by the following vote:

Yes, Commissioners Dockett, Rivet, Zanotti, Brunner, Hilliker, Girard, Clements, Morris, 8.

No, None.

Of City Manager:

It is recommended that 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) Mobile food vehicles are permitted in all nonresidential zoning districts established by Chapter 122 (zoning) of the city's code of ordinances.

(b) Mobile food vehicles are permitted on individual lots occupied for residential uses in residential zoning districts.

(c) 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.

(d) 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.

(e) 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.

(f) 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.

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

(h) 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.

(i) 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.

(j) 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.

(k) 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 and obtained a mobile food vehicle license from the City.

(l) 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.

(m) 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.

(n) 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.

(o) Any power required for the mobile food vehicle located on a public right-of-way shall be self-contained, or a mobile food vehicle shall obtain permission from the City to use utilities drawn from the public right-of-way via a form provided by the City Clerk and by paying an additional fee as set

by the City's fee schedule. 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.

(p) Mobile food vehicles shall not be parked adjacent to 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 may operate between the hours of 7 a.m. and 11:30 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 11:30 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. No

one came forward.

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

Of City Manager:

It is recommended that 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. 2020-10

Be it Ordained by the City of Bay City: that the Code of Ordinances of the City of Bay City, Chapter 14, Amusements and Entertainments, Article I, Sections 14-1 through 14-13, be repealed in its entirety.

Commissioner Hilliker moved to allow for public input. There was no objection. No one came forward.

Commissioner Dockett moved to receive for first reading and refer to next meeting for second reading and possible adoption.

Adopted by the following vote:

Yes, Commissioners Dockett, Rivet, Zanotti, Hilliker, Girard, Clements, Morris, 7. Abstain, Commissioner Brunner, 1. No, None.

Of City Manager:

It is recommended that 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. 2020-11

Be it Ordained by the City of Bay City: that the Code of Ordinances of the City of Bay City, Chapter 30, Businesses, Article IV, Billiards, Poolrooms, Cigar Stores and Card Clubs, Sections 30-126 through 30-130, be repealed in its entirety.

Received for first reading and referred to the next meeting for second reading and possible adoption

Of City Manager:

It is recommended that 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. 2020-12

Be it Ordained by the City of Bay City: that the Code of Ordinances of the City of Bay City, Chapter 30, Businesses, Article VIII, Massage, Sections 30-281 through 30-300, be repealed in its entirety.

Received for first reading and referred to the next meeting for second reading and possible adoption.

Of City Manager:

It is recommended that 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. 2020-13

Be It Ordained by the City of Bay City: that the Code of Ordinances of the City of Bay City, Chapter 2, Administration, Section 2-26, be amended to read as follows:

Section 2-26 – Rules of Commission.

The following rules shall govern the meetings and organization of the city commission:

(1) Rule 1. The regular meeting of the commission shall be held on the first and third Monday of each month with the exception of observed holidays at 6:30 PM. If the regular scheduled meeting falls on a holiday, the meeting will be scheduled for the next business day. The Commission may hold special meetings set in accordance with the Open Meetings Act, MCL 15.261, et.seq.

(2) Rule 2. The commission shall elect a president, vice president and sergeant-at-arms during the 2nd meeting in November of each year.

(3) Rule 3. The presiding officer shall be responsible for enforcing the Rules of the City Commission, contained herein, as well as Code of Conduct. In absence of the Mayor, the responsibility shall fall upon the highest ranking officer present at the meeting.

(4) Rule 4.

a. The City administration shall have the authority to pay all bills, invoices and

accounts which have been specifically approved or authorized by the city commission through the adoption of the city budget, such as those amounts due or billed on contracts, purchase orders, wages and fringe benefits, utilities, and for other goods and services required for the day-to-day operations of the city and the provision of essential city services. These expenses will be presented at the regularly scheduled city commission meeting for approval with a listing of checks attached to the agenda item. Requests for additional billing information must be received prior to the city commission meeting.

b. The City Commission shall approve the annual budget effective July 1st of each year. The approved annual city budget shall identify a spending plan for all City departments and operations. All expenses incurred by the City's departments shall be identified as the total expenditures by each department on a bi-monthly agenda. Once approved all expenses shall be paid by the City's Accounting Department. Expenditures and accounting for expenditures shall be in full compliance with State requirements and no additional review or approval shall be required.

(5) Rule 5. Working committees on the city commission may be appointed from time to time, when necessary for purposes of study and recommendation concerning a specific subject. Members of such committees are to be appointed jointly by the Mayor and Commission President, with approval of city commission.

(6) Rule 6. All items to be presented on the formal agenda must be received by the city clerk before 5PM on Thursday prior to the Wednesday disbursement of the agenda. The agenda Packet is available the preceding Wednesday before the meeting.

(7) Rule 7. The order of business at every legislative meeting of the commission shall be as follows:

- a. Calling of the roll
- b. Unfinished business/Completion of Finance and Policy meeting (if needed)
- c. Consent Agenda
- d. Presentations, proclamations, awards and recognitions
- e. Recess for Informal

f. Public Hearing

g. Special orders

h. Presentation of petitions

i. Presentation of accounts and claims/ payroll

j. Reports of officers

k. Reports of committees

l. Communications

m. Motions and resolutions

n. Items coming from the Informal meeting

o. Adjournment

(8) Rule 8. A motion to reconsider may be made at the same or next succeeding meeting and the procedure shall be governed by Robert's Rules of Order, Newly Revised. A motion to reconsider must be made by a Commissioner who voted with the majority and was on the prevailing side of the agenda item.

(9) Rule 9. All actions of the commission shall be taken by roll call, except for a motion to adjourn, receive or to refer, unless objected to by a commission member.

(10) Rule 10. These rules may be suspended or amended by an affirmative vote of six or more Commissioners.

(11) Rule 11. Upon a receipt of a veto from the mayor, the question before the commission at the next Commission meeting shall be: Shall the ordinance, resolution, motion or order of the commission vetoed by the mayor, be passed notwithstanding such veto?

(12) Rule 12. For the purpose of public participation during public hearings or input, every speaker must provide his or her name and address on the register provided. Each speaker will be allowed to speak for no more than five minutes at a meeting, except that a speaker's time may be extended by a majority vote of the commission for no more than two additional minutes. The sergeant at arms, or an acting sergeant at arms designated by a majority vote of the commission, shall act as official timekeeper for the commission for purposes of this rule and for other purposes. Derogatory comments directed at another person are prohibited.

(13) Rule 13. No resolution, motion or order or other action of the commission shall take effect or become operative until five days

after its passage, unless the mayor shall, within the five days, have signified his/her approval in writing, filed with the City Clerk. No ordinance shall take effect or become operative until the publication requirements of the Charter have been complied with.

(14) Rule 14. Additional meetings may be called at the request of five members by giving, through the clerk's office, adequate prior notice in writing, verbally, email or by phone. Additional meetings may be called of the commission during the regular Monday meetings by a vote of the majority of the commissioners present if they deem it necessary. Notice to the public shall be given as required by the Open Meetings Act. No business shall be transacted at any special meeting of the commission unless the same has been stated in the required notice of such meeting.

(15) Rule 15. Executive sessions of the commission shall be governed by the applicable laws of the state. Information provided during executive session shall be confidential and shall not be discussed outside of the executive session.

(16) Rule 16. Use of consent agenda. Those items on the city commission agenda which are considered routine by the city manager, i.e., deeds, easements, accounts payable, payroll, standard agreements, reports of administrative actions, leases and agreements previously approved in principal, etc., shall be marked with an asterisk (*); and, unless the mayor, city commission or public, specifically requests that such item on the agenda so marked be considered separately and removed therefrom and city commission action to be taken separately on said item in the order appearing on the agenda, those items so marked shall be approved, adopted, accepted, referred, etc., by motion of the city commission and roll call vote. Those items so approved under the heading "Consent Agenda" will appear in the city commission minutes in their proper form, i.e. resolution accepting grant deed or easement, approval of reports of officers, etc.

(17) Rule 17. City Commissioners will abide by all rules set forth in 1976 PA 267, MCL 15.261 through 15.275, also known as the

Open Meetings Act or (OMA).

(18) Rule 18. Subject to the foregoing rules, the proceedings of the city commission shall be governed by the parliamentary rules contained in the current edition of Robert's Rules of Order, Newly Revised.

Received for first reading and referred to the next meeting for second reading and possible adoption.

REPORTS OF COMMITTEE

Of Finance/Policy Committee:
Presenting minutes of regular meetings June 15, 2020, June 29, 2020 and July 6, 2020.

Commissioner Brunner moved approval of minutes.

Adopted by the following vote:

Yes, Commissioners Dockett, Rivet, Zanotti, Brunner, Hilliker, Girard, Clements, Morris, 8.

No, None.

RESOLUTIONS

Of Commission as a Whole:

Resolved that Larry Elliott and Allen Hilliker, Sr. (alternate), both of Bay City, be appointed to the Zoning Board of Appeals, term expiring July 1, 2022.

Commissioner Brunner moved approval of resolution.

Adopted by the following vote:

Yes, Commissioners Dockett, Rivet, Zanotti, Brunner, Hilliker, Girard, Clements, Morris, 8.

No, None.

Of Commission as a Whole:

Whereas the City of Bay City is committed to protecting local waterways for the public health and welfare of its current and future residents; and

Whereas the City of Bay City is required by the U.S. Environmental Protection Agency and the Michigan Department of Environmental Quality (MDEQ) to comply with the requirements of the National Pollutant Discharge Elimination System Phase II Storm Water Permit; and

Whereas the City of Bay City has partnered with municipalities, education institutions, and county agencies within the

Bay Area Storm Water Authority (BASWA) for several years in order to jointly implement activities to comply with state and federal storm water requirements; and

Now Therefore Be It Resolved that the City of Bay City supports the Bay County Drain Commissioner's Office and the BASWA Group.

Be It Further Resolved that the City Engineering Manager, serving as the Trustee, and the Public Works Director, serving as the Alternate Trustee, are officially authorized to serve as voting members of the BASWA Group and will participate in all meetings and provide input to the Group on the City's behalf, for a term of four years.

Commissioner Brunner moved approval of resolution.

Adopted by the following vote:

Yes, Commissioners Dockett, Rivet, Zanotti, Brunner, Hilliker, Girard, Clements, Morris, 8.

No, None.

Of Commission as a Whole:

Whereas the Saginaw River is an integral component of the City of Bay City's recreation and tourism activities, and, those recreation and tourism activities related to the Saginaw River in the City of Bay City are a key component of the city's economy; and

Whereas riverfront access for boating, canoeing, and kayaking, is important to the quality of life for residents in Bay City and the surrounding area; and

Whereas high and fluctuating water levels on the Saginaw Bay and Saginaw River have made the existing boat launches at Cass Park, Golson Park, and Veterans Memorial Park difficult or impossible to use, and have put the existing rowing/canoe/kayak launch at Bigelow Park underwater; and

Whereas the city wishes to add additional canoe/kayak launches on the Saginaw River to meet the increasing demand; and

Whereas the city wishes to develop engineering designs for resilient and improved boat launches at Cass Park, Golson Park, and Veterans

Memorial Park and the existing rowing/canoe/kayak launch at Bigelow Park as well as new canoe/kayak launches at Cass Park, Golson Park, and Veterans Memorial Park, if feasible; and

Whereas funding is available from the U.S. Department of Commerce through the Coastal Management Program; and

Whereas the total project cost for study and engineering is estimated at about \$160,000, 50 percent of which would be funded through the Coastal Program and 50 percent would be a local match.

Now Therefore Be It Resolved that the City of Bay City Commission approves the submission of the grant application to the Michigan Coastal Management Program in the amount of \$160,000 for study and design of boat launch and canoe/kayak launch improvements and additions at Bigelow Park, Cass Park, Golson Park, and Veterans Memorial Park.

Commissioner Brunner moved approval of resolution.

Adopted by the following vote:

Yes, Commissioners Dockett, Rivet, Zanotti, Brunner, Hilliker, Girard, Clements, Morris, 8.

No, None.

The Commission adjourned at 7:05 PM.

KATHLEEN L. NEWSHAM, MAYOR

TEMA J. LUCERO, CITY CLERK