



BAY CITY CITY COMMISSION

Regular Meeting Official Proceedings

Bay City, Michigan
January 4, 2021

The Commission met virtually at 6:30 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.

RECESS

The Commission recessed at 6:31 PM for completion of items on the Finance/Policy agenda. The meeting reconvened at 7:14 PM. It was noted that attendance of the Commission remained the same as at the time of the recess.

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

Alex Dewitt, 1309 S. Erie Street, requested the purchase of four 2021 Chevrolet Tahoe, 4WD vehicles from Berger Chevrolet, Grand Rapids, MI, through the MiDeal cooperative purchasing program in the total amount of \$157,544, for the Public Safety Department, be placed on the regular agenda.

PUBLIC HEARING

Commissioner Dockett moved to allow citizens to address the commission regarding Ordinance amendment to the Code of Ordinances, Chapter 82, Peddlers and Solicitors,

adding Article IV, Mobile Food Vehicles, Sections 82-151 through 82-156. There was no objections.

Alex Dewitt, 1309 S. Erie Street, spoke in opposition of the ordinance.

Earl Bovia, 1212 Wilderness Court, Essexville, spoke as the Food & Beverage director for the Bay City Fireworks Festival and asked how it would affect him.

PUBLIC INPUT

Commissioner Rivet 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).

Alex Dewitt, 1309 S. Erie Street, spoke on the speed trap at the intersection of 3rd Street and Washington Avenue.

SPECIAL ORDER

The following Ordinance was presented at the December 21, 2020, City Commission meeting and is herewith presented for possible adoption.

Of Commission as a Whole:

Ordinance No. 2021-1

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) Submittal of a site drawing on public and private property, which will be approved by the City Manager. The site drawing should indicate relevant details and location of the food truck and name(s) of abutting street; area of occupancy of the food truck on the parcel (square feet/dimensions); driveways providing ingress and egress.

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

(7) 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) 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.

(n) 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.

(o) 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 without written approval from the such owners and submitted to the City Clerk.

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 Dockett moved adoption of resolution 2021-1.

Adopted by the following vote:

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

No, None.

MINUTES

On motion, minutes of the October 5, 2020, October 19, 2020 and November 11, 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 \$419,174.67 and Investments and Wire Transfers in the amount of \$1,517,913.81 (12/28/20) and Accounts and Claims in the amount of \$129,249.10 and Investments and Wire Transfers in the amount of \$1,651,822.82 (01/04/21) and recommending payment of same.

Commissioner Dockett 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 \$956,264.29 (12/23/20) and recommending payment of same.

Commissioner Dockett 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 City Manager:

It is recommended the service agreement with EPIC Card Services, LLC, Salem, OR, to provide credit card processing for the self-serve fuel terminal at James Clements Airport be

approved.

It is further recommended that the Mayor and Clerk be authorized and directed to execute on behalf of the City.

Commissioner Dockett 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 subscription service agreement with QT POD, LLC, Boulder, CO, for the self-serve fuel terminal at James Clements Airport, in the amount of \$945 per unit, per year be approved.

It is further recommended that the Mayor and Clerk be authorized and directed to execute on behalf of the City.

Commissioner Dockett 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 purchase of four 2021 Chevrolet Tahoe, 4WD vehicles from Berger Chevrolet, Grand Rapids, MI, through the MiDeal cooperative purchasing program in the total amount of \$157,544, for the Public Safety Department be approved.

Commissioner Rivet moved to allow public input. There was no objection.

Alex Dewitt, 1309 S. Erie Street, spoke on the local purchase preference and asked if they had been compared to chargers and explorers. He also asked what the fully equipped price would be.

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 COMMITTEES

Of Finance/Policy Committee: Presenting minutes of regular meetings October 5, 2020, October 19, 2020 and November 2, 2020.

Commissioner Dockett moved approval of minutes.

Adopted by the following vote:

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

No, None.

Of Downtown Development Authority: Presenting minutes of regular meeting December 4, 2020.

Received.

COMMUNICATION

The 2020 Winter Tax Single Assessments from the Assessor were received.

RESOLUTIONS

Of Commission as a Whole;

Whereas, the Solid Waste Management Special Revenue Fund ended the July 1, 2019 through June 30, 2020 fiscal year with a \$236,650 deficit fund balance, the DPW Building Internal Service Fund ended the July 1, 2019 through June 30, 2020 fiscal year with a \$125,946 deficit net position, and the Liberty Harbor Marina ended the July 1, 2019 through June 30, 2020 fiscal year with a deficit net position of \$3,148; and

Whereas, the Michigan Department of Treasury in their Numbered Letter 2016-1, details the requirements that a local unit of government with a deficit in any fund must submit a "Deficit Reduction Plan" to the Department of Treasury; and

Whereas, that Deficit Reduction Plan should be submitted either prior to or concurrent with the submission of the City's Comprehensive Annual Financial Report; and

Whereas, the City's Comprehensive Annual Financial Report for the fiscal year beginning July 1, 2019 through June 30, 2020 will be submitted to the State of Michigan prior to December 31, 2020; and

Whereas, the deficit fund balance in the Solid Waste Disposal fund for the fiscal year ending June 30, 2020 will be eliminated with a \$237,000 appropriation from the General Fund; and

Whereas, the deficit net position in the DPW Building fund will be eliminated by a transfer totaling \$130,000 from the programs whose staff shall be located in the DPW Building; and

Whereas, the deficit net position in the Liberty Harbor Marina will be eliminated through current year surpluses or an additional General Fund Appropriation (if required); and

Now Therefore Be It Resolved that the City of Bay City adopts the Deficit Reduction Plans for the Solid Waste Management Special Revenue Fund, the DPW Building Internal Service Fund, and the Liberty Harbor Marina.

Be It Further Resolved that the Fiscal Services Director is authorized to submit the Deficit Reduction Plan to the Michigan Department of Treasury consistent with the procedures outlined in Numbered Letter 2016-1.

Commissioner Dockett moved adoption of resolution.

Adopted by the following vote:

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

No, None.

Of Commission as a Whole:

Whereas, the Michigan Department of Transportation (MDOT) requires authorization of Tema Lucero,

City Clerk and Kathleen Newsham, Mayor to act as agents on behalf of the City to sign the contract between the City of Bay City and MDOT; and

Whereas, MDOT requires approval of Contract No. 20-5441 between the Michigan Department of Transportation (MDOT) and the City of Bay City for the installation and maintenance of the street lighting along the Highway M-25 (McKinley Street) exit ramp and within the parking lot at the base of Highway M-25 (McKinley Street) bridge over the Saginaw River; and

Whereas, a standardized agreement with the Michigan Department of Transportation, contract 20-5441, outlining the requirements of the project must be approved by the City of Bay City.

Now Therefore Be It Resolved that the City has authorized Tema Lucero, City Clerk and Kathleen Newsham, Mayor, to act as agents on behalf of the City to sign Contract No. 20-5441 on behalf of the City of Bay City for the installation and maintenance of the street lighting along the Highway M-25 (McKinley Street) exit ramp and within the parking lot at the base of Highway M-25 (McKinley Street) bridge over the Saginaw River.

Be It Further Resolved that, that the City approves Contract No. 20-5441 between MDOT and the City of Bay City.

Commissioner Dockett moved adoption of resolution.

Adopted by the following vote:

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

No, None.

The Commission adjourned at 7:35 PM.

KATHLEEN L. NEWSHAM, MAYOR

TEMA J. LUCERO, CITY CLERK