

# CITY OF BAY CITY

MINUTES • MARCH 26, 2024

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COUNCIL  
CHAMBERS | 1901  
5th Street

City Council Regular Meeting

6:00 PM

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1901 5TH STREET  
BAY CITY TX, 77414



## Mayor

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Robert K. Nelson

## Mayor Pro Tem

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Blayne Finlay

## Councilman

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Jim Folse

## Councilman

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Bradley Westmoreland

## Councilwoman

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Becca Sitz

## Councilman

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Benjamin Flores

*Through a united and collaborative effort, we seek to grow the City of Bay City with a diverse culture that is proud to call Bay City home. We envision a thriving family-centered community where citizens are involved in the future development of our city. We desire our citizens to work, play, worship and shop in the community in which we live. Visitors are welcomed and encouraged to enjoy the friendly environment and amenities the citizens and business owners have created together.*

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**CALL TO ORDER AND CERTIFICATION OF QUORUM**

The meeting was called to order by Mayor Robert K. Nelson at 6:21 p.m.

**PRESENT**

Mayor Robert K. Nelson  
Mayor Pro Tem Blayne Finlay  
Councilman Benjamin Flores  
Councilman Jim Folse  
Councilman Brad Westmoreland  
Councilwoman Becca Sitz

**INVOCATION & PLEDGE**

Texas State Flag Pledge: *"Honor The Texas Flag; I Pledge Allegiance To Thee, Texas, One State Under God, One And Indivisible."*

*Councilman Jim Folse*

**MISSION STATEMENT**

*The City of Bay City is committed to fostering future economic growth by collaborating with our citizens, employers, current and future businesses, as well as the Community and Economic Development Centers. We strive to deliver superior municipal services and to invest in quality-of-life initiatives such as housing, businesses, jobs and activities for all citizens. We make a concerted effort to respond to resident's concerns in a timely and professional manner in order to achieve customer satisfaction.*

*Councilman Jim Folse*

**APPROVAL OF AGENDA**

Motion made by Councilman Westmoreland to approve the agenda, Seconded by Councilman Folse. Voting Yea: Mayor Nelson, Mayor Pro Tem Finlay, Councilman Flores, Councilman Folse, Councilman Westmoreland, Councilwoman Sitz. Motion carried.

**PUBLIC COMMENTS**

LA Neal asked Council to look into the impound of his vehicle due to an arrest and charges dismissed.

**PROCLAMATION**

- 1. Presentation of Proclamation declaring April 7-13, 2024 as National Library Week.**

Mayor read the proclamation declaring April 7-13, 2024 as National Library Week and presented the proclamation to the library staff.

### **ACKNOWLEDGEMENTS FROM CITY MANAGER**

Scotty Jones, Interim City Manager, recognized the Library and the Harry Potter event that drew 200 attendees in the first two hours. Ms. Jones thanked the newspapers for getting the word out for the City's Strategic Planning sessions and a survey will be going out by social media and water bill inserts. Ms. Jones recognizes Parks & Recreation for their success at the River Side Park Cook Off. Kelly Penewitt, Interim Parks & Recreation Director introduced the staff adding that the cook off had fifteen teams and 122 entries.

### **ITEMS / COMMENTS FROM THE MAYOR & COUNCIL MEMBERS**

Councilman Westmoreland commented on the full weekend we had and great seeing how much activity and engagement across our community. Councilman Westmoreland thanked all the volunteers in various organizations and the investment in those organizations by private citizens as well.

Mayor Pro Tem Finlay recognized coach Eddie Nelson, who passed away this week, very influential. Coach Nelson coached for 36 years for the Bay City Blackcats and Mayor Pro Tem Finlay added that he was lucky enough to play for him for two years. Coach Nelson was inducted into Texas Basketball Hall of Fame 16 times as coach of the year. Mayor Pro Tem Finlay hopes that the school board and the city can somehow consolidate together to do something in memory of him.

Mayor Pro Tem Finlay had concerns about Nile Valley Road from Highway 60 to the stop sign at Roberts that is deteriorating and would like public works department to look at, adding that there's debris, and rocks just all over the road that people are avoiding. Mayor Pro Tem Finlay stated that he is concerned about the gentleman on the lawn mower and saw him get into a pretty good altercation with a resident this week outside his store. It did not go well adding that he is concerned about his safety as well as other people on the road.

Councilman Folsie stated that Bay City Little League had their opening ceremonies that went very well. Councilman Folsie stated that there were a lot of cars and because of that he kind of started looking around the area over for some property over by the Lions shed or warehouse. Councilman Folsie stated that it seems like maybe we could explore the possibility of putting in a parking lot there that would allow access to both girls softball and try to relieve some of that parking issue.

### **CONSENT AGENDA ITEMS FOR CONSIDERATION AND/OR APPROVAL**

- 2. Consider and approve Amendment #1 to the Memorandum of Understanding between the City of Bay City, Texas and Bay City Gas Company for construction and maintenance of BMX Bike Park at City Field.**

Motion made by Councilman Folse to approve the consent items, Seconded by Councilman Flores. Voting Yea: Mayor Nelson, Mayor Pro Tem Finlay, Councilman Flores, Councilman Folse, Councilman Westmoreland, Councilwoman Sitz. Motion carried.

## DEPARTMENT REPORTS

### 3. **Public Works report and presentation.**

Krystal Mason, Assistant Public Works Director, presented Public Work's stats and project updates to Council. Ms. Mason added that the Building Department Permit Tech, Roxanne Gomez, passed her certification with high scores. Councilman Westmoreland asked that fire hydrant repaired or replaced be added to the report.

## REGULAR ITEMS FOR DISCUSSION, CONSIDERATION AND/OR APPROVAL

### 4. **Property ~ Discuss, consider, and/or approve declaring radio equipment as surplus property and authorizing proper disposition.** Dan Shook, Fire Marshall

Motion made by Councilwoman Sitz to approve declaring radio equipment as surplus property, Seconded by Councilman Folse. Voting Yea: Mayor Nelson, Mayor Pro Tem Finlay, Councilman Flores, Councilman Folse, Councilman Westmoreland, Councilwoman Sitz. Motion carried.

### 5. **Discuss, consider, and/or approve awarding the construction quote for the Hilliard Pool to Progressive Commercial Aquatics in the amount of \$255,800.00 and authorize the City Manager to execute a contract by for by the City Attorney.**

Kelly Penewitt, Interim Park & Recreation Director, presented the construction quote and Councilman Westmoreland requested that swim lines be added now that Aqua Cats will be using.

Motion made by Councilwoman Sitz to award the construction contract to Progressive Commercial Aquatics adding the stripes (swim lines) not to exceed \$275,000.00, Seconded by Councilman Flores. Voting Yea: Mayor Nelson, Mayor Pro Tem Finlay, Councilman Flores, Councilman Folse, Councilman Westmoreland, Councilwoman Sitz. Motion carried.

### 6. **Resolution ~ Discuss, consider, and adopt a resolution determining that the City of Bay City contains areas which are considered to be blighted.** Gabriel Lopez, Engineering Tech

Motion made by Councilwoman Sitz to approve the resolution determining that the City of Bay City contains areas which are considered to be blighted and extending to Avenue I, Seconded by Councilman Westmoreland. Voting Yea: Mayor Nelson, Mayor Pro Tem Finlay, Councilman Flores, Councilman Folse, Councilman Westmoreland, Councilwoman Sitz. Motion carried.

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7. **Resolution ~ Discuss, consider, and adopt a resolution authorizing the submission of a Texas Community Development Block Grant program application to the Texas Department of Agriculture for the Main Street Program.** Gabriel Lopez, Engineering Tech

Motion made by Councilman Flores to adopt a resolution authorizing the submission of a Texas Community Development Block Grant program application to the Texas Department of Agriculture for the Main Street Program, Seconded by Councilwoman Sitz. Voting Yea: Mayor Nelson, Mayor Pro Tem Finlay, Councilman Flores, Councilman Folse, Councilman Westmoreland, Councilwoman Sitz. Motion carried.

8. **Interlocal Agreement ~ Discuss, consider, and/or approve an Interlocal Agreement between the city of Bay City and Matagorda County regarding the Bay City Service Center.**

Scotty Jones, Interim City Manager, presented the agreement stating that it was a routine agreement.

Motion made by Councilwoman Sitz to approve the the Interlocal Agreement between the city of Bay City and Matagorda County regarding the Bay City Service Center, Seconded by Councilman Westmoreland.

Voting Yea: Mayor Nelson, Mayor Pro Tem Finlay, Councilman Flores, Councilman Folse, Councilman Westmoreland, Councilwoman Sitz. Motion carried.

9. **Resolution ~ Discuss, Consider, and/or approve the Resolution of the City of Bay City suspending the April 4, 2024 effective date of AEP Texas Inc.'s requested rate change to permit the City time to study the request and to establish reasonable rates; approving cooperation with the cities served by AEP Texas and authorizing intervention in AEP Texas Inc.'s requested rate change proceedings before the Commission; hiring Lloyd Gosselink Attorneys and Consulting Services to negotiate the Company and direct any necessary litigation and appeals; requiring reimbursement of cities; rate case expenses; finding that the meeting at which this resolution is passed is open to the public as required by law; requiring notice of this resolution to the company and legal counsel.** Scotty Jones, Interim City Manager

Motion made by Councilman Westmoreland to approve the Resolution of the City of Bay City suspending the April 4, 2024 effective date of AEP Texas Inc.'s requested rate change, Seconded by Mayor Pro Tem Finlay. Voting Yea: Mayor Nelson, Mayor Pro Tem Finlay, Councilman Flores, Councilman Folse, Councilman Westmoreland, Councilwoman Sitz. Motion carried.

10. **Resolution ~ Discuss, consider, and/or approve a resolution by the City of Bay City, Texas, authorizing publication of Notice of Intention to issue Certificates of Obligation; authorizing preparation of a preliminary official statement and notice of sale; and approving other matters incidental thereto.** Scotty Jones, Interim City Manager

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Motion made by Mayor Pro Tem Finlay to approve a resolution by the City of Bay City, Texas, authorizing publication of Notice of Intention to issue Certificates of Obligation, Seconded by Councilman Flores. Voting Yea: Mayor Nelson, Mayor Pro Tem Finlay, Councilman Flores, Councilman Folsie, Councilman Westmoreland, Councilwoman Sitz. Motion carried.

- 11. Property ~ Discuss, consider, and/or approve a Resolution authorizing the sale of 11.6222 acres of land by the City of Bay City to Ivan Depaz-Osoria and Priscilla Marie Depaz and authorizing the Mayor to sign all documents in connection with the sale.** Anne Marie Odefey, City Attorney

Motion made by Councilman Folsie to approve a Resolution authorizing the sale of 11.6222 acres of land by the City of Bay City to Ivan Depaz-Osoria and Priscilla Marie Depaz, Seconded by Mayor Pro Tem Finlay. Voting Yea: Mayor Nelson, Mayor Pro Tem Finlay, Councilman Flores, Councilman Folsie, Councilman Westmoreland, Councilwoman Sitz.

- 12. Ordinance ~ Discuss, consider, and/or approve a proposed Ordinance amending the City of Bay City Code of Ordinance Article II - City Council; creating Division 3 - Conduct of City Council Members; providing for Ethical Standards for City Council Members; providing a penalty for violations of the Ethical Standards; providing for Municipal Court Jurisdiction; providing for an effective date; and repeal any conflicting code provisions.** Anne Marie Odefey, City Attorney

Item moved to executive session.

- 13. Report ~ Discuss report received on 2500 Hamman Road and take any action deemed necessary.** Anne Marie Odefey, City Attorney

Item moved to executive session.

## **CLOSED / EXECUTIVE SESSION**

Council adjourned regular session and went into executive session at 7:38 p.m.

- 14. Executive Session pursuant to Texas Government Code Section 551.072 (Deliberation regarding Real Property).**
- 15. Executive Session pursuant to the Texas Government Code Section 551.087 to discuss economic development negotiations.**
- 16. Personnel ~ Closed meeting to discuss personnel matters in accordance with Title 5, Section 551.074 of the Texas Government Code (To discuss appointment, employment, evaluation, responsibilities and duties, reassignment, discipline or dismissal of an officer or employee, or to hear a complaint or charge against an officer or employee: Mayor and Council**

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**17. Executive Session pursuant to Section 551.071(1) of the Texas Government Code (Consultation with Counsel on Legal Matters)****RECONVENE AND ACTION**

Council reconvened back into a regular session at 9:00 p.m. Council took no actions on items in executive session.

A statement was read by Councilman Westmoreland regarding Item #13:

Effective September 1, 2023, the Agriculture Code was amended to significantly limit a city's ability to regulate farming operations in city limits. In the November election these amendments were shored up with a constitutional amendment to preserve the right to farm.

The law change made it where cities can only regulate farms in the City based upon a consultant's report that finds the farm poses an imminent danger of listed matters such as disease by clear and convincing evidence.

In December, Council received a quote for the consultant and hired the consultant to perform a study of 2500 Hamman Road where a swine farm is located within City limits for approximately \$15,000.00.

The city has received the report and after discussing it with the consultant, the consultant was not able to tie the swine farm at 2500 Hamman Road to any particular imminent danger. The City cannot take any action. We want to let the Citizens of Bay City know that we tried every avenue that the City could take but we were unsuccessful.

The public needs to know that this matter does not have to end here. The Right to Farm Act gives private citizens more rights to oppose farming in the City by their neighbors. I would encourage any citizen who feels they do not want this farming to continue to contact an attorney. The challenge must be made within the first year of the farming operation, so timing is important.

**ITEMS / COMMENTS FROM THE MAYOR, COUNCIL MEMBERS AND CITY MANAGER**

Reminder of the Egg extravaganza on Good Friday at LeTulle Park.

**ADJOURNMENT**

Motion made by Councilman Flores to adjourn, Seconded by Councilman Westmoreland. Voting Yea: Mayor Nelson, Mayor Pro Tem Finlay, Councilman Flores, Councilman Folsie, Councilman Westmoreland, Councilwoman Sitz. Motion carried and the meeting adjourned at 9:04 p.m.

**PASSED AND APPROVED**, this 14th day of May 2024.

ROBERT K. NELSON, MAYOR

CITY OF BAY CITY, TEXAS

JEANNA THOMPSON

CITY SECRETARY