

**CITY OF BAYOU VISTA  
REGULAR MEETING  
February 26, 2019 – 6:30 PM**

The members of City Council convened for a Regular Meeting of the City of Bayou Vista City Council on Tuesday, February 26, 2019 at 6:30 p.m., at the Community Center, - 783C Marlin, corner of Neptune and Marlin, Bayou Vista, Texas, concerning the following items:

A quorum of the City Council was present and included the following:

Mayor:	Daniel Konyha	Present
Position 1:	Bob Althaus	Present
Position 2:	Tami Inman	Present
Position 3:	Carlos Price	Present
Position 4:	Louis Wortham	Present
Position 5:	James L. Cook, III	Present

Legal Counsel was present

**1. Call Meeting To Order**

Mayor Konyha called the meeting to order at 6:30 p.m.

**2. Roll Call**

Roll call was taken as reflected above.

**3. First Order of Business**

**A. Announcement by the Mayor of the presence of a quorum that the meeting had been duly called, and the notice of the meeting had been posted in the manner prescribed by law.**

**4. Pledge of Allegiance and Pledge to the Texas Flag**

The Pledges were led by Mayor Konyha

**5. CITIZEN'S COMMENTS ON AGENDA ITEMS ONLY**

Citizen expressed that on Action Item 8C, he was very much for this.

Citizen shared he thinks it could be a good idea to have the noise barrier, however, if the barrier was not engineered correctly, it could leave the City with trash floating around in a "washing machine effect", and the City is in a fish bowl and the walls need to be break-a-way.

Citizen stated she was also in agreement 100% with Action Item 8C.

Citizen expressed a couple things, she was in agreement with short term rentals ordinance and she agreed the noise barriers will be needed, but have to be engineered correctly.

**6. CONSENT AGENDA: All of the following items on the Consent Agenda are considered to be routine by the City Council and will be enacted in one motion. There will not be separate discussion of these items unless a Council Member requests**

**A. Approval of the Minutes of:  
Regular Meeting – January 29, 2019**

Correct: Action Item 8 E: Alderman Inman requested a comment be added, as she had addressed a concern regarding the contract with Pruitt's Pool Service. Alderman Inman questioned the contract might be a conflict of interest as James Pruitt is employed with the City. Mayor Konya advised the contract was for pool chemicals and did not conflict with the job duties required of the City employee, James Pruitt. Mayor Pro Tem Cook added, the price the City could purchase the chemicals through Pruitt's Pool Service, was much less than the City could purchase the chemicals on our own.

A motion was made by Alderman Inman to approve the Minutes of the Regular Meeting on January 29, 2019, with the correction to add the statement above.

The motion was seconded by Alderman Price.

Motion carried with all in favor.

**7. SPECIAL REPORTS AND PRESENTATIONS**

**A. City Departmental Reports**

- Police Department activity report for the month of January 2019
- Municipal Court activity report for the month of January 2019
- Building Permit activity report for the period of January 17, 2019 through February 16, 2019
- Code Enforcement activity report as of January 18, 2019

City Council reviewed the City Departmental Reports.

Alderman Inman requested to know what vehicle was Unit # 3 and Chief Gillane responded it was one of the pickups. Alderman Inman inquired as to why the mileage on Unit 3 had double the mileage than any of the rest of the vehicles. Chief replied it was because the police department was using it more, to keep the mileage down on the new one.

Alderman Inman stated she had to ask this question again as she had to over the past year and she questioned the 73 outgoing assists as opposed to the 6 incoming – is out of proportion again- way over the 50 number again- EMS and Fire are over the 60 mark this month. Alderman Inman has requested to see the call log to discover why the police department is out of the City twice a day. Chief will look in to it and provide the call log to Alderman Inman.

Mayor Pro Tem Cook added this out-of-city topic has been brought up a number of times-keep saying there is some extenuating circumstances as other departments need support and are short staffed. Mayor Pro Tem says thinks it is a good idea to support the surrounding communities when necessary- it makes our community look good as a whole, but it looks like the police department is leaving the City twice a day.

Alderman Inman added she spoke with a Commissioner in Galveston County and the County has approved hiring an extra officer for precinct 6.

Alderman Inman asked about the boat wake complaint and how the police department handles those types of complaints. The Chief advised it depends on if they can find who did it, and if they have the TX numbers. If they have the TX numbers they call Texas Parks and Wildlife; however, most of the time they do not get the TX numbers. Alderman Inman asked if it is just someone calling in and the Chief responded, "yes".

Mayor Pro Tem asked if it seems the suspicious person, vehicle and circumstances numbers are on the up-tick this month. Chief replied if someone sees something they call us and if dispatch does not know what it is they list as suspicious circumstances. Mayor Pro Tem asked if it is just an anomaly this month. Chief responded it is just people walking and casing houses and residents have called. Chief says they are checking them and Alderman Inman asked if they increased street patrol. Chief said the suspicious persons are being dropped off at the store.

Alderman Inman asked if the *2/11/19 Code Enforcement, Pet Violation* listed on the BVPD Code Enforcement Council Report was still "Pending Court" or has it been to court yet. Chief advised it is still pending and the pet owners also have violations from county. Chief will get with the Mayor tomorrow to see about filing dangerous dog charges.

Mayor Pro Tem Cook wanted to point out on the January agenda, he asked to have a discussion item; the "Code Enforcement Process" flow chart added as an Action Item this month. Mayor advised it was his fault it did not get on the agenda- Mayor Pro Tem said it was partly his fault too, however, he wanted to know if this group had an appetite for a Special Called Meeting as he did not want to wait another month again to have this item implemented as it would then be 90 days to have a standard procedure for code enforcement violations. Mayor Pro Tem said he realized the Mayor would be out-of-pocket but he wanted to move forward on it and Alderman Inman agreed. Mayor Pro Tem advised City Secretary he would be by City Hall on Thursday to bring the amended document and decide on the Special Called Meeting. A citizen asked if this would be an open meeting and what day and time. Mayor Pro Tem advised it would be posted.

Mayor Pro Tem advised the Chief he realized this information did not cover the house that burned last weekend, but he wanted to know if they gave a written warning/citation about the debris removal on Pompano. Chief said insurance agent would be at City Hall on Thursday to receive more information. Mayor Konyha advised both owner and insurance company were notified.

Alderman Wortham asked if the notice given to the camper(s) were for fail to get a permit to have someone stay or parked on the grass. Chief advised the slide-outs were out and water connected.

**B. Financial Statements for December 2019, as prepared by Whitley-Penn.**

Mayor Konyha advised there was a supplemental financial statement in each Alderman's Board book as not all of the line items that had no activity for this month were listed on the original statement.

Mayor Konyha spoke to the fact of the previous questions regarding police overtime and he got with the Chief as the over-time is higher than predicted but also caused by the City failing to budget a line item for holiday pay and that is going to the over-time line item. Mayor added that approximately \$6000.00 is holiday pay.

Mayor Pro Tem Cook asked what the root cause was of the overtime.

Alderman Inman in reference to the police overtime stated there is no way we could be 200% over our overtime. She had requested 6 months of police department time sheets from the City Secretary and she again asked for the documents

Alderman Inman asked about the City Secretary line item on page 10 below what we needed to be, should have 75% of the budget left and we only had 58%. Mayor Konyha advised we would check on it, but that line item should remain the same going forward.

Alderman Inman commented we had used 50% on the training budget and it needs to be watched.

Alderman Inman inquired about the deficit again on page 10: Insurance. She had brought up this check from the BVFD we received up in several meetings and asked why it was still not reflected in the totals. City Secretary advised she would check on it as she knew the check for \$12699.00 was posted and it is possible it was posted to the wrong line account.

Mayor Konyha stated we had a typo in the street lights budget and it should have been \$15,000.00 not \$5,000.00 and we are over 211% in City Revenue and would do a budget amendment in April to make some reasonable adjustments.

**C. Special Reports by Alderman**

Alderman Inman spoke in regard to the FEMA final flood hazard determination letter received by the City. She stated we need to ensure Russell knows we need to issue any new permits in compliance with the newest floodplain map. Second part of that issue, is that our ordinances need to be in line with Federal Regulations. Alderman Inman further stated, the council needs an agenda item in regards to compliance. Mayor Konyha advised he has information on that topic.

Alderman Inman and Mayor Konyha each spoke regarding the \$400,000.00 bond allocated by Galveston County to the City for road repair. The Mayor and Alderman Inman both agree that will not be enough money to cover one full road nor repair all the roads. She further stated the City might consider some version of what Tiki Island is doing, as far as covering a portion of the road repair(s), and the City cover some portion of our repairs. Mayor is trying to get Galveston County commit to repairing Blue Heron and then see what we can do on our own.

Alderman Wortham advised the Galveston County Transit Committee is meeting tomorrow evening and he will have a report for next month.

Alderman Price announced the Summer Festival Golf Tournament will be on Tuesday, May 21<sup>st</sup> at Moody Gardens. He stated sponsors and golfers are still needed to participate in the event.

There was a joint discussion regarding the Texas Water Development Board (TWDB) letter the City received in regard to our participation in the National Flood Insurance Program. There was a meeting scheduled for the City on March 21, 2019, however, due to the fact the Mayor had a previously planned vacation for the month of March, the meeting was rescheduled to April 9, 2019. The staff has been gathering all the requested documents for new construction 2014 forward; such as local ordinances, permits and elevation certificates. Alderman Inman suggested that the TWDB can look at any property though, not just the properties they requested from the City.

## **8. ACTION ITEMS**

### **A. Consider and take possible action to accept a proposal from Enterprise Commercial Paving (ECP) for the Lot Milling Project.**

Alderman Inman would prefer asphalt; however, she would be willing to look at other completed projects done by ECP. She does not feel comfortable voting for this proposal as the work done on the lot last year did not hold up and she does not want to spend \$17,900.00 this year and then have to pay more again next year.

Mayor Pro Tem Cook stated the work done last year was not the same as what was going to be performed by ECP this time.

Alderman Price said the City might look into chip seal for the lot, as it will tolerate heavy loads and is a less expensive option, but did say it was too hot for the vendors to stand.

The Board concurred the disclosure on the proposal that stated "ECP is not responsible for future ponding of water on lot or future failure of stabilized sand", was a concern, however, they believed it was probably legal jargon.

Mayor Pro Tem Cook was interested in the chip seal process that Alderman Price suggested.

A motion was made by Mayor Pro Tem Cook to table this item.

The motion was seconded by Alderman Inman.

The motion carried with all in favor.

**B. Consider and take possible action to accept a proposal from Nicholson Management Solutions, LLC for grant administration and consulting services.**

Alderman Inman asked if this was a rate per hour contract, as needed and Chief Gillane said "yes". She asked about other clients Nicolson Management Solutions had provided services to and the Chief responded Galveston County, South Houston and Pearland.

Alderman Price asked if we posted a RFQ. Mayor Konyha responded that the bid proposal had been posted on the website and also in the Galveston Daily News.

A motion was made by Alderman Price to approve a contract with Nicolson Management Solutions.

The motion was seconded by Alderman Inman.

The motion carried with all in favor.

**C. Consider and take possible action to approve ORDINANCE NO. 2019-02, AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF BAYOU VISTA, TEXAS, BY AMENDING CHAPTER 7 – OFFENSES AND NUISANCES, ARTICLE 7.09.02 RESIDENTIAL LOT RESTRICTIONS AND DEVELOPMENT STANDARDS (A), TO WIT: "NO LOT RESTRICTED OR USED FOR SINGLE-FAMILY RESIDENTIAL USE (HEREINAFTER CALLED A "RESIDENTIAL LOT") SHALL BE USED FOR ANYTHING OTHER THAN RESIDENTIAL PURPOSES, AND SHALL NOT BE USED DIRECTLY OR INDIRECTLY FOR THE CONDUCT OF ANY BUSINESS WHATSOEVER, COMMERCIAL OR OTHERWISE. ANY RENTAL, "OR OFFER TO RENT" ALL OR PART OF A BUILDING ON A RESIDENTIAL LOT FOR A TERM SHORTER THAN 30 DAYS SHALL BE DEEMED TO BE A COMMERCIAL PURPOSE AND SHALL BE UNLAWFUL..." WITH ALL OTHER SECTIONS AND SUBSECTIONS IN CHAPTER 7 TO REMAIN AS WRITTEN REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HEREWITH; PROVIDING FOR A PENALTY AND PROVIDING FOR SEVERABILITY.**

A motion was made by Alderman Inman to approve ORDINANCE NO. 2019-03 as presented

The motion was seconded by Alderman Wortham.

The motion carried with all in favor.

- D. Consider and take possible action to approve ORDINANCE NO. 2019-03, AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF BAYOU VISTA, TEXAS, BY AMENDING CHAPTER 7 – OFFENSES AND NUISANCES, ARTICLE 7.09.02 RESIDENTIAL LOT RESTRICTIONS AND DEVELOPMENT STANDARDS (B), TO REMOVE THE PHRASE: "*EFFECTIVE JUNE 1, 2018, THE MOTOR HOME OR TRAVEL TRAILER SHALL BE LOCATED ON CONCRETE, ASPHALT OR GRAVEL SURFACE WITHIN A RESIDENTIAL LOT.*" WITH ALL OTHER SECTIONS AND SUBSECTIONS IN CHAPTER 7 TO REMAIN AS WRITTEN REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HEREWITH; PROVIDING FOR A PENALTY AND PROVIDING FOR SEVERABILITY.

A motion was made by Alderman Inman to approve ORDINANCE NO. 2019-03 as presented.

The motion was seconded by Mayor Pro Tem Cook.

The motion carried as follows:

Mayor Pro Tem Cook	In Favor
Alderman Inman	In Favor
Alderman Wortham	In Favor
Alderman Price	In Favor
Alderman Althaus	Opposed

The motion carried with the majority in favor.

- E. Consider and take possible action to approve the Texas Department of Transportation Bayou Vista Noise Abatement Barrier

Mayor Konyha stated the wall will run from the big parking lot to Dockside and it appears the wall will border the ditch, however, he believes I-45 may be further away after the completion of the road construction.

Alderman Inman spoke with engineer and specifically asked if the engineer studies were complete. She advised TXDOT has not completed any studies in regard to drainage, the walls will not be breakaway but they will have drainage at the bottom. She added the reason Bayou Vista was included was due to the fact Omega Bay requested the wall and she advised there would be no reassurances the noise barrier would be a good option for Bayou Vista.

A motion was made by Mayor Pro Tem Cook to reject the plan as presented by the Texas Department of Transportation Bayou Vista Noise Abatement Barrier.

The motion was seconded by Alderman Price.

The motion carried with all in favor.

## 9. DISCUSSION

### A. **Exceptions to Ordinances: Discussion on the appropriate procedure to allow requests that are not aligned within the parameters of the ordinance.**

Alderman Inman spoke regarding a permit that was approved by the Mayor that was not consistent with an ordinance that was just recently enacted by the Board. She further stated, Chapter 7, Section 7.09.02 allows; if any of the restrictions or development standards in the ordinance would result in an unnecessary hardship, it can be presented to the Board of Aldermen to decide further action. No person can make an exception to an Ordinance except the Board, therefore, the resident needs to plan ahead, if an exception may need to be made so there is time for the Board to consider that exception.

Alderman Inman stated we must follow our own ordinances. In addition, Chapter 1, Section 1.01.06(B) is written that each day the violation shall continue constitutes a separate offense, and after bringing this subject up numerous times, this portion of the ordinance is not being followed either, and it needs to stop.

Alderman Inman added it had also come to her attention a video recording was made that included Bayou Vista Police Department Officers in uniform for a private security firm and it needs to be stopped; these matters need to come before Council.

Alderman Inman advised she can't do her job effectively if the ordinances are not followed.

Mayor Pro Tem Cook and Alderman Inman each spoke regarding consistency in enforcing the ordinances as they are written. Both said they don't necessarily agree with each and every ordinance, however, it is unfair to enforce an ordinance against one resident and then disregard the same ordinance for another resident. In addition, citizens complain one ordinance is being enforced and another ordinance is not, therefore, a standard operating procedure is being developed for approval by the Board in order to gain consistency and fair and equal status with enforcement.

Alderman Althaus questioned the time an Ordinance will allow for a resident to remedy the violation and also questioned as to if the Board would have to implement the penalty into our Ordinances, to which Alderman Inman advised the Board did not have to implement the penalty, the penalties were already incorporated into each Ordinance.

Alderman Wortham wondered how it could be accomplished within 10 days and it was explained the resident had 10 days to respond as to time involved to remedy and then time to mitigate the problem depends on the type of violation, such as a major or minor violation. Alderman Wortham wonders if the Board feels we are obliged to write a violation daily. He further questioned if violations can or must be written, the response was it is discretionary depending on the circumstances.

## 11. COMMENTS

- Citizen's Comments

Citizen spoke in regard to a citation he received in which was resolved at trial with a not guilty verdict after which time he received another citation for the same violation. Citizen said he was thinking of a plan to conceal his items but he wanted council to know the items are not rubbish, filth, trash, refuse or junk, they are worth about \$5000.00.

Citizen wanted council to know her drain is backed up and it resulted in \$7000.00 worth of new building construction to get water soaked. Citizen felt it was the City's responsibility to keep the drain cleaned out.

Citizen thanked Mayor Pro Tem Cook and Alderman Inman for their work on code enforcement. She also commented on the vagrants the Chief spoke about and she was concerned with residents hiring workers who have criminal records to perform work at their homes. She explained, if the residents did not hire these people to come to our City, then they would not be here walking about in the City. She also expressed concern about the house where the siding was falling off. She further stated we should be careful about how we handle our out of city assists with other departments as, when the County is needed, they always respond.

Citizen spoke about the parking lot milling and said the City should talk with someone who knows what we have and come up with a good way to solve the problem and stated he believed the City wasted their money with what was done last time.

Citizen shared the City should ask Texas Department of Transportation regarding the noise barrier to reject plan due to insufficient information to make a decision and file a complaint. He says part of this noise barrier would be a good area to have it, but the design will change.

Citizen wanted to know the height of the wall. He then asked in regards to the street repairs, do we have height guidelines as to how high the elevation the street can be in relation to the homeowner's lot.

- Aldermen Comments

Alderman Inman thanked the citizens for coming and for their input.

Alderman Wortham advised Galveston County is considering a creation of a county- wide drainage district, but he had reservations if we would ever see any of the money.

Mayor Pro Tem Cook thanked the citizens for coming and said he listened to everything and appreciated all of their input.

- Mayor's Comments

Mayor Konyha thanked everyone for coming and the input from the citizens. He advised Mayor Pro Tem Cook would be in charge during the month of March as he would be on vacation.

**12. ADJOURNMENT**

A motion was made by Alderman Wortham to adjourn. The motion was seconded by Alderman Althaus, duly put and unanimously carried, the Council adjourned at 8:02 p.m.

Respectfully submitted,  
Terri Neal – Administrative Assistant

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Daniel S. Konyha, Mayor

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Terri Neal – City Secretary