

**CITY OF VIDOR
VIDOR CITY COUNCIL
REGULAR MEETING
SEPTEMBER 26, 2019**

MEMBERS PRESENT:

Mayor Kimberly Stiebig
Councilmember Angela Jordan
Councilmember Misty Songe
Councilmember Keith Buesing
Councilmember Gary Herrera
Councilmember Jane Hill

MEMBERS ABSENT:

Councilmember Bob Turner

Administrative Personnel: Mike Kunst, City Manager; Chris Leavins, City Attorney; Vicki Watson, City Secretary; Cheryl Ray, Supervisor of Finance & Accounting; Rod Carroll, Chief of Police; Linda Cathey, Code Enforcement Officer; and Aleta Cappen, Police Captain/Emergency Management Coordinator

A. OPENING, PRESENTATIONS, AND CITIZENS COMMENTS

A -1. Call to order and the establishment of a Quorum

A quorum was present, and the Regular Meeting of the Vidor City Council began at 7:00 p.m., Mayor Stiebig presiding.

A -2. Invocation and Pledge to the United States Flag and the State of Texas Flag

Chris Leavins, City Attorney, gave the Invocation and led the Pledge to the United States Flag and the State of Texas Flag.

A -3. Report by Emergency Services Coordinator Captain Aleta Cappen regarding post-Tropical Storm Imelda activities pertaining to the City of Vidor and/or Orange County

Captain Aleta Cappen, Emergency Services Coordinator, displayed a city map showing the streets that flooded during Tropical Storm Imelda. Captain Cappen explained the storm made landfall south of us and between 6-10 inches of rain was expected over a three-day period. Captain Cappen stated by midnight, the streets became flooded and impassable. Captain Cappen explained by daylight, mutual aid was called for within the county and a shelter was opened. Captain Cappen stated many more were evacuated than went to the shelter.

Captain Cappen stated the County is working with the State to do damage assessments and get the number of residences that flooded. Captain Cappen discussed Orange County's survey and explained of the 2,514 self-reported responses, approximately half are in the city limits. Captain Cappen asked Council to encourage citizens to complete the survey as it helps the state to reach the federal level that we need in order to be declared a disaster.

In closing, Captain Cappen stated the City of Vidor has some of the most phenomenal employees in the State of Texas who step up to the plate, do whatever you ask them to do, work nonstop, and do what they can to try and help our citizens. A brief discussion ensued.

A -4. Citizen Comments

Cathey Gill Matthews spoke on behalf of her mother, Mary Gill, who lives at 275 Chance Street. Ms. Matthews stated her mother is a diabetic and has very high blood pressure and has now flooded twice. Ms. Matthews explained her husband took pictures and videos of the drainage on Bolivar and East Railroad. Ms. Matthews discussed the holding ponds in Beaumont, dealing with flooding without increasing taxes, drainage canals that look like forests, and the properties surrounding her mother's house. Mayor Stiebig gave Ms. Matthews her City email address and asked her to forward the pictures.

B. COUNCIL CONSENT AGENDA

B -1. Approval of Accounts Paid:

Paid Invoices:	General Fund – \$42,687.19
	Sanitation Fund – \$6,702.75
	Juvenile Case Management – \$49.75
	Municipal Court Building Security Fund – \$34.42
	Emergency Management – \$31.68
	TDA Grant – \$3,300.00

B -2. Approval of Minutes: **Regular Meeting – September 12, 2019**
 Emergency Special Called Meeting – September 19, 2019

B -3. Ratification of the transfer of funds from Interest & Sinking 2013 General Obligation Refunding Bonds-Capital One Bank account to Interest & Sinking 2008/2016 General Obligation Refunding Bonds-TexPool account in the following amounts:

September 17, 2019: \$ 1,268.38

B -4. Ratification of the payment of the monthly sales tax in the amount of \$5,492.74 out of General Account/Pooled Cash

B -5. Ratification of the transfer of funds from Pooled Cash to the Disaster Fund in the amount of \$100,000.00 for the payment of bills related to Tropical Storm Harvey (Oakland and Lakeside)

A motion was made by Councilmember Songe, seconded by Councilmember Jordan, to **APPROVE THE COUNCIL CONSENT AGENDA AS PRESENTED.** The Council voted five (5) for and none (0) opposed. The motion carried.

C. COUNCIL REGULAR AGENDA

C -1. Consideration and possible approval of AN ORDINANCE ADOPTING A BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2019, AND ENDING ON SEPTEMBER 30, 2020, IN ACCORDANCE WITH THE CHARTER OF THE CITY OF VIDOR, TEXAS; CONTAINING A SEVERABILITY/REPEALING CLAUSE; WAIVING A SECOND READING AND PROVIDING AN EFFECTIVE DATE FOR THIS ORDINANCE

Jarrold Nash, 2390 Brandt Drive, explained he lives right on the county line, but his property is directly affected by City drainage. Mr. Nash stated he understands this is a small town with a limited budget, but there are millions of dollars of damage to homes in this region and many people are ready to give up on

Vidor. Mr. Nash stated people are tired of throwing everything they own to the curb. Mr. Nash stated he knows there is county and federal money out there and urged Council to work with those levels to seek funding specifically for this issue. Councilmember Herrera responded that the City has been chasing grants for years and discussed the School House Ditch Project. Councilmember Songe explained during the budget workshop, the City set aside \$500,000 for drainage and \$500,000 for streets. Councilmember Jordan reiterated that the City has applied for numerous grants.

Cheryl Ray, Supervisor of Finance and Accounting, explained no changes were made to the final draft of the budget from the last meeting.

Councilmember Songe moved **to approve the Ordinance adopting the budget** and Councilmember Jordan seconded. ROLL CALL VOTE: Councilmember Jordan, aye; Councilmember Songe, aye; Councilmember Buesing, aye; Councilmember Herrera, nay; and Councilmember Hill, aye. The Council voted four (4) for and one (1) opposed. The motion carried.

C -2. Consideration and possible approval AN ORDINANCE CREATING A TAX LEVY AND FIXING THE TAX RATE FOR THE CITY OF VIDOR, TEXAS, FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2019, AND ENDING SEPTEMBER 30, 2020, UPON ALL TAXABLE PROPERTY IN THE CITY OF VIDOR, TEXAS, ACCORDING TO THE LAWS OF THE STATE OF TEXAS, CHARTER PROVISIONS AND ORDINANCES OF THE CITY OF VIDOR, TEXAS; CONTAINING A SEVERABILITY/REPEALING CLAUSE; WAIVING A SECOND READING AND PROVIDING AN EFFECTIVE DATE FOR THIS ORDINANCE

Mayor Stiebig stated, “\$.57541 of the total rate is hereby specifically levied for current expenses of maintenance & operation purposes. \$.12830 of the total rate is hereby specifically levied for the payment of principal and interest on debt of the City of Vidor Tax & Revenue Certificate of Obligation, Series 2016 and General Obligation Refunding Bonds, Series 2013.”

A motion was made by Councilmember Songe, seconded by Councilmember Hill, **to approve the tax rate at .70371**. ROLL CALL VOTE: Councilmember Songe, aye; Councilmember Buesing, aye; Councilmember Herrera, nay; Councilmember Hill, aye; and Councilmember Jordan, aye. The Council voted four (4) for and one (1) opposed. The motion carried.

C -3. Consideration and possible approval of AN ORDINANCE RATIFYING THE PROPERTY TAX INCREASE REFLECTED IN THE BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2019, AND ENDING SEPTEMBER 30, 2020, FOR THE CITY OF VIDOR, TEXAS, IN ACCORDANCE WITH HOUSE BILL 3195; CONTAINING A SEVERABILITY/REPEALING CLAUSE; WAIVING A SECOND READING AND PROVIDING AN EFFECTIVE DATE FOR THIS ORDINANCE

Mayor Stiebig stated, “The property tax rate should be decreased by the adoption of a tax rate of \$.70371, which is effectively an 8.94 percent increase in the tax revenue.”

Councilmember Songe made a motion **to approve Ordinance 1359 ratifying the property tax increase**. Councilmember Jordan seconded. ROLL CALL VOTE: Councilmember Buesing, aye; Councilmember Herrera, nay; Councilmember Hill, aye; Councilmember Jordan, aye; and Councilmember Songe, aye. The Council voted four (4) for and one (1) opposed. The motion carried.

C -4. Consideration and possible approval of a Resolution authorizing the appointment and execution of the Authorized Signer form for the Enterprise Fleet leases, as needed for fiscal year 2019-2020

A motion was made by Councilmember Jordan, seconded by Councilmember Songe, **to nominate Cheryl Ray as authorized signer.** The Council voted five (5) for and none (0) opposed. The motion carried.

C -5. Consideration and possible approval of a Resolution authorizing the engagement of BrooksWatson & Co, CPAs to complete an audit for fiscal year 2018-2019 and approving and authorizing the Mayor to sign an engagement letter

Councilmember Songe moved **to approve Resolution 865 authorizing the engagement of BrooksWatson.** Councilmember Hill seconded. The Council voted five (5) for and none (0) opposed. The motion carried.

C -6. Consideration and possible ratification of waiving certain building and inspection fees to facilitate recovery from Tropical Storm Imelda

Mike Kunst, City Manager, explained the next three agenda items mirror what we did after Harvey. Linda Cathey, Code Enforcement Officer, explained they are waiving all of the basic repairs due to Tropical Storm Imelda, but residents are having to pay for electrical inspections. Discussion ensued.

A motion was made by Councilmember Songe, seconded by Councilmember Jordan, **to waive building fees for repairs of water damaged homes until December 12, 2019.** The Council voted five (5) for and none (0) opposed. The motion carried.

C -7. Consideration and possible approval of a Resolution providing for temporary non-enforcement of Section 42-41 of the City of Vidor Code of Ordinances, Authorized and Prohibited Usage of Recreational Vehicles, paragraph (D), to allow for temporary housing assistance for those who are recovering from damage caused by Imelda

Chris Leavins, City Attorney, explained the proposed Resolution mirrors what we did after Harvey. Linda Cathey, Code Enforcement Officer, stated they are requiring everyone to come to the office and sign the papers. Discussion ensued regarding proof of loss and RVs on vacant lots. Mr. Leavins stated Council can choose what part they wish to not enforce. Ms. Cathey recommended a requirement that an RV may only be placed on the same property as the flood-damaged home.

Councilmember Songe moved **to approve the Resolution for temporary non-enforcement of Section 42-41 until March 26, 2020 if it is a flood-damaged home, and the RV must be placed on that property.** Councilmember Jordan seconded. The Council voted five (5) for and none (0) opposed. The motion carried.

C -8. Consideration and possible approval of a RESOLUTION providing for temporary non-enforcement of Section 74-92 of the City of Vidor Code of Ordinances, Vehicle storage facility, to temporarily assist in the storage of various motor vehicles damaged by Imelda

Chris Leavins, City Attorney, explained this is the same thing that was done for Harvey for vehicles needing a place to go.

A motion was made by Councilmember Songe, seconded by Councilmember Jordan **to approve the Resolution providing for temporary non-enforcement of Section 74-92 through December 12, 2019 for vehicles damaged by Imelda.** The Council voted five (5) for and none (0) opposed. The motion carried.

C -9. Consideration and possible action to purchase cell phones for certain City elected officials and employees

Mike Kunst, City Manager, discussed the State Legislature's requirement which went into effect on September 1, 2019, that any written communication, on any device, pertaining to city business has to be stored for a certain amount of time. Mr. Kunst stated before this, employees used their personal cell phones for city business. Councilmember Herrera stated the City will have to give cell phones to Council and all employees.

Mr. Kunst explained the cost per phone is \$40 plus a few extra dollars to store the data and stated this will cost approximately \$49,000 annually. Robbie Hood, City of Pinehurst City Manager, explained their employees have always used their personal phones, but city records must be preserved for a certain amount of time. Mr. Hood stated the City of Pinehurst has purchased cell phones for their employees and the cost of the software (SMARSH) which captures and preserves the data is \$3 per month per phone.

Rod Carroll, Chief of Police, stated the Legislature codified the laws and made it a Class A Misdemeanor with 1 year in jail and a \$1,000 fine. Chief Carroll stated this bill caught everyone by surprise including Austin, Dallas, Lamar Institute of Technology, and Houston who are all in the process of issuing their officers cell phones. Chief Carroll discussed examples of when personal devices become discoverable.

Councilmember Herrera questioned the difference in this legislation and the Open Meetings Act. Chris Leavins, City Attorney, stated this is the same legislation as the Public Information Act and case law, which is not far off from this legislation, has been in effect for 20 plus years. Mr. Leavins explained they just took the common law, codified it into one form in the Local Government Code, and put teeth to it. Mr. Leavins stated there is a retention policy and he expects to see the Court's interpretation of what is considered a reasonable amount of time for the records to be kept. Mr. Leavins stated it is now in the statute that the records must be accessible and searchable. Chief Carroll stated it is no longer good enough for messages to be stored on personal devices, they must be stored with the agency for two years. Chief Carroll explained SMARSH is an app on the phones which stores data in the cloud and is searchable in a data base. Discussion ensued.

Cheryl Ray, Supervisor of Finance & Accounting, stated in addition to the Police Department, phones are needed for the Sanitation Secretary, Sanitation Supervisor, Finance Director, City Manager, City Secretary, and Animal Control (2). Discussion ensued.

Councilmember Jordan made a motion **to approve the purchase of the necessary phones to abide by the law as passed down by Legislature.** Councilmember Songe seconded the motion. ROLL CALL VOTE: Councilmember Herrera, nay; Councilmember Hill, aye; Councilmember Jordan, aye; Councilmember Songe, aye; and Councilmember Buesing, aye. The Council voted four (4) for and one (1) opposed. The motion carried.

C-10. Workshop- Discussion of possible courses of action regarding an interim City Manager and a permanent City Manager

Mayor Stiebig opened the **Workshop- Discussion of possible courses of action regarding an interim City Manager and a permanent City Manager** at 7:59 p.m. Mayor Stiebig reminded Council that Mike Kunst, City Manager, leaves next week to start his new position. Mr. Kunst recommended Council discuss a course of action before a candidate. Mayor Stiebig explained with Tropical Storm Imelda, Mr. Kunst has offered to work with us to help out a couple times a week. Mr. Kunst stated he does not know how it will look as he

has not been able to follow up with Mayor Spears (*City of Orange*) due to a death in the family. Discussion ensued.

Mayor Stiebig closed the **Workshop- Discussion of possible courses of action regarding an interim City Manager and a permanent City Manager** at 8:05 p.m.

C-11. Consideration and possible action resulting from the workshop in C- 10

No action was taken.

C-12. EXECUTIVE SESSION – Deliberation pursuant to Texas Government Code, Section 551.071 – Consultation with Attorney and Section 551.074 – Personnel Matters, regarding appointment of interim city manager

Mayor Stiebig recessed the Regular Meeting to go into **EXECUTIVE SESSION – Deliberation pursuant to Texas Government Code, Section 551.071 – Consultation with Attorney and Section 551.074 – Personnel Matters, regarding appointment of interim city manager** at 8:06 p.m.

Mayor Stiebig reconvened the Regular Meeting at 8:41 p.m.

C-13. Consideration and possible action resulting from the Executive Session under C-12 regarding an appointment of interim city manager

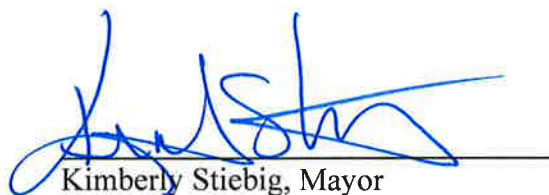
A motion was made by Councilmember Songe, seconded by Councilmember Herrera, **to appoint Rollie Burr as Interim City Manager.** ROLL CALL VOTE: Councilmember Hill, aye; Councilmember Jordan, aye; Councilmember Songe, aye; Councilmember Buesing, aye; and Councilmember Herrera, aye. The Council voted five (5) for and none (0) opposed. The motion carried.

Councilmember Songe also made a motion **to allow Mike Kunst to continue for 30 days as a consultant to help with the transition.** Councilmember Jordan seconded. ROLL CALL VOTE: Councilmember Jordan, aye; Councilmember Songe, aye; Councilmember Buesing, aye; Councilmember Herrera, nay, and Councilmember Hill, aye. The Council voted four (4) for and one (1) opposed. The motion carried.

C-14. Consideration of Adjournment

A motion was made by Councilmember Songe, seconded by Councilmember Jordan, for **Consideration of Adjournment.** The Council voted five (5) for and none (0) opposed. The motion carried, and the Regular Meeting of the Vidor City Council adjourned at 8:43 p.m.

These minutes approved October 17, 2019.



Kimberly Stiebig, Mayor

ATTEST:



Vicki Watson, City Secretary