

TO: Honorable Mayor and Members of the City Council
From: Paul A. Hofmann, City Manager
Date: July 23, 2021
Subject: Weekly Memo, July 19-23, 2021



Quiet Zones

The subject of addressing train whistles in Bastrop has been raised recently.

The Federal Railroad Administration (FRA) requires locomotive horns to be sounded for 15 – 20 seconds before entering grade crossings. Federal regulations also provide the option for the establishment of quiet zones that would allow train horns to not be blown. There are specific rules that must be followed should we wish to pursue quiet zone establishment.

The City of Bastrop investigated the development of a quiet zone in Bastrop in 2015. Council was informed then that the designation of a quiet zone in the entire city would require improvements to 11 crossings. It appears from reviewing records the Council did not direct further action.

The Union Pacific website includes the statement “Union Pacific believes quiet zones compromise the safety of railroad employees, customers, and the general public.” At the request of local jurisdictions, Union Pacific will participate in “diagnostic meetings” and provide information required by the FRA.

A quiet zone results from the implementation of safety measures at railroad crossings. Those measures could include four quadrant gate systems, medians or channelization devices, one-way streets with gate, or permanent closures. Alternative measures include three quadrant gates, geometric improvements, and programmatic enforcement. Union Pacific prefers engineered improvements, and not the alternative measures.

Construction of a four-quadrant gate system is estimated by Union Pacific to cost \$300,000 - \$500,000 per crossing. This cost, plus preliminary engineering and maintenance would not be shared by Union Pacific.

Should Council so desire, we would continue the discussion with Union Pacific about the steps required to establish a quiet zone in Bastrop. A required step would be the execution of a preliminary engineering agreement with Union Pacific.

I’m happy to pursue this as a project if directed by the City Council. This project does not currently reside in the city’s capital plan, and a good time to discuss it would be during an upcoming budget workshop.

Stormwater Protection

Council Member Crouch recently asked about the City’s approach to stormwater protection.

The City of Bastrop currently does not enforce storm water quality standards. We do require our contractors to prevent erosion and stream degradation per our storm water drainage manual.

However, the City’s obligations will change once we hit a population of 10,000, which will likely be in a few months when we receive updated census information. Cities over 10,000 are required to develop a stormwater management program as regulated by the Texas Commission on Environmental Quality. We’re evaluating our approach to that requirement now.

BP&L Tree Trimming

McCoy Tree Surgery will begin trimming trees in August. The process should last about 3 weeks. The City has an agreement with the LCRA that provides access to the LCRA tree trimming contract. The contractor will prune trees and brush away from power lines in designated areas. We focus the contractor’s efforts on problematic

areas difficult for city equipment and crews to reach. Door hangers and brochures will be distributed to let folks know the work will be performed in their area.

TCMA Perspectives on City Management Podcast

The Texas City Management Association produces a podcast called Perspectives on City Management. The most recent episode is 'The Importance of Ethics in City Management'. Two colleagues of mine and I discuss the role of the TCMA Code of Ethics in guiding the daily decision making of City Managers, and the importance of ethical accountability to our profession. We get off to a bit of a slow start, but the discussion becomes more meaningful as we go. (Trust me).

The direct link to listen is here: [Perspectives on City Management \(buzzsprout.com\)](https://www.buzzsprout.com/1088881/episodes/perspectives-on-city-management)

Corvette Invasion

This past weekend, Bastrop was invaded by over 350 Corvettes. That is a new record for the event. The producers were happy with the turnout and plan to be back next year.

Library Summer Reading Program

This is the last week of the Summer Reading Program Tails & Tales. As of Wednesday, July 20, there were 796 registered participants and 325 of those registered had reach their reading goal of 1,000 minutes for youth and 2,000 minutes for adults. This is an excellent completion rate of almost 41%! The library will complete its summer programming with A Whale of a Scavenger Hunt on Saturday, July 24 starting at 11:00 a.m. Participants will try to find a variety of sights around downtown and in Fisherman's Park and be rewarded for their efforts with ice cream! The day will end with our Grand Prizes drawings at 2:00 p.m. Grand prize entries were earned by reading and completing the program.

Overheard at City Hall

Episode 8 of the Official City of Bastrop Podcast features a conversation with Fire Chief Andres Rosales. Andres and I discuss emergency management, building inspections and the department's roles as Fire Marshall, volunteers, wildland fires, the City's improved ISO rating from a 4 to a 3 this year (!), and several other important and interesting topics. Watch Episode 8 here: <https://youtu.be/UtZa1S1FT1M>

Upcoming Events

Bastrop Skate Park Ribbon Cutting

Please join us for a Ribbon Cutting Ceremony for the Bastrop Skate Park on Friday, July 30, 2021, at 3:00 PM at Fisherman's Park.

Homecoming Parade

The 74th Annual Homecoming & Rodeo event is August 4th -7th and includes rodeo events like barrel racing, mutton bustin', a cornhole and washer tournament, live concerts, and of course, the Homecoming Parade. City of Bastrop Council Members will have the opportunity to ride in the City of Bastrop float. The parade is Saturday, August 7th at 10 AM. If Council Members are interested in riding on the float, please reach out to City Secretary Ann Franklin by end of day today and she will reserve your spot and provide details about when and where load-in will take place prior to the parade.

Upcoming Training Schedule

Below are future training opportunities through the calendar year. If you are interested in attending any of the training, please Ann and she will take care of the registration for you.

TML-TAMCC Newly Elected City Officials' Orientation

Date: August 12, 2021 – August 13, 2021

Time: All Day

Location: Bastrop Convention Center

TML Economic Development Conference

Date: November 11, 2021 – November 12, 2021

Time: All Day

Location: Bastrop – Exact location TBD

Potential No September 28 Council Meeting

Please see the list of future agenda items below for budget-related Council meetings. The budget is being presented on July 27, Council budget workshops are scheduled for August 17 and 18, a joint meeting with Visit Bastrop is now scheduled for August 30, public hearings and first readings on the budget and tax rate are scheduled for September 14.

Because of the timing of notice requirements in State law, we'll need a special meeting on September 21 for Council to consider final action on the budget and tax rate.

I'm suggesting we replace the September 28 meeting with the September 21st meeting, and add any items normally scheduled for the second September meeting to the September 21st agenda, making a third September meeting unnecessary.

We previously indicated a need for an August 5 meeting, but that meeting won't be necessary. That meeting was a relic of the days when two public hearings were required.

Future Agenda Items

August 10, 2021

- City Manager Evaluation
- Annual Review of Financial Management Policy and Purchasing Policy
- Third quarter report
- SCADA Maintenance Contract
- Interlocal agreement with Bastrop County for 911 addressing
- Colony MUD 1F Public Improvement Plan Agreement
- Resolution of Proposal of tax rate for 2021-2022
- PID financing agreement for Viridian Development
- Presentation on Bastrop County MUD 3 and 4

August 17, 2021

- Budget Workshop No. 1

August 18, 2021

- Budget Workshop No. 2, if necessary

August 24, 2021

- Consider action on Financial Management Policy
- Consider action on Purchasing Policy
- Consider action on Investment Policy

August 30, 2021

- Joint meeting of Council/Visit Bastrop

September 14, 2021

- Public Hearing and consider action to adopt a budget for FY 2021-2022
- Public Hearing and consider action to adopt tax rate for FY 2021-2022

September 21, 2021 (Special Meeting)

- Second reading of budget and tax rate ordinances

Attachments

- TML Legislative Update Number 28



Legislative UPDATE

July 23, 2021
Number 28

Resolutions for 2021 Annual Conference

The TML Constitution states that resolutions for consideration at the Annual Conference must be submitted to the TML headquarters 45 calendar days prior to the first day of the Annual Conference. For 2021, this provision means that resolutions from any member city, TML region, or TML affiliate must arrive at the TML headquarters no later than 5:00 p.m. on **August 23, 2021**. Details on the submission process can be found [here](#).

Act Now: Choose Your City's 2021 TML Business Meeting Delegate

At the 2021 TML Annual Conference in Houston on October 6-8, resolutions submitted to the membership will be considered at the TML Business Meeting on October 7 at 3:30 p.m. Each city is entitled to one voting delegate at the business meeting. The delegate isn't required to have any special expertise. The delegate must sign up [electronically](#) prior to the meeting or can sign up in person at a table outside of the meeting room. Cities are encouraged to sign up their delegate early using the link above. All city officials are welcome to attend the meeting, whether or not they are a voting delegate.

Post-Session Update: Building Materials, Revisited

Recall that in 2019 the Texas legislature passed [H.B. 2439](#) creating a new chapter of the Government Code restricting a city's ability to adopt rules limiting the use of building materials in construction if those materials were approved for use by a national model code. H.B. 2439 contained exceptions for Dark Skies Communities and historic areas, where, under certain circumstances, certain building materials could be limited or required by cities. (TML published a longer Q&A on H.B. 2439 which is available [here](#).) This session, the legislature passed [S.B. 1090](#) expanding the exceptions related to Dark Skies Communities and carving out a few new exceptions to the restrictions on city regulation of building materials.

Outdoor Lighting

Before passage of this bill, outdoor lighting could be regulated only by certified Dark Sky Communities. This bill broadens that exception to allow cities which have adopted a resolution stating the city's intent to become certified as a Dark Sky Community to regulate outdoor lighting in a manner required to become certified.

To learn more about the requirements for certification as a Dark Sky Community, visit the International Dark-Sky Association website [here](#). Additionally, [this website contains](#) a number of example resolutions and ordinances used by Texas cities related to Dark Skies and night sky protection. Please consult with your local attorney before taking action to adopt any of these ordinances or resolutions.

Plumbing Products

Additionally, several exceptions were added related to plumbing products as well. If a city is implementing a water conservation plan or program that requires a standard for a plumbing product, or if the Texas Water Development Board requires the use of a standard for a plumbing product as a condition for a TWDB program, the city may regulate those materials. S.B. 1090 is effective September 1, 2021.

Post-Session Update: Golf Carts

[H.B. 1281](#) became effective June 15, 2021. While the bill expands the locations in which a golf cart may be operated, it also allows a city to prohibit the operation of a golf cart on highways in those locations if the city council determines the prohibition is necessary in the interest of safety. A detailed legal Q&A about golf carts is available [here](#).

Post-Session Update: Mandated Cybersecurity Training

[H.B. 1118](#) was signed into law by the governor on May 18, 2021 and went into effect immediately. The bill amends cybersecurity training requirements for city employees and elected and appointed officials. Specifically, the bill: (1) requires employees and officials who have access to a local government computer system or database and use a computer to perform at *least 25 percent* of the employee's or official's required duties to complete cybersecurity training; (2) gives cities authority to deny access to a city's computer system or database to those individuals who have not completed the required training; (3) requires cities to report employee and official completion of the mandatory training; and (4) penalizes cities that do not comply with the cybersecurity training requirements by impacting a city's ability to apply for or keep certain grants administered by the state (note: this penalty applies to grant applications submitted on or after September 1, 2021).

The training must be completed by **June 14** of each year. Cities must have certified their training compliance with the Department of Information Resources (DIR) by **June 15, 2021**, using the [Cybersecurity Training Certification for State and Local Governments](#) form.

The Texas Municipal League Intergovernmental Risk Pool (TML-IRP) provides a free DIR certified cybersecurity training program, which can be accessed on its cyber security training [webpage](#), through its [YouTube Channel](#), and via its [online learning center](#).

Information about other DIR-certified training programs is available on the agency's [webpage](#).

Post-Session Update: Regional Cybersecurity Working Groups

[S.B. 475](#) was signed by the governor on June 14, 2021, and, with a limited exception, went into effect immediately. Under the new provisions, the Texas Department of Information Resources (DIR) is responsible for establishing a state risk and authorization management program and to establish the Texas Volunteer Incident Response Team (incident response team). The purpose of the incident response team is to provide rapid response assistance to a participating entity, including a city, under DIR's direction during a cybersecurity event.

Additionally, the bill also: (1) requires DIR to establish a framework for regional cybersecurity working groups to execute mutual aid agreements that allow state agencies, local governments, and others to assist with responding to a cybersecurity event in the state; (2) authorizes DIR to establish a regional network security center to assist in providing cybersecurity support and network security to certain entities, including cities, that elect to participate in and contract for services through such a center; (3) provides that information written, produced, collected, assembled, or maintained by DIR, a participating entity, the cybersecurity council, or a volunteer relating to the response team is confidential if the information: (a) contains the contact information of a volunteer; (b) identifies or provides a means of identifying a person who may, as a result of disclosure of the information, become a victim of a cybersecurity event; (c) consists of a participating entity's cybersecurity plans or cybersecurity-related practices; or (d) is obtained from a participating entity or from a participating entity's computer system in the course of providing

assistance through the team; and (4) includes robotic process automation among the next generation technologies a local government must consider using in the administration of the government.

DIR has until December 1, 2021, to establish a framework for regional cybersecurity working groups and establish regional network security centers. The League will continue to monitor this issue and provide updates as new information becomes available.

City-Related Bills Filed

(Editor's Note: You will find all of this session's city-related bill summaries online at <https://www.tml.org/DocumentCenter/View/2831/First-Called-Special-Session-City-Related-Bills-Filed-2021>.)

Property Tax

1H.B. 283 (Capriglione) – **Appraisal Cap**: would: (1) would reduce the property tax appraisal cap on residence homesteads from ten to five percent; and (2) impose a ten percent appraisal cap on the appraised value of a single-family residence other than a residence homestead. (See **1H.J.R. 24**, below.)

1H.J.R. 24 (Capriglione) – **Appraisal Cap**: would amend the Texas Constitution to authorize the legislature to: (1) reduce the property tax appraisal cap on residence homesteads from ten to five percent; and (2) impose a ten percent appraisal cap on the appraised value of a single-family residence other than a residence homestead. (See **1H.B. 283**, above.)

1H.J.R. 26 (Wilson) – **Delinquent Property Taxes**: would amend the Texas Constitution to provide that a residence homestead is not subject to seizure or sale for delinquent property taxes.

Public Safety

1H.B. 289 (Bernal) – **Immigration**: would repeal certain provisions governing state and local enforcement of immigration laws and other provisions related to immigration law, such as the requirement that a law enforcement agency honor a detainer request.

1H.B. 290 (Bernal) – **Immigration Enforcement**: would provide that a law enforcement agency is not required to comply with, honor, or fulfill a detainer request provided by the federal government with respect to a person who is younger than 18 years of age.

Community and Economic Development

1S.B. 73 (Perry) – **Universal Service Fund**: would, among other things: (1) modify the definition of "high cost rural area" for purposes of the universal service fund; (2) provide that the statewide uniform charge that supports the universal service fund is payable by each provider of Voice over Internet Protocol service that has access to the customer base; and (3) provide that the Public Utility

Commission may not assess the statewide uniform charge in a manner that is not technology neutral or grants an unreasonable preference based on technology.

1S.B. 75 (Hughes) – Land Development Applications: would provide that, unless specifically authorized by state law, a municipal planning commission or the governing body of the municipality may not: (1) require a person to fulfill any prerequisites or conditions or obtain any approvals before the person files a copy of a plan or plat with the municipal planning commission or governing body; (2) delay the starting date for calculating any applicable timeframe to approve or disapprove a plan or plat by not considering the date the plan or plat was filed as the starting date; or (3) refuse to accept, acknowledge, process, or act on a filed copy of the plan or plat.

Elections

1H.B. 286 (Jetton) – Auditable Voting System: would, among other things, move up the requirement for election authorities to comply with auditable voting system requirements, including the conduct of a risk-limiting audit, the ability to seek reimbursement for the conversion to an auditable voting system, and the prohibition on the system being connected to an external or external communications network or having the capability of wireless communication, from November 2026 to November 2024.

Utilities and Environment

1H.B. 277 (Rosenthal) – Electricity: would provide that a transmission and distribution utility, municipally owned utility, or electric cooperative that transmits or distributes power purchased at wholesale in the ERCOT power region may construct, own, and operate facilities as necessary to: (1) access transmission service from outside of the ERCOT power region; and (2) purchase power at wholesale from outside of the ERCOT power region.

1H.B. 279 (Rosenthal) – Electricity Supply Chain: would, among other things, require: (1) the Railroad Commission (RRC) to adopt rules to require an operator of certain gas supply chain facilities to provide to the RRC: (a) a summary report of a criticality analysis of the facility; (b) a plan to mitigate risk factors identified in the criticality analysis; and (c) proof that the operator has implemented the plan described by (1)(b) over a reasonable period, in a form satisfactory to the RRC, which may be in the form of inspections or documents; (2) the Public Utility Commission (PUC) adopt rules to require a provider of electric generation service to provide to the PUC: (a) a summary report of a criticality analysis of the provider's generation assets; (b) a plan to mitigate risk factors identified in the criticality analysis; and (c) proof that the provider has implemented the plan described by (2)(b) over a reasonable period, in a form satisfactory to the PUC, which may be in the form of inspections or documents; (3) the PUC adopt rules to require each electric cooperative, municipally owned utility, and transmission and distribution utility providing transmission service in the ERCOT power region to provide to the PUC: (a) a summary report of a criticality analysis of the cooperative's or utility's facilities; (b) a plan to mitigate risk factors identified in the criticality analysis; and (c) proof that the cooperative or utility has implemented the plan described by (3)(b) over a reasonable period, in a form satisfactory to the PUC, which may be in the form of inspections or documents; and (4) the RRC to adopt rules to require an operator of certain gas pipeline facilities to provide to the RRC: (a) a summary report of a criticality

analysis of the facility; (b) a plan to mitigate risk factors identified in the criticality analysis; and (c) proof that the operator has implemented the plan described by (4)(b) over a reasonable period, in a form satisfactory to the RRC, which may be in the form of inspections or documents.

COVID-19 Update (No. 195)

All pandemic-related updates, including information about the American Rescue Plan's city-related provisions, will be in the [Legislative Update Newsletter](#) from now on.

- **Updated TDEM CLFRF FAQ:** The Texas Division of Emergency Management has updated its [Coronavirus Local Fiscal Recovery Fund FAQ](#). Non-entitlement units of local government (generally cities under 50,000 population) should pay special attention to *Question 13: How does my NEU receive funding?* The answer includes a link to the [CLFRF Timeline Check-in document](#) with step-by-step instructions on registering your city with the [TDEM Grant Management System](#), which is a critical step to receiving funds.

Registration with the TDEM GMS and completion of the TDEM Timeline steps must be completed by August 2, 2021 to receive this funding.

- **Open Meetings Act:** In March 2020, as Texans worked to mitigate the spread of COVID-19, Governor Abbott's office granted the attorney general's request to suspend certain open-meeting statutes. The temporary suspension allows, among other things, for telephonic or videoconference meetings of governmental bodies that are accessible to the public in an effort to reduce in-person meetings that assemble large groups of people.

On June 30, 2021, [the governor's office approved a request by the attorney general to lift those suspensions](#). The suspensions will lift at 12:01 a.m. on **September 1, 2021**. Thus, as of September 1, 2021, all provisions of the Open Meetings Act will be effective and all Texas governmental bodies subject to the Open Meetings Act must conduct their meetings in full compliance with the Open Meetings Act as written in state law.

- **Updated Treasury Department FAQ:** On July 19, 2021, Treasury updated its Coronavirus State and Local Fiscal Recovery Funds FAQ with a number of questions and answers related to eligibility for recovery funds and eligible uses of recovery funds including guidance related to non-profits, calculation of government revenue, regional ARPA fund pooling, discussion of eligibility for specific project categories, and applicability of federal prevailing-wage requirements. The entire FAQ can be accessed [here](#).

- **No ARPA Funds Received by Texas:** On July 19, 2021, the U.S. Treasury updated its “Status of Payments to States for Distribution to Non-Entitlement Units of Local Government” chart reflecting payments made to states under the American Rescue Plan Act for distribution to non-entitlement units of local government. A non-entitlement unit of local government is typically a city or town which serves fewer than 50,000 people, and their portions of the ARPA funds are sent to the state and should be distributed by the state to the individual cities within 30 days of receipt. Texas remains one of only 11 states to have received no funding through the ARPA. Whether the Governor has made the required application to the Treasury Department is unclear. The complete chart, updated weekly, can be found [here](#).

Reminder: TML Coronavirus materials are archived by date [here](#) and by subject [here](#).

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