

TO: Honorable Mayor and Members of the City Council
From: Paul A. Hofmann, City Manager
Date: June 18, 2021
Subject: Weekly Memo, June 14-18, 2021



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TCMA Conference June 11 and June 12

Thank you for the opportunity to attend the annual TCMA conference last weekend. New Texas City Management Association Member Rebecca Gleason and I benefited from the networking and continuing education opportunities. Sessions attended by Rebecca and/or I included topics on crisis communications, building a healthy organizational culture, and community policing. I co-presented a session to provide the required ethics training to TCMA members, and our presentation and message was received very well. It was fun to represent Bastrop, meet new people, catch up with long-time acquaintances, and to introduce Rebecca to a new network of resources, including people responsible for running convention centers in other cities. I also enjoyed hearing people comment positively on what they read and hear about Bastrop.

I have been asked to serve as chair of the TCMA ethics committee and I have accepted, after previously serving as Vice-Chair. While this will come with some additional responsibilities, I think it is a manageable workload and is an appropriate way for me to give back to the association.

Bastrop Library Closure for Patriotic Festival

The Bastrop Public Library will be closed on Saturday, July 3 and the parking lot will be used to facilitate vendor (food and non-food) parking for the Patriotic Fest.

Juneteenth Celebration and Summer in the City Activities

Join us in historic downtown Bastrop for Summer in the City on Saturday, June 19. Main Street will be moving and shaking with live music, children's activities, food and drinks, photo ops and memories for the making!

Enjoy experiences like:

- Mini-Golf
- Cornhole Fun
- Sidewalk Chalk Fun
- Oversized Games
- Artist Vendors
- Lost Pines Art Center Community Art Project
- Farm Tables- grab a bite "to-go" at our incredible restaurants and come sit on Main Street to enjoy live music
- City of Bastrop's Touch-a-Truck: enjoy this hands-on experience where kids can get up close and personal with important city vehicles
- Bastrop County Animal Shelter: not only will they have loveable pups available to snuggle during the event, but these guys are also adoptable and ready to go home with their new family.
- Bastrop Public Library: Community Adventure Program and Summer Reading Program

Summer in the City Stage Schedules

MAIN STAGE- in front of Museum

11:00am - Noon	3 Chord Rodeo
12:30pm - 1:30pm	Peterson Brothers Band
2:00pm - 4:30pm	Black Cat Choir
4:30pm - 5:30pm	Chubby Knuckle Choir
6:00pm - 6:45pm	Juneteenth Awards
7:00pm - 11:30pm	DJ Crash

CHILDREN'S STAGE- Library Parking Lot

11:00am - Noon	Katy and the Lost Pines Sound
12:00pm - 3:00pm	Miss Poppy and Smiley the Clown
3:30pm - 4:30pm	Jungle Jill and the Jaybirds
4:30pm - 5:00pm	DJ Music

Update from Insurance Services Office on Bastrop Fire Department

The Insurance Services Office (ISO) has completed its analysis of the structure fire suppression delivery system provided for the City of Bastrop. ISO has recommended a classification of 03/3X to the Texas Department of Insurance and the State Fire Marshal's Office.

This represents an improvement from our previous rating of 04. The ISO fire rating determines how well the local fire department can protect your community and home. Insurance companies use the score to help set home insurance rates, as a home that is less likely to be severely damaged or destroyed by fire is cheaper to insure.

The improved rating is the result of new the City Council's commitment to resourcing your Fire Department with staff and equipment such as the ladder truck. Our reliable water supply is also a factor in the rating. We will continue to seek a lower rating through continued improvements.

Overheard at City Hall Podcast

The next episode of "Overheard", to be published early next week, features Chamber President Becki Womble and Visit Bastrop President Susan Smith. Topics include the upcoming Patriotic Fest (July 3) and Corvette Invasion (July 16) Celebrations.

Episodes already recorded and to be distributed later this summer feature:

- Fire Chief Andres Rosales who talks about fire safety, the duties of the Fire Department, and the city's recent decisions to staff and equip the Bastrop Fire Department
- Public Works Director Curtis Hancock who describes the skatepark project and the wide variety of services provided by the Bastrop Fire Department

- Assistant City Manager Trey Job who presents the policy objectives of the B3 codes and the city's approach to implementation

Feedback on the podcasts continues to be positive.

Response to Questions from Mr. Schiff

Council Members were copied on a June 3 email from Gary Schiff in which he provides a list of questions including the functional reasons behind the City's development requirements. Our response to Mr. Schiff is attached.

Future Agenda Items

July 13, 2021

- Authorize issuance of Certificates of Obligation
- Agreement for telecommunications and 911 service with County
- Resolution to amend Rules of Procedures
- River Loop Project Contract Award
- Updated Employee Handbook
- Updated service plan and related assessments on Hunters Crossing PID
- Fiscal Year 2021 budget
- FEMA Flood Map update
- Bastrop ISD Community Partner Recognition
- Confirming board appointments made by Mayor

July 27, 2021

- Receive the City Manager's submitted budget for FY 2022
- Receive quarterly presentations from Bastrop EDC, Visit Bastrop, and our Community Assets
- Interlocal agreement with Bastrop County for 911 addressing
- Public Hearing and action on Development Agreement for Viridian Development
- Presentation for the Bastrop County Municipal Utility District 3 and 4

August 5, 2021

- Place a proposal to adopt tax rate for FY 2021-2022 on next agenda

August 10, 2021

- City Manager Evaluation
- Financial Management Policy and Purchasing Policy
- Third quarter report

Attachments

- TML Legislative Update Number 23
- Response to questions from Mr. Schiff
- Boards and Commissions Open House flyer



Legislative UPDATE

June 18, 2021
Number 23

COVID-19 Update (No. 190)

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. Here's the latest:

- **And.....still no word on small city Rescue Plan funds:** Each state has to request its nonentitlement cities' share of the American Rescue Plan (ARP) funds. [According to the Treasury Department](#), Texas has not yet done so, although the information from Treasury indicates that payment could potentially be in progress. The governor's office has not yet announced if or when the request will be made. Accordingly, the governor has not yet announced the procedures for eligible nonentitlement cities to receive payments.
- **Attorney general opinion requests:** Two disaster-related requests for opinions have been submitted to the attorney general's office: (1) [RQ-0408-KP](#) asks several questions related to a county judge's disaster authority, including whether a judge can – on his or her own – repeatedly extend a local state of disaster; and (2) [RQ-0409-KP](#) questions the applicability of a federal mask mandate related to face coverings on public transit.

- **Open Meetings Act suspensions:** On June 4, the governor’s office once again (by continuing his [COVID-19 disaster declaration](#) for another 30 days) extended the Open Meetings Act suspensions for another 30 days. His office tells League staff that, if he decides to independently end the suspensions, they will give ample notice of that action.

The legislature failed to pass legislation that would make videoconference or teleconference meetings easier. Given that fact, along with the continued decline of COVID-19 hospitalization and infection numbers, some cities have returned (or will soon return) to in-person meetings. A city council that has a “normal” in-person meeting should follow the Texas Open Meetings Act requirements as they were prior to the suspensions. A city council that imposes some pandemic mitigation measure (e.g., social distancing) should do the same. Consult local legal counsel if any locally-imposed mitigation measure may impact a person’s ability to attend an in-person meeting.

- **Updated Treasury Department FAQs:** On June 8, Treasury issued the following statement to the National League of Cities:

“[We] posted 10 additional FAQs on the Coronavirus State and Local Fiscal Recovery Funds. The full FAQ document, which includes FAQs from our original May 10 publication date, the previous May 27 update, and today's update, can be [found here](#).

We intend to update FAQs periodically to help clarify questions about the Interim Final Rule. We anticipate another update soon, which is likely to include additional questions recently posed by your members. Treasury is trying to respond as quickly as possible to your members' concerns, and we do not want to give the impression that this update captures all of our planned clarifications.

However, please note that because the Interim Final Rule is still in the 60-day public comment period, there may be some points raised by stakeholders that cannot be addressed via FAQs and will need to be considered as part of the process for revising the rule. We strongly encourage interested parties to [submit comments for the record](#) to ensure that these perspectives are reflected in the public comments when it comes time to finalize the rule.

Today's FAQ update includes additional clarification on points that have been raised by a number of stakeholders, including:

- Reporting requirements for the revenue loss/provision of government services eligible use category
- Eligibility of public jobs programs
- Addressing economic harms experienced by households, businesses, and individuals prior to March 3, 2021
- Determining the eligibility of water and sewer projects
- Covering costs of consultants to assist with managing and ministering the funds

In addition, yesterday Treasury posted a [FAQ supplement](#) regarding distribution of funds to non-entitlement units of local government (NEUs). This FAQ supplement includes

several questions answered as part of previous FAQ updates, as well as answers to 12 additional high-priority questions that we received from stakeholders over the course of our engagement since the release of the NEU guidance on May 24.”

- **Use of American Rescue Plan funds on lost revenue:** NLC has prepared information for cities about using this round of stimulus funds for “[lost revenue replacement](#).”

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

2021 City Tax and Budget Deadline Memos Now Available

Every year, TML posts a memo containing the annual calendar deadlines for the budget adoption and tax rate setting process. Following the passage of Senate Bill 2 in 2019, the process for adopting a tax rate changed significantly. Because the tax rate adoption procedure varies depending on the size of the city, two memos are available: one for [cities under 30,000 population](#), and the other for [cities with populations of 30,000 or more](#). Further, within each document, there are two sets of deadlines depending on whether the city’s adopted tax rate will exceed the voter-approval tax rate or not. Whatever the case may be, the deadlines in the document represent the last possible dates for a city to take certain actions related to the budget or tax rate in 2021. Cities should act well in advance of the deadlines in the calendar, if possible.

For more detailed information about S.B. 2, city officials are encouraged to read the [S.B. 2 Explanatory Q&A](#) posted on the TML website.

Texas Commission on Environmental Quality Proposes Rules to Increase Certain Solid Waste Fees

The Texas Commission on Environmental Quality (TCEQ) is [proposing rules](#) that would increase the fees it collects for industrial solid waste and hazardous waste generation and management. Specifically, the proposed rulemaking would increase: (1) the management fee schedule by 45%; and (2) the generation fee from \$0.50 to a maximum of \$2.00 per ton for Class 1 nonhazardous waste generators and from \$2.00 to a maximum of \$6.00 per ton for hazardous waste generators.

Based on TCEQ’s data for fiscal year 2020, the proposed fee increases will affect six [governmental entities](#) and 81 waste generators owned or operated by a unit of government. The estimated average increase of the proposed management fees on these facilities would be \$1,616 per facility per year. The estimated average increase of the proposed generation fees on these facilities with Class 1 nonhazardous waste would be \$1,586 per facility per year, and the estimated average increase for hazardous waste would be \$3,529 per facility per year. The methodology used to determine the revenue estimates included averaging agency data from fiscal years 2019 and 2020.

The comment period closes on **July 6, 2021**. Written comments may be submitted to Gwen Ricco, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to fax4808@tceq.texas.gov. Electronic comments may be submitted at: <https://www6.tceq.texas.gov/rules/ecomments/>. All comments should reference **Rule Project Number 2020-010-335-WS**.

TCEQ will also hold *virtual* public hearings on this proposal on June 29, 2021 at 10:00 a.m. TCEQ staff members will be available to discuss the proposal 30 minutes prior to the virtual hearing via the GoToMeeting Q&A chat function. Individuals must register for the hearing by June 25, 2021. To register for the hearing, you must email Rules@tceq.texas.gov and provide the following information: your name, your affiliation, your email address, your phone number, and whether or not you plan to provide oral comments during the hearing.

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Date: June 14, 2021

To: Schiff Properties, LLC
3101 E SH 71 Ste. 200
Bastrop, Tx 78602
Via email

Re: 3107 E SH 71 Nonconformities

The City of Bastrop development codes were updated in 2019. The codes shifted from a use-based code to a form-based code. The B³ Code prioritizes the interaction between buildings (the private realm) and the street (the public realm). The goal of this shift in philosophy and prioritization of regulation is to allow an increased flexibility of use for a property while maintaining and reinforcing the community values for multimodal, environmentally sensitive development and redevelopment.

In response to your memo dated June 3, 2021, please see the original questions with corresponding responses below:

1. By my estimation, it appears that all properties within Lakeside are currently "non-conforming" with the P5 Core zoning. Is there a functional reason that the campus configuration of Lakeside is problematic to the City? The fact that the code "says so" is a legal reason but not a functional reason.

The Lakeside development presents a variety of non-conformities. The code prioritizes multimodal connectivity and creation of interconnected neighborhoods. Lakeside does not connect to its surrounding environment or neighborhood. It requires vehicular access and does not provide pedestrian, bicycle, or other mobility routes to or within the development, thus limiting local access to its important health and medical services. The codes have requirements for increased code compliance as site conditions change to improve the neighborhood continuity.

2. Are there other non-conforming issues on the Texas Oncology property that you are aware of that are functionally problematic to the City or are in violation of City zoning classification or code?

A full site development plan review would be required to identify all non-conformities on the site. As mentioned above, increased multimodal connectivity, geographic sensitivity, and neighborhood community are prioritized areas for compliance with the codes.

3. Is there a mechanism (a Warrant Application perhaps) that I can apply for the current non-conforming condition(s) to be deemed acceptable going forward?

Warrants are intended to apply to specific code standards and are situationally reviewed. The City will not entertain warrants that are intended as guarantees because codes and conditions change over time. The property owner or authorized agent may apply for a warrant at the point in time when development/redevelopment is desired, and the request will be reviewed and decided upon given the context of proposed development and the development regulations at that time.

4. If so, can you please describe the process, how long it typically takes, and what City departments need to grant approval? Would the variance be generally applicable to the property such that the owner of the property could then expand the size of the building or alter the building's configuration, provided that it



otherwise comply with all city zoning ordinances and codes? Would deference be given due to the fact that, due to its distance from the right of way, it is *impossible* for any building on this property to conform to the P5 Core "build to zone" requirement?

Depending on the requested code deviation or situation, any of the below processes may be appropriate:

Expansion or continuation of non-conforming items are heard by the Zoning Board of Adjustments as applicable. A change in tenant or ownership alone does not trigger B³ Code compliance. If the building were to be vacant for a period greater than 6 months, the City can require site and building code compliance. ZBA cases usually take 6-8 weeks to complete, to allow time to review, schedule a meeting, and conduct proper notification, assuming that there is not an extended review and everything is submitted promptly.

At the time of redevelopment, there will be other processes required, such as non-residential replatting, drainage plans, and site development plan amendments that would be administratively reviewed. The required plans would be submitted to the Planning Department and will have reviewers from other applicable City departments. The Planning Director approves administrative plats and site development plans. The City Engineer approves drainage plans and public improvement plans. The Building Official approves building permits.

Warrants, variances, or appeals may be requested throughout the development process, which could be approved by Staff, the Planning and Zoning Commission, the Zoning Board of Adjustment, or by City Council, depending on the request or appeal. The applicant will be required to justify the request. For warrants, justification includes showing that the plan meets the intent of the code while not meeting the exact specifications. For variances, hardship will be required. Appeals depend on which of those the applicant is appealing, but the applicant will need to make their case.

Warrants are approved by the Development Review Committee (administratively) after a two-week review. If denied, the applicant can appeal to the Planning & Zoning Commission.

Variances are submitted to Planning Department and approved by the Zoning Board of Adjustments. A variance case usually takes 6-8 weeks to complete, to allow time to review, schedule a meeting, and conduct proper notification.

An appeal of an administrative decision is approved by the Planning & Zoning Commission. The appeal will be placed on the next available Commission meeting date, which depending on when the appeal is submitted, may be a month or two. Appeals of a Planning & Zoning Commission decision are heard by City Council. The appeal must be submitted after the Commission makes their decision, and will be placed on the next available agenda, which is typically at least three weeks ahead of the meeting date.

Please note that processes may take longer if the proper documentation is not provided by the applicant, or if the applicant does not have a prompt turn-around time for resubmitting documents.

5. If I do not seek a variance at this time, and the building on the property is subsequently destroyed to the extent of more than 50% of its value, what steps would the owner of the property need to take in order to get permission from the city to rebuild a non-conforming building? In a previous email, you mentioned the possibility of "mitigation requirements." What might those be?

If the building is destroyed, compliance with the code, to the extent possible, will be required. The standard development process, including warrants, appeals, variances, or any other special conditions, would be followed at that time. Keep in



mind that the current use, medical office/clinic/etc. is compliant. The site layout and access to a public roadway are non-compliant with the B³ Code. In the event that the building is destroyed, the site layout and access issues will be evaluated for the best option moving forward.

In response to other items mentioned in the email thread:

The City does not have a contact with the FAA to provide information regarding building height or other restrictions due to the helipad.

The recorded plat (4/186-B) covering this property shows a drainage easement running across the middle of the property where the building is currently placed. A subsequent amending plat (5/17-A) shows the drainage easement north and west of the building, but not the drainage easement in the middle, and states that the plat does not amend or remove any covenants or restrictions of the original plat. Easements cannot be vacated with an amending plat, although that appears to be what was attempted at the time. If there is not a recorded easement vacation at the time of redevelopment/reconstructing the building, it will likely be required just to clarify the situation prior to approval of the new plans.

Sincerely,

A handwritten signature in blue ink, appearing to read "Allison Land", written over a horizontal line.

Allison Land
Senior Planner

Cc: Paul A. Hofmann
Trey Job
Jennifer Bills

Boards & Commissions

OPEN HOUSE

Hosted by the City of Bastrop

Thursday, July 15, 2021

4:00PM - 6:00PM

LOCATION:

Council Chambers

1311 Chestnut Street
Bastrop, Texas 78602

Come out and explore ways to make a difference in your community. Board and Commission members must reside in the City of Bastrop or extraterritorial jurisdiction limits.

For more information: 512-332-8811 or info@cityofbastrop.org

