

TO: Honorable Mayor and Members of the City Council
From: Paul A. Hofmann, City Manager
Date: September 3, 2021
Subject: Weekly Memo



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Personnel Updates

Ms. Cheryl Renfro started as the Executive Administrative Assistant in Finance on Monday, August 30, 2021.

Labor Day Holiday

City offices will be closed for the Labor Day Holiday, Monday September 6.

Annual Employee Appreciation Luncheon

The annual employee appreciation luncheon is scheduled for Thursday, September 9. We love to see Mayor and Council Members in attendance.

No August Utility Cut-offs

COVID cases among employees and family members caused us to decide to not process utility cut-offs associated with non-payment during August. In general, we've been able to maintain service levels during this recent increase in COVID cases, but the particular impact on our utility customer service area caused us to make this decision. We'll catch up with payments and appropriate follow-up in the September cycle.

Bastrop County Complex Fire Commemorative Tree Planting

Mayor Schroeder, Council Members, Chief Nagy, Chief Rosales, ACM Gleason, myself, and others gathered at Mayfest Park to participate in a ceremonial Tree Planting to commemorate the planting of three Loblolly Pines in memory of the Bastrop Complex Fire. Photos of the ceremonial planting were taken, which have been shared with the Bastrop County Long Term Recovery Team for use in this Saturday's event marking the 10th Anniversary of the Bastrop County Complex Fire. A temporary sign was placed with the pine trees that will be replaced with a permanent monument sign.

Relationship with Texas Parks and Wildlife Department

Council Member Crouch has asked what it will take to get "back in good graces" with TPWD.

The City used TPWD grant funds for the development of Bob Bryant Park several years ago. That grant required the dedication of property as park land. A few years ago, the City developed water and electric infrastructure in the park in conflict with the dedication. The City became aware of that conflict when TPWD denied a grant application. The City buried electric lines to help address the issue, but the existence of the tanks on dedicated park land is still a problem.

The plan to address this particular problem is to "swap" newly acquired park land in Pecan Park for the property in question at Bob Bryant. TPWD requires an archeological survey for the new property before

they will approve the swap but agrees this will ultimately solve the problem. We plan to do that archeological survey in the new fiscal year.

The other, more long term, issue with being eligible for TPWD grants is our parks master plan is more than five years old. As you know we plan to develop a new Parks and Recreation Master Plan during FY 22.

Council Member Crouch has asked we keep the Council informed and we will.

Hwy 71 Project – Upcoming Construction

TXDOT will be moving forward with significant traffic changes, that include two nights of preparation, starting this week. On September 6th, 2021, sequencing of construction in building the SH 71 east bound exit, and entrance ramps will begin. The result of this work means all SH 71 east bound main lane traffic will be moved to the new EB frontage road by September 13th, 2021. This will enable the process to begin for the demolition of the EB main lane bridge over the Union Pacific railroad. One of the most notable changes will be the permanent closure of the SH 71 Childers entrance ramp. All traffic wanting to enter SH 71 in this area, will be directed to use the new EBFR (frontage) lanes. This approach will allow for the contractor to accelerate the project.

Flood Hazards Determinations Update

To follow up on the floodplain administration workshop presented to City Council in July, FEMA has provided updates on progress in the process to update the effective Flood Insurance Rate Maps (FIRMs). Please see the attached memo for the full update. The 90-day appeal period will open on September 30th.

Fire vs. Police

The first annual (and maybe last) kickball game between the Fire Department and Police Department took place at Firemen's Park on Wednesday, September 1. A raucous crowd of about 75 enjoyed friendly competition, a couple of displays of actual athleticism, hamburgers, and hot dogs. I won't provide details about the outcome but will share the Fire Department suggested bowling for the next clash between our intrepid protectors.

Ethics Corner

Each month, members of the Texas City Management Association Ethics Committee provide a short article on ethics in the monthly TCMA newsletter. The September edition was authored by me, and a copy is attached.

Overheard at City Hall Podcast

Episode 11 of the Official City of Bastrop podcast features a terrific conversation with Human Resources Director Tanya Cantrell. Visit <https://www.cityofbastrop.org/page/city.podcast> where the latest release will be uploaded and posted to the top of the page.

Downtown Bike Racks

The Main Street Program has been working with the Rotary Club of Bastrop and local students on the design and fabrication of custom bike racks to be placed in Downtown Bastrop. A prototype mockup has

been produced that is designed to emulate the look of Bastrop's Old Iron Bridge. They racks are planned to be 80" wide and fit up to 4 bikes.

Sign Code Education

This week, a one-page informational document was emailed to Downtown Bastrop business owners containing announcements about the sign code, including the message that "Consistent Enforcement will go into effect on March 1, 2022. Some businesses were personally contacted with explanation of the new code and how it relates to their specific circumstances. The sign code webpage has continued to receive updates and can be viewed at cityofbastrop.org/signs

Upcoming Training

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

- **TML Economic Development Conference**
Date: November 11, 2021 – November 12, 2021
Time: All Day
Location: Bastrop

- **Career Suicide?! Social Media Dos & Don'ts for City Officials**
Presenters: Alan Bojorquez, Bojorquez Law Firm & Lora-Marie Bernard, Muni Media
When: Thursday, September 9, 9:00 am – 12:00 pm CDT
Where: GoTo Platform

Scheduled Time Out of Office

I plan vacation time Thursday October 21st thru Monday October 25th for a trip to Kansas to visit our son and daughter-in-law.

Boards and Commissions

- Board Appointments will be announced at the September 14, 2021, Council meeting
- Boards and Commissions Orientation will be held Thursday, September 16, 2021, 5:30 p.m. at Bastrop City Hall.
- Boards and Commissions Appreciation Banquet will be held on Thursday October 14, 2021, at 6:00 PM at the Bastrop Convention Center.

Upcoming Events

Backin' the Badges Rally

The Thin Blue Line Foundation has organized a motorcycle rally event that will bring an estimated 1,200 attendees to Bastrop for live music, an organized motorcycle ride through town, and "the promotion of camaraderie between all Law Enforcement Officers, First Responders, and Civilian Supporters." The event is September 3rd – 4th at Fisherman's Park. A ride will take place starting at Spiderwood Studios on

Saturday and end in Downtown Bastrop. This event is ticketed. For more information visit: <https://backinthebadgesrally.com>.

Bastrop County Complex Fire 10 Year Anniversary Commemoration

On September 4th, 2021, at the Bastrop Convention Center, the Perseverance in the Pines event will take place to commemorate the 10-year anniversary of the Bastrop County Complex Fire. The City of Bastrop will have a booth in the foyer of the Convention Center that will be full of resources, giveaways, and free items related to household emergency preparedness.

At the commemorative event, a Perseverance in the Pines magazine is being distributed and the city has purchased space to be included in the publication. Our space will feature a letter written by Mayor Schroeder and a layout that focuses on restoration and future progress.

Movies in the Park

The City of Bastrop is hosting the annual Saturday night Movies in the Park Series in Fisherman's Park from 7 p.m. until 10 p.m. on September 11th, October 9th, and November 6th. The first movie on September 11th will feature the movie Onward, which is about two brothers who go on a quest to find an artifact that will temporarily bring back their father.

October 9th will feature the movie Hocus Pocus, and November 6th will be A Dog's Purpose. There will be oversized games, face painting, community art, light concessions, and plenty of family fun.

Bastrop Music Festival

The third annual Bastrop Music Festival (September 23 – 26, 2021) will feature more than 40 shows in approximately 10 venues. There are many highlights for year three, including Shinyribs, Pat Byrne and David Beck's Tejano Weekend, and, as usual, plenty of local talent (such as Peterson Brothers Band and Deezie Brown.) More bands will be announced in the coming weeks.

The official box office for the festival will be located at Copper Shot Distillery where you can purchase merchandise and wristbands. Hours are 1:00 p.m. to 7:00 p.m. on Thursday, September 23 and 2 p.m. to 7 p.m. on September 24 and 25. General admission and VIP tickets are available on the website: <https://bastropmusicfestival.com/tickets/>

National Night Out

On Tuesday, October 5th, the City of Bastrop along with the Bastrop Police Department and Fire Department will be celebrating the annual National Night Out event. The event enhances the relationship between neighbors and law enforcement while bringing back a true sense of community. Furthermore, it provides a great opportunity to bring police and neighbors together under positive circumstances.

This year's event will be celebrated with a coordinated "parade" through each Bastrop neighborhood, visiting and waving with the Bastrop Police Department, Bastrop Fire Department, and Bastrop City Council Members. Updated parade maps and block party locations will be shared once confirmed.

Future Agenda Items

September 14, 2021

- Public hearing and first reading to adopt budget for fiscal year 2021-2022
- Public hearing and first reading to adopt tax rates for fiscal year 2021-2022
- Foundry Art Immersion Project
- BEDC Main Street Funding Agreement
- Consider BEDC funding for wastewater study in ETJ
- Consider second reading for BEDC project with Moca Ventures Nebraska

September 21, 2021

- Action to approve budget for fiscal year 2021-2022
- Action to ratify the vote on Fiscal Year 2021-2022 Budget
- Action to approve tax rates for fiscal year 2021-2022
- Consider action on Water and Wastewater rates
- Consider amendments to Visit Bastrop Agreement (discussed during August 30 joint meeting)
- Closed Session: Security Briefing from Chief Nagy
- Approval of contract for Drainage Master Plan

October 11, 2021

- FY 2021 quarterly report for July-September 2021

Attachments

- Flood Hazard Determinations Memo
- 3rd Annual Music Festival Flyer
- CAPCOG letter accompanying annual invoice
- TCMA Ethics Corner
- Employee September Memo
- Bike Rack CAD Design
- TML Legislative Update Number 35

TO: Paul A. Hofmann, City Manager
From: Allison Land, Senior Planner/GIS Coordinator
Date: September 3, 2021
Subject: Flood Hazard Determinations Update



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This update is a follow up to the floodplain administration workshop presented to City Council on July 13, 2021. FEMA has notified the City of progress in updating the flood hazard information for the community. Progress includes:

- FEMA published a notice in the Federal Register, and local notices will be placed in The Bastrop Advertiser and The Smithville Times in late September.
- FEMA will publish a separate notice of the flood hazard determinations on the “Flood Hazard Determinations on the Web” portion of the FEMA website (www.floodmaps.fema.gov/fhm/BFE_Status/bfe_main.asp).
- The 90-day appeal period of the flood hazard determinations, as seen on the Preliminary FIRMs and in the Preliminary FIS, will open upon the second newspaper publication. The 90-day appeal period is statutory and cannot be extended.

During the appeal period:

- Owners or lessees of real property in the mapped area who believe their property rights will be adversely affected may appeal to the Mayor, or to an agency the Mayor publicly designates.
- Appeals shall be formal written objections based solely on scientific or technical evidence contrary to that of the proposed FIRM and accompanying FIS. Please see [Appeals and Comments: Required Support Data and Documentation page](#) for more information. Areas eligible for appeal include:
 - Streams with changes to Base Flood Elevations, (Zone AE and Zone AH areas)
 - Flooding/Ponding areas with changes to base flood depths (Zone AO areas)
 - Flooding sources with changes to SFHA (areas subject to inundation by the base flood) boundaries
 - Modification/addition of Zone designations, and/or
 - Modification/addition of the regulatory floodways depicted on the FIRMs
- Comments on data other than the proposed flood hazard determinations, such as street names, corporate limits, or typographical errors, will also be considered.
- A Scientific Resolution Panel (SRP) process is available in the case of data conflict without a mutually acceptable resolution.

The City’s responsibilities at this stage:

- Specify the format by which appeals will be accepted.

- Provide letters with each appeal stating whether the City supports the objection when forwarding appeals and comments to FEMA for review.
- Provide comment and supporting GIS data for any basemap updates on the FIRMs.
- The City is working in coordination with the County on a media campaign to help notify people.

What happens next:

- FEMA will contact appellants and the City to acknowledge receipt of information.
- After review, FEMA will issue a formal letter.
- If a FIRM panel is changed, FEMA will provide a resolution package that must be reviewed.
- FEMA issues a Letter of Final Determination, which starts a six-month adoption/compliance period. FEMA prepares digital products, distributes printed products.
- FIRM and FIS become effective.

Also, the City Planning, Engineering, and Multimedia staff are working with Bastrop County staff to jointly host informational meetings for the public on October 4th. There will be three meetings, each with a targeted audience: one for engineers and surveyors, one for real estate professionals, and one for the general public. City and County staff believe that each group will have different questions about how the information impacts their work or lives, and that this format will allow people with common interests to learn from each other collaboratively. All meetings will be public meetings.



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BASTROP BLANCO BURNET CALDWELL FAYETTE HAYS LEE LLANO TRAVIS WILLIAMSON

August 19, 2021

The Honorable Connie Schroeder
Mayor of the City of Bastrop
P.O.Box 427
Bastrop, Texas 78602

Dear Mayor Schroeder,

This year the services we have traditionally provided to our 10-county region have become more important than ever as we continued to adapt to delivering them virtually and in-person. We kept a portion of law enforcement training online, enhanced coordination of regional emergency response between local governments, and assisted communities to apply for coronavirus-related economic development grants. Our Aging Services staff continued to redirect federal funds for more shelf-stable meals for older adults, transportation for medical trips, and income assistance to keep them and disabled individuals in their homes. Meanwhile, our Emergency Communications Division continued testing 9-1-1 infrastructure upgrades to activate Next Generation 9-1-1, which will deliver digital information including photos and video and will accurately locate callers. Ultimately, this enhances our first responders' work. We are also assessing the impact of teleworking on the region's air quality and planning how to increase economic resiliency through the diversification of employment sectors.

CAPCOG exists to provide these services because of the member cities, counties and organizations in our ten counties — your ongoing support with membership dues allows us to provide the match for grants that cover several of the programs mentioned above and to fund staff time to work on issues the state and federal grants don't fund such as broadband planning, analysis work on flooding and water issues, and our website data portal that continuously updates information communities need for grant applications.

We appreciate your support and your involvement. My staff and I are always available to discuss what CAPCOG does or focus on any specific program or activity. We always take this opportunity to remind you who represents your agency on the General Assembly, CAPCOG's governing body; if that has changed and you need to appoint someone else, please use the attached form to let us know.

As always, please contact me at 512-916-6008 or bvoights@capcog.org if any of my staff or I can assist you.

Best regards,

Betty Voights

Enc. Membership Invoice
General Assembly Representation Summary
General Assembly Appointment Form



Live Music Day and Night in Historic Downtown Bastrop, TX

The 3rd Annual Bastrop Music Festival is set to take center stage September 23 – 26, 2021, in the heart of Historic Downtown Bastrop. This music festival features performances by bands of numerous genres in venues along the lower Colorado River. Come experience a mixture of wristband-only nighttime performances and free daytime events, including shows for children.

Check out the [Bastrop Music Festival website](#) to [purchase tickets](#), find [venue locations](#), [see the line-up](#) and review [FAQ's](#).



DO THE THINGS

A getaway isn't complete without a good time, and boy - do we have plenty of 'em! Moonlight paddling adventures, a [state park](#), [art galleries](#), golf courses - we've got all that - and a lot more. Look around and you'll find a million ways to enjoy the good life in Bastrop.



GET OUTSIDE

Before, after, or in-between sets, we welcome you to get lost among the pines. Bastrop offers an abundance of outdoor adventures, thanks to our perfect location along the banks of the Colorado River. Whether you're into [hiking](#), [bird watching](#), kayaking or [camping](#) - when you're here - you're welcome to it all!



DIG IN

There's plenty of room around the table and we're always glad to make room for our visitors. Whether you've got a hankering for a [great brunch](#), BBQ, the best tacos ever, or just an amazing dessert, you'll find [good eats a plenty here](#).



MOVE AROUND

Catch a cab, for FREE! CARTS has partnered with the City of Bastrop to provide micro-transit services throughout the city for visitors like you! Download the CARTSNOW app and catch a ride in an open air ecab. Get from show to show in style!

[Android](#) | [iPhone](#)

With so many bands to enjoy, the Bastrop Music Festival is a 4-day getaway you won't soon forget. So don't wait too long to firm up your plans.

PLAN YOUR MUSIC FESTIVAL WEEKEND



ETHICS CORNER

As decision makers, city managers are typically a rational bunch. The nature of our jobs, and sometimes the nature of our personalities, cause us to be fact-oriented, un-biased, consistent, professionals who can be counted on for solid decisions, advice, and recommendations.

Also true is city managers are humans who operate in a world of variables. As we contemplate our decisions, how able are we to separate emotion from cold hard facts? How are we influenced by unconscious bias? How does being overwhelmed, exhausted, or full of caffeine impact our immediate response to situations? Do we allow ourselves to have favorite projects, staff members, or even councilmembers?

City management is a beautiful, complicated, and necessary profession. We enjoy the diversity of our tasks, the unpredictable nature of our days. We happily take on the challenge of the fuzziness of the politics/administration dichotomy. We should, and most often do, see these tensions as both glorious and hard and take satisfaction in knowing that there is honor in humble public service. Those who can do what we do, and do it well, are few. Yes, we can take pride in our humble service, so long as we remember the road to failure is paved with a believing we have everything figured out. Let's never reach the conclusions that we know everything we need to know, we've learned everything we need to learn, and any decision we make is completely informed or even "rational."

This is why we celebrate our Ethical Code, which in many ways is the very definition of our profession. We can even celebrate that the Code of Ethics, like city managers, isn't perfect. Our Code isn't law, handed down by neither God nor government.

Rather, the code is a well-considered, and time-tested guide for every decision every local government administrator makes. The twelve tenets and guidelines serve as a filter for every difficult situation. When our heads are swimming with variables and potential outcomes, the code helps us come to grips with what does and doesn't really matter. Not every consideration is equally important. Not every advisor is coming from an equally valid perspective.

We make the Code better by actually using it, and continually testing it against real life stuff. Future submittals of the "Ethics Corner" are going to dive deeper into the subject of how the ethics guide our daily decision making. I hope you find this helpful, and encourage you to contact me or Ethics Vice-Chair Matt Mueller with your feedback and suggestions.

You may contact us:

Paul Hofmann, Ethics Chair and City Manager, Bastrop at phofmann@cityofbastrop.org or 512-332-8800.

Matt Mueller, Ethics Vice Chair and Town Manager, Little Elm at mmueller@littleelm.org or 214-975-0400.

(Submitted by Paul Hofmann, Ethics Committee Chair, and City Manager, Bastrop)



T0: City of Bastrop Employees
FROM: Paul A. Hofmann, City Manager
DATE: September 3, 2021
SUBJECT: Council Focus Area: Community Safety

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Our objective isn't only to keep people safe, it's also to help them feel safe.

Public safety can be a straightforward concept. Some may hold the opinion that cities spend too much money on public safety services, but not many argue that cities don't have an important role to play in keeping people safe. Public safety is a primary function of local government, and every thing we do has a connection to keeping our residents safe. In fact, if someone were to ask you to very briefly tell them what we do for their tax dollar, it's to keep people safe.

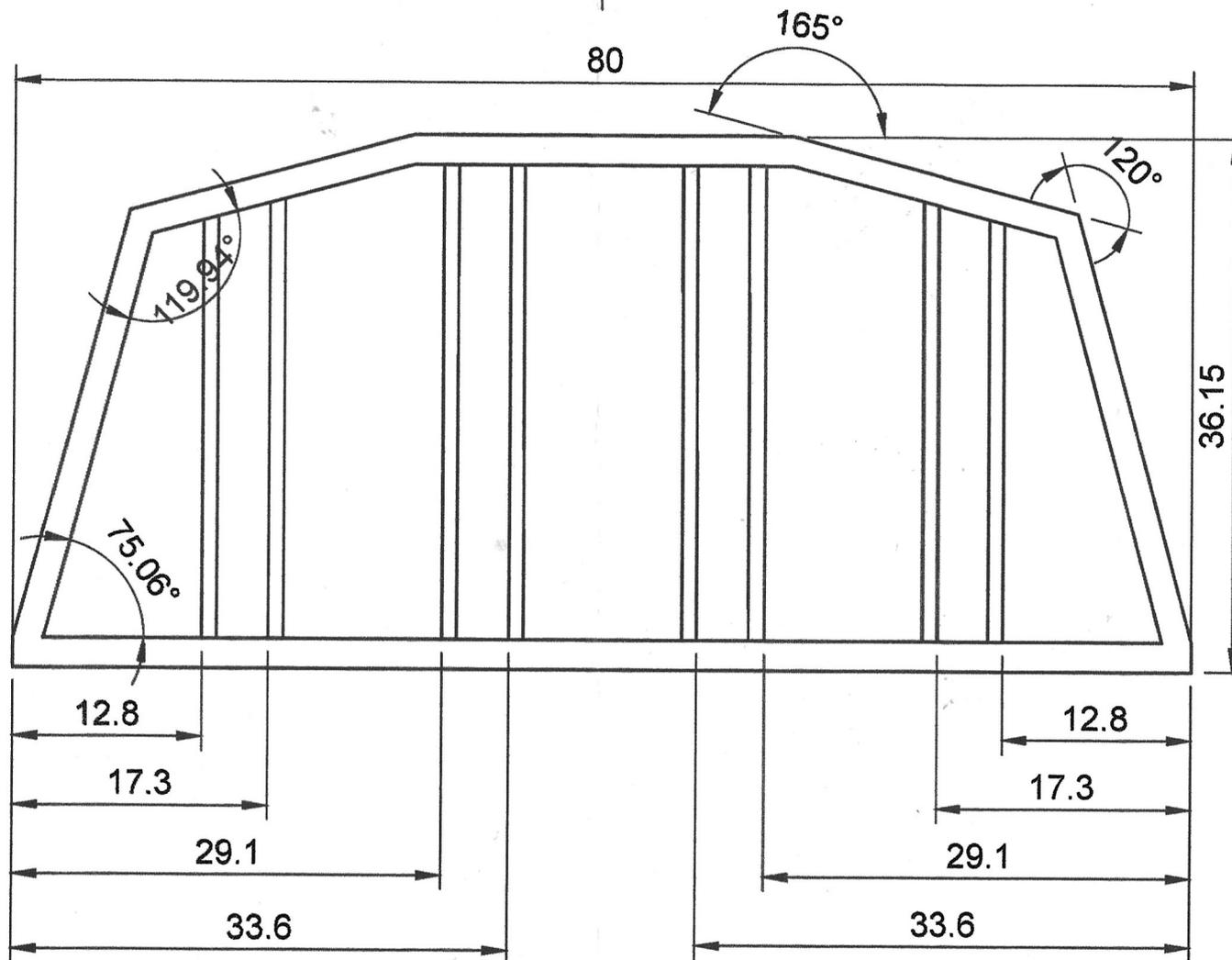
Not all of this is obvious, so let's flesh it out a bit. Cities have zoning laws and subdivision requirements because without them the provision of safe and accessible roads and public infrastructure would be compromised. We have building codes to make sure houses, businesses, and neighborhoods don't flood or catch fire. We carefully plan special events for public safety purposes. People who work at City Hall work to make sure Police, Fire, Public Works, and BP&L departments are well-equipped and fully staffed. Everything we do is about keeping people safe.

Notice the wording of this focus area. In Bastrop, we call it "community" safety. By using the word "community" we invoke the concept of people living amongst each other, taking care of each other, in community. Bastrop has a healthy sense of community. My impression is that most people feel safe here, even though there have been times in our recent history where the city's safety was threatened. This weekend, in fact, we will commemorate how our community has proved its resiliency after the Complex Fire of ten years ago.

There are two things about this general positive sense of Community Safety I want you to keep in mind as you go about your workday. First, we shouldn't take it for granted. We need to continue to take our responsibilities for emergency preparedness and communications seriously.

Second, let's realize and remember that this general positive sense of safety isn't shared by everyone. Not everyone in the community trusts the city to serve them fairly and keep them safe. We will make it a priority to understand what's behind that distrust, and make sure we do everything within our ability to replace distrust with healthy relationships. It's important to note that most of the time those healthy relationships happen one at a time and in the simplest of actions. A simple good morning in the park while a resident is walking their dog. Taking the time to let a kid climb in a police vehicle and let Mom take pictures. A resident seeing us stop to pick up trash on Main Street on our way to lunch. Taking the extra time to sit down with a resident and walk them through the permitting process in the lobby because they aren't comfortable with computers. This is how we create trust among the disengaged or residents that don't trust their local government- this is how we create change.

Monday is a Labor Day Holiday. You deserve to be recognized for your hard and diligent work to keep us safe. Thank you, especially for those of you who are working on the holiday. It's an honor to work with you.



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Legislative UPDATE

September 3, 2021
Number 34

Bills Effective September 1

Hundreds of new Texas laws that passed the 87th Legislature went into effect on September 1, including more than 200 city-related bills. Several require some city action. The League has prepared articles (some including papers or Q&As) on city-related bills that went into effect immediately upon passage, or on September 1. Links to those articles are listed below.

[S.B. 2](#): Public Utility Commission and ERCOT Reform

[S.B. 3](#): Utility Preparedness

[S.B. 6](#): Pandemic-Related Liability Protections

[S.B. 22](#): Workers' Compensation "Disease Presumption" to Include COVID-19

[S.B. 24](#): New Pre-Employment Screening Procedures for Law Enforcement Agencies

[S.B. 157](#): Eminent Domain Reporting

[S.B. 374](#): Contiguity of Roads for Annexation

[S.B. 475](#): Regional Cybersecurity Working Groups

[S.B. 877](#): Building Inspections

[S.B. 968](#): Responding to Disasters

[S.B. 1090](#): Building Materials, Revisited

[S.B. 1359](#): Mental Health Leave for Police Officers

[S.B. 1438](#): Property Tax Rate Calculation Following a Disaster

[H.B. 5](#): Statewide Broadband Office
[H.B. 692](#): Public Works Contracts
[H.B. 872](#): Utility Customer Information May Not Be Disclosed
[H.B. 1082](#): Personal Information of Elected Officers Is Confidential
[H.B. 1118](#): Mandated Cybersecurity Training
[H.B. 1281](#): Golf Carts
[H.B. 1475](#): Grounds for Zoning Variances Expanded
[H.B. 1925](#): Statewide Public Camping Ban
[H.B. 1927](#): Constitutional or Permitless Carry
[H.B. 1929](#): ETJ Development Agreements
[H.B. 2073](#): Paid Quarantine Leave for First Responders
[H.B. 2404](#): Chapter 380 Agreement Reporting
[H.B. 3853](#): Middle Mile Broadband Service
[H.B. 4492](#): Financing for the Electric Market

All city-related bills that passed are summarized by category in the June 11 [wrap-up edition](#) of the Legislative Update.

Additional Post-Session Update: “Constitutional” or “Permitless Carry in Meetings”

City officials should be aware that some now argue that H.B. 1927, the so-called “constitutional” or “permitless” carry bill that became law on September 1, 2021, no longer allows a city to prohibit licensed carry during an open meeting. The bill, known formally as the “Firearm Carry Act of 2021,” authorizes most Texans over 21 years of age to carry a handgun in a concealed manner or openly in a holster, without the requirement to first obtain a handgun license.

H.B. 1927 does not repeal licensed carry, and the argument heard by League staff relates to licensed handgun carry in the room where a body subject to the Open Meetings Act is taking place. For unlicensed carriers, this is an outright ban; for license holders only, the League maintains that this is an optional prohibition. An unlicensed carrier is prohibited from carrying a handgun into the room or rooms where a meeting of a governmental entity is held, if the meeting is an open meeting subject to the Open Meetings Act, and if the entity provided notice as required by the Open Meetings Act. A license holder isn’t prohibited from carrying into a meeting described above, unless the entity provides notice that doing so is prohibited using a Penal Code 30.06 and/or 30.07 sign. Id. § 46.03(a)(14); 46.15(b)(6); 30.06; & 30.07.

Some now argue that the legislation allows license holders to carry into a local government’s meeting by right. In other words, they argue that the local government no longer has the option to provide notice that doing so is prohibited using a Penal Code 30.06 (concealed carry) and/or 30.07 (open carry) sign. That interpretation has not yet been tested through the attorney general’s investigatory process, a formal attorney general opinion, or in court.

For a full description of the new law, including a discussion of local government facilities where carrying of a handgun is authorized or prohibited, city officials can access the [Cities and Firearms](#) paper on the TML website, along with the [cheat sheet version](#) of the larger paper.

ERCOT Requests Order from PUC for Winter Storm Financing

The Electric Reliability Council of Texas (ERCOT) is requesting an [order](#) from the Public Utility Commission (PUC) under H.B. 4492 for financing to address extraordinary costs incurred by ERCOT and market participants because of Winter Storm Uri. The League [previously reported](#) on H.B. 4492.

There is another proceeding before the PUC for entities to opt out of the financing order [here](#). Entities interested in participating in the proceedings should speak with their city attorney to determine the best way to proceed.

TCEQ Sends Letter to Water Utilities for Preparedness Plan

If your city has a municipally owned water utility (MOU), the MOU probably received a letter from the Texas Commission on Environmental Quality (TCEQ) informing the MOU it must adopt an emergency preparedness plan (EPP) required by S.B. 3. The League [previously reported](#) on S.B. 3.

S.B. 3 codified section 13.1394 of the Texas Water Code. It requires all water systems located outside of Harris and Fort Bend Counties with residential customers or that provide overnight accommodations at their facility to provide water service with a minimum of 20 psi during an extended power outage lasting 24 hours or more.

TCEQ has created an [Emergency Preparedness Plan Homepage](#) that includes [a template](#) for MOUs to use in developing their EPPs. MOUs have fourteen options in the form to ensure compliance with the requirements of section 13.1394. An MOU must submit its EPP to TCEQ for review by **March 1, 2022** and implement the plan by **July 1, 2022**.

An MOU can apply for an extension of the deadlines and/or a waiver of the EPP requirement. An MOU seeking a waiver of the EPP requirement should review the [Emergency Preparedness Plan Homepage](#) as well as [this TCEQ guidance](#) on the waiver. Requesting a waiver will not extend the deadline to submit an EPP.

Post-Session Update: Public Works Contracts

[H.B. 692](#) became effective June 15, 2021. The bill addresses retainage used in contracts for public works projects. “Retainage” is defined to mean the part of a public works contract payment

withheld by a city to secure performance of the contract. The bill limits the amount of retainage for certain public works projects and governs when retainage may be withheld and how it must be handled in case of a dispute. A more detailed summary of the bill is available [here](#). The League's [Procurement Made Easy](#) publication will soon be updated to reflect this and other purchasing bills.

Texas Joins \$21 Billion Opioid Settlement

Attorney General Ken Paxton recently [announced](#) that Texas joined the \$21 billion distributor opioid settlement. Texas, along with a broad coalition of states and subdivisions, reached final agreements with four companies to resolve legal claims for their role in the opioid crisis. One agreement is with opioid manufacturer Johnson & Johnson. The other is with three major pharmaceutical distributors: AmerisourceBergen, Cardinal Health, and McKesson. The settlement includes up to \$1.1 billion awarded to Texas and its political subdivisions, including cities.

Local governments need to join the settlement by **January 2, 2022**, in order to maximize the benefits of the settlement. Funding received under the settlement will be used to support opioid abatement strategies. More information, including the steps necessary to formally join the settlement, can be found [here](#).

Bills on the Move

[2S.B.1 \(Hughes\)](#), relating to election integrity and security. Sent to Governor.

[2S.B. 8 \(Bettencourt\)](#), relating to homestead exemptions. Sent to Governor.

City-Related Bills

Elections

[2H.B. 235 \(Burrows\)](#) – **Charter Amendments**: would require the ordinance ordering a charter election to provide for the election to be held on the earlier of the first authorized uniform election date prescribed by the Election Code, the date of the next municipal general election, or the date of the next presidential general election.

[2H.B. 241 \(Klick\)](#) – **Voting Systems**: would, among other things, prohibit a voting system from being used in an election unless the voting system requires a person seeking to vote by personal appearance, before the person may access the ballot, to confirm that the person: (1) is a United States citizen; (2) is a resident of the county in which the person seeks to vote; (3) has not been determined by a final judgment of a court exercising probate jurisdiction to be partially or totally mentally incapacitated; and (4) has not been finally convicted of a felony, or, if so convicted, has: (a) fully discharged the person's sentence, including any term of incarceration, parole, or

supervision, or completed a period of probation ordered by any court; or (b) been pardoned or otherwise released from the resulting disability to vote.

Personnel

2H.B. 243 (Cason) – **Workers’ Compensation**: would provide that an employee who suffers an injury caused by an adverse reaction to a COVID-19 vaccine resulting in disability or death is presumed to have suffered the injury during the course and scope of employment if the employee was required to receive the vaccine as a condition of employment. (Companion is **2S.B. 96** by **Hall**.)

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Utilities and Environment

2H.B. 228 (Rosenthal) – **Electricity Supply Chain**: would, among other things, require: (1) the Railroad Commission 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 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 Public Utility Commission 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.

2H.B. 230 (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.

COVID-19 Update (No. 201)

All pandemic-related updates continue to be found in the [Legislative Update Newsletter](#).

Mask Mandate Update: Legal Battle Continues

Please see the last several [COVID-19 Updates](#) for a more complete background on the various cases filed by cities and school districts related to mask mandates. While there has been judicial action by the Texas Supreme Court, including a decision to [stay a temporary injunction](#) issued by a Bexar County District Court, some movement has shifted to the Texas Legislature.

Recall that the Texas Legislature is in the midst of its second special session of the year, which was [called by Governor Abbott on August 7th](#). Procedurally, the legislature can only consider bills which relate to the governor's call. Last week, [Governor Abbott added an additional item](#) for possible consideration by the legislature, which allows the legislature to consider whether any state or local governmental entity can mandate a COVID-19 vaccine. The initial call contained some room for consideration of mask mandates in schools, and a couple school-specific bills were filed. [H.B. 141](#) and [H.B. 164](#) are still pending in committee and may never reach the floor. Bills have also been filed to both [mandate](#) and [prohibit the mandating of](#) COVID-19 vaccines for students. Again, these bills are school-specific, but any legislative movement on the COVID-19 front is worth watching.

Additionally, some cities and city officials have received letters from local county or district attorneys discussing or threatening criminal prosecution for violation of Governor Abbott's executive orders. Please consult your local attorney for guidance and assistance related to potential criminal liability analysis.

Open Meetings Act Reminder

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 in an effort to reduce in-person meetings that assemble large groups of people. [These suspensions ended at 12:01 a.m. on September 1, 2021](#), and all provisions of the Open Meetings Act are, once again, effective. Therefore, 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.

In case you need a rules refresher, TML maintains a webpage of OMA-related information that can be found [here](#). Additionally, the Texas Attorney General has an [Open Meetings Act training page](#), which has a useful video overview of Texas open meetings requirements.

American Rescue Plan Act Funds

The state of Texas received the first tranche of ARPA funds from the U.S. Treasury, and TML is hearing from cities that are beginning to receive the first half of their allotted ARPA/CLFRF funds.

Keep in mind that “non-entitlement units of local government” (NEUs are generally cities under 50,000 population) must register with the [Texas Division of Emergency Management](#) (“TDEM”) to receive ARPA funds. TDEM maintains its [Coronavirus Local Fiscal Recovery Fund FAQ](#) which includes a link to the [CLFRF Timeline Check-in document](#) and step-by-step instructions on registering your city with the [TDEM Grant Management System](#). Cities serving a population over 50,000 need to [apply for funding directly to the U.S. Treasury](#). [Looking at the spreadsheet](#), it appears that 51 cities have not applied for the funds. If your city has not yet registered but wants to participate in the ARPA funding opportunities, register now. TDEM has also [updated its CLFRF page](#) with allocation information, spreadsheets and maps that could be useful.

ARPA FAQs

The U.S. Treasury Department’s Coronavirus State and Local Fiscal Recovery Funds FAQ contains a number of questions and answers related to eligibility for recovery funds and eligible uses of recovery funds. The entire FAQ can be accessed [here](#).

The National League of Cities also maintains an ARPA-related FAQ which can be found [here](#).

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

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