

**REGULAR MEETING AND PUBLIC HEARING  
CITY COUNCIL  
CITY OF NASSAU BAY, TEXAS  
DECEMBER 14, 2020  
7:00 PM  
VIA TELECONFERENCE**

**MEMBERS OF COUNCIL PRESENT:** Mayor Mark Denman, Mayor Pro Tem Don Matter, Councilmembers Ashley Graves, John Mahon, Bryce Klug, Bob Warters, Matt Prior, and Councilmember-Elect Phil Johnson (all members via teleconference)

**MEMBERS OF COUNCIL ABSENT:** None

**OTHERS PRESENT:** City Attorney Dick Gregg Jr., City Manager Jason Reynolds, City Secretary Sandra Ham, Assistant City Manager Mary Chambers, Finance Director Csilla Ludanyi, Public Works Director Paul Lopez, Police Chief Tim Cromie, Fire Chief Tom George, Sergeant Glenn Sharp, and Planning Commission Chairman Roscoe Lee (all members via teleconference)

**PRESIDING:** Mayor Mark Denman

**CALL TO ORDER AND ROLL CALL OF MEMBERS**

Mayor Mark Denman called the meeting to order at 7:00 p.m. and announced a quorum of Council was present with all elected officials in attendance.

**APPOINTMENTS, PROCLAMATIONS, PRESENTATIONS, AWARDS**

**Presentation of a Proclamation naming December 10th as Sergeant Kaila M. Sullivan Memorial Day in the City of Nassau Bay**

Mayor Mark Denman issued a proclamation in remembrance of Sergeant Kaila M. Sullivan, proclaiming every December 10th in perpetuity as "Sergeant Kaila M. Sullivan Memorial Day" in the City of Nassau Bay. Mayor Denman emphasized Nassau Bay's commitment to honoring Sergeant Sullivan each year, ensuring as the years pass all will remember her name and the sacrifice she made for the City.

Mayor Denman invited Police Chief Tim Cromie to speak on behalf of the Police Department. Chief Cromie read a statement by Sergeant Sullivan's widow Tracy Sullivan, in which she thanked the City for recognizing Sergeant Sullivan's "End of Watch" date of December 10th. This proclamation ensures Sergeant Sullivan's legacy lives on forever in the City of Nassau Bay.

Chief Cromie continued by describing a proposed physical monument in the City's Town Square that will permanently mark Sergeant Sullivan's legacy in the City. He provided a visual presentation to Council on the monument styling, which honors Sergeant Sullivan and in general honors the sacrifice the City's public safety elements make each and every day.

**Recognition of Sergeant Glenn Sharp for 15 Years of Service**

Chief Tim Cromie congratulated Sergeant Glenn Sharp for his fifteen years of service with the City of Nassau Bay Police Department. He remarked on Sergeant Sharp's twenty years of police service. Sergeant Sharp is currently the Senior Sergeant at Nassau Bay and has also worked as a Detective in the past for the Department. Sergeant Sharp has over 1,600 hours of in-service training. Earlier this year, Sergeant Sharp earned his Master Peace Officer certification with the State of Texas, which is the highest certification for officers in the state. Chief Cromie thanked Sergeant Sharp for all his work and dedication to the Police Department and the City of Nassau Bay.

Mayor Mark Denman offered words of appreciation for the service of Sergeant Glenn Sharp. Councilmember Matt Prior also thanked Sergeant Sharp. Councilmember-Elect Phil Johnson acknowledged the significance of fifteen years of service as a great accomplishment for an officer.

### **Presentation in Recognition of Service to Outgoing Councilmember Ashley Graves**

Mayor Mark Denman congratulated former Councilmember Ashley Graves on her campaign. He highlighted her earnest service on City Council and looked forward to her future on City Council again.

Ms. Ashley Graves commented on her service on City Council, noting it to be an honor to serve the City of Nassau Bay. She congratulated Councilmember Bob Warters on his successful Mayoral campaign and looked forward to serving the City again in the near future.

Councilmember Matt Prior thanked Ms. Graves for her service and acknowledged her thoughtful campaign.

Councilmember Bob Warters also thanked Ms. Graves and acknowledged her as a strong opponent in the Mayoral election.

Councilmember John Mahon echoed similar sentiments and agreed Ms. Graves' enthusiastic service on Council made Nassau Bay a better city to live, work, and play.

Mayor Pro Tem Don Matter commented positively on Ms. Graves' service on Council, commenting on her enthusiasm and eagerness to learn about the City.

Councilmember-Elect Phil Johnson highlighted Ms. Graves' contributions to Council, and indicated it was an honor to follow in her footsteps.

Councilmember Bryce Klug expressed his appreciation for Ms. Graves' service on City Council.

### **Issuance of Certificates of Election by Mayor Mark Denman to Councilmembers-Elect Phil Johnson, Bryce Klug, and Matt Prior**

Mayor Denman presented Phil Johnson, Bryce Klug, and Matt Prior with Certificates of Election, as required by the Election Code. No candidates drew an opponent; therefore, all candidates were considered duly elected.

City Attorney Dick Gregg, Jr. administered the oaths of office to incumbent Councilmembers Bryce Klug and Matt Prior, and new Councilmember Phil Johnson.

## **PUBLIC HEARING AND ACTION ITEMS FROM PUBLIC HEARING**

### **Public Hearing on an ordinance providing for regulations and the registration for the operation and use of short-term rentals in the City of Nassau Bay**

Mayor Denman announced a Public Hearing for citizens to address Council regarding an ordinance for regulations and registration for the operation and use of short-term rentals.

#### **The Public Hearing was opened at 7:15 p.m.**

*This individual submitted comments to be read under the Citizens' Request for Hearing.*

Michael Lahar, 1430 San Sebastian Lane, submitted his statement which was read verbatim: "I wanted to bring up the problems of having Airbnbs within the City of Nassau Bay. I am sure you are aware of the recent shooting into the house where a party was taking place in an Airbnb by one of the attendees of the party that was asked to leave. If there is not already a deed restriction against having one, there needs to be something put in place to control Airbnbs from being placed into the City of Nassau Bay. This neighborhood is quiet and a nice place to raise your family until this happened. The owner of the Airbnb seems to hold a disdain for the neighborhood as seen on the NextDoor website when the owner was comforted by another resident. The citizens of Nassau Bay would appreciate it if you would help us correct this problem within our city. Thank you for your time."

There were no other public comments and the Public Hearing was closed at 7:17 p.m.

### **Approval of an ordinance providing for regulations and the registration for the operation and use of short-term rentals and providing for a penalty and severability (first of two readings)**

City Manager Jason Reynolds began the discussion by indicating this proposed ordinance to be a continuation of previous conversations by Council on the subject. There has been a pause in the discussion due to COVID and in anticipation of new State legislation that may affect the Task Force's recommendations. Current legislation provides for the inability for the City to ban short-term rentals, with City Attorney Dick Gregg, Jr. in agreement. The Task Force recommends further consideration by Council to seek a registration process, in which a short-term rental owner is subject to Hotel Occupancy Tax and annual life-safety inspections.

Mr. Reynolds indicated the City would utilize a proprietary software program to ensure compliance. With the software, the City can identify the active short-term rentals within the City. There are currently approximately 30 to 50 homes in the City. This does not currently include hotels or apartments.

Currently, the key aspects of the ordinance include a registration fee of \$200 per year and proposals for annual renewal fees. Any fee established would offset the City's cost to perform the required life safety inspections. The Task Force is interested in offering a waiver period for the initial registration, as an incentive for increased compliance. Mr.

Reynolds indicated City Council would determine the length of the waived period for registration.

City Manager Reynolds provided an overview of the program's compliance requirements and the registration and renewal process. He detailed the safety inspections for life safety and fire exits. Continuing, he noted the City would coordinate with the short-term rental owner for the collection of HOT funds. The owner would also be provided the ordinance rules, and history of the City. The program would require contact information for the owner, with the addition of a 24-hour respondent to be on file. Lastly, Mr. Reynolds noted that noise and refuse ordinances already exist within the City's ordinances, therefore this short-term rental ordinance does not further outline these items.

Mayor Mark Denman emphasized that this ordinance would not have mitigated the previous short-term rental party incident.

Councilmember Bryce Klug expressed his appreciation to the Task Force and encouraged understanding by the citizens of Council's inability to openly ban short term rental within the City. He supported the required \$1,000,000 liability, which he believes protects the City and residents. He voiced concern on the \$200 registration fee amount and indicated the fee may not be sufficient to capture the City's costs. He questioned the feasibility of raising the fee to \$300 or \$400. He also acknowledged the practicability of the initial waiver period for increased compliance. Lastly, he commented on Section 17 of the ordinance regarding failure to register in the program. It currently cites a violation to be a misdemeanor and requested for consideration of language that references a third strike system or similar.

Councilmember Phil Johnson echoed Councilmember Klug's comments on the fee structure, stating the fee to be de minimis. He inquired on the maximum fee allowed by Council to impose on a rental owner, and he believes there is reasonable justification for additional unknown costs to operate the program. He also requested consideration to review the penalties for non-compliance.

City Manager Reynolds affirmed that homeowners that operate without registration would be in violation of the City's proposed ordinance. After a citation is issued for violation, the Municipal Court determines the citation paid. City Attorney Gregg agreed, noting the Court has the ability to decide the fee, which could range between \$200 or \$300. If there is a subsequent trial, the fee can be amended based on the results of the trial.

There was a brief discussion on the registration fee. Mr. Reynolds emphasized that the current program costs cannot justify a registration fee more than \$300. During the trial of the program, the City can further determine real costs and attribute the full expenses to the operation of the program. City Attorney Gregg underscored the fee limitations, and indicated a large fee of \$5,000, for example, is not realistic and may be misconstrued as prohibition of short-term rentals in the City. The fee needs to live with the burden of the actual costs of inspection and supervision of the program.

Councilmember Warters was in agreement that amendments may need to be made, but also stated there was a need to wait to resolve any recommendations made by Council, as immediate approval is a priority. As experience develops with the program, the City can modify as needed. He urged Council to not delay in approval in order for the ordinance to become enacted at the next reading.

Councilmember Warters motioned for approval with the initial registration fee and renewal fee at \$200. Additionally, his motion included a waived period of six months for initial registration. Councilmember John Mahon seconded the motion.

The caption of the ordinance reads as follows (first of two readings):

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NASSAU BAY, TEXAS, PROVIDING FOR REGULATIONS AND THE REGISTRATION FOR THE OPERATION AND USE OF SHORT-TERM RENTALS AND PROVIDING FOR A PENALTY AND SEVERABILITY.

(Said Ordinance is of record in Ordinance Book No. 13 of the City of Nassau Bay, Texas, being Ordinance No. O2020-806.)

Mayor Pro Tem Don Matter expressed concerns on the City's ability for terminate severe cases in the program. City Manager Reynolds pressed for the Task Force to reconvene, in order to make further recommendation on Council's amendments and to clearly define what constitutes "severe" in the program. City Attorney Gregg indicated language should stipulate three citations versus three convictions.

Councilmember Klug inquired whether Councilmember Warters would be amendable in his motion for a registration fee of \$300. Councilmember Warters noted it was prudent to approve the first reading of this ordinance, with the expectation of the Task Force and City Council later finalizing additional details.

Councilmember Johnson spoke briefly on the requirement of the Certificate of Liability Insurance, which already places restrictions on getting the registration. He also urged for consideration of the \$300 fee for registration, as he believes City Manager Reynolds has the ability to justify a \$300 fee. Councilmember Johnson also agrees with the urgency for approval.

It was moved by Councilmember Bob Warters, seconded by Councilmember John Mahon, to approve the first reading of the ordinance, to include a \$300 registration and renewal fee, a waiver period of six months for initial registration, and further review by the Short Term Rental Task Force.

Motion passed 7 – 0.

#### **CITIZENS' REQUEST FOR HEARING BEFORE CITY COUNCIL**

Mayor Denman announced a Public Hearing for citizens to address Council regarding any issues and concerns.

**The Public Hearing was opened at 7:42 p.m.**

There being no one wishing to speak, the Public Hearing was immediately closed.

#### **COUNCILMEMBERS' COMMENTS/REPORTS**

Councilmember Matt Prior commented on the difficult one-year anniversary of losing Sergeant Kaila Sullivan. He reinforced the importance of the public safety elements to the City and encouraged that support for these critical departments never waver. He congratulated Bob Warters and Ashley Graves and looked forward to a successful Mayoral transition. He remarked on the great voter turnout, even with the COVID complications. He expressed appreciation to the Special Events Committee for honoring Sergeant Sullivan with blue ribbons around the City. He also thanked the Committee for their efforts in a successful Santa in the Park event, which assisted in keeping the community spirits high during this COVID pandemic.

Councilmember Bob Warters expressed appreciation to City Secretary Sandra Ham for her enormous efforts in the City's successful Mayoral election. He also thanked the City for the Christmas Boat Lane Parade fireworks.

Councilmember Bryce Klug congratulated Bob Warters on his Mayoral victory and remarked on Ms. Graves' honorable campaign. He acknowledged Councilmember Prior's words honoring Sergeant Sullivan and wished to echo those sentiments.

Councilmember John Mahon acknowledged the City's hearts are broken by the loss of Sergeant Sullivan, as she will always be missed. He remarked that the City has done a fantastic job in honoring her legacy. Councilmember Mahon also thanked Sergeant Sharp for his service, noting it to be a significant testimony to the number of great employees with the City. Councilmember Mahon positively commented on the leadership of Mayor Denman and thanked both future Mayor Warters and Ms. Graves on their terrific campaigns. He noted their Mayoral campaigns to be an example for others on the democratic process. Lastly, he commented on the successful fireworks, which overall confirms how great of a city Nassau Bay is in community spirit.

Councilmember Phil Johnson echoed the sentiments of his Council colleagues and reaffirmed the need for a Memorial Day in Sergeant Sullivan's honor. In regards to the election, he congratulated both Bob Warters and Ashley Graves on running first-class campaigns. He positively commented on the Christmas Boat Lane Parade and fireworks, which he believes the City should take pride for both events. Lastly, he encouraged the City to make crime statistics more accessible on the City's website.

Mayor Pro Tem Don Matter commented on the tragedy of losing Sergeant Sullivan. He asks for all the officers to continue to be safe and careful, and he knows no one wants a repeat of this tragedy. Mayor Pro Tem Matter also commented on the recent Mayoral election, and complimented both campaigns. His only criticism of the election process was Harris County's control of the voting process.

## **MAYOR'S COMMENTS/REPORTS**

Mayor Mark Denman remarked on the recent Christmas Boat Parade event, as he enjoyed viewing the blue lights, with over 30 boat traversing the Nassau Bay lagoon. He expressed his appreciation to City Secretary Sandra Ham on a successful election process. He indicated his approval on the forward progress of the City's code enforcement process, noting the removal of the Leeward Lane homes and Martinique homes.

## **REPORTS FROM STAFF MEMBERS & COMMITTEES**

## **City Manager**

City Manager Jason Reynolds expressed his appreciation to Council and City staff for recognizing Sergeant Kaila Sullivan. He also thanked Chief Tim Cromie for creating the memorial video and working on the memorial monument.

Mr. Reynolds continued by thanking the Special Events Committee for their community efforts, as they operate behind the scenes to keep community spirit strong. He specifically expressed appreciation to Stacey Amdur and Kathy Prior, along with all of the committee volunteers for their successful Santa in the Park event. He also commented on the Christmas Boat Parade, noting that the City is beginning to attract larger boats each year, making for a visually spectacular event.

City Manager Reynolds expressed sorrow for the cancellation of the City's 50th Anniversary celebration gala, as the City has to move forward due to many unknowns still surrounding COVID.

Continuing with COVID, he noted there are 146 cases in the City since February. He encouraged all to continue to remain vigilant with social distancing efforts and mask wearing.

He acknowledged the City is aware of a planned CenterPoint power outage. City staff will communicate more information on social media, but are not able to broadcast a Swift911 alert, as the outage is pinpointed to a few locations. The City will post a phone number for citizens to contact CenterPoint Energy with any concerns.

Lastly, he ended his comments by expressing appreciation to City Secretary Sandra Ham for conducting a successful Mayoral election. City Secretary Ham is beginning to work on the May 2021 election, and candidate packets will be available for pickup and viewing on the City's website beginning December 16th.

## **Police Department**

Chief Tim Cromie provided the Police Department monthly report. For November, the Department responded to 316 calls, took 63 reports, issued 148 written and verbal warnings, and issued 81 citations. Officers patrolled 5,661 miles in the City for the month.

Chief Cromie continued by detailing a recent Department training. Officers trained to advance their medical response skills as part of the Self Aid Buddy Aid class, noting that proper medical and tactical training can prevent deaths resulting from traumatic injury by proper treatment at the scene by a first responder. The training provided officers with the knowledge and tools needed to save their own life or the life of someone else in tactical situations.

Lastly, Chief Cromie congratulated Officer Jacob Arnesen, as he has completed his field training program and is patrolling on his own. Officer Randy Reyna is wrapping up the final stages of his field training and should have it completed and be on his own by the beginning of the new year.

## **Fire Department**

Fire Department President Matt Roper presented the Fire Department's November status report. Mr. Roper stated the Department responded to 24 calls with 1,261 man hours. Membership numbers remain at 42 members, with two applicants queued for prospective membership. He continued by highlighting five members who recently completed structural fire training. There are now twelve members with this certification. He expressed appreciation to those volunteers who commit additional time and efforts to complete this certification.

## **CONSENT AGENDA**

### **Approval of Minutes of Regular Meeting on July 13, 2020**

### **Approval of Minutes of Regular Meeting on August 10, 2020**

### **Resolution reappointing John Nugent, Omar Abotteen, Louis Nguyen, and Angela Braun to the Planning Commission**

The caption of the resolution reads as follows:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NASSAU BAY, TEXAS, REAPPOINTING MEMBERS TO THE PLANNING COMMISSION.

(Said Ordinance is of record in Resolution Book No. 19 of the City of Nassau Bay, Texas, being Resolution No. R2020-2208.)

### **Approval of a Resolution adopting a Flood Warning and Response Plan for the City of Nassau Bay, Texas**

The caption of the resolution reads as follows:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NASSAU BAY, TEXAS, ADOPTING A FLOOD WARNING AND RESPONSE PLAN FOR THE CITY OF NASSAU BAY, TEXAS.

(Said Ordinance is of record in Resolution Book No. 19 of the City of Nassau Bay, Texas, being Resolution No. R2020-2209.)

### **Approval of a Resolution adopting an Emergency Operations Plan for the City of Nassau Bay, Texas**

The caption of the resolution reads as follows:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NASSAU BAY, TEXAS AMENDING THE CITY OF NASSAU BAY'S EMERGENCY MANAGEMENT PLAN AND UPDATING THE BASIC PLAN, ANNEX A - WARNING; ANNEX B - COMMUNICATIONS, ANNEX C - SHELTER & MASS CARE, ANNEX D, RADIOLOGICAL PROTECTION, ANNEX E - EVACUATION, ANNEX F - FIREFIGHTING; ANNEX G - LAW ENFORCEMENT, ANNEX H - HEALTH & MEDICAL SERVICES, ANNEX-I EMERGENCY PUBLIC INFORMATION, ANNEX J -RECOVERY, ANNEX

K - PUBLIC WORKS, ANNEX L - UTILITIES, ANNEX M - RESOURCE MANAGEMENT, ANNEX N - DIRECTION AND CONTROL , ANNEX O - HUMAN SERVICES , ANNEX P -HAZARD MITIGATION, ANNEX Q - HAZARDOUS MATERIALS & OIL SPILL RESPONSE, ANNEX R - SEARCH AND RESCUE , ANNEX S -TRANSPORTATION, ANNEX T - DONATIONS MANAGEMENT, ANNEX U - LEGAL, AND ANNEX V - TERRORIST INCIDENT RESPONSE.

(Said Ordinance is of record in Resolution Book No. 19 of the City of Nassau Bay, Texas, being Resolution No. R2020-2210.)

**Approval of a resolution approving the City’s Manager’s appointment of Tiffany Hatton as Deputy City Secretary**

The caption of the resolution reads as follows:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NASSAU BAY, TEXAS, APPROVING THE CITY MANAGER’S APPOINTMENT OF A DEPUTY CITY SECRETARY.

(Said Ordinance is of record in Resolution Book No. 19 of the City of Nassau Bay, Texas, being Resolution No. R2020-2211.)

Mayor Pro Tem Don Matter voiced concern with Consent Agenda items C and D and requested additional language that indicated the Mayor of the City to be the Emergency Management Coordinator. City Manager Jason Reynolds agreed the additional statement would be included.

It was moved by Mayor Pro Tem Don Matter, seconded by Councilmember Matt Prior, to approve the Consent Agenda.

Motion passed 7 – 0.

**NEW BUSINESS**

**Acceptance of the 2020 Annual Report of the Planning Commission**

Planning Commission Chairman Roscoe Lee provided a brief overview of the 2020 Annual Report. He indicated the Commission primarily focused on the Comprehensive Master Plan, with four Commissioners serving as members on the Comprehensive Plan Advisory Committee. Mr. Lee also described the activities of the comprehensive plan and the formal planning process.

Chairman Lee also noted the Commission met to discuss a request for a replat of the Bucky’s lot. Mr. Lee described the changes included for the replat request to accommodate McDonald’s. The Commission approved the replat and Chairman Lee signed the updated plats.

Lastly, Chairman Lee overviewed the Town Square PUD modification, in which the Commission unanimously approved with a vote of 7-0 to recommended to City Council

the approval of zoning changes for multi-family use with retail allowed for the tracts around City Hall.

### **Resolution electing Don Matter as Mayor Pro Tem**

The caption of the resolution reads as follows:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NASSAU BAY, TEXAS ELECTING A MAYOR PRO TEM PURSUANT TO SECTION 3.05 OF THE CITY CHARTER.

(Said Resolution is of record in Resolution Book No. 19 of the City of Nassau Bay, Texas, being Resolution No. R2020-2215.)

It was moved by Councilmember Bob Warters, seconded by Councilmember Bryce Klug, to elect Don Matter as Mayor Pro Tem.

Motion passed 7 – 0.

### **EXECUTIVE (CLOSED) SESSION**

Meeting recessed to Executive Session at 8:14 p.m. as authorized by Texas Government Code, Chapter 551, Open Meetings, Subchapter D, Exceptions to Requirement that Meeting be Open, with Mayor Denman reading from the posted agenda the following topic to be discussed in Executive Session:

1. §551.074 Personnel – Discuss the employment, evaluation, compensation, goals, and duties of the City Manager.
2. §551.071 Consultation with Attorney – Discussion of agreement regarding code enforcement litigation.
3. §551.071 Consultation with Attorney – Discussion of possible litigation pertaining to a possible negligence claim.

Meeting returned to Open Session at 8:57 p.m.

### **ACTION ITEMS FROM EXECUTIVE SESSION**

#### **Action regarding personnel matters as discussed in Executive Session – City Manager**

No action was taken on this agenda item.

#### **Acceptance of terms the terms and authorization of payment as described in the Parties' Settlement Agreement between the City of Nassau Bay and APTONB, LLC, as discussed in Executive Session**

It was moved by Councilmember John Mahon, seconded by Councilmember Matt Prior, to accept the terms and authorize payment as discussed in Executive Session.

Motion passed 6 – 1, Councilmember Klug opposed

**Action regarding litigation matter as discussed in Executive Session**

No action was taken on this agenda item.

**ADJOURNMENT**

There being no further business, the meeting adjourned at 9:16 p.m.

Minutes approved as submitted and/or amended this 8th day of March A.D. 2021.

CITY OF NASSAU BAY, TEXAS



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Robert L. Warters  
Mayor

ATTEST:



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Sandra V. Ham  
City Secretary