



# City of Corpus Christi

1201 Leopard Street  
Corpus Christi, TX 78401  
cctexas.com

## Meeting Minutes

### City Council

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Tuesday, November 16, 2021

11:30 AM

Council Chambers

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**Addendums may be added on Friday.**

**A. Mayor Paulette M. Guajardo to call the meeting to order.**

Mayor Guajardo called the meeting to order at 11:38 a.m.

**B. Invocation to be given by Pastor David Bendett, Rock City Church.**

Pastor David Bendett, Rock City Church, gave the invocation.

**C. Pledge of Allegiance to the Flag of the United States and to the Texas Flag to be led by Rebecca Simpson, W.B. Ray High School student.**

Rebecca Simpson, W.B. Ray High School student, led the Pledge of Allegiance to the Flag of the United States and to the Texas Flag.

**D. City Secretary Rebecca L. Huerta to call the roll of the required Charter Officers.**

City Secretary Rebecca L. Huerta called the roll and verified that a quorum of the City Council and the required Charter Officers were present to conduct the meeting.

Charter Officers: City Manager Peter Zaroni, City Attorney Miles K. Risley and City Secretary Rebecca L. Huerta.

Note: Council Member Martinez arrived at 2:51 p.m. Council Member Smith left at 1:05 p.m.

**Present:** 9 - Mayor Paulette M. Guajardo, Council Member Roland Barrera, Council Member Gil Hernandez, Council Member Michael Hunter, Council Member Billy A. Lerma, Council Member John Martinez, Council Member Ben Molina, Council Member Mike Pusley, and Council Member Greg Smith

**E. Proclamations / Commendations**

- [21-1633](#) Proclamation declaring November 16, 2021 as "Tom Schmid Day".  
Proclamation declaring November 13 - 21, 2021 as "National Hunger & Homelessness Awareness Week".  
Presentation for The Biggest Heart Challenge Trophy.  
Swearing-In Ceremony for Newly Appointed Board, Commission, committee and Corporation Members.

The Proclamations, Presentation and Swearing-In Ceremony were presented.

**F. PUBLIC COMMENT**

Mayor Guajardo opened the public comment period.

Melanie Salinas, 2210 Abeto Dr. and Shirin Delsooz, 6030 Tapestry Dr., called in regarding safer bike paths.

Christopher Phelan, 3806 Kingston Dr., called in opposition to the desalination plant permit.

Lydia Ponce, Venice, CA, called in regarding violence against women and in opposition to the desalination plant.

Blanca Parkinson, 10801 Silverton Dr., called in opposition to the desalination plant permit.

Melissa Zamora, 3917 Brawner Pkwy., spoke in opposition to the desalination plant.

Brandon Marks, 319 Rosebud Ave., spoke in opposition to the desalination permit and stated that a virtual public meeting is being held tonight by the Texas Commission on Environmental Quality (TCEQ) at 7:00 p.m.

Brian Watson, 5813 Hugo Dr., spoke regarding water fluoridation.

The following citizen submitted a written public comment which is attached to the minutes: Meredith Matthews, 1501 McKinzie Rd.

**G South Texas Botanical Gardens & Nature Center Presentation by Michael Womack, Executive Director & Horticulturist**

Executive Director & Horticulturist Michael Womack presented information on the South Texas Botanical Gardens & Nature Center: RFP for master plan; Moonlight returns to the Gardens; Holly Days at the Gardens - Thanksgiving until Christmas; Big Bloom - April 2, 2022; 2021 Best of the Best; Birdiest Festival in America - April 20-24, 2022; and the raptor project.

**P. BRIEFINGS: (ITEM 30)**

- 30.** [21-1620](#) Briefing from Flatiron/Dragados on the Harbor Bridge Replacement Project

Mayor Guajardo deviated from the agenda and referred to Item 30.

Flatiron/Dragados Public Information Coordinator Lynn Allison presented information on the following topics: agenda; south interchange traffic movements; Northwest Loop Ramp; Robstown pre-cast yard; north approach and roadworks; south approach construction progress; launching gantry crane segment erection; south approach back span piers; north pylon; south pylon; and HBP workforce.

Council Members, Ms. Allison, TxDOT District Engineer Valente Olivarez Jr. and City Manager Peter Zaroni discussed the following topics: the new Harbor Bridge is expected to be complete in two and a half years; the north and south towers are about 85% complete; the project is currently on budget; the Bridge will have a ten foot shoulder for hikers and bikers to share; the old Harbor Bridge will be shut down in 2024; a Council Member's request for flashing lights to be placed at the intersection of County Road 52 and FM 1889; and TxDOT inspects the existing Harbor Bridge on an annual basis and has a preventative maintenance schedule.

**H. CITY MANAGER'S COMMENTS / UPDATE ON CITY OPERATIONS:**

Mayor Guajardo referred to City Manager's comments.

**a. Fourth Quarter 2021 Budget & Finance Report**

City Manager Zaroni provided a briefing on the Fourth Quarter 2021 Budget and Finance Report as follows: presentation overview; FY 2021 year end timeline; FY 2021 general fund revenues; FY 2021 general fund expenses; general fund balance; HOT tax revenue and expenses; water fund revenues and expenses; wastewater fund revenues and expenses; summary; and next steps.

Council Members, City Manager Zaroni and Chief Financial Officer Constance Sanchez discussed the following topics: encumbrances are budgeted in 2021 but are carried over to 2022; and the budget funds that are carried over are part of the amended budget.

**b. American Rescue Plan City Projects' Update**

City Manager Zaroni reported on the American Rescue Plan Act as follows: city council approved infrastructure projects; expenditures to date; and impacts.

Council Members and City Manager Zaroni discussed the following topics: applications are being accepted to bring in additional money for water lines, sewer lines and neighborhood streets.

**c. Republic Services Recycling Center Tour on National Recycling Day**

City Manager Zaroni stated that November 15th is National Recycling Day and that recycling is important in keeping the community clean. Public outreach events will be held to educate the public about recycling.

Council Members, City Manager Zaroni and Director of Public Works and Streets

Rolando Mata discussed the following topics: glass can be recycled at the City's Drop Off Center near Saratoga; and recycled tires can be repurposed as materials for road construction.

**d. Holiday Closures**

City Manager Zanoni reported on Thanksgiving closures. All public safety operations will be in full effect throughout the holiday week.

**I. BOARD & COMMITTEE APPOINTMENTS: (NONE)**

**J. EXPLANATION OF COUNCIL ACTION:**

**K. CONSENT AGENDA: (ITEMS 2 - 23)**

**Approval of the Consent Agenda**

Mayor Guajardo referred to the Consent Agenda. Council Members requested that Items 13 and 23 be pulled for individual consideration.

A motion was made by Council Member Lerma, seconded by Council Member Pusley to approve the Consent Agenda with the exception of Items 13 and 23. The motion carried by the following vote:

**Aye:** 7 - Mayor Guajardo, Council Member Barrera, Council Member Hernandez, Council Member Hunter, Council Member Lerma, Council Member Molina and Council Member Pusley

**Absent:** 2 - Council Member Martinez and Council Member Smith

**Abstained:** 0

**2. [21-1614](#) Approval of the November 9, 2021 Regular Meeting Minutes.**

The Minutes were approved on the consent agenda.

*Consent - Second Reading Ordinances*

**3. [21-1213](#) Ordinance authorizing the execution of the First Amended Lease and Operating Agreement with Texas State Aquarium Association to adjust the term to 20 years from the effective date of this amendment and provide up to \$3,000,000.00 for construction of new Wildlife Rescue Center.**

This Ordinance was passed on second reading on the consent agenda.

Enactment No: 032598

**4. [21-1472](#) Ordinance authorizing acceptance of a grant in an amount of \$48,724.61 from State of Texas, Criminal Justice Division for Violence Against Women Program with a cash match of \$14,402.72 and in-kind match of \$6,960.00; transferring**

\$14,402.72 from the General Fund to the Police Grants Fund; appropriating \$63,127.33 in the Police Grants Fund; and authorizing one full-time civilian employee for a Victim Case Manager.

This Ordinance was passed on second reading on the consent agenda.

Enactment No: 032599

5. [21-1473](#) Ordinance authorizing acceptance of a grant in an amount of \$129,212.45 from State of Texas, Criminal Justice Division for Victims of Crime Act Grant with a cash match of \$28,000.00 and in-kind match of \$4,320.00; transferring \$28,000.00 from the General Fund to the Police Grants Fund; appropriating \$157,212.45 in the Police Grants Fund; and authorizing three full-time employees for Victim Case Managers.

This Ordinance was passed on second reading on the consent agenda.

Enactment No: 032600

6. [21-1474](#) Ordinance authorizing acceptance of a grant in an amount of \$98,964.86 from the State of Texas, Criminal Justice Division for Victims of Crime Community Outreach Program with a cash match of \$3,300.00 and in-kind match of \$21,500.00; transferring \$3,300.00 from the General Fund to the Police Grants Fund; appropriating \$102,264.86 in the Police Grants Fund; and authorizing two full-time civilian employees.

This Ordinance was passed on second reading on the consent agenda.

Enactment No: 032601

7. [21-1498](#) Ordinance authorizing the acceptance of a grant from the Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, in an amount of \$192,413.00 for the FY 2021 Edward Byrne Memorial Justice Assistance Grant program for the Corpus Christi Police Department to purchase equipment such as tasers, a forensic laser, and riot shields; and appropriating \$192,413.00 in the Police Grants Fund with \$96,206.00 to be distributed to Nueces County based on an interlocal agreement with the City acting as the fiscal agent, at no charge to Nueces County, and the remaining \$96,207.00 to be used by the City.

This Ordinance was passed on second reading on the consent agenda.

Enactment No: 032602

8. [21-1469](#) Zoning Case No. 0921-02, Ed Rachal Foundation: (District 1) Ordinance rezoning multiple properties at or near 2210 Mary Street from the "RS-6" Single-Family 6 District, "RM-3" Multifamily District, and the "CN-1" Neighborhood Commercial District to the "CI" Intensive Commercial District. (Planning Commission and Staff recommend Denial of "CI" and in lieu thereof approval of "RS-6/SP" Single-Family 6 District with a Special Permit) (3/4 vote required to approve less restrictive use or density than the recommendation of the Planning Commission)

This Ordinance was passed on second reading on the consent agenda.

Enactment No: 032603

9. [21-1465](#) Ordinance exempting Lot 1, Block 1, Hale Horse Ranch, located north of FM 665 and west of CR 763 with the frontage along CR 32, from payment of wastewater acreage fee under section 8.5.2.G.1 of the Unified Development Code; requiring a sanitary sewer connection agreement.

This Ordinance was passed on second reading on the consent agenda.

Enactment No: 032604

10. [21-1516](#) Ordinance abandoning and vacating a 15-foot-wide, by approximately 69.29-foot long (1,039 sq. ft.) portion of an existing 15-foot-wide easement out of Joslin Tracts, Block 2, Lots 6, located at 7602 South Padre Island Drive.

This Ordinance was passed on second reading on the consent agenda.

Enactment No: 032605

11. [21-1464](#) Ordinance amending Corpus Christi Code Section 55-113 to authorize the City Manager to execute Outside City Limits Water Service Contracts for subdivisions with two lots or less.

This Ordinance was passed on second reading on the consent agenda.

Enactment No: 032606

12. [21-0791](#) Ordinance authorizing execution of a one-year lease with Emerald City Cargo, LLC, for cargo storage and office space at the Corpus Christi International Airport in exchange for an annual payment of \$18,903.00, with such lease having up to five one-year renewals.

This Ordinance was passed on second reading on the consent agenda.

Enactment No: 032607

13. [21-1527](#) Ordinance approving Addendum No. 1 to Lease Agreement with Corpus Christi Baseball Club, L.P., providing for Type A funding in an amount not to exceed \$701,800.00 on a reimbursement basis to make certain capital improvements to the Whataburger Field property in accordance with Major League Baseball Requirements.

Mayor Guajardo referred to Item 13.

A Council Member and Chief Financial Officer Constance Sanchez discussed the following topics: it costs \$155,000 annually to insure Whataburger Field; and the City only collects \$80,000 in lease expenses, so a Council Member would like to see the City at least recover what it pays in insurance.

Council Member Hernandez made a motion to approve the ordinance, seconded by Council Member Hunter. This Ordinance was passed on second reading and approved with the following vote:

**Aye:** 8 - Mayor Guajardo, Council Member Barrera, Council Member Hernandez, Council Member Hunter, Council Member Lerma, Council Member Martinez, Council Member Molina and Council Member Pusley

**Absent:** 1 - Council Member Smith

**Abstained:** 0

Enactment No: 032608

14. [21-1551](#) Ordinance accepting and appropriating a grant in the amount \$7,808,211.00 from the U.S. Department of the Treasury and authorizing a one-year service agreement for Grant Administrator Services of Emergency Rental Assistance in an amount not to exceed \$1,170,565.00, with Hagerty Consulting Inc. of Evanston, Illinois, effective upon issuance of a notice to proceed; and amending the budget.

This Ordinance was passed on second reading on the consent agenda.

Enactment No: 032609

*Consent - Public Safety First Reading Ordinances*

15. [21-1606](#) Ordinance authorizing acceptance of a grant from State Farm Insurance in an amount of \$10,000.00 for the Police Department Crime Reduction Unit to purchase supplies used to promote and support Neighborhood on Watch groups throughout Corpus Christi; and appropriating \$10,000.00 in the Police Grants Fund.

This Ordinance was passed on first reading on the consent agenda.

16. [21-1615](#) Ordinance authorizing acceptance of a grant from State Farm Insurance in an amount of \$10,000.00 for the Auto Burglary and Auto Theft Holiday Public Awareness Campaign which educates the community on the prevention of auto burglaries and auto theft; and appropriating \$10,000.00 in the Police Grants Fund.

This Ordinance was passed on first reading on the consent agenda.

*Consent - Contracts and Procurement*

17. [21-1601](#) Motion authorizing the lease-purchase, via JP Morgan, of three 2022 medic units and the cash purchase of one 2022 medic unit all from McCall-F, Inc., dba Sterling McCall Ford, of Houston, Texas, based on the cooperative purchasing agreement with Local Government Purchasing Cooperative dba BuyBoard, for a

total amount of \$1,132,973.56, effective upon issuance of letter of acceptance, with FY 2022 funding in the amount of \$303,772.18 available through the General Fund.

This Motion was passed on the consent agenda.

Enactment No: M2021-209

18. [21-0820](#) Motion authorizing a five-year service agreement with EMR Elevator, Inc. of Arlington, Texas in an amount not to exceed \$ 903,263.00 for elevator, escalator, dumbwaiter and wheelchair lift preventive maintenance program and preexisting repairs, via The Interlocal Purchasing System (TIPS) Cooperative effective upon issuance of notice to proceed, with FY 2022 funding in an amount not to exceed \$150,660.50 available in the Asset Management - Facilities Fund.

This Motion was passed on the consent agenda.

Enactment No: M2021-210

19. [21-1440](#) Motion authorizing a one-year service agreement with ProTech Mechanical, Inc. of Corpus Christi, Texas, to replace the HVAC main trunkline duct and components for the Aircraft Rescue and Fire Fighting (ARFF) station located at the Corpus Christi International Airport (CCIA) in the amount of \$68,174.00 with FY2022 funding available from the Airport Fund.

This Motion was passed on the consent agenda.

Enactment No: M2021-211

20. [21-1504](#) Motion authorizing a five-year service agreement with Freeit Data Solutions of Austin, Texas, in an amount of \$201,636.22 for uninterruptible power supply professional services, batteries, hardware and support and maintenance for five-years effective upon issuance of a notice to proceed, with FY 2022 funding available in the Information Technology Fund.

This Motion was passed on the consent agenda.

Enactment No: M2021-212

21. [21-1468](#) Motion authorizing a one-year supply agreement with two additional one-year options with Waller County Asphalt, Inc. of Hempstead, Texas, for all-weather asphalt mix material for the Public Works Department, for an estimated amount of \$208,935.00 and a potential cost of \$632,805.00 if options are exercised, with FY 2022 funding in an amount not to exceed \$191,523.75 available through the Street Maintenance Fund.

This Motion was passed on the consent agenda.

Enactment No: M2021-213

*Consent - Capital Projects*



22. [21-0911](#) Motion authorizing the award of a professional services contract to Kimley-Horn, Austin, Texas, to provide design, bid, and construction phase services for the Bill Witt Park Pool and Facility Design in an amount of \$798,000.00, located in Council District 5, with FY 2022 funding available from the Parks and Recreation Bond 2020 Fund.

This Motion was passed on the consent agenda.

Enactment No: M2021-214

*General Consent Items*

23. [21-1616](#) Resolution authorizing the name change of the Public Works Department Building #21 to the Richard E. Martinez Public Works Facility in honor of the late Public Works Department Director, Richard E. Martinez.

Mayor Guajardo deviated from the agenda and referred to Item 23.

Director of Public Works and Streets Rolando Mata stated that approval of this item will rename Building #21 at 2525 Hygeia Street to the Richard Martinez Public Works Facility in honor of the late Public Works Director Richard E. Martinez.

Council Member Molina made a motion to approve the resolution, seconded by Council Member Lerma. This Resolution was passed and approved with the following vote:

**Aye:** 7 - Mayor Guajardo, Council Member Barrera, Council Member Hernandez, Council Member Hunter, Council Member Lerma, Council Member Molina and Council Member Pusley

**Absent:** 2 - Council Member Martinez and Council Member Smith

**Abstained:** 0

Enactment No: 032610

**L. RECESS FOR LUNCH**

Mayor Guajardo recessed the Council meeting for lunch at 2:04 p.m. Executive Session Items 31 and 32 were held during the lunch recess. Mayor Guajardo reconvened the meeting at 3:15 p.m.

**M. PUBLIC HEARINGS: (ITEMS 24 - 27)**

24. [21-1501](#) Zoning Case No. 0921-03, MVR Construction Company: (District 5) Ordinance rezoning a property at or near 3538 Airline Road from the "FR" Farm Rural District to the "RM-3" Multifamily District. (Planning Commission and Staff recommend Approval)

Mayor Guajardo referred to Item 24.

Director of Development Services Al Raymond presented information on the following

topics: aerial overview; zoning pattern and adjacent development; land use; public notification; and planning commission and staff recommend approval.

Mayor Guajardo opened the public hearing.

There were no comments from the Council or the public.

Mayor Guajardo closed the public hearing.

Council Member Hernandez made a motion to approve the ordinance, seconded by Council Member Molina. This Ordinance was passed on first reading and approved with the following vote:

**Aye:** 8 - Mayor Guajardo, Council Member Barrera, Council Member Hernandez, Council Member Hunter, Council Member Lerma, Council Member Martinez, Council Member Molina and Council Member Pusley

**Absent:** 1 - Council Member Smith

**Abstained:** 0

25. [21-1502](#) Zoning Case No. 0921-01, Richard Jurach, Jerry Jurach, Patricia Hunt, and Paula Carter: (District 5) Ordinance rezoning property at or near 3942 Cimarron Boulevard from the "FR" Farm Rural District to the "RM-2" Multifamily District. (Planning Commission and Staff recommend denial of "RM-2" Multifamily District in lieu thereof "RS-6/SP" Single-Family 6 District with a Special Permit) (3/4 vote required to approve less restrictive use or density than the recommendation of the Planning Commission)

Mayor Guajardo referred to Item 25.

Director of Development Services Al Raymond presented information on the following topics: aerial overview; zoning pattern and adjacent development; land use; public notification; and planning commission and staff recommend denial of RM-2 in lieu of RS-6/SP.

Council Members and Director Raymond discussed the following topics: a Council Member's concern about the setback and height restriction of the apartment complex; the two-story buildings must have a pitched roof with the ridge extending at least 6 feet above the eave of the roof; canopy trees will be planted with a minimum caliper size of 2.5 inches every 30 linear feet and a 7-foot wood fence or a 6-foot masonry fence; and a Council Member's request to include the zoning reports along with the zoning notifications to educate the public about the project, so it may reduce the amount of oppositions received.

Mayor Guajardo opened the public hearing.

Representative for applicant John Bell, 13750 Primavera, stated the site plan was developed at the start of the project and that the developer agreed to build a 6-foot

masonry fence. He said the developer was in favor of the special permit.

Mayor Guajardo closed the public hearing.

Council Member Pusley made a motion to approve the ordinance, seconded by Council Member Hunter. This Ordinance was passed on first reading and approved with the following vote:

**Aye:** 7 - Mayor Guajardo, Council Member Barrera, Council Member Hunter, Council Member Lerma, Council Member Martinez, Council Member Molina and Council Member Pusley

**Nay:** 1 - Council Member Hernandez

**Absent:** 1 - Council Member Smith

**Abstained:** 0

26. [21-1520](#) Ordinance exempting Country Acres, Lots 4A & 4B, east of FM 1889 and north of CR 48, from the payment of a not to exceed amount of \$3,676.14 for the wastewater lot or acreage fee under Section 8.5.2.G.1 of the Unified Development Code; requiring a sanitary sewer connection agreement.(Planning Commission and staff recommend denial of fee waiver)

Mayor Guajardo referred to Item 26.

Director of Development Services Al Raymond presented information on the following topics: vicinity map; aerial overview; and planning commission and staff recommend denial of wastewater lot/acreage fees.

A Council Member and Director Raymond discussed the following topics: denial of the wastewater lot/acreage fees means that the customer has to pay.

Mayor Guajardo opened the public hearing.

There were no comments from the public.

Mayor Guajardo closed the public hearing.

Council Member Lerma made a motion to approve the following motion: Motion to approve Planning Commission and staff recommended denial of fee waiver via Item 26 - Ordinance exempting Country Acres, Lots 4A & 4B, east of FM 1889 and north of CR 48, from the payment of a not to exceed amount of \$3,676.14 for the wastewater lot or acreage fee under Section 8.5.2.G.1 of the Unified Development Code; requiring a sanitary sewer connection agreement, seconded by Council Member Hunter. This Motion was passed and approved with the following vote:

**Aye:** 8 - Mayor Guajardo, Council Member Barrera, Council Member Hernandez, Council Member Hunter, Council Member Lerma, Council Member Martinez, Council Member Molina and Council Member Pusley

**Absent:** 1 - Council Member Smith

**Abstained:** 0

Enactment No: M2021-215

27. [21-1524](#) Ordinance exempting Drillen Subdivision, west of CR 73 and north along FM 624, from the payment of the wastewater lot or acreage fee under Section 8.5.2.G.1 of the Unified Development Code; requiring a sanitary sewer connection agreement.

Mayor Guajardo referred to Item 27.

Director of Development Services Al Raymond presented information on the following topics: vicinity map; aerial overview; and planning commission and staff recommend approval of wastewater lot/acreage fees exemption, subject to sanitary sewer agreement.

Council Members and Director Raymond discussed the following topics: a Council Member's concern whether wastewater fees will be charged if they get connected in the future; the monies for the wastewater fees get paid into the City's trust fund; and a Council Member's request to let the County Commissioner in this precinct know what the City is doing in this area.

Mayor Guajardo opened the public hearing.

There were no comments from the public.

Mayor Guajardo closed the public hearing.

Council Member Lerma made a motion to approve the ordinance, seconded by Council Member Pusley. This Ordinance was passed on first reading and approved with the following vote:

**Aye:** 7 - Mayor Guajardo, Council Member Barrera, Council Member Hunter, Council Member Lerma, Council Member Martinez, Council Member Molina and Council Member Pusley

**Nay:** 1 - Council Member Hernandez

**Absent:** 1 - Council Member Smith

**Abstained:** 0

**N. INDIVIDUAL CONSIDERATION ITEMS: None**

**O. FIRST READING ORDINANCES: (ITEMS 28 - 29)**

28. [21-1525](#) Ordinance ratifying a partial postponement until January 1, 2022, of the effective date of Ordinance No. 032551 by amending the implementation date for a

disposal fee increase made applicable to waste haulers with City disposal contracts.

Mayor Guajardo referred to Item 28.

Council Members and Director of Solid Waste David Lehfeldt discussed the following topics: the solid waste hauling companies will have a total of about 90 days to pay these fee increases.

Mayor Guajardo opened public comment.

There were no comments from the public.

Mayor Guajardo closed public comment.

Council Member Hunter made a motion to approve the ordinance, seconded by Council Member Lerma. This Ordinance was passed on first reading and approved with the following vote:

**Aye:** 8 - Mayor Guajardo, Council Member Barrera, Council Member Hernandez, Council Member Hunter, Council Member Lerma, Council Member Martinez, Council Member Molina and Council Member Pusley

**Absent:** 1 - Council Member Smith

**Abstained:** 0

29. [21-1561](#) Ordinance amending Chapter 55 of the Corpus Christi Code to require industrial facilities to have either a reduced pressure backflow device or air gap at each City meter servicing potable water; a double check assembly for fire service lines; an industrial district affidavit upon installing, repairing, or replacing a reduced pressure backflow preventer or an air gap; annual backflow preventer testing; and providing for penalty.

Mayor Guajardo referred to Item 29.

Assistant Director of Water Quality and Treatment Gabriel Ramirez presented information on the following topics: background; and 55-96 City Code language.

A Council Member and Assistant Director Ramirez discussed the following topics: the City cannot transfer the responsibility of water safety to a private entity; the language allows the City to require the backflow preventer, reduce pressure assembly, or an air gap at the meter; and customers will be given a 90 day window to develop a plan if not in compliance.

Mayor Guajardo opened public comment.

There were no comments from the public.

Mayor Guajardo closed public comment.

Council Member Barrera made a motion to approve the ordinance, seconded by Council Member Hunter. This Ordinance was passed on first reading and approved with the following vote:

**Aye:** 8 - Mayor Guajardo, Council Member Barrera, Council Member Hernandez, Council Member Hunter, Council Member Lerma, Council Member Martinez, Council Member Molina and Council Member Pusley

**Absent:** 1 - Council Member Smith

**Abstained:** 0

**Q. EXECUTIVE SESSION: (ITEMS 31 - 32)**

Mayor Guajardo referred to Executive Session Items 31 and 32. The Council went into Executive Session at 2:04 p.m. The Council returned from Executive Session at 3:15 p.m.

31. [21-1623](#) **Executive Session pursuant to Texas Government Code § 551.071** and Texas Disciplinary Rules of Professional Conduct Rule 1.05 to consult with attorneys concerning legal issues related to the ON Stevens Water Treatment Plant Basins Improvement Project, Texas Local Government Code Chapter 252, Texas Government Code Chapter 2269, contracting provisions relating to responsiveness and responsibility of bidders, prior performance of bidders on the aforementioned project, prior litigation to which said bidders or related entities are a party, including, but not limited to *MWH Constructors, Inc. vs. Tarrant Regional Water District*, *MWH Constructors Inc vs. Houston Area Water Corporation*, *City of Escondido vs. MWH Americas, Inc.*

This E-Session Item was discussed in executive session.

32. [21-1626](#) **Executive Session pursuant to Texas Government Code § 551.071** and Texas Disciplinary Rules of Professional Conduct Rule 1.05 to consult with attorneys concerning legal issues related to a potential Interlocal Cooperation Agreement for Remote Magistration with the Texas Office of Court Administration and ordinances and statutes related to said activity and agreement, and other legal issues related to municipal court operations, magistrations, and other activities involving the administration of court cases.

This E-Session Item was discussed in executive session.

**R. ADJOURNMENT**

There being no further business, Mayor Guajardo adjourned the meeting at 4:30 p.m.

## Sarah Brunkenhoefer

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**From:** CitySecretary  
**Sent:** Tuesday, November 16, 2021 11:18 AM  
**To:** Rebecca Huerta  
**Cc:** Norma Duran; Sarah Brunkenhoefer  
**Subject:** FW: [EXTERNAL]Public Input: 11-16-2021 - Meredith Matthews

FYI.



Thank you,  
*Aly Berlanga*  
Executive Assistant  
Office of the City Secretary  
City of Corpus Christi  
361-826-3105

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**From:** Jotform <noreply@jotform.com>  
**Sent:** Tuesday, November 16, 2021 11:15 AM  
**To:** CitySecretary <CitySecretary@cctexas.com>; Norma Duran <NormaD2@cctexas.com>  
**Subject:** [EXTERNAL]Public Input: 11-16-2021 - Meredith Matthews

[ [ **WARNING:** External e-mail. Avoid clicking on links or attachments. We will **NEVER** ask for a password, username, payment or to take action from an email. When in doubt, please forward to [SecurityAlert@cctexas.com](mailto:SecurityAlert@cctexas.com). ] ]

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### Public Comment & Input Form

Date of Meeting	11-16-2021
Name	Meredith Matthews
Address	Street Address: 1501 McKinzie Road City: Corpus Christi State / Province: Texas Postal / Zip Code: 78410
Topic	Ordinance amending Chapter 55 of the Corpus Christi Code
Agenda Item Number	29.

Describe Feedback:

In accordance with the form, we are submitting public comments regarding this proposed ordinance in the attached document. The attached document contains our full public comment. We would appreciate you printing the document and providing that to all Council Members for the meeting. Thank you.

Uploads:

[Comments for City Council Meeting 11 16 2021.docx](#)

Provide an email to receive a copy of your submission.

[meredith.matthews@lyondellbasell.com](mailto:meredith.matthews@lyondellbasell.com)



Thank you for allowing us the opportunity to comment.

First, we understand and support the City's desire to protect its water system. We have installed and operated an effective internal cross-connection control program to do just that – prevent unwanted flows from entering the City's system. This program has been in place for several years and provides effective protection to the water supply.

Nonetheless, the City, through this ordinance, is requiring companies like ours to go beyond the effective cross-connection control program; a program that is compliant will all applicable State and local rules. This new ordinance mandates redundant controls and requires all users to implement a backflow valve system, which presents legal difficulties.

- i. 30 TAC § 290.44(h)(6) states that at facilities where “an adequate internal cross-connection control program (CCCP) is in effect, backflow protection at the water service entrance or meter is not required.” The city has apparently determined that backflow protection is required for those facilities, which directly contradicts this statute. By removing that exemption for users with an adequate CCCP, Corpus Christi is violating Tex. Const. art. XI, § 5(a), which bars ordinances that are inconsistent with state law.
- ii. TCEQ enforces the provisions of 30 TAC 290.44, and Texas courts have invalidated municipal enforcement mechanisms that are inconsistent with an agency's own statutorily-endowed mechanisms. [\*BCCA Appeal Group, Inc. v. City of Houston\*, 496 S.W.3d 1 \(Tex. 2016\)](#). TCEQ's enforcement honors the exemption, meaning that an effort by Corpus Christi to revoke that exemption interferes with TCEQ's larger regulatory scheme. If all cities were to adopt similar measures, the exemption would have no effect. Therefore, the two regulations cannot “coexist peacefully without stepping on each other's toes” [\*City of Laredo v. Laredo Merchs. Ass'n\*, 550 S.W.3d 586, 593 \(Tex. 2018\)](#).

Besides the legal difficulties, this ordinance presents practical challenges as well. First, the ordinance does not provide for any technically equivalent systems. New technologies are likely to be developed, or existing technologies have demonstrated, to be able provide equivalent protections to reduced pressure backflow preventer (assembly) or air gap as required by the ordinance. The ordinance should be amended to allow for equivalent technologies.

Second, the ordinance does not provide a timeframe within which these systems must be installed and provides significant penalties if these systems are not in place. The evaluation, design, and engineering for the systems typically requires months if not years. Further, to ensure these systems can be installed safely, the facility's operations will likely need to be shut down and undergo a comprehensive management of change process. Shutting down a major operating facility requires planning that typically occurs over the course of a year or more. Planned shutdowns occur at a cycle of about seven years for most major petrochemical facilities. To ensure the safety of the water system and the facility, completing the work mandated by this ordinance should occur during a planned shutdown, which in some cases may be several years from the effective date of this ordinance.

Finally, the ordinance should provide for exceptions and enforcement discretion when (1) a facility already has effective backflow prevention, (2) a plan has to be (and is being) developed to comply with the provisions of the ordinance, and (3) during the interim period prior to installation of the reduced pressure backflow preventer (assembly) or air gap, the facility has implemented adequate mitigation measures to protect the City's water system.

Thank you for considering these comments and we look forward to working with the City on this issue.

Equistar Chemicals L.P. Corpus Christi Complex