



**Agenda  
City Council  
Council Chambers/City Hall  
125 E. South Main, Flatonia, Texas**

**May 11, 2021  
City of Flatonia  
Regular Meeting  
6:00 p.m.**

## **Notice of City Council Meeting**

**In accordance with the provisions of the Texas Open Meetings Act, Chapter 551, Texas Government Code, Notice is hereby given that a Regular Meeting of the City Council of the City of Flatonia will be held on Tuesday, May 11, 2021 beginning at 6:00 p.m. in the City Hall Council Chambers located at 125 E. South Main St., Flatonia, Texas, for the purpose of considering the following agenda items:**

The meeting agenda is posted online at:

[http://www.flatoniatx.gov/page/Council\\_Agendas\\_Minutes](http://www.flatoniatx.gov/page/Council_Agendas_Minutes)

Members of the public who wish to submit their written questions or comments on a listed agenda item must submit these by sending an email to City Manager Sarah Novo at [manager@ci.flatonia.tx.us](mailto:manager@ci.flatonia.tx.us). Questions or comments must be received no later than 12:00 noon on Tuesday, May 11, 2021.

### **Opening Agenda**

Call to Order  
Invocation & Pledge  
Pledges to the Texas and American flags  
Citizens' Participation

***Swearing in of newly elected Councilmembers elected on May 1, 2021, Ginny Sears, Catherine Steinhauser, and Dennis Geesaman.***

### **Reports**

*Police Department Activity Report April 2021*  
*Utility Department Activity Report April 2021*  
*City Manager Report April 2021*

### **Consent Agenda**

***The following agenda items may be acted upon in one motion. A Council Member or citizen may request items be removed from the Consent Agenda for individual consideration.***

C1. Approve the appointment of Shirley Williams to serve on the Flatonia Economic

Development Corporation Board of Directors to serve an unexpired term vacated by Robert Dornak, commencing on the appointment date, and ending on September 2021.

C2. Consider and take appropriate action on Ordinance 2021.5.1 of the City of Flatonia, Texas amending Ordinance 2021.4.2 amending provisions of the Flatonia Fee Schedule, Appendix A, Article A3.000, Animal Control Related Fees, Section A3.001 Dog License, of the City of Flatonia Code of Ordinances, establishing that dogs four (4) months of age and older must be properly vaccinated and licensed for the City of Flatonia, as amended, and providing for an effective date.

### **Proclamations**

May 16-23, 2021 as Public Works Week

### **Deliberation Agenda**

- DA5.1-2021.1 Consider and take appropriate action regarding Resolution 2021.5.1 of the City Council of the City of Flatonia, Texas, canvassing the election held on May 1, 2021 by certifying the General Election; and providing for severability and an effective date.
- DA5.1-2021.2 Consider and take appropriate action regarding Resolution 2021.5.2 of the City Council of the City of Flatonia, Texas, electing a Mayor Pro Tempore for the City of Flatonia for a period of one (1) year.
- DA5.1-2021.3 Consider and take appropriate action regarding Ordinance 2021.5.2 of the City of Flatonia, Texas, amending Chapter 1.13, Parks and Recreation, by repealing Section 1.13 in its entirety and replacing it with a new Chapter 1.13, establishing rules and regulations for park facilities and recreation areas, including city swimming pool, and amending Section A2.000, Miscellaneous Fees, of the City of Flatonia Fee Schedule, Appendix A, City of Flatonia Code of Ordinances, as amended, by adding a new Section A2.007, Park Fees and Rentals, and providing for an effective date.
- DA5.1-2021.4 Consider and take appropriate action on Ordinance 2021.5.3 of the City of Flatonia, Texas amending Article 1.02, Administration, Division 1. generally, by adding a new Section 1.02.011, Payment by Credit Card or other Electronic Means, authorizing the acceptance of credit cards for payment of utility payments, fees, fines, costs and other charges; providing for a processing fee for online and telephone credit card payment, for fees, fines, costs and other charges as determined appropriate by the City Manager; providing for a service charge if payment by credit card is not honored; providing for severability, cumulative and saving clause; providing an effective date and ordaining other matters related to the foregoing.

- DA5.1-2021.5 Discussion related to payment of up to \$200.00 per month to defray cost of medical insurance for retirees.
- DA5.1-2021.6 Discussion related to request for HOT funds for Lyric Theater
- DA5.1-2021.7 Discussion and consider action on the approval and acceptance of City Secretary Heather Ambrose's resignation effective May 21, 2021.

**Executive Session**

**Executive Session – Open:**

- ES5.1-2021.1 As authorized by Texas Government Code 551.074 (Personnel Matters) regarding:

City Attorney MOU

- ES5.1-2021.2 As authorized by Texas Government Code 551.071 (consultation with attorney) and 552.072 (deliberations about real property) regarding:

Mutual Settlement and Release Agreement with Flatonia RV Ranch LLC and Roy, Lanell and Troy Kolb and Release of Lien

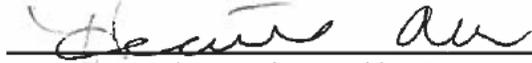
**Executive Session - Closed:**

**Deliberation Agenda**

- DA5.1-2021.8 Consider and take appropriate action regarding the City Attorney MOU.
- DA5.1-2021-9 Consider and take appropriate action regarding Resolution 2021.5.3 of the City Council of the City of Flatonia, Texas, authorizing a mutual settlement and release agreement and release of lien between the City of Flatonia and the Flatonia RV Park, Roy Kolb, Lanell Kolb and Troy Kolb, authorizing the Mayor to execute the agreement and release, and providing for an effective date of June 1, 2021, or receipt and agreed upon payment, whichever is sooner.

**Adjournment**

I, the undersigned authority hereby certify that the Notice of Meeting was posted on the bulletin board outside the front door of the City Hall of the City of Flatonia, Texas, a place convenient and readily accessible to the public at all times and said Notice was posted on the following date and time **Friday, May 7, 2021 by 6:00 p.m.** and remained so posted continuously for at least 72 hours preceding the scheduled time of said meeting.

 5:55 PM  
Heather Ambrose, City Secretary, City of Flatonia

**NOTICE OF ASSISTANCE  
AT THE PUBLIC MEETING**

The Flatonia City Hall is wheelchair accessible. Access to the building is available at the primary entrance facing Main Street. Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, or large print are requested to contact the City Manager's Office at 361-865-3548 or by FAX 361-865-2817 at least two working days prior to the meeting so that appropriate arrangements can be made.

**EXECUTIVE SESSION STATEMENT**

The City Council reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by the Texas Government Code, Section 551.071 (Consultations with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations Regarding Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations Regarding Security Devices or Security Audits), 551.086 (Certain Public Power Utilities: Competitive Matters) and 551.087 (Deliberation Regarding Economic Development Negotiations).



# Flatonia City Council

Staff Report  
May 11, 2021 Council Meeting

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## **CONSENT C1**

**Agenda Item:** Approve the appointment of Shirley Williams to serve on the Flatonia Economic Development Corporation Board of Directors to serve an unexpired term vacated by Robert Dornak, commencing on the appointment date, and ending on September 2021.

**Recommended Motion:** I move to appoint Shirley Williams to serve on the Flatonia Economic Development Corporation Board of Directors to serve an unexpired term vacated by Robert Dornak, commencing on the appointment date, and ending on September 2021.

**Attachment:** Emailed resignation from Robert Dornak.

## Heather Ambrose

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**From:** Flatonia City Manager  
**Sent:** Tuesday, April 13, 2021 11:57 AM  
**To:** Heather Ambrose  
**Subject:** FW:

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**From:** Dennis Geesaman <dennis@goosesroost.com>  
**Sent:** Tuesday, April 13, 2021 11:54 AM  
**To:** Flatonia City Manager <Manager@ci.flatonia.tx.us>; Ginny Sears  
**Subject:** Fwd:

Sent from my iPhone

Begin forwarded message:

**From:** Robert Dornak  
**Date:** April 13, 2021 at 07:19:27 CDT  
**To:** [dennis@goosesroost.com](mailto:dennis@goosesroost.com)

Please accept my resignation as a board member of the Flatonia Economic Development Committee, effective immediately.

Sincerely,  
Robert Dornak  
Southern Star Builders, LLC



# Flatonia City Council

Staff Report

May 11, 2021 Council Meeting

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## **CONSENT AGENDA**

### **Agenda Item:**

Consider and take appropriate action on Ordinance 2021.5.1 of the City of Flatonia, Texas amending Ordinance 2021.4.2 amending provisions of the Flatonia Fee Schedule, Appendix A, Article A3.000, Animal Control Related Fees, Section A3.001 Dog License, of the City of Flatonia Code of Ordinances, establishing that dogs four (4) months of age and older must be properly vaccinated and licensed for the City of Flatonia, as amended, and providing for an effective date.

**Background:** At the City Council meeting of April 13, 2021, Ordinance 2021.4.2 was approved. However, due to an oversight, one reference to dogs “six months of age” was not corrected. All references in the Ordinance should be to dogs four months of age or older and this Ordinance corrects that very small oversight and does not change the intention of the previously approved Ordinance.

**Recommended Motion:** I move to approve Ordinance 2021.5.1 of the City of Flatonia, Texas amending Ordinance 2021.4.2 amending provisions of the Flatonia Fee Schedule, Appendix A, Article A3.000, Animal Control Related Fees, Section A3.001 Dog License, of the City of Flatonia Code of Ordinances, establishing that dogs four (4) months of age and older must be properly vaccinated and licensed for the City of Flatonia, as amended, and providing for an effective date.

### **Attachments:**

Ordinance 2021.5.1

## **Ordinance # 2021.5.1**

**AN ORDINANCE OF THE CITY OF FLATONIA, TEXAS AMENDING ORDINANCE 2021.4.2 AMENDING PROVISIONS OF THE FLATONIA FEE SCHEDULE, APPENDIX A, ARTICLE A3.000, ANIMAL CONTROL RELATED FEES, SECTION A3.001 DOG LICENSE, OF THE CITY OF FLATONIA CODE OF ORDINANCES, ESTABLISHING THAT DOGS FOUR (4) MONTHS OF AGE AND OLDER MUST BE PROPERLY VACCINATED AND LICENSED FOR THE CITY OF FLATONIA, AS AMENDED AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City of Flatonia desires to protect the public health and safety by regulating the care and keeping of animals within the city limits; and

**WHEREAS**, the City of Flatonia requires licensing with tags for all dogs more than four (4) months of age that are kept in the City; and

**WHEREAS**, the language in Ordinance 2021.4.2 adopted by the City Council at the April 13, 2021 meeting in which the amendments relating to Appendix A relating to license fees for dogs that must be registered conflicts with the age requirement for licensing of dogs within the City limits found in Sec. 2.02.006 of the Code of Ordinances;

**WHEREAS**, the City of Flatonia wishes to correct the conflict by changing the age requirements in the fee schedule from six (6) months to four (4) months and older so the age requirements for both are the same.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FLATONIA, TEXAS:**

**Section 1.** That the provisions of the Flatonia Fee Schedule, Appendix A, Article A3.000, Animal Control Related Fees, Section A3.001 Dog License, of the Flatonia City Code of Ordinances is hereby amended to read as follows:

**Sec. A3.001 Dog license**

There is hereby fixed and assessed a license fee of two dollars (\$2.00) against the owner or keeper of each and every dog more than four (4) months of age kept in the city. The licensing period shall run concurrently with the animal's rabies vaccination. The license fee will not be prorated for a partial period.

**Section 2.** This ordinance shall be cumulative of all other ordinances of the City of Flatonia, and this ordinance shall not operate to repeal or affect any other ordinances of the City of Flatonia except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, are hereby repealed.

**Section 3.** The sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.

**Section 4.** The City Council officially finds, determines, recites and declares that a sufficient written notice of the date, hour, place and subject of this meeting of the City Council was posted at a place convenient to the public at the City Hall of the City for the time required by law preceding this meeting, as required by the Open Meetings Law, Chapter 551, Texas Government Code; and that this meeting has been open to the public as required by law at all times during which this Ordinance and the subject matter thereof has been discussed, considered, and formally acted upon. The City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

**Section 5.** This Ordinance shall be effective immediately from and after its final passage and any publication in accordance with the requirements of the City of Flatonia and the laws of the State of Texas.

**PASSED AND APPROVED** by the City Council of the City of Flatonia, Texas, on this the 11<sup>th</sup> day of May, 2021.

CITY OF FLATONIA, TEXAS

By: \_\_\_\_\_

Bryan Milson  
Mayor

ATTEST:

\_\_\_\_\_  
Heather Ambrose  
City Secretary

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
Maria Angela Flores Beck  
City Attorney

# PROCLAMATION

WHEREAS: Public works professionals focus on infrastructure, facilities and services that are of vital importance to sustainable and resilient communities and to the public health, high quality of life and well-being of the people of Flatonia.

WHEREAS: These infrastructure, facilities and services could not be provided without the dedicated efforts of public works professionals, who are engineers, managers, and employees at all levels of government and the private sector, who are responsible for rebuilding, improving and protecting our nation's transportation, water supply, water treatment and solid waste systems, public buildings, and other structures and facilities essential for our citizens; and,

WHEREAS: It is in the public interest for the citizens, civic leaders and children in Flatonia, Texas to gain knowledge of and to maintain an ongoing interest and understanding of the importance of public works and public works programs in their respective communities; and,

WHEREAS: The year 2021 marks the 61<sup>st</sup> annual National Public Works Week sponsored by the American Public Works Association/Canadian Public Works Association.

NOW, THEREFORE I, Bryan Milson, Mayor of Flatonia, Texas do hereby proclaim May 16 – 22, 2021 as National Public Works Week and encourage all citizens to join with representatives of the American Public Works Association/Canadian Public Works Association and government agencies in activities, events and ceremonies designed to pay tribute to our public works professionals, engineers, managers and employees and to recognize the substantial contributions they make to protecting our national health, safety, and quality of life.

## **National Public Works Week**

**May 16-23, 2021**

IN WITNESS WHEREOF, I have hereunto set me hand  
and seal of the City of Flatonia, Texas  
this 11<sup>th</sup> day of May 2021

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Bryan Milson, Mayor, City of Flatonia, TX





# Flatonia City Council

Staff Report

May 11, 2021 April 13, 2021 Council Meeting

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## DELIBERATION AGENDA

**DA5.1-2021.1**

### **Agenda Item:**

Consider and take appropriate action on Resolution 2021.5.1 of the City Council of the City of Flatonia, Texas, canvassing the election held on May 1, 2021 by certifying the General Election; and providing for severability and an effective date.

**Background:** Section 67.003 of the Texas Election Code, as amended, generally provides that each local canvassing authority shall convene not later than the eleventh (11<sup>th</sup>) day after the General Election date for the purpose of canvassing the election results. The City Council acting as the canvassing authority met on May 11, 2021 at 5:45 P.M. to officially determine the final results of the May 1, 2021 election.

**Recommended Motion:** I move to approve Resolution 2021.5.1 of the City Council of the City of Flatonia, Texas, canvassing the election held on May 1, 2021 by certifying the General Election; and providing for severability and an effective date.

### **Attachments:**

Resolution 2021.5.1

“Exhibit A” Tabulation of Results

## RESOLUTION 2021.5.1

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FLATONIA, TEXAS, CANVASSING THE ELECTION HELD ON MAY 1, 2021 BY CERTIFYING THE GENERAL ELECTION; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

**WHEREAS**, a General Election was duly held on the 1<sup>st</sup> day of May 2021, for the consideration of electing three (3) councilmembers for the City of Flatonia, Texas;

**WHEREAS**, said election was held with the solemnities and formalities necessary to make it a valid election, all notices having been posted in the manner and for the length of time required by law; and

**WHEREAS**, only duly qualified resident voters of the City of Flatonia, Texas, voted at the General Election called and held on May 1, 2021; and

**WHEREAS**, Section 67.003 of the Texas Election Code, as amended, generally provides that each local canvassing authority shall convene not later than the eleventh (11<sup>th</sup>) day after the General Election date for the purpose of canvassing the election results; and;

**WHEREAS**, Section 67.004(a) of the Texas Election Code, as amended, establishes the quorum level required to canvass election results; and

**WHEREAS**, a quorum of the City Council met on Tuesday, May 11, 2021, and duly canvassed the election returns of the above-mentioned election and finds that the tabulation of the results of the election is correct, hereby attached as ***Exhibit A***.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FLATONIA, TEXAS:**

**Section 1.** The findings set forth above are incorporated into the body of this Resolution as if fully set forth herein.

**Section 2.** That the City Council officially finds and determines a General Election was duly ordered to be held in the City of Flatonia, Texas on the 1<sup>st</sup> day of May 2021 for the purpose of electing three (3) Council Members for the City of Flatonia, Texas, and that proper notice of said election has been made and delivered by Fayette County Elections Division; and that the City Council has duly canvassed said returns all in accordance with the Texas Election Code.

**Section 3.** That the City Council officially finds and determines that resident voters of the City of Flatonia, Texas were allowed to vote at said election, and the following votes were cast at said election, and that the canvass of the votes cast in the said election and returns thereof, which is attached hereto as Exhibit A, were made in accordance with the Texas Election Code.

**Section 4.** Pursuant to the applicable provisions of the Texas Local Government Code, Texas Election Code, and the City of Flatonia, Texas, the City Council officially finds, determines, and declares the results of said election reflects that the following candidates were elected, each for a two-year term, for the three At Large Councilmember positions on the General Election ballot:

**Ginny Sears – 176**

**Catherine Steinhauser – 172**

**Dennis Geesaman – 152**

**Section 5.** This Resolution shall be effective immediately upon its passage.

**PASSED and APPROVED this the 11<sup>th</sup> day of May 2021 by vote of \_\_\_ (ayes) \_\_\_ (nays) and \_\_\_ (abstentions) of the City Council of the City of Flatonia, Texas.**

**CITY OF FLATONIA, TEXAS**

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**Bryan Milson  
Mayor**

**ATTEST:**

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**Heather Ambrose  
City Secretary**

**APPROVED AS TO FORM:**

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**Maria Angela Flores Beck  
City Attorney**



# Flatonia City Council

Staff Report

May 11, 2021 Council Meeting

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## DELIBERATION AGENDA

**DA5.1-2021.2**

### **Agenda Item:**

Consider and take appropriate action on Resolution 2021.5.2 of the City Council of the City Council of the City of Flatonia, Texas electing a Mayor Pro Tempore for the City of Flatonia for a period of one (1) year; and providing for severability and an effective date.

**Background:** the Texas Local Government Code Sec. 22.037. MAYOR AS PRESIDENT; PRESIDENT PRO TEMPORE, provides for the City Council to select from among themselves a Council Member to serve as Mayor Pro Tempore for a period of one (1) year. The current Mayor Pro Tempore is Catherine Steinhauser.

**Recommended Motion:** I move to approve Resolution 2021.5.2 of the City Council of the City Council of the City of Flatonia, Texas electing a Mayor Pro Tempore for the City of Flatonia for a period of one (1) year; and providing for severability and an effective date.

### **Attachments:**

Resolution 2021.5.2

**RESOLUTION 2021.5.2**

**A RESOLUTION OF THE CITY COUNCIL OF  
THE CITY OF FLATONIA, TEXAS, ELECTING  
A MAYOR PRO TEMPORE FOR THE CITY OF  
FLATONIA FOR A PERIOD OF ONE (1)  
YEAR; AND PROVIDING FOR  
SEVERABILITY AND AN EFFECTIVE DATE.**

**WHEREAS**, the Texas Local Government Code Sec. 22.037. MAYOR AS PRESIDENT; PRESIDENT PRO TEMPORE, provides for the City Council to select from among themselves a Council Member to serve as Mayor Pro Tempore for a period of one (1) year; and

**WHEREAS**, the Texas Local Government Code Sec. 22.037 provides that a Mayor Pro Tempore shall perform the Mayor's duties if the Mayor fails, is unable, or refuses to act; and

**WHEREAS**, the City Council members of the City of Flatonia met in a duly posted meeting and by vote selected \_\_\_\_\_ to hold the position of Mayor Pro Tempore for a period of one (1) year.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FLATONIA, TEXAS:**

**Section 1:** That findings are hereby true and correct and are incorporated herein in their entirety.

**Section 2:** That \_\_\_\_\_ was elected by a majority vote of the City Council as the Mayor Pro Tempore the City of Flatonia, Texas.

**Section 3:** That this Resolution shall become effective immediately upon approval by the City Council of the City of Flatonia, Texas.

**PASSED AND APPROVED** by the City Council of the City of Flatonia, Texas, on this the 11<sup>th</sup> day of May 2021.

By: \_\_\_\_\_

Bryan Milson

Mayor

ATTEST:

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Heather Ambrose  
City Secretary

APPROVED AS TO FORM AND LEGALITY:

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Maria Angela Flores Beck  
City Attorney



# Flatonia City Council

Staff Report

May 11, 2021 Council Meeting

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## DELIBERATION AGENDA

**DA5.1-2021.3**

### **Agenda Item:**

Consider and take appropriate action regarding Ordinance 2021.5.2 of the City of Flatonia, Texas, amending Chapter 1.13, Parks and Recreation, by repealing Section 1.13 in its entirety and replacing it with a new Chapter 1.13, establishing rules and regulations for park facilities and recreation areas, including city swimming pool, and amending Section A2.000, Miscellaneous Fees, of the City of Flatonia Fee Schedule, Appendix A, City of Flatonia Code of Ordinances, as amended, by adding a new Section A2.007, Park Fees and Rentals, and providing for an effective date.

### **Background:**

At the April 28, 2021 Parks Committee meeting, a discussion was held related to developing a Parks rules and policies. In addition, rental fees were suggested for various amenities.

The City is receiving more requests to have the ability to reserve certain amenities in the park, such as the pavilion/basketball court. Currently, there is no policy so it should be first come, first served. However, there is rental information on the City's website for rentals that was never approved by ordinance. This ordinance will correct that oversight/error. In addition to rental of the pavilion, the City's beautiful gazebos can be reserved and rented. This will allow for people to reserve the for weddings or photoshoots without worrying about someone else already using it.

In addition, the City has had complaints and concerns about behaviors and actions within our parks, such as parking on the grass and loud music. With no regulations in place, the City staff and Police Department are left with little authority to enforce anything undesirable.

Another concern is with commercial ventures that may take place in our parks. While the Parks Committee did not want to specifically prohibit commercial uses, this does

need monitored and regulated to ensure public safety and to protect the parks. A permit will be required to be issued upon approval of the City Manager or designee.

Finally, one of the most common concerns that is reported is pertaining to inflatables such as “bouncy houses” and “moonwalks”. The Parks Committee, at this time, does not want to prohibit them but does want to require a permit. This will allow the City to be aware of the placement and date and can plan accordingly and ensure no damage is done to the parks. There will be a charge for electricity and/or water usage associated with these inflatables.

The current City ordinance for park rules is highly lacking and this comprehensive ordinance should serve the City well until an amendment is needed.

**Recommended Motion:**

Consider and take appropriate action regarding Ordinance 2021.5.2 of the City of Flatonia, Texas, amending Chapter 1.13, Parks and Recreation, by repealing Section 1.13 in its entirety and replacing it with a new Chapter 1.13, establishing rules and regulations for park facilities and recreation areas, including city swimming pool, and amending Section A2.000, Miscellaneous Fees, of the City of Flatonia Fee Schedule, Appendix A, City of Flatonia Code of Ordinances, as amended, by adding a new Section A2.007, Park Fees and Rentals, and providing for an effective date.

**Attachments:**

Ordinance 2021.5.2

**ORDINANCE 2021.5.2**

**AN ORDINANCE OF THE CITY OF FLATONIA, TEXAS, AMENDING CHAPTER 1.13, PARKS AND RECREATION, BY REPEALING SECTION 1.13 IN ITS ENTIRETY AND REPLACING IT WITH A NEW CHAPTER 1.13, ESTABLISHING RULES AND REGULATIONS FOR PARK FACILITIES AND RECREATION AREAS, INCLUDING CITY SWIMMING POOL, AND AMENDING SECTION A2.000, MISCELLANEOUS FEES, OF THE CITY OF FLATONIA FEE SCHEDULE, APPENDIX A, CITY OF FLATONIA CODE OF ORDINANCES, AS AMENDED, BY ADDING A NEW SECTION. SECTION A2.007, PARK FEES AND RENTALS, AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City Manager and the Parks Committee have determined that it is necessary to develop rules and regulation to govern the use of the City of Flatonia’s Park Facilities and Recreation Areas, including the City Swimming Pool; and

**WHEREAS**, the City Council has been advised and has determined that the rules and regulations proposed by the City Manager and the Parks Committee will benefit the City of Flatonia and its citizens and promote the public good and health.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FLATONIA, Texas;**

**Section 1.** That the existing Chapter 1.13, parks and Recreation, be and it is hereby repealed and replaced in its entirety to hereafter read as follows:

**Chapter 1.13 – PARKS AND RECREATION**

**Sec. 1.13.001 Real property—Use; appropriation or encumbrance.**

*Drilling and mining prohibited in parks*

(1) *It shall be unlawful for any person, firm, or corporation, including the City, to engage in, permit, or cause any surface drilling or mining in or on any City park. This provision applies to any park owned by the City regardless if within or outside the city limits. (2001 Code, art. 8.600)*

(2) No person shall:

A. Deposit any earth, sand, rock, stone, mineral, oil or other substance within any park facility, dig or remove any such material from within any park facility. Nor shall he erect or attempt to erect any building or structure of any kind by driving or setting up posts or piles, or in any

manner appropriate or encumber any portion of the real property owned, operated, controlled, or managed by the City, without a permit from the City Manager or designee;

B. Dig up, pick, remove, mutilate, injure, cut, or destroy any turf, tree, plant, shrub, bloom, flower, artifact, or archeological site, or any portion thereof;

C. Cut, break, injure, deface, or disturb any building, sign, fence, bench, structure, apparatus, equipment, or property, or any portion thereof; or

D. Without a permit from the City Manager or designee, make or place on any tree, plant, shrub, bloom, flower, building, sign, fence, bench, structure, apparatus, equipment, or property, or on any portion thereof, any rope, wire, mark, writing, printing, sign, card, display, or similar inscription or device.

**(3) Glass containers prohibited.**

No person shall possess any cup, tumbler, bottle, jar or other container made of glass and used for carrying or containing any liquid for drinking purposes within any park or park facility, except in locations where such containers are permitted under the terms of a lease, operating agreement or permit.

**(4) Fireworks.**

No person shall possess or ignite in any manner any firecracker or fireworks, including any article for the making of a pyrotechnic display. Nothing contained in this section, however, shall prohibit any discharge or display of fireworks at any public gathering or patriotic celebration provided a permit for such discharge or display has been obtained from the City Manager or designee. Firework displays may be subject to additional insurance requirements.

**(5) Firearms, air guns, and other weapons.**

A. Except as provided in subsection B, no person or persons shall use, maintain, possess, fire, or discharge any firearm, air gun, spring gun, paintball gun, bow and arrow, slingshot, or any other weapon potentially dangerous to wildlife or human safety, in any park facility. A violation of the provisions of this section is a misdemeanor.

B. Subsection A shall not apply to:

1. A duly appointed or elected Peace Officer as defined in (Article 2.12, Texas Code of Criminal Procedure, or other applicable law)
2. A retired Police Officer with authorization to carry concealed weapons (A Retired or Qualified Retired Texas Peace Officer, Retired Out of State Peace Officer or Retired Federal Agent who meets the definitions and requirements of Section 1701.357 Texas Occupations Code, 18 U.S.C. Section 926C , and any other applicable law or Rule of the Commission)
3. A full-time paid Peace Officer of another state or the federal government who is carrying out official duties while in Texas; or

4. A person holding a valid license to carry the firearm pursuant to (Chapter 411 Texas Government Code, or who holds a valid permit issued by any other state or territory with which the State of Texas has reciprocity or otherwise recognizes that states permit as valid in the State of Texas ); or

5. A person who has permission to possess that weapon granted in writing by the City Manager or the Chief of Police specifying the area, times and conditions designated for such use.

**(6) Locks and keys.**

No person other than one acting under the direction of the City Manager or designee shall duplicate or cause to be duplicated a key used by the department for a padlock or door lock of any type or description, nor shall any person divulge the combination of any lock so equipped to any unauthorized person.

**(7) Consumption of alcoholic beverages.**

A. No person shall possess any can, bottle or other receptacle containing any alcoholic beverage which has been opened, or a seal broken, or the contents of which has been partially removed, within any park or park facility which has been posted with signs prohibiting such possession. The City may, by resolution, designate, or authorize the Director to designate, the park or park facilities to be posted.

B. It shall be unlawful for any person under twenty-one (21) years of age to be in possession of an alcoholic beverage while such person is in or upon any park facility unless in the presence of a parent or guardian, including spouse. Notwithstanding any other provision of this code to the contrary, violation of the provisions of this section shall constitute an infraction and shall be punishable pursuant to the provisions of (Sections 106.04 and 106.05, Texas Alcoholic Beverage Code).

**Section 1.13.002 Rules for City swimming pool**

*(a) The following rules are adopted for the City swimming pool:*

*(1) Children under the age of 10 must be accompanied by a responsible person. Responsible person is defined as a person sixteen (16) years of age or older who is capable of caring for a child. A parent may appoint a person younger than sixteen (16) as the responsible person if a signed permission slip is presented to the pool staff. Parent or guardian must be present at signing. A form will be available at the pool.*

*(2) Children under the age of five (5) must have a parent or guardian, age seventeen (17) or older, in the pool and attending to the child's safety at all times.*

*(3) All swimmers must shower before entering the pool.*

*(4) All swimmers must wear appropriate swimwear. No t-shirts, tank tops, thongs, undergarments (i.e., bras/underwear), "cut-offs" or other frayed clothing is allowed in the pool.*

*(5) Children who are not potty-trained must wear a swim diaper. Swim diapers are available for purchase in the pool office. Swim diapers may not be changed within six feet (6') of the pool area.*

- (6) *No glass containers are allowed inside the pool area.*
- (7) *No food or drinks are allowed in the pool.*
- (8) *No diving.*
- (9) *No running on the pool deck.*
- (10) *No “chicken fights” or dangerous horseplay. Users may not sit on or play near (or with) the pool’s drains or suction fittings. Extended breath holding activities are dangerous and prohibited.*
- (11) *No profanity.*
- (12) *No smoking in the pool area.*
- (13) *Only properly fitting, Coast Guard approved personal floatation devices with a positive lock are allowed in the pool for children who cannot swim.*
- (14) *The maximum user load limit is \_\_\_\_\_. Once the limit has been reached, no additional users may enter until enough have left the facility to be within the guidelines.*
- (15) *Pets of any type are prohibited in the pool.*
- (16) *For public health reasons, users should not swim if:*
  - a. They have experienced diarrhea within the previous two (2) week period*
  - b. They have infected or open wounds*
- (b) The Pool Manager and the on-duty lifeguards are required and empowered to enforce the rules as stated in this division. Additionally, they may, if any users in their judgment, words, actions, or apparel interfere with the safe use of the swimming pool, tell persons involved to leave the pool area. Not complying with the instructions of the lifeguards may result in temporary or permanent suspension of use of the swimming pool or City facilities. (PC602)*

*(Ordinance 417 adopted 4/10/07)*

**Section 1.13.003 Rules and Regulations for Park Facilities and Recreation Areas**

**(1) Purpose and findings.**

A. This chapter sets forth standards for park utilization and maintenance to maintain and protect the City's parks and recreation facilities and to ensure their availability as a shared resource to all members of the public.

B. A City may charge for use or services provided in City parks so long as the charges do not exceed the cost of service. By resolution duly adopted, the City may charge fees for park use and use of various facilities or services at one or more of the City parks or recreation facilities, and add to, subtract from, increase or decrease such charges in amounts reasonably necessary to recover the cost of operating the parks and providing the various services and facilities therein.

**(2) Definitions.**

City of Flatonia

Ordinance 2021.5.2  
Page 4 of 13

adopted May 11, 2021

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section.

"Alcoholic beverages" means alcohol, spirits, liquor, beer, wine, or other liquid which contains one-half of one percent or more of alcohol by volume.

"Authorized official" means \_\_A person employed or appointed as a peace officer as defined by Texas law, or an employee or other official of the City of Flatonia with authority to enforce Park rules or other City Ordinances.

"Commercial activity" means selling, offering for sale, or vending any goods, wares, merchandise, service, performance, or other thing of value, for immediate or future delivery, or requesting monetary donations, pledges, or other things of value for a charitable, religious, cultural, or any other cause.

"Department" means the City department directed by the City Manager to oversee parks and recreation facilities in the City.

"Designated area" means an area specially equipped or posted with appropriate signs for camping, picnicking, parking of motor vehicles or other authorized activity.

"Director" means the Utility Director or his or her authorized representative of the department which oversees parks and recreation facilities in the city.

"Facility" or "park facility" means any body of water, land, campsite, recreation area, building, structure, system, equipment, machinery, or other appurtenance owned, managed, controlled, or operated by the City of Flatonia.

"Overnight" means the one hour after sunset and sunrise of the following day.

"Peace officer" means a person elected, employed, or appointed as a peace officer under Article 2.12, Code of Criminal Procedure, or other law.

"Permit" means written authorization to make use of any park, recreation area or portion thereof, and includes any conditions set forth herein.

"Picnicking" means the consumption of food or beverages.

"Recreation area" means all parks, places, greenbelts, gardens, and any other property owned by the City, including structures thereon, used, operated, or maintained for recreational purposes, whether active or passive. The term "owned" shall mean any property interest under which the City operates, maintains, or controls such property. The term shall also include any property owned and maintained as open space.

"Trash" means garbage, solid waste, refuse, litter, paper, animal and vegetable matter, and rubbish.

"Vehicle" means a device by which any person or property may be propelled, moved, or drawn, including bicycles.

**(3) Permit required; application contents.**

Whenever a permit is required by provisions in this chapter, an application shall be filed with the city manager or designee stating:

- A. The name and address, telephone number, and email of the applicant;
- B. The name and address, telephone number and email of the person, group, organization, or corporation sponsoring the activity, if any;
- C. The nature of the proposed activity;
- D. The dates, hours, and City facility for which the permit is desired;
- E. An estimate of attendance; and
- F. Any other information which the manager or designee, regarding public health, safety, and welfare, finds reasonably necessary to a fair determination as to whether a permit should be issued.
- G. Map or diagram of the event location including proposed set up, ingress and egress, utilities needed, and/or parking.
- H. Before final permit approval, a copy of liability insurance naming City as additional insured may be required.

**(4) Insurance.**

- (A) The individual or entity involved in a commercial use of the park or other City property may be required, at the City Manager's discretion, to provide proof of insurance to the City in the amount of \$1,000,000 which names the City, and its officers, employees, volunteers, and officials as additionally insured. If required, proof of insurance must be received by the City of Flatonia prior to the issuance of a special use permit.
- (B) To avoid the potential removal of an item from the park during an event, it is advisable to notify the City of any specialty item a patron wishes to have at an event to confirm if insurance will be necessary. The City will not be held liable for items left in the City parks or for damage or unauthorized use by others.

**(5) Permit—Standards for issuance.**

The Manager or designee may issue a permit hereunder when he or she finds:

- A. That the proposed activity or use of City property will not unreasonably interfere with or detract from public enjoyment;
- B. That the proposed activity or use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety, and recreation;
- C. That all conditions including, where applicable, any further approvals by regulatory agencies or the City Council, the payment of fees, and insurance coverage are met;

- D. That the proposed activity or use is not reasonably anticipated to incite violence, crime, or disorderly conduct;
- E. That the proposed activity or use will not entail unusual, extraordinary, or burdensome expense, resources, or security operation by the City; and
- F. That the facilities desired have not been reserved for other use.

**(6) Failure to obtain required permit.**

No person shall use, occupy, or otherwise remain in any City facility or portion thereof for which a permit is required without first having obtained such permit.

Park space is available on a first come, first served basis. Users shall first obtain a permit for a reservation to ensure availability.

**(7) Areas that may be reserved by permit.**

- A. City pavilion (and basketball court)
- B. Pavilions on Main Street adjacent to City Hall, pavilion in Memorial Park, and pavilion in McWhirter Park

**(8) Areas that may not be reserved.**

- A. Playscapes and other equipment
- B. Splashpad
- C. Tables, benches and barbeque equipment.

**(9) Special Use Permits.**

Certain items of a potentially dangerous, damaging, or disruptive use *may* be allowed with a Special Use Permit approved by the City Manager or designee. The permit authorizing such items to be brought into the park must be obtained prior to doing so. Some of these items include:

- A. "Bouncy Houses", "Moonwalks" and other inflatables
- B. Inflatable water slides and pools
- C. Climbing walls
- D. Other items that require the use of City electricity or water to operate
- E. Any sound device that will exceed the City's noise ordinance

The City Manager or designee may refuse a permit if there are any concerns about safety or potential damage to park property. Delivery and pickup of these items within the park must not damage park property (ruts, plant, and tree damage etc.). If there is any question that damage may occur it is advisable to cancel the use. No refunds will be issued for events that are canceled after the date of the planned event. Any damage will result in forfeit of the deposit. If the damage exceeds the deposit, the City may request reimbursement for damage.

**(10) Priority of use.**

Any person using a park or City facility or portion thereof which may be reserved by obtaining a permit, but who has not obtained such a permit, shall vacate said area when holders of a valid permit present themselves.

**(11) Exhibiting permit.**

No person shall fail to produce and exhibit a permit he claims to have upon request of any City employee or any peace officer who desires to inspect said permit for the purpose of enforcing compliance with any regulations in this chapter.

**(12) Recreation programs.**

The fees charged for recreation classes, special events, and sports leagues shall be set by the Utility Director subject to the approval of the City Manager and City Council, by ordinance.

**(13) Refundable deposits.**

A refundable deposit shall be charged for the use of facilities and equipment in addition to user fees. All deposits shall be returned if the users do not damage land and property, equipment, or facilities, leave the facility in a litter-free condition, and return equipment.

**(14) Permit Fees.**

Fees for permits and related charges are described in the City's fee schedule.

**(15) Waiving of fees.**

The City Manager or designee may waive all or a portion of a fee when appropriate.

**(16) Park improvement and acquisition account.**

- A. Establishment of account. A Parks Improvement and Acquisition Account is hereby established.
- B. Funds to be deposited. Contributions and donations from any source which are earmarked by the donor for use by the Parks Department shall be deposited in the Parks Improvement and Acquisition Account.
- C. Payments from developers and subdividers. Payments of cash in lieu of land from developers and subdividers shall be deposited in the Parks Improvement and Acquisition account.
- D. Use of funds. Expenditures from the Parks Improvement and Acquisition Account shall be used exclusively for improvement of existing and future parks and for the acquisition of land for future parks.

**(17) Restrictions in all recreation areas.**

It shall be unlawful and a violation of this chapter for any person, entity, or organization to (without prior authorization and permit):

- A. Enter or remain on the premises after the established closing hours.

- B. Operate or park a vehicle in other than designated areas or over established roads.
- C. Operate a vehicle more than fifteen (15) miles per hour on roads within the park.
- D. Park or allow any vehicle to remain more than eight (8) consecutive hours.
- E. Start or maintain fire(s) in parks, except for barbecuing food, using established barbecue facilities or personal portable barbecues within designated picnic areas. No person shall fail to fully extinguish live coals, embers, or fires before leaving the barbecue facilities or picnic area. No live coals, embers, or fires shall be disposed of in the park trash can receptacles. Fires of any kind may be prohibited during County mandated burn bans or for other reasons as determined by the City Manager.
- F. Allow or permit any person under the age of six (6) under their custody, jurisdiction or control, to enter or remain without providing adequate supervision.
- G. Leave, drop, place, or deposit any trash in any other location except receptacles provided for trash (this includes confetti and glitter). Pet waste should be picked up and placed in a bag, closed, and disposed of in the pet waste receptacle.
- H. Conduct or carry on an assembly of more than twenty-five people in a park, which assembly is intended or can reasonably be expected to last more than thirty minutes or which does in fact last more than thirty minutes, without first obtaining a permit from the City Manager or designee. Youth sports groups and other similar groups with a valid Agreement on file are exempt from this restriction unless the purpose of the assembly is outside the scope of the current Agreement.

**(18) Prohibited activities.**

Horses and farm animals are strictly prohibited in city parks, unless permitted pursuant to a special event permit or approved by the parks department and the city council, as applicable, in advance of the use.

**(19) Prohibited hours.**

A. Except as provided in subsection B, and subsection C of this section regarding neighborhood parks, no person or persons shall remain in any City park from one hour after sunset to sunrise of the following day without having received a permit to do so from the City Manager or his/her authorized representative.

B. The permit requirement established in subsection A above shall not apply to:

- 1. Any person or persons going to, attending, or participating in any activity or event which is regularly scheduled and coordinated by the City of Flatonia or any activity or event conducted under an Agreement, Lease or Permit from the City; or
- 2. Any person or persons exiting the park immediately after the conclusion of such an activity or event; or

3. Any Police Officer or employee of the City while engaged in the performance of his or her duties.

C. No person or persons shall remain in any City playground, neighborhood, community, City or regional park between one hour after sunset and sunrise of the following day. For purposes of this subsection C, parks shall be as defined in the recreation and open space element of the Flatonia Comprehensive plan.

D. For all park facilities, the City Manager or designee shall determine the established and emergency hours, when needed, of operation of Flatonia park and recreation facilities based on the following criteria:

1. Weather conditions;
2. Seasonal recreation activities scheduled or expected to occur at the park facilities;
3. Nature or extent of public use of the park facilities;
4. Cost effectiveness of operation of the park facilities.

If a permit has been issued for use, and the City must close or cancel Park operations due to an emergency situation, the permit holder will be notified at the contact information provided and a refund of the fee and deposit will be provided.

**(20) Regulations authorized.**

The City Manager or designee may establish and post regulations governing the use of park facilities which are not inconsistent with regulations contained in this chapter and which promote public health and safety and the preservation of property. A violation of the posted rules or regulations may be charged as an infraction.

**(21) Regulation of commercial activity.**

A. No person shall engage in any commercial activity in any City park unless the commercial activity has been authorized under the terms of a lease, operating agreement, or permit issued by the City Manager or designee.

B. The City Manager or designee may authorize commercial activities within any City park in connection with special programs or events sponsored or co-sponsored by the City, if he or she determines that the commercial activity complements and enhances the special program or event and does not detract from the use of the City park for ordinary park purposes.

C. In determining the type and extent of commercial activities to be authorized, the City Manager or designee shall consider their potential impact on the City park and surrounding neighborhood. The City Manager or designee shall establish guidelines for selection of authorized commercial activities. The selection decisions made by the City Manager or his/her designee shall be final.

D. The provisions of this section shall not be deemed to apply to the sale or distribution of newspapers, books, pamphlets, or other activity constituting protected speech under the First Amendment of the United States Constitution or comparable protections.

**(22) Enforcement.**

The City's Police Department is charged with the responsibility of supervising and maintaining law and order in City parks. To carry out this provision, officers of the Police Department shall have the authority to make any arrests or issue citations for violation of any State law or City ordinance. In addition, thereto, it is declared that a person commits an offense if he/she enters or remains in a City park, recreation area, or other designated park area, during hours other than those set out hereinabove, without written approval of the City Manager or the City Council, and the person:

- (A) Had notice that the entry was forbidden; or
- (B) Received notice to depart but failed to do so.

For purposes of this article, streets and parking in City parks shall be treated the same as any other City streets and shall be supervised and regulated by the Police Department in the same manner as all City streets. An individual sitting inside his/her vehicle shall be treated the same as any other individual in the park regardless of whether the vehicle is parked or is being driven.

**(23) Appeals.**

The denial or revocation of a permit by the Director (or City Manager) may be appealed by the applicant or permit holder as set forth in Chapter \_\_\_ of this title.

**Section 2.** Section A2.000, Miscellaneous Fees, of the City of Flatonia Fee Schedule, Appendix A, City of Flatonia Code of Ordinances, as amended, be and it is hereby amended by adding a new section., Section A2.007, Park Fees and Rentals, to hereafter read as follows

Section A2.007 Pak Fees and Rentals of Amenities

- (a) The park amenities below can be rented in 4-hour intervals from 8am-12pm, 12pm-4pm, or 4pm-8pm.
- (b) Pavilion/Basketball Court: \$50 rental/reservation fee for 4-hour block/\$100 deposit (refundable if left undamaged and clean after use)
- (c) Gazebos: \$25 rental/reservation fee for 4-hour block/\$50 deposit (refundable if left undamaged and clean after use)
- (d) **Special Uses:** Inflatables and Special Portable Permit: approval required at least 3 business days in advance. No fee for permit.
- (e) **Additional Inflatable and Special Portable Fees:** \$25 electrical charge and/or \$25 water charge

**Section 3.** This ordinance shall be cumulative of all other ordinances of the City of Flatonia, and this ordinance shall not operate to repeal or affect any other ordinances of the City of Flatonia except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, are hereby repealed.

**Section 4.** The sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.

**Section 5.** The City Council officially finds, determines, recites and declares that a sufficient written notice of the date, hour, place and subject of this meeting of the City Council was posted at a place convenient to the public at the City Hall of the City for the time required by law preceding this meeting, as required by the Open Meetings Law, Chapter 551, Texas Government Code; and that this meeting has been open to the public as required by law at all times during which this Ordinance and the subject matter thereof has been discussed, considered, and formally acted upon. The City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

**Section 6.** This Ordinance shall be effective immediately from and after its final passage and any publication in accordance with the requirements of the City of Flatonia and the laws of the State of Texas.

**PASSED AND APPROVED** on this the \_\_\_ day of \_\_\_\_\_, 20\_\_\_, with \_\_\_ Councilpersons voting in favor hereof and \_\_\_ Councilpersons voting in opposition hereof.

\_\_\_\_\_  
Bryan Milson  
Mayor

ATTEST:

\_\_\_\_\_  
Heather Ambrose  
City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Maria Angela Flores Beck  
City Attorney

DRAFT



# Flatonia City Council

Staff Report

May 11, 2021 Council Meeting

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## DELIBERATION AGENDA

**DA5.1-2021.4**

### **Agenda Item:**

Consider and take appropriate action on Ordinance 2021.5.3 of the City of Flatonia, Texas amending Article 1.02, Administration, Division 1. generally, by adding a new Section 1.02.011, Payment by Credit Card or other Electronic Means, authorizing the acceptance of credit cards for payment of utility payments, fees, fines, costs and other charges; providing for a processing fee for online and telephone credit card payment, for fees, fines, costs and other charges as determined appropriate by the City Manager; providing for a service charge if payment by credit card is not honored; providing for severability, cumulative and saving clause; providing an effective date and ordaining other matters related to the foregoing.

**Background:** After receiving requests from customers, the City will provide an additional convenient method of payment for City utility bills (and other fees, fines etc. TBD) with the service intended to go live on June 1, 2021. This new opportunity allows customers to pay utility bills, and certain other fees and fines, through an online portal or by an automatic telephone call. This can be utilized in many ways such as taking payments for park rentals, permits, donations, special fundraising campaigns, and more. It will be a help to busy citizens and customers and to staff as well.

The utility portal will be a secure site. Through the City's webpage there will be a link to the portal where customers can sign up and process their payments. None of their information will be entered into or stored on our website or server. In addition to payments, customers can set reminders they wish to receive such as when their bill is ready for viewing and receive late notice reminders by email, text, or phone. They will also have the ability to see their billing history going back twelve (12) months.

Logging into the portal will be free to see history but making online or telephone payments does have a convenience fee and a processing fee that will be passed on to the customer. The City has been absorbing the percentage charged for credit cards but cannot continue to do so with the added convenience fee and processing fee. It is simply cost-prohibitive, and only those who choose to use the feature should pay for the feature. Before approving their credit card payment, customers will be advised of the fees and still have the option to opt out and pay their bill in person, mail, or drop box by check or cash.

### **Recommended Motion:**

Consider and take appropriate action regarding Ordinance 2021.5.3 of the City of Flatonia, Texas amending Article 1.02, Administration, Division 1. generally, by adding a

new Section 1.02.011, Payment by Credit Card or other Electronic Means, authorizing the acceptance of credit cards for payment of utility payments, fees, fines, costs and other charges; providing for a processing fee for online and telephone credit card payment, for fees, fines, costs and other charges as determined appropriate by the City Manager; providing for a service charge if payment by credit card is not honored; providing for severability, cumulative and saving clause; providing an effective date and ordaining other matters related to the foregoing.

**Attachment:**

Ordinance 2021.5.3

### ORDINANCE 2021.5.3

AN ORDINANCE OF THE CITY OF FLATONIA, TEXAS AMENDING ARTICLE 1.02, ADMINISTRATION, DIVISION 1. GENERALLY, BY ADDING A NEW SECTION 1.02.011, PAYMENT BY CREDIT CARD OR OTHER ELECTRONIC MEANS, AUTHORIZING THE ACCEPTANCE OF CREDIT CARDS FOR PAYMENT OF UTILITY PAYMENTS, FEES, FINES, COSTS AND OTHER CHARGES; PROVIDING FOR A PROCESSING FEE FOR ONLINE AND TELEPHONE CREDIT CARD PAYMENT, FOR FEES, FINES, COSTS AND OTHER CHARGES AS DETERMINED APPROPRIATE BY THE CITY MANAGER; PROVIDING FOR A SERVICE CHARGE IF PAYMENT BY CREDIT CARD IS NOT HONORED; PROVIDING FOR SEVERABILITY, CUMULATIVE AND SAVING CLAUSE; PROVIDING AN EFFECTIVE DATE AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

**WHEREAS**, the City of Flatonia is a "Type A" municipality established by the laws of the State of Texas; and

**WHEREAS**, generally, Chapter 132 of the Texas Local Government Code authorizes the governing body of a municipality to authorize a municipal official who collects, fees, fines, costs and other charges to accept payment by credit card and further authorizes the collection of a *processing fee* for use of a credit card and the collection of a *service charge* if a credit card is not honored by the credit card company; and

**WHEREAS**, more specifically as it relates to *authorizing the processing fee*, Chapter 132, Section 132.002(b) and (c) of the Texas Local Government Code authorizes the governing body of a municipality to authorize a municipal official who collects fees, fines, costs or other charges to accept payment by credit card and to collect a fee for processing the payment by credit card. The governing body may also authorize the acceptance of payment by credit card without requiring collection of a fee; and

**WHEREAS**, more specifically as it relates to the *processing fee amount*, Chapter 132, Section 132.003(b) of the Texas Local Government Code authorizes a municipality to set a processing fee in an amount that is reasonably related to the expense incurred by the municipality in processing the payment by credit card. However, the governing body may not set the processing fee in an amount that exceeds five percent (5%) of the amount of the fee, fine, cost, or other charge being paid; and

**WHEREAS**, more specifically as it relates to a *service charge fee for credit card not honored*, Chapter 132, Section 132.004 of the Texas Local Government Code states that if, for any reason, a credit card payment is not honored by the credit

card company on which the funds are drawn, the municipality may collect a service charge from the person who owes the fee, fine, cost, or other charge. The service charge is in addition to the original fee, fine, cost or other charge and is for the collection of the original amount. The service charge fee is the same amount as a fee charged for the collection of a check drawn on an account with insufficient funds; and

**WHEREAS**, more specifically as it relates to the *deposit of processing and service charge fees*, Chapter 132, Section 132.006 of the Texas Local Government Code requires the municipal official collecting a fee or charge to deposit it in the general fund of the municipality; and

**WHEREAS**, the Flatonia City Council has determined that acceptance of credit cards is beneficial to the City and its citizens' public convenience and should be authorized without all citizens incurring the costs for it; and

**WHEREAS**, the Flatonia City Council recognizes that the City incurs additional expenses to accept credit card payments and shall set the processing fee in an amount that is reasonably related to the expenses incurred;

**WHEREAS**, the Flatonia City Council wants to authorize a credit card processing fee for all utility payments, fees, fines, costs, or other charges as determined to be appropriate by the City Manager.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FLATONIA, TEXAS THAT:**

**Section 1.** The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

**Section 2.** The City of Flatonia Code of Ordinances are hereby amended by adding a new Section 1.02.011, **PAYMENT BY CREDIT CARD OR OTHER ELECTRONIC MEANS**, to read as follows:

**Use of Credit Cards. Debit Cards. or Other Electronic Means for Payment Due to the City.**

(a) Credit Card use authorized. Each official employed by the City of Flatonia who, as part of that employment, collects utility payments, fees, fines, costs, or other charges from members of the public that are due to the City is authorized to accept credit cards as payment for such fees, fines, costs, and other charges.

(b) Amount of Transaction Fee. For each utility

payment, fee, fine, cost, or other charges that are paid by credit card, the official collecting the same shall also collect a processing fee in an amount determined by contract. As of June 1, 2021 there is a \$1.25 charge per transaction.

(c) Amount of Processing Convenience Fee. For each utility payment, fee, fine, cost, or other charges that are paid by credit card, the official collecting the same shall also collect a processing fee in an amount not to exceed five percent (5%) of the amount of the utility payment, fee, fine, court cost, or other charge to be paid, as authorized by Section 132.003(b), Texas Local Government Code.

(d) Service Charge. If for any reason a payment by credit card is not honored by the company on which the funds are drawn, the officer shall collect from the member of the public who attempted to pay by credit card an additional service charge in an amount equal to the fee then being charged for the collection of a check drawn on an account with insufficient funds, as authorized by Section 132.005, Texas Local Government Code

(e) Deposit of Processing Fees and Service Charges. Processing fees and service charges collected pursuant to this Ordinance shall be deposited in the general fund of the City, as provided by Section 132.006, Texas Local Government Code. Utility payments will be deposited in such city account as designated by the City Manager.

**Section 3.** This ordinance shall be cumulative of all other ordinances of the City of Flatonia, and this ordinance shall not operate to repeal or affect any other ordinances of the City of Flatonia except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, are hereby repealed.

**Section 4.** The sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.

**Section 5.** The City Council officially finds, determines, recites and declares that a sufficient written notice of the date, hour, place and subject of this meeting of the City Council was posted at a place convenient to the public at the City Hall of the City for the time required by law preceding this meeting, as required by the Open Meetings Law, Chapter 551, Texas Government Code; and that this meeting has been open to the public as required by law at all times during which this Ordinance and the subject matter thereof has been discussed,

considered, and formally acted upon. The City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

**Section 6.** This Ordinance shall be effective immediately from and after its final passage and any publication in accordance with the requirements of the City of Flatonia and the laws of the State of Texas.

**PASSED AND APPROVED** by the City Council of the City of Flatonia, Texas, on this the 11<sup>th</sup> day of May, 2021.

CITY OF FLATONIA, TEXAS

By: \_\_\_\_\_

Bryan Milson  
Mayor

ATTEST:

\_\_\_\_\_  
Heather Ambrose  
City Secretary

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
Maria Angela Flores Beck  
City Attorney



# Flatonia City Council

Staff Report

May 11, 2021 Council Meeting

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## CONSENT

### **Agenda Item:**

Consider and take appropriate action on making a recommendation to staff related to Pre and Post-Retiree insurance coverage and contributions to employee health insurance through TML Intergovernmental Employee Benefits Pool for the plan year 2021-2022.

### **Background:**

On November 9, 1999, the City Council voted (not by ordinance; vote only) “to pay medical insurance for retired City employees with a \$200.00 cap”. At the same meeting, Lillian Vanicek requested that the Council consider increasing the amount provided but the Council voted to leave the amount at \$200.00. Therefore, it appears that the practice had been going on for some time. Since the contribution decision was made, the retirees are responsible for providing documentation of their medical coverage. With that documentation the City can reimburse them \$200 towards their premium each month.

Later in 2007, Ordinance #413 was approved by the City Council on March 13th. The intent of the ordinance was to authorize and define health benefits coverages for City of Flatonia retirees.

The 2007 Ordinance specifies that the City will cover its retirees through TML and that the cost for the coverage will be paid for by the City. Coverages the ordinance specifies the City will provide for retirees includes the same plan(s) as active employees, Retiree Continuum of Care (for retirees, dependents, and early retirees), Vision, Retiree Life, and Retiree Optional Life. However, the language in the Ordinance is somewhat conflicting because it states the City will pay for the coverage (not a portion) and then states the City elects to have their retiree medical coverage at the same contribution as the percentage of contribution established annually by TML-IEBP.

Secondly, the retiree and/or dependents are eligible to elect either the TML plan or COBRA at the time of retirement (and a short period following). If they do not choose the TML plan at that time they do not have another opportunity to go back on the plan. Some retirees elect COBRA rather than TML coverage because the cost to them is surprisingly less. Once the allowed time for COBRA has expired, they are on their own to find coverage.

The last revision to language and policy related to retirees was adopted on August 21, 2012 with Ordinance 2012.8.4. This revision was only to the definition of retiree for the City of Flatonia.

The existing Ordinance likely needs revised so that the contribution (if any) and offerings for retirees is clear for future years or is brought back for review annually (since plans can change that often). In addition, if it is the intent of the Council to continue to reimburse retirees that do not have insurance coverage through TML, that should likely be approved by Ordinance or Resolution for clarity in the future.

Staff need direction from Council as to how they would like to proceed with preparing what is needed to get this clarified.

**Recommended Motion:**

**Attachment:**

Ordinance #413 adopted March 13, 2007

Ordinance 2012.8.4 adopted August 12, 2012 (and draft)

**Ordinance #413**

**AN ORDINANCE AUTHORIZING THE OFFERING OF HEALTH BENEFITS COVERAGE TO CITY OF FLATONIA RETIREES; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING AN OPEN MEETINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, the City of Flatonia desires to provide health benefits coverage to its retirees;

**WHEREAS**, TML Intergovernmental Employee Benefits Pool is a health risk pool established pursuant to Texas Local Government Code Chapter 172, Texas Government Code Chapter 791, and the Texas Trust Code to provide health benefits coverage for employees and retirees and dependents of employees and retirees, of Texas political subdivisions under an Interlocal agreement;

**WHEREAS**, the City of Flatonia is currently offering health benefits coverage through the TML Intergovernmental Employee Benefits Pool pursuant to Interlocal agreement and Chapter 172 of the Texas Local Government Code, both of which would allow the extension of benefits to retirees of the City of Flatonia;

**WHEREAS**, the City of Flatonia desires to provide health benefits coverage to its retirees through the TML Intergovernmental Employee Benefits Pool and that the cost for such coverage be paid for by the City of Flatonia;

**WHEREAS**, the City of Flatonia desires to select a plan of benefits for its retirees to be provided by the TML Intergovernmental Employee Benefits Pool; and

**WHEREAS**, providing retiree coverage under the TML Intergovernmental Employee Benefits Pool Interlocal Agreement is in the best interest of the City of Flatonia, its retirees, and the public generally;

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FLATONIA THAT:**

SECTION 1: The foregoing recitals are incorporated into this Ordinance as findings of fact.

SECTION 2: The City of Flatonia hereby elects to provide health benefits coverage to its retirees through TML Intergovernmental Employee Benefits Pool under the Pool's Interlocal Agreement.

SECTION 3: The City of Flatonia hereby adopts the following definition of "retiree" for purposes of this ordinance:  
Meets definition of retiree under is eligible for Texas Municipal Retirement System benefits and is eligible for benefits

SECTION 4: The City of Flatonia hereby adopts the following benefit plans to be provided to its retirees through the TML Intergovernmental Employee Benefits Pool:

- *The same medical plan(s) offered to active employees*
- *The Retiree Continuum of Care medical plan adopted for retirees and their dependents*
- *Vision Plan B*
- *Retiree Life*
- *Retiree Optional Life*
- *Retiree Continuum of Care Plan for Early Retirees, >65 retirees not entitled to Medicare and Medicare Supplement program for >65 retirees*

SECTION 5: The Interlocal Agreement in effect between the City of Flatonia and the TML Intergovernmental Employee Benefits Pool provides that the Board of Trustees may adopt rules and regulations. The City of Flatonia elects to have their retiree medical coverage at the same contribution as the percentage of contribution that is established annually by TML-IEBP.

SECTION 6: This ordinance will only apply to individuals retiring after its effective date or to employees, which retired under a previous ordinance. For individuals retiring after the effective date of this ordinance to qualify they must enroll for this coverage within thirty (30) days of their retirement.

SECTION 7: This ordinance may be repealed or modified at any time, but will remain in effect for any employee retiring while it is in effect.

SECTION 8: The City Secretary is hereby ordered to enter a copy of this Ordinance in the City minutes.

SECTION 9: All existing City of Flatonia ordinances in conflict with the provisions of this Ordinance are repealed to the extent of the conflict.

SECTION 10: It is hereby officially found and determined that the meeting at which this Ordinance was considered was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

SECTION 11: This Ordinance shall be effective immediately upon its passage.

Ordinance #2012.8.4

**AN ORDINANCE TO AMEND CHAPTER 9,  
PERSONNEL, FLATONIA PERSONNEL POLICIES,  
OF THE CITY OF FLATONIA CODE OF  
ORDINANCES**

WHEREAS it has come to the attention of the City Council of the City of Flatonia that that certain of its personnel policies, as set forth in Chapter 9, Flatonia Code of Ordinances, require clarification and/or amendment;

WHEREAS, the City Council, after due consideration and deliberation, has determined that it is in the best interests of the City of Flatonia, its employees and its citizens that Chapter 9, Flatonia Personnel Policies, Flatonia Code of Ordinances be amended in the various respects as set forth herein.

**NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FLATONIA, TEXAS:**

**Section 1.** That Chapter 9, Personnel, should be amended to add a preamble immediately before Article 9.01, General Provisions, to read as follows:

This employee policy handbook is a general guide, and the provisions of this handbook do not alter the at-will employment relationship or constitute an employment agreement, a contract or a guarantee of continued employment. The City of Flatonia reserves the right to change the provisions of this handbook at any time and without prior notice. The provisions contained in this policy manual are applicable to all employees. Any promises which conflict with the provisions in this policy manual are effective only if in writing and signed by the City Manager.

**Section 2.** That Article 9.01, General Provisions, Section 9.01.003 be and it is hereby amended by amending subsection (b), to clarify the definition of “retiree,” so as to hereafter read as follows:

ARTICLE 9.01 GENERAL PROVISIONS

\*\*\*\*\*

Sec. 9.01.003 Health benefits coverage for retirees

\*\*\*\*\*

(b) The city hereby adopts the following definition of “retiree” for purposes of this section: Meets the definition of retiree under the requirements of the Texas Municipal Retirement System, is eligible for benefits under Texas Municipal Retirement System,

has worked for the City for 10 years, and is at least age 60 or has worked for the City for 20 years and is any age.

\*\*\*\*\*

**Section 4.** That exhibit B, to Article 9.02, Personnel Policies, containing the city personnel policies, as amended, be and it is hereby amended by adding a new section under Employee Responsibilities relating to “Falsely Obtained Employment” and its consequences immediately after the section entitled “General,” to hereafter read as follows:

**EXHIBIT B**

**FLATONIA PERSONNEL POLICIES\***

\*\*\*\*\*

**EMPLOYEE RESPONSIBILITIES**

\*\*\*\*\*

FALSELY OBTAINED EMPLOYMENT: Any person who is employed by the City of Flatonía and obtained that employment by means of a willful misrepresentation or false statements concerning a material fact shall be in violation of the code and may be dismissed from the City

\*\*\*\*\*

**Section 4.** That exhibit B, to Article 9.02, Personnel Policies, containing the city personnel policies, as amended, be and it is hereby amended by adding a new section under Employee Responsibilities relating to “Integrity,” immediately after the section entitled “Timeliness,” to hereafter read as follows:

INTEGRITY: The public demands that the integrity of the City employees be above reproach, and the dishonesty of a single employee may impair public confidence and cast suspicion upon the entirety of the City employees. Succumbing to even minor temptation can be the genesis of a malignancy, which may ultimately destroy an individual’s effectiveness and may contribute to the corruption of countless others. A City employee must scrupulously avoid any conduct which might compromise the integrity of himself, his fellow employees or the City.

**Section 5.** That exhibit B, to Article 9.02, Personnel Policies, containing the city personnel policies, as amended, be and it is hereby amended by adding additional prohibitions relating to political activity under the section entitled “Political Activities,” to hereafter read as follows:

Ordinance #2012.X.X

**AN ORDINANCE TO AMEND CHAPTER 9,  
PERSONNEL, FLATONIA PERSONNEL POLICIES,  
OF THE CITY OF FLATONIA CODE OF  
ORDINANCES**

**WHEREAS** it has come to the attention of the City Council of the City of Flatonia that that certain of its personnel policies, as set forth in Chapter 9, Flatonia Code of Ordinances, require clarification and/or amendment;

**WHEREAS**, the City Council, after due consideration and deliberation, has determined that it is in the best interests of the City of Flatonia, its employees and its citizens that Chapter 9, Flatonia Personnel Policies, Flatonia Code of Ordinances be amended in the various respects as set forth herein.

**NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FLATONIA, TEXAS:**

**Section 1.** That Chapter 9, Personnel, should be amended to add a preamble immediately before Article 9.01, General Provisions, to read as follows:

This employee policy handbook is a general guide, and the provisions of this handbook do not alter the at-will employment relationship or constitute an employment agreement, a contract or a guarantee of continued employment. The City of Flatonia reserves the right to change the provisions of this handbook at any time and without prior notice. The provisions contained in this policy manual are applicable to all employees. Any promises which conflict with the provisions in this policy manual are effective only if in writing and signed by the City Manager.

**Section 2.** That Article 9.01, General Provisions, Section 9.01.003 be and it is hereby amended by amending subsection (b), to clarify the definition of “retiree,” so as to hereafter read as follows:

ARTICLE 9.01 GENERAL PROVISIONS

\* \* \* \* \*

Sec. 9.01.003 Health benefits coverage for retirees

\* \* \* \* \*

(b) The city hereby adopts the following definition of “retiree” for purposes of this section: Meets the definition of retiree under the requirements of the Texas Municipal Retirement System, is eligible for benefits under Texas Municipal Retirement System,

has worked for the City for 10 years, and is at least age 60 or has worked for the City for 20 years and is any age.

\* \* \* \* \*

**Section 3.** That Article 9.01, General Provisions, Section 9.01.003 be and it is hereby amended by adding two new subsections, subsection (g) and (h) relating to the City’s contribution to its retirees’ health insurance costs, whether said retirees participate in the TML intergovernmental employee benefits pool (TML-IEBP), so as to hereafter read as follows:

(g) The City will contribute up to \$200 towards the retiree’s health insurance if the retiree continues to receive health insurance through TML-IEBP.

(h) If a retiree chooses not to stay with Texas Municipal League Intergovernmental Employee Benefits Pool with the active city employees, the City will provide up to \$200 towards the health insurance of the retirees choice to be paid monthly upon receipt by the City of proof that the employee is receiving health insurance from another source.

\* \* \* \* \*

**Section 4.** That exhibit B, to Article 9.02, Personnel Policies, containing the city personnel policies, as amended, be and it is hereby amended by adding a new section under Employee Responsibilities relating to “Falsely Obtained Employment” and its consequences immediately after the section entitled “General,” to hereafter read as follows:

**EXHIBIT B**

**FLATONIA PERSONNEL POLICIES\***

\* \* \* \* \*

**EMPLOYEE RESPONSIBILITIES**

\* \* \* \* \*

**FALSELY OBTAINED EMPLOYMENT:** Any person who is employed by the City of Flatonía and obtained that employment by means of a willful misrepresentation or false statements concerning a material fact shall be in violation of the code and may be dismissed from the City.

\* \* \* \* \*

**Section 4.** That exhibit B, to Article 9.02, Personnel Policies, containing the city personnel policies, as amended, be and it is hereby amended by adding a new section under Employee Responsibilities relating to “Integrity,” immediately after the section entitled “Timeliness,” to hereafter read as follows:

INTEGRITY: The public demands that the integrity of the City employees be above reproach, and the dishonesty of a single employee may impair public confidence and cast suspicion upon the entirety of the City employees. Succumbing to even minor temptation can be the genesis of a malignancy, which may ultimately destroy an individual’s effectiveness and may contribute to the corruption of countless others. A City employee must scrupulously avoid any conduct which might compromise the integrity of himself, his fellow employees or the City.

**Section 5.** That exhibit B, to Article 9.02, Personnel Policies, containing the city personnel policies, as amended, be and it is hereby amended by adding additional prohibitions relating to political activity under the section entitled “Political Activities,” to hereafter read as follows:

POLITICAL ACTIVITY: Employees are encouraged to vote and to exercise other prerogatives of citizenship consistent with state and federal law and these policies.

A City employee may not:

\* \* \* \* \*

(3) Employees shall not use any equipment, property or material owned by the City for political activity or engage in political activity while on duty for the City.

\* \* \* \* \*

**Section 6.** That exhibit B, to Article 9.02, Personnel Policies, containing the city personnel policies, as amended, be and it is hereby amended by adding a new section under Employee Responsibilities relating to “Release of Information,” immediately after the section entitled “Communications,” to hereafter read as follows:

RELEASE OF INFORMATION: Employees of the City of Flatonia shall not publicize or release internal or confidential information of the City.

Employees of the City shall treat as confidential the official business of the City. They shall not discuss or impart same to anyone except those for whom it is intended, or as directed by their supervisors, or under due process of law.

They shall not make known to any person the contents of any directive which they may received, unless so required by the nature of the order.

Contents of any official record filed in the Department shall be exhibited or divulged only to those persons as prescribed City orders.

Employees of the City shall not remove any official record of the City except as directed by their supervisor or under due process of law.

Employees of the City shall give all proper public information to persons requesting the same in a careful, courteous manner, avoiding all unnecessary conversation and controversy.

\*\*\*\*\*

**Section 7.** That exhibit B, to Article 9.02, Personnel Policies, containing the city personnel policies, as amended, be and it is hereby amended by adding a new section under Employee Responsibilities relating to “Timely Report of Incidents,” immediately after the section entitled “Solicitations,” to hereafter read as follows:

**TIMELY REPORT OF INCIDENTS:** All employees are required to report in a timely manner any incident or matter that he may investigate, observe or have reported to him. The report shall be made in a manner and form prescribed by City policy and when submitted, shall be complete, accurate and legible.

\*\*\*\*\*

**Section 8.** That exhibit B, to Article 9.02, Personnel Policies, containing the city personnel policies, as amended, be and it is hereby amended by adding an element of deductions permitted to be deducted from an employee’s pay at the end of the section entitled “Payroll Deductions,” to hereafter read as follows:

**EMPLOYEE COMPENSATION AND ADVANCEMENT**

\*\*\*\*\*

**PAYROLL DEDUCTIONS:** Deductions will be made from any employee’s pay for the following:

\*\*\*\*\*

**Other deductions authorized by policy and consistent with Texas Law**

\*\*\*\*\*

**Section 9.** That exhibit B, to Article 9.02, Personnel Policies, containing the city personnel policies, as amended, be and it is hereby amended by adding a sentence authorizing the utility supervisor to set the work schedule for the utility crew, in consultation with the city manager, in the section entitled “Work Schedule and Time Reporting,” to hereafter read as follows:

**WORK SCHEDULE AND TIME REPORTING**

\*\*\*\*\*

The utility supervisor, in consultation with the city manager, sets the work schedule for the utility crew and notifies them.

\*\*\*\*\*

**Section 10.** That exhibit B, to Article 9.02, Personnel Policies, containing the city personnel policies, as amended, be and it is hereby amended by replacing the subsection entitled “Annual Vacation Leave for Regular Full-Time Employees,” under the section entitled “Leave Time,” to hereafter read as follows:

**LEAVE TIME**

\*\*\*\*\*

**ANNUAL VACATION LEAVE FOR REGULAR FULL-TIME EMPLOYEES:** Full-time employees accrue Vacation Leave according to the number of years of employment they have with the city. Vacation Leave accrues at the following rates and subject to the six month service rule:

- 1. 1 to 5 years 10 days at a rate of 3.07 hours per pay period
- 2. 6 to 10 years 12 days at a rate of 3.69 hours per pay period
- 3. 11 to 18 years 12 days plus one additional day for each year of service over 10
  - 11 years 13 days at a rate of 4.00 hours per pay period
  - 12 years 14 days at a rate of 4.31 hours per pay period
  - 13 years 15 days at a rate of 4.62 hours per pay period
  - 14 years 16 days at a rate of 4.92 hours per pay period
  - 15 years 17 days at a rate of 5.23 hours per pay period
  - 16 years 18 days at a rate of 5.54 hours per pay period
  - 17 years 19 days at a rate of 5.85 hours per pay period
- 4. 18+ years 20 days at a rate of 6.15 hours per pay period

After completion of six (6) months of service, new employees are credited with five (5) days of Vacation Leave. After this special provision, Vacation Leave is credited in accordance with the provisions above.

Employees are encouraged to take all of their Vacation Leave - In scheduling vacations, supervisors shall use the following guidelines in determining who can have vacation when more than one person has requested Vacation Leave:

1. The person with the most seniority will be given first priority.
2. When a person takes Vacation Leave they will be placed on the bottom of the seniority list (for the purpose of scheduling vacations) to insure that all employees have an opportunity to take an occasional vacation at this time of year.
3. Consideration of the personnel needs of the department.

Vacation leave is accrued by hire date. If an employee does not or cannot take all earned vacation leave by their anniversary date in a given year, they may carry over into the next year only the amount of vacation accrued in that year. Any vacation leave in excess of one year that an employee has accumulated shall be forfeited. The city secretary or staff appointed to do so, shall notify the employee's supervisor of this possibility beforehand, however, it is the responsibility of the employee to know how many days of vacation leave they have accumulated and to know when they are in danger of losing accumulated leave under this policy.

The only exception will be in the event that an employee has scheduled a vacation and the city had to cancel the vacation for any reason and it can't be rescheduled before the anniversary date, and as a result of the denial the employee would lose the time under this policy. In such cases the City Manager will notify the employee concerned in writing of the earliest possible date that the Vacation Leave can be taken and that it must be taken within ninety (90) calendar days of the date specified, or the employee may request to be paid for the time in lieu of taking the Vacation Leave.

Upon separation in good standing, an employee shall be paid for all unused, accrued vacation leave up to, but not to exceed, the equivalent of two years of accumulated vacation leave.

\* \* \* \* \*

**Section 11.** That exhibit B, to Article 9.02, Personnel Policies, containing the city personnel policies, as amended, be and it is hereby amended by adding an additional holiday, Christmas Eve, immediately before Christmas Day, to the subsection entitled "General Policy," under the section entitled "Holidays," to hereafter read as follows:

### **HOLIDAYS**

GENERAL POLICY: The following are observed as paid holidays for regular employees of the City of Flatonia:

New Year's Day  
Martin Luther King, Jr. Day  
Good Friday  
Memorial Day  
Independence Day  
Labor Day  
Veteran's Day  
Thanksgiving Day  
Day after Thanksgiving  
Christmas Eve  
Christmas Day

\* \* \* \* \*

**Section 12.** That exhibit B, to Article 9.02, Personnel Policies, containing the city personnel policies, as amended, be and it is hereby amended by replacing the section entitled "Discipline," to hereafter read as follows:

**DISCIPLINE**

**MISCONDUCT.** Disciplinary action will be taken against an employee for misconduct. The type or severity of disciplinary action, up to and including termination, is left to the discretion of the immediate or direct supervisor, with the approval of the City Manager. Misconduct requiring disciplinary action, pursuant to the progressive discipline policy of the City of Flatonia, includes, but is not limited to the following:

Insubordination;

Absence Without Leave including absence without permission, failure to notify a supervisor of sick leave, and repeated tardiness or early departure;

Endangering the Safety of the Employee and/or Other Persons through negligent or willful acts;

Intoxication or Drug Abuse while on duty or while on City property or in a City vehicle;

Unauthorized Use of Public Funds or Property;

Violation of the Requirements of These Personnel Policies;

Conviction of a felony;

Conviction of Official Misconduct or oppression or of perjury;

Falsification of Documents or Records;

Unauthorized Use of Official Information or unauthorized disclosure of confidential information;

Unauthorized or Abusive Use of Official Authority;

Sexual Harassment by any City employee;

Failure to Observe the City's Policy or Procedures Regarding Communications with the public;

Incompetence or Neglect of Duty, including Neglect that Jeopardizes the Life or Property of Another;

Disruptive Behavior which impairs the performance of others;

Mismanagement of Position by Action or Inaction;

Intentional Wrongdoing or Malfeasance;

Intentional Violation of a Law; or

Violation of a Rule or Policy Adopted to Ensure Orderly Work and the Safety of Employees.

**PROGRESSIVE DISCIPLINE:** The City uses a progressive system of discipline. Supervisors, including the City Manager, may take disciplinary action, including dismissal, affecting an employee at any time. The frequency and/or severity of the discipline depend upon the nature of the infraction. The range of disciplinary action includes but is not limited to:

1. Oral Warnings, with a record of each warning maintained by the supervisor;
2. Written Reprimands, which the supervisor must in all cases cause to be transmitted to the City Manager and then to the employee's personnel file;
3. Suspension from duty, with or without pay, for up to thirty (30) days and renewable after informal review of the circumstances;
4. Separation by involuntary dismissal.
5. Actions other than oral or written warnings require the approval of the City Manager.

Except in the case of oral warnings, disciplinary action must be accomplished or preceded by oral or written notice to the employee involved. Notice includes a description of the reason for the action and, except in the case of dismissal, states the likely consequences of further unsatisfactory performance or conduct. Written notice of disciplinary action is included in the employee's file. In the discretion of the City Manager, dismissal may be the appropriate disciplinary action even if no prior oral or written warning has been given to the employee, based on the reason for the disciplinary action. In the case of misconduct, dismissal may be the appropriate disciplinary action without prior disciplinary action for the same action or inaction by the employee. In such cases, the notice required hereby shall be a written description of the reason or reasons for the dismissal and shall be delivered to the employee by the City Manager.

Disciplinary action, other than dismissal, does not automatically or permanently disqualify an employee from consideration for future promotion, pay increases, commendations, or other beneficial official personnel actions.

**Section 13.** That exhibit B, to Article 9.02, Personnel Policies, containing the city personnel policies, as amended, be and it is hereby amended by replacing the subsection entitled "Dismissals," under the section entitled "Separations," to hereafter read as follows:

### SEPARATIONS

\*\*\*\*\*

**DISMISSAL:** A new employee may be dismissed at will, with or without cause, at any time during the probationary period. Ordinarily, dismissal during probation occurs when, in the judgment of the supervisor and the City Manager, the quality and performance of the employee's work does not merit continuation on the City staff.

All employees are employed at will and may be dismissed with or without cause at any time during their employment.

An employee who has completed his or her initial probationary period may be dismissed for any reason by the City Manager. In some departments and under some circumstances, the City Manager may delegate dismissal authority to the department head, but the City Manager's signature is required on all personnel action forms involving dismissal.

Prior to dismissal, a regular employee who has satisfied the probationary period will be given an oral or written notice of the reason and the employer's evidence and will be granted an opportunity to present to the City Manager reasons why dismissal should not occur. Reasons can be presented to the City Manager orally or in writing at the employee's option.

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**Section 14.** That exhibit B, to Article 9.02, Personnel Policies, containing the city personnel policies, as amended, be and it is hereby amended by deleting the word “just” in paragraph two and the word “progressive” in paragraph three within the subsection entitled “Grievance Policy,” under the section entitled “Greivances,” to hereafter read as follows:

**GRIEVANCES**

GRIEVANCE POLICY: It is the policy of the City insofar as possible to prevent the occurrence of grievances and to deal promptly with those which occur. No adverse action will be taken against an employee for reason of his or her exercise of the grievance right.

A grievance may be filed by an employee on one (1) or more of the following grounds: improper application of rules, and procedures (but not the rules, regulations, and procedures themselves); unfair treatment; sexual harassment; illegal discrimination based on race, religion, color, sex, age, handicap, or national origin; disciplinary action taken without cause; improper application of fringe benefits; or improper working conditions.

The City of Flatonia follows a grievance procedure which ensures the employee due process in the City’s consideration of his or her work-related grievances; the right to be represented, the right to mount a defense, and the right to written response(s) regarding resolution of the grievance.

\* \* \* \* \*

**Section 15.** That Chapter 9, Personnel, should be amended to add a concluding paragraph at the end of exhibit B to read as follows:

This employee policy handbook is a general guide, and the provisions of this handbook do not alter the at-will employment relationship or constitute an employment agreement, a contract or a guarantee of continued employment. The City of Flatonia reserves the right to change the provisions of this handbook at any time and without prior notice. The provisions contained in this policy manual are applicable to all employees. Any promises which conflict with the provisions in this policy manual are effective only if in writing and signed by the City Manager.

**Section 16.** Chapter 9, Article 9.01, Code of Ordinances, City of Flatonia, Texas, shall, except as amended herein, remain in full force and effect.

**Section 17.** Chapter 9, Article 9.02, Exhibit B, Code of Ordinances, City of Flatonia, Texas, shall, except as amended herein, remain in full force and effect.

**Section 18.** Any articles, sections or subsections of the Code of Ordinances, City of Flatonia, Texas, inconsistent with the provisions hereof are hereby expressly repealed.

**Section 19.** If any provision, section, subsection, sentence, clause or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portions or sets of circumstances shall not be affected hereby, it being the intent of the City Council in adopting this Ordinance that no portion thereof or provisions or regulation contained herein shall become inoperative or fail by reason of an unconstitutionality and all provisions of this Ordinance are declared to be reasonable.

**Section 20.** This ordinance shall be effective upon the publication of the caption hereof in accordance with law.

**PASSED AND APPROVED** on this the **10th day of July, 2012.**

CITY OF FLATONIA, TEXAS

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Scott Mica  
Mayor

ATTEST:

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Melissa Brunner, TRMC, CMC  
City Secretary

Approved as to form:

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Maria Angela Flores Beck  
City Attorney



# Flatonia City Council

Staff Report

May 11, 2021 Council Meeting

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## DELIBERATION AGENDA

**DA5.1-2021.6**

**Agenda Item:** Discussion related to request for HOT funds for Lyric Theater

**Background:** A request was made at the last City Council Special Meeting for the consideration of Hotel Occupancy Funds (HOT).

As part of its obligation under state statutes (primarily V.A.T.S. Tax Code, Section 351.101) to use local hotel occupancy tax funds for attracting and promoting tourism and the convention and hotel industry, the City has existing contractual agreements with the Flatonia Chamber of Commerce, Flatonia Special Projects and the E.A. Arnim Archives and Museum on February 15, 2017 (effective April 1, 2017 through September 30, 2020) and on August 23, 2020 (effective October 1, 2020 through September 30, 2021.)

In exchange for compensation by the City, the Flatonia Chamber of Commerce, The Arnim Museum, and Flatonia Special Projects each agree that any local hotel occupancy tax funds paid to it by the City shall be used in accordance with State law, including but not limited to the applicable provisions of Subchapter B, Section 351.101 of the Texas Tax Code. The same is requested on behalf of the Lyric Theatre.

Each existing recipient has agreed to conduct a continuing program of advertising and promotion for the purpose of attracting visitors, tourists and conventions to the local area and to the City by publishing and distributing brochures and community information packets, by advertising in various tourist publications and general media publications which are appropriate, by representing the City at travel shows and other such events, by participating with state and regional agencies in tourist development programs of benefit to the local area and to the City, and by using all appropriate means to increase the traveling public's awareness of the resort and recreational advantages of the local area and to the City.

Each recipient further agrees that it will seek to achieve economic benefit for the City through all of such activities, that it will provide tourist-related information about the City upon request, and that it will serve as an advisory body to the City, on request, in matters related to expanding the tourist-derived economy.

It has been proposed that the Lyric Theatre is seeking to subsidize theatre production costs through the use of HOT funds, and that the result of hosting larger name movies will result in tourism within Flatonia.

## How may hotel occupancy tax revenues be spent by a city?

Hotel occupancy tax revenues are known as “dedicated revenues,” as distinguished from general tax revenues such as property taxes and some sales taxes. General revenues may be spent on nearly any lawful pursuit of a city. Dedicated revenues, however, may only be spent on certain, statutorily defined purposes. Very generally speaking, all expenditures of city hotel tax revenue must promote tourism within the city.

This general rule can be further broken down into two parts (often referred to as the “two-part test”): (a) all expenditures must promote tourism and the convention and hotel industry; and (b) all expenditures must further fall into one of nine statutory categories:

1. the acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of convention center facilities and visitor information centers;
2. expenses associated with registration of convention delegates;
3. advertising, solicitations, and promotions that attract tourists and convention delegates to the city or its vicinity;
4. promotion of the arts;
5. historical restoration or preservation projects;
6. sporting events that promote tourism in counties of less than one million population;
7. enhancing or upgrading existing sports facilities or sports fields (only in certain cities);
8. transportation systems that transport tourists from hotels to the commercial center of the city, a convention center, other hotels, or tourist attractions, provided the system doesn’t serve the general public; and
9. signage directing the public to sights and attractions that are visited frequently by hotel guests in the city. Id. § 351.101.

Further, the Tax Code has some fairly specific provisions relating to how the expenditures within the nine statutory categories should be allocated, depending on the population of the city.

Generally speaking, funding of the arts is limited to no more than fifteen percent of total tax revenues, and a certain portion must be spent on promoting the city and on convention facilities, again depending on the size of the city. Id. § 351.103.

**Revenue:**

Below is a summary of HOT revenues from 2017 to present.

2017: \$95,967.65

2018: \$94,787.99

2019: \$99,127.34

2020: \$85,564.56

2021: \$77,970.74 to date (Q3 2020-Q1 2021)

**Annual Obligations:**

1. Sign ad contract – I-10 at Luling	\$ 8,320
2. Sign ad contract – I-10 at Sealy	\$ 5,395
3. Chamber of Commerce	\$33,750
4. Rail Park	\$15,000
5. E.A. Arnim Museum	\$26,250
6. Fayette County Tourism	\$ 2,500
7. Trips publication	\$ 800
8. Incidentals IE. Tax payments, checks	
	\$92,015

<b>Payments Received in FY 2021</b>									
<b>Payment Received by City</b>					<b>Checks paid to Chamber, Museum and Special Projects</b>				
3Q 2020	Name of Payee	Amount of payment	Date paid	quarter payment is for Jul-Sept	Date Paid	Paid to	Amount		
	Team Housing	\$ -		September	Due October 31			% of collected	Max 75k cap
	Grumpy's Motor	\$ 1,250.27	11/12/2020	September		Chamber	45% \$ 10,861.03		\$ 8,438.00
	Olle Hotel	\$ 633.61	10/13/2020	September		Museum	35% \$ 8,447.47		\$ 6,563.00
	Town Cottages	\$ 76.16	10/14/2020	September		Spec Proj	20% \$ 4,827.13		\$ 3,750.00
	Carefree Inn	\$ 3,255.72	11/2/2020	September		City Retains			\$ 5,384.63
	Best Western	\$ 18,919.87	10/23/2020	September					\$ 18,751.00
		\$ 24,135.63							
<b>Payment Received by City</b>					<b>Checks paid to Chamber, Museum and Special Projects</b>				
4Q 2020	Name of Payee	Amount of payment	Date paid	quarter payment is for Oct-Dec	Date Paid	Paid to	Amount		
	Team Housing	0		December	Due Jan 31			% of collected	Max 75k cap
	Grumpy's Motor	\$ 1,080.17		December		Chamber	\$ 11,008.12		\$ 8,438.00
	Olle Hotel	\$ 1,278.82		December		Museum	\$ 8,561.87		\$ 6,563.00
	Town Cottages	\$ 236.81		December		Spec Proj	\$ 4,892.50		\$ 3,750.00
	Carefree Inn	\$ 2,781.01		December		City Retains			\$ 5,711.48
	Best Western	\$ 19,085.67		December					\$ 18,751.00
		\$ 24,462.48							
<b>Payment Received by City</b>					<b>Checks paid to Chamber, Museum and Special Projects</b>				
1Q 2021	Name of Payee	Amount of payment	Date paid	quarter payment is for Jan - Mar	Date Paid	Paid to	Amount		
	Team Housing	\$ -		March	Due April 30			% of collected	Max 75k cap
	Grumpy's Motor	\$ 2,393.08		March		Chamber	\$ 13,217.68		\$ 8,438.00
	Olle Hotel	\$ 1,578.78		March		Museum	\$ 10,280.42		\$ 6,563.00
	Town Cottages	\$ 126.35		March		Spec Proj	\$ 5,874.53		\$ 3,750.00
	Carefree Inn	\$ 5,159.21		March		City Retains			\$ 10,621.63
	Best Western	\$ 20,115.21		March					\$ 18,751.00
		\$ 29,372.63							
<b>Payment Received by City</b>					<b>Checks paid to Chamber, Museum and Special Projects</b>				
2Q 2021	Name of Payee	Amount of payment	Date paid	quarter payment is for Apr-Jun	Date Paid	Paid to	Amount		
	Team Housing	\$ -		June	31-Jul				\$ 8,438.00
	Grumpy's Motor	\$ -		June		Museum	\$ -		\$ 6,563.00
	Olle Hotel	\$ -		June		Spec Proj	\$ -		\$ 3,750.00
	Town Cottages	\$ -		June		City Retains			\$ (18,751.00)
	Carefree Inn	\$ -		June					\$ 18,751.00
	Best Western	\$ -		June					
		\$ -							
		\$ 77,970.74							

<b>Change effective 10/1/2020</b>				
		Max Payments	75000	working cap current
45%		Chamber	\$ 33,750	\$ 8,438
35%		Museum	\$ 26,250	\$ 6,563
20%		Flatonia Special Projects	\$ 15,000	\$ 3,750
			\$ 75,000	\$ 18,750
		City		\$ 21,717.74
		<b>Total Received FY 21</b>		<b>\$ 77,970.74</b>



# Flatonia City Council

Staff Report  
May 11, 2021 Council Meeting

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## **DELIBERATION AGENDA**

**DA5.1-2021.7**

### **Agenda Item:**

Discussion and consider action on the approval and acceptance of City Secretary Heather Ambrose's resignation effective May 21, 2021.

**Background:** On May 5, 2021, City Secretary Heather Ambrose submitted a letter of resignation to be effective May 21, 2021.

**Recommended Motion:** I move to approve and accept City Secretary Heather Ambrose's resignation effective May 21, 2021.

### **Attachments:**

Resignation letter of Heather Ambrose dated May 5, 2021

May 5, 2021

Sarah,

I have truly enjoyed working with you and the City staff over the past almost 4 months. The City of Flatonia is a beautiful city which I believe will have a bright future.

It is with sadness that I submit this letter as my resignation from the City of Flatonia. You know what is in my heart and that I tried to embody the spirit of boosting Flatonia in my thoughts and actions. My last day of employment will be Friday, May 21, 2021. In the time I have remaining I will work extremely hard to leave everything in a better place than when I arrived. I leave it to you to decide if you wish to share this with the City Council or if you would like me to do so.

Your support has been awesome, and I wish you the very best.

Sincerely,

Heather Ambrose

City Secretary



# Flatonia City Council

Staff Report  
May 11, 2021 Council Meeting

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## **EXECUTIVE SESSION**

**ES5.1-2021.1**

### **Agenda Item:**

As authorized by Texas Government Code 551.074 (Personnel Matters) regarding:

City Attorney Memorandum of Agreement



# Flatonia City Council

Staff Report  
May 11, 2021 Council Meeting

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## **EXECUTIVE SESSION**

**ES5.1-2021.2**

### **Agenda Item:**

As authorized by Texas Government Code 551.071 (consultation with attorney) and 552.072 (deliberations about real property) regarding:

Mutual Settlement and Release Agreement with Flatonia RV Ranch LLC and Roy, Lanell and Troy Kolb and Release of Lien



# Flatonia City Council

Staff Report  
May 11, 2021 Council Meeting

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## **DELIBERATION AGENDA**

**DA5.1-2021.8**

### **Agenda Item:**

Consider and take appropriate action regarding the City Attorney MOA.



# Flatonia City Council

Staff Report

May 11, 2021 Council Meeting

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## **DELIBERATION AGENDA**

**DA5.1-2021.9**

### **Agenda Item:**

Consider and take appropriate action regarding Resolution 2021.5.3 of the City Council of the City of Flatonia, Texas, authorizing a mutual settlement and release agreement and release of lien between the City of Flatonia and the Flatonia RV Park, Roy Kolb, Lanell Kolb and Troy Kolb, authorizing the Mayor to execute the agreement and release, and providing for an effective date of June 1, 2021, or receipt and agreed upon payment, whichever is sooner.