

Administration

City Secretary

Monthly Report

Regular Session of the City Council

February 10, 2020

06:00PM

EXPENSES DISBURSED BY DEPARTMENT [January 1 to 31-2020](#)

Administration:	\$179,908.40
Police:	\$ 13,416.44
Fire Department:	\$ 577.50
Sanitation:	\$ 25,328.45
Parks:	\$ 2,834.32
Municipal Court: Fund	\$ 517.22
10 Total:	\$ 228,184.45

Water and Sewer Dept:	\$ 22,864.90	Non Departmental \$85,875.00 Construction Account and Search Grant Disbursement
Cuff System:	\$ 3,539.97	
Waste Water:	\$ 1,627.26	
Public works Total:	\$113,907.13	
Total for City:	\$ 342,091.58	

SALARIES BY DEPARTMENT

[January 2020](#)

Administration:	\$10,126.52	
Police:	\$26,100.20	
Police Overtime:	\$ 3,849.85	Police Total: \$29,950.05
Parks:	\$3,696.00	
Municipal Court:	\$5,881.38	
Fund 10 Total:	\$49,653.95	
Water and Sewer Dept:	\$32,987.69	
Total for City:	\$82,641.64	



City of Seagraves

www.seagravestx.us

CITY SECRETARY'S REPORT TO THE COUNCIL

FEBRUARY 10TH, 2020

The fiscal condition of the City is sound, and all obligations are being met on time.

Account Balances as of 01-31-2020

General Fund:	\$ 247,178.92	Economic Development:	\$572,447.78
Street Maintenance:	\$64,980.32	Interest and Sinking Fund:	\$ 36,908.44
Technology Fund:	\$22,456.81	Security Fund:	\$9,700.01
Investment Fund:	\$1,102,276.74	CD 7440:	\$40,496.44
CD 7990:	\$98,536.31	TWDB Construction:	\$9,322.59
USDA Construction:	\$100.00	TexPool Prime:	\$142,96.43

FUND TOTAL: \$2,220,160.44

Public Funds Investment Report. Above is the state of our portfolio as of 12-31-19. A principal and interest payment of \$174,647.00 was made on the TWDB Certificate of Obligation and the city is in line to meet the interest payment due in August. Positive Pay (a security feature that interfaces with our bank protecting the city from check fraud) has been implemented. The Federal Reserve lowered interest rates three times last year in order to mitigate some risks posed by slowing global growth and international trade uncertainty. December's Federal Reserve Policy meeting minutes indicated most Fed officials don't project any adjustments to the current monetary policy, which is to keep interest rates at their current levels. Not one of the 17 officials currently envision any interest rate cuts in 2020 and only four project a potential rate increase by the end of the year. The Fed indicated inflation will be one of their main areas of focus this year. Inflation has been hovering around 1.6%, slightly below their 2% target. The Fed has already been acting on the softer inflation rate by pumping money into the market thereby providing temporary liquidity. Recently, the Fed has been buying roughly \$60 billion of Treasury bills every month to help keep the economy's momentum going. The Treasury Bill yield curve ended December with 1-month at 1.47%, 3-month at 1.55%, 6-month at 1.59%. Libor ended December with 1-month at 1.76%, 3-month at 1.91%, and 6-month at 1.91%. The weighted average maturity (WAM) at month-end was 35 days for both TexPool and TexPool Prime. The City of Seagraves funds are invested with TexPool Prime with an average yield 1.83%. On January 21 I met with Ms. Stacey Morris-Potter - Chief Operations Officer, David Blackburn – Chief Financial Officer and Keith Owens – Executive Vice President and CIO of First United Bank to discuss security concerns, operational issues and to negotiate an interest rate for our idle funds. I was successful in securing an interest rate of 1.68% which is 2 basis points above the prevailing T-Bill Rate. This rate is not as great as the rate the city has been earning at TexPool but, the difference is negligible. I have, therefore, moved \$500,000.00 from TexPool and deposited the funds in the First United Bank Investment Account. This negotiation will result in annual interest income to the city that will be only \$1,020.00 less than what would be earned at TexPool on those funds. I have acted on this matter in the interest of keeping the city's business with the local financial institution as has been the voiced wish of the council. A balance of \$160,000.00 remains at TexPool and if the market changes, I will renegotiate a return at FUB or be forced to move the funds as required by the Texas Public Funds Investment Act.

Roberts Rules of Order: In a General Law City with a Council-Mayor form of government. The Mayor is the Chief Executive Officer and Conducts all City Council Meetings. The Mayor alone has the authority to grant someone permission to speak (be recognized). The Mayor may allow a motion or not. If the motion is not allowed, discussion of that topic must cease. The Mayor has sole authority to control the agenda. If the Mayor does not want something discussed, it will not be discussed. Anyone wishing to speak, at any time during the session must be recognized by the Mayor before speaking. If the Mayor does not recognize a person, they may not speak. The Mayor may limit the amount of time a person may speak, the topic the person may wish to address and, may stop the person from speaking at any time. In the interest of being able to consider issues brought before the council perhaps the meetings would be more constructive if the council would conduct meetings according to the Robert's Rules of Order. I have included a summery version of the rules. I will advise that you please take time to look them over.

Legislative Update: Last month I attended a training session conducted by the Texas City Management Association. Part of that training addressed new laws enacted by the 2019 State Legislature. The following are a few items that have had penalties and consequences stiffened.

SB 1640 "Walking Quorum" Revised a criminal provision of the TOMA. The Texas Court of Criminal Appeals concluded that the "criminal conspiracy" provision (that is, "a member or group of members of a governmental body commits an offense if the member or group of members knowingly conspires to circumvent the act by meeting in numbers less than a quorum for the purpose of secret deliberations making it a criminal offense to knowingly engage in a series of communications that involve deliberation of a quorum outside of a properly called meeting. "A member of a governing body who willingly engages in at least one communication among a series of communications that each occur outside of a meeting authorized by the act and that concern an issue within the jurisdiction of the governmental body in which the members engaging in the individual communications constitute fewer than a quorum of members but the members engaging in the series of communications constitute a quorum of members; and(2)AA knew at the time the member engaged in the communication that the series of communications:(A)AA involved or would involve a quorum; and(B)AA would constitute a deliberation once a quorum of members engaged in the series of communications Section551.143, Government Code, as amended by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.SECTIONA5.AAThis Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2019. Section 551.143 provides as follows:(a)A member or group of members of a governmental body commits an offense if the member or group of members knowingly conspires to circumvent this chapter by meeting in numbers less than a quorum for the purpose of secret deliberations in violation of this chapter.(b)An offense under Subsection (a) is a misdemeanor punishable by:(1)a fine of not less than \$100 or more than \$500;(2)confinement in the county jail for not less than one month or more than six months; or both fine and confinement.

House Bill 2840: Public Comment on Agenda Items gives the public the right to speak on an item on the agenda at an open meeting of the following municipal governmental bodies:

- a city council;
- a deliberative body that has rulemaking or quasi-judicial power and that is classified as a department, agency, or political subdivision of a city (e.g., probably a city's board of adjustment); and
- the governing body of a special district created by law (Each city should consult local legal counsel as to the applicability of this provision. *See, e.g., Sierra Club v. Austin Transp. Study Policy Advisory Committee*, 746 S.W.2d 298 (Tex. App. —Austin 1988, writ denied (concluding that Austin transportation advisory committee was a "special district")). the bill allows a citizen to speak throughout a meeting on agenda items before a vote, not only in the time designated by the city. Government Code Section 551.007(b) provides that "A governmental body shall allow each member of the public who desires to address the body regarding an item on an agenda for an open meeting of the body to address the body regarding the item at the meeting *before or during the body's consideration of the item.*" TEX. GOV'T CODE § 551.007(b)

The legislature typically uses the word "or" as a disjunctive. *See Spradlin v. Jim Walter Homes, Inc.*, 34 S.W.3d 578, 581 (Tex. 2000). "It separates words or phrases in the alternate relationship, indicating that either of the separated words or phrases may be employed without the other." *Jones v. State*, 175 S.W.3d 927, 932 (Tex. App.—Dallas 2005, no pet.) (citing *Perez v. State*, 11 S.W.3d 218, 225 (Tex. Crim. App. 2000)). The legislature's use of the disjunctive here evidences its intent to allow the governmental body to decide at which point in the meeting a member of the public speaks.

Section 551.007(b) does not grant a member of the public the right to speak *both* before and during the governmental body's consideration of an item. Moreover, a member of the public has no right under Section 551.007(b) to speak *after* the body's consideration of an item. *See also* TEX. GOV'T CODE § 551.007(c) (authorizing the governmental body to adopt "rules concerning the public's right to speak at an open meeting"), TEX. LOC. GOV'T CODE § 22.038(c) ("The governing body shall determine the rules of its proceedings"), Tex. Att'y Gen. Op. No. DM-473 (1998).

Senate Bill 944 adds additional procedures and exceptions to the Public Information Act (PIA).

Of primary importance, the bill defines a "temporary custodian" and creates a procedure to deal with public information held by a temporary custodian. In plain English, the bill relates to the PIA and how it applies to information held by a city official in a private electronic account or on a private device. That such information is subject to the PIA has been settled law for years. The key change made by the bill is that it provides civil and criminal mechanisms for a requestor to force a city official to turn over that type of information.

A temporary custodian is a current or former officer or employee of a governmental body who, in the transaction of official business, creates or receives public information that the officer or employee has not provided to the officer for public information of the governmental body or the officer's agent. TEX. GOV'T CODE § 552.003(7).

A temporary custodian does not have a personal or property right to public information that was created or received while acting in their official capacity. *Id.* § 552.233(a).

A temporary custodian who has public information on a privately owned device is required to either: (1) forward or transfer the public information to the governmental body or a governmental body server to be preserved for the required record retention schedule; or (2) preserve the public information in its original form on the privately owned device and in a backup or archive for the required record retention

schedule. *Id.* § 552.004(b)-(c). In Letter Ruling No. OR2001-1790, the attorney general's office concluded that information is generally "public information" when it relates to the official business of a governmental body or is maintained by a public official or employee in the performance of official duties, *even though it may be in the possession of one person*. Citing the preamble of the PIA, the opinion states that "it is the policy of this state that each person is entitled, unless otherwise expressly provided by law, at all times to complete information about the affairs of government and the official acts of public officials and employees." The opinion cited Tex. Att'y Gen. ORD-635 (1995) for the proposition that

Records that [are] clearly related to official business are public records subject to the act regardless of whether an individual member of a governmental body, the governmental body's administrative offices, or the custodian of records holds the records. If a governmental body could withhold records relating to official business simply because they are held by an individual member of the governmental body, it could easily and with impunity circumvent the act merely by placing all records relating to official business in the custody of an individual member. The legislature could not have intended to permit governmental bodies to escape the requirements of the act so easily.

What are some methods and best practices for complying with record retention requirements for electronic information held on a personal device or account? Various options

exist for retention compliance. For example, in relation to e-mails on a personal device or account, a city official could: (1) copy all city-related correspondence to a city email address for appropriate archiving by city staff; or (2) save all city-related correspondence in a file on the device or account in accordance with the city's records retention schedule.

With regard to texts, a city can: (1) issue city phones to officials and employees, adopt a policy that all city-related business must be conducted on them, and develop an archiving system for the phones; (2) ask the temporary custodian to provide a screenshot of texts that must be retained; or (3) use third-party software to automatically capture each text message sent and received into a repository or into an e-mail sent to the governmental entity. With regard to (3), city officials should be very wary of vendors seeking to sell them archiving software. While some cities may decide that type of service is needed, many can comply with the law without the additional expense. Of course, one key aspect of retention is the "administratively valuable" designation. That designation means, assuming information doesn't fall under a specific retention period in a city's records retention schedule, it can be deleted when it is no longer needed. Many texts will fall under this category.

With regard to social media, a city official can: (1) copy and paste social media post into a word processing program or taking screen shots of content; or (2) purchase software that captures social media records.

What is a temporary custodian required to do if the city's public information officer receives a request for public information that includes public information in his/her possession, custody, or control?

A temporary custodian is required to surrender or return public information that is in his/her possession, custody, or control not later than the 10th day after the date the public information officer requests that the temporary custodian surrender or return the public information. TEX. GOV'T CODE § 552.233(b). If the temporary custodian fails to surrender or return the public information requested by the public information officer, the governmental body will have grounds to discipline an employee that is a temporary custodian. *Id.* § 552.233(c) Also, the temporary custodian will be subject to any penalties provided by the PIA or other laws. This is the key legal modification made by S.B. 944: According to the attorney general's office, it overrules the cases discussed in question 6, above, by inserting a method for a requestor to obtain information from the temporary custodian if he or she refuses to provide it. For example, a temporary custodian can be subject to a writ of mandamus under section 552.321 of the

Government Code or criminally charged with failure to provide access to public information under section 552.353 of the Government Code.

Public Hearing Scheduled: As a part of the application process with the USDA for the waste-water improvement project, a Notice of Intent to Apply and a Public Hearing must be published in the Legal Notice section of the news paper and the hearing must be held. A notice published last march used the words Water Supply and Waste Water in error. To correct this, the USDA representative that has been working with the city on this project asked that the correct language be published and that the public hearing be held on the 10th of February. It does not seem necessary for any of the council to be present. I will be here and take minutes of any comments and to collect any written materials. I will report at the meeting but, any of you that wish to attend are welcome.

CITY OF SEAGRAVES**ADMINISTRATIVE REPORT FEBRUARY (2020)**

ACTIVE ACCOUNTS	882
NEW ACCOUNTS	10
DEPOSIT TOTALS	\$900.00
SERVICE CHARGE TOTALS	\$100.00
FINAL ACCOUNTS	13
NEW METER LISTINGS	0
WATER TAP	1
SEWER TAP	1
PAVEMENT CUTS	1
TOTAL TAP CHARGES	\$550.00
10-131 SANITATION TOTAL BILLED	\$31,853.40
10-316 SANITATION REVENUE	\$29,687.01
10-213 SALES TAX PAYABLE	\$2,166.39
20-132 WATER AND SEWER BILLED	\$66,644.76
20-301 WATER REVENUE	\$54,087.19
20-303 SEWER REVENUE	\$12,557.57
TOTAL NET (DECEMBER 15- JANUARY 15)	\$98,498.16
ONLINE BILL PAY USERS	55
POS RETAIL USERS	0
AUTO-PAY ACCOUNTS (DRAFTS)	114
BUILDING PERMITS	1
ELECTRICAL PERMITS	0
MECHANICAL PERMITS	0
MOBILE HOME INSTALLATION	1
PLUMBING PERMITS	2
PET LICENSES	0
IMPOUND FEES	0
PET ADOPTION	0
VENDOR PERMITS	1
TOTAL PERMIT AND LICENSE	\$270.00