

**BASTROP CITY COUNCIL
MINUTES OF REGULAR MEETING
January 28, 2014 at 6:15 pm**

Pursuant to the Texas Government Code, Chapter § 551, the City Council of Bastrop, Texas held a Regular Meeting on Tuesday, **January 28th, 2014 at 6:15 p.m.** at the Bastrop City Hall Council Chambers located at 1311 Chestnut Street in Bastrop, Texas to consider the following matters:

1. **CALL TO ORDER** - Mayor Terry Orr called the meeting to order at 6:15 p.m. A full quorum was present: Council Members Ken Kesselus, Kay Garcia McAnally, Dock Jackson, Willie De La Rosa and Mayor Pro-Tem Joe Beal.
2. **PLEDGE OF ALLEGIANCE AND INVOCATION** – City Manager Mike Talbot led the Pledge of Allegiance and Police Chief Steve Adcock introduced the Chaplain who led us in prayer.
3. **PRESENTATIONS**
4. **PROCLAMATIONS**
5. **ANNOUNCEMENTS**

COMMERCIAL – The City of Bastrop will be featured in an HEB commercial during this year’s Super Bowl and can be viewed at <http://www.youtube.com/watch?v=k9YShHkvQB8&feature=youtu.be>.

MAYOR BREAKFAST – Mayor Terry Orr invited everyone to the Mayor’s Prayer Breakfast on Wednesday, March 5th, 2014 at 6:45 am at the First United Methodist Fellowship Hall located at 1201 Main Street. It is sponsored by the Bastrop Christian Ministerial Alliance.

CHAPLAIN SERVICES- Council Member Ken Kesselus stated that he contacted the Police Department about a recent death and the Police Officer offered to have a Chaplain come to the home and offer prayer. Council Member Ken Kesselus stated he was “impressed” that the Chaplain was on call and he thanked Police Chief Steve Adcock “it was truly wonderful.”

CITY MANAGER’S REPORT - There were no citizen comments; therefore Mayor Orr introduced City Manager Mike Talbot who presented his bi-weekly City Manager’s report dated January 28, 2014, he offered additional insight on the following items:

#6 Discussion and Review Regarding an Inquiry for Rezoning the 800 Block of Building Block 18 EW which is located between Paul C, Bell Street and Jefferson Street. Via a letter received by the City Manager in December 5, 2013, the property owners located at 901, 905, and 907 College Street, requested that their property be rezoned from a residential-single-family 7 to a commercial c-1 zoning. City Manager Mike Talbot provided a map of the area that reflected the majority of the west area was zoned as C-2 Commercial-2. The City Council had the option of initiating the rezoning as requested in the letter, refer the matter to the Planning and Zoning Commission for their evaluation and recommendation or advise the property owner’s go to the Planning Department and file the application to have their property re-zoned. City Manager Talbot requested the City Council’s direction on the matter, at which time the Council Members held a discussion on the procedures outlined by the City Manager.

Mayor Terry Orr expressed concern since the request had not gone through the regular process of sending it to the Planning and Zoning Commission for their review and recommendation. Mayor Orr questioned why the Council was considering the request as it had not gone through the regular process.

Mayor Pro-Tem Joe Beal stated that there was a process and acknowledged that the property owners had submitted their request in writing therefore the City Council should consider their request. It seems that the City Council has in their power to respond to the property owners and initiate their zoning request. Mayor

Pro-Tem Beal stated he had no problem in putting this through. City Manager Mike Talbot requested the City Council's Direction in respect to the rezoning request.

MOTION - Mayor Pro-Tem Joe Beal made the motion to direct the City Manager Mike Talbot to make the zoning change from a "Residential-Single-Family-7" to a "Commercial C-1 Zoning" and have the City Manager contact the property owners of the other two parcels.

SECONDED - Council Member Kesselus seconded the motion

ABSTAINED - Council Member DeLaRosa, stated he was related to a member of the requesting party.

Mayor Terry Orr stated that the process offers checks and balances and we as City Council are the final approval of these items and he values the judgment of the City Council. Checks and Balances have made our City a good function and he is disturbed that we have not followed these checks and balances. There was no response to Mayor Orr's invitation for public comment.

MOTION PASSED with a vote of 4-1 (Abstention)

A. CONSENT AGENDA

All of the following items on the Consent Agenda are considered to be self-explanatory by the Council and will be enacted with one motion. There will be no separate discussion of these items unless a Council Member(s) so request.

- A.1 Approval of meeting Minutes for the Regular Council Meetings held January 14, 2014 and the Special Utility Workshop Meeting held on January 21, 2014.
- A.2 Approval of the statutory denial, for a period of 180 days from the date of Council action on this request, for the Amended Plat of the Lazy "B" and "J" Subdivision, Lots 1 and 2 consisting of approximately 12.809 acres within Area A of the Extra Territorial Jurisdiction (ETJ) of Bastrop, Texas.
- A.3 Approval of an extension for the statutory denial, for an additional period of 180 days effective February 8, 2014, for The Grove Preliminary Plat creating 8 commercial lots south of Highway 71 West and east of Highway 304 and Centers of Woodland Shopping Center within the City limits of Bastrop, Texas.
- A.4 Board appointment by Mayor Terry Orr and confirmation by the Bastrop City Council Members on the appointment of CARLTON HARRIS as Place 1 Member to the HOUSING AUTHORITY; a 3-year term to commence on January 2014 through January 2017.
- A.5 Board appointment by Mayor Terry Orr and confirmation by the Bastrop City Council Members on the appointment of DIANNA BURLEY as the Place 3 Member to the ART IN PUBLIC PLACES TASK FORCE.

Mayor Terry Orr requested a motion to approve the items on the consent agenda.

MOTION – Council Member Kay Garcia McAnally

SECONDED - Council Member Willie DeLaRosa

MOTION PASSED –Unanimous vote of 5-0.

Council Member Dock Jackson's noted that Mr. Carlton Harris and his family were in attendance. Mayor Terry Orr acknowledged the newly appointed Member to the Housing Authority and stated that he looked forward to his participation.

B. PUBLIC HEARINGS AND ORDINANCES AND OTHER ITEMS ELIGIBLE FOR CONSIDERATION AND/OR ACTION – No items for consideration.

C. **OLD BUSINESS** – No items for consideration.

D. **NEW BUSINESS**

D.1 CONSIDERATION, DISCUSSION AND POSSIBLE ACTION ON A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, IN SUPPORT OF A FAIR ALLOCATION OF COLORADO RIVER RESOURCES.

City Manager Mike Talbot requested the City Council consideration and approval of the Resolution before them which states that a proper allocation of water that keeps that water quality and does not restrict water flow has already been approved by the Bastrop County Commissioners.

Mayor Pro-Tem Joe Beal noted that the intent of the Resolution (*from his understanding*) “is to put TCEQ on notice on their recent policy decisions with the LCRA, who seem to only consider the river upstream. Most policies disregard the river’s health and focused on the lakes visual appearance. Unfortunately, TCEQ approved the LCRA’s policies and now the LCRA will attempt to take action, which will reduce the downstream usage and will affect the City of Bastrop. He recommended approving the Resolution and suggested rewording the last paragraph to change “instead of urging TCEQ” to “request that TCEQ reconsider their action.” He noted that it would be appropriate to forward this to the Chairman of the LCRA with an appropriate cover letter.

Council Member Kay Garcia McAnally requested clarification on the impacts of implementing the LCRA’s policy. Mayor Pro-Tem Joe Beal explained that the implementation of the LCRA’s policy would reduce the water flow to the Colorado River; the reduction of water would decrease the lack of oxygen on the river’s algae and fish, which are instrumental to a healthy river. The policy change will also affect our City’s water supply which will be apparent during the summer time. Mayor Pro-Tem Joe Beal added that the release of water would benefit the Rice Farmers. The long term impact to the river and our community should be taken into consideration.

Mayor Pro-Tem Joe Beal stated that he agrees that the Bastrop County Representative at LCRA is one of the eight that voted in favor of this and against the seven who did not want to take this action.

Council Member Kay Garcia McAnally requested to know more about the Policy. Mayor Pro-Tem Joe Beal referenced the LCRA website for additional information.

Council Member Ken Kesselus recommended that we approve the Resolution and recommended that it would be appropriate to send a copy to the LCRA Board President, and a Special Letter to the Bastrop County Director.

City Manager Mike Talbot noted it would be honorable to send a copy to Senator Kirk Watson and invite the LCRA to attend a future City Council Meeting.

MOTION - Mayor Pro-Tem Joe Beal made the motion to approve the Resolution and update the last paragraph; instead of “urging TCEQ” change it to say “we request that TCEQ reconsider their action.” Also, extend an invitation to the LCRA Board to attend and discuss this matter further with the City Council.

SECONDED - Council Member Willie DeLaRosa seconded the motion with the request that it reflect the exact wording.

ABSTAINED - Council Member Kay Garcia McAnally elected not to vote due to insufficient information.

MOTION PASSED with a vote of 4-1 (Abstention).

D.2 CONSIDERATION, DISCUSSION AND POSSIBLE ACTION ON A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, RELATED TO OWNERSHIP AND/OR SALE OF CITY OWNED AND OPERATED UTILITIES, INCLUDING WATER, WASTEWATER AND ELECTRIC UTILITIES.

Council Member Willie DeLaRosa requested the Council Members consideration to approve the Resolution that enables the City to continue its ownership and operation of the City's Public Utility Systems; which provides revenues and savings for the City and allows the Council the flexibility to adjust/minimize the City's tax rate. This Resolution allows a safety net for our citizens.

In 1941, the City created the Bastrop Power & Light for electric services and with Federal Funding the City established the Public Water System and added wastewater services several years later.

However, in 1985 the City sold the Water Supply System to Aqua but the City began to revitalize our potable water with the use of the City's owned and operated water well fields. This allows the City to take control of the costs of public utility services it provides to its citizens.

MOTION – City Council Member Willie DeLaRosa made a motion to approve the Resolution.

PROPOSED AMENDMENT - Council Member Kesselus proposed an amendment to the Resolution that will allow the City Manager to prepare the necessary documents to propose an amendment to the City Charter and include the words "sale" and/or "transfer" of any City Utility must have the vote of the Bastrop Citizens.

PROPOSE to AMEND THE AMENDMENT - Council Member Kay Garcia requested to amend the amendment and add something very similar that "the City Council and the City of Bastrop hereby memorializes its findings that the citizens and taxpayers of the City of Bastrop that any change in ownership" and I would like to add "control or operations of any public utility that is owned or operated by the City of Bastrop and that the City should approve any change of ownership".

MOTION CONTINGENT ON APPROVAL OF AMENDMENT

Mayor Pro-Tem Beal asked the Council to keep this in mind, because certain elements of our utilities are operated by others; because it is cheaper. He suggested thinking through Council Member McAnally's suggested wording and make sure we don't shoot ourselves in the foot.

City Attorney JC Brown and suggested to Council Member McAnally that we insert the word control, just like we have in the last sentence there and strike operations because the point is that we do contract out sometimes to have others assist us in the operations.

City Manager Mike Talbot noted that an example is that we contract out the operations of our substations.

Mayor Terry Orr stated that we continue to argue the original support of the Resolution; if we can stress the ownership idea then he was fine. He noted that he was somewhat confused about changing the Charter, he has been under the impression that change to the Charter can be done every ten-years. Perhaps we can initiate a change to the Charter and if we do, I hope it is in a manner that is economically viable with another election. He thinks the Resolution shows intent a lot of detail and he thinks it is sufficient to task what he thinks is the real driving force and identifies any change of ownership will require a vote of the citizens of Bastrop.

City Manager Mike Talbot recommended that he provide the City Council members with a report of the process and what steps we must take to conduct a Charter amendment.

Council Member Willie DeLaRosa requested the City Attorney's input on amending the City Charter. City Attorney JC Brown stated that our City Charter notes that we do have an obligation to review it for

internal inconsistencies or issues and the City Manager reports to the Council about any problems with interpretation or clarification. We have a minimum requirement to do that maybe every decade, however a Charter can be amended anytime the Council initiates a Charter amendment –it’s not tied into any specific time frame. There are certain steps that have to be taken, however there is nothing prohibiting us from doing so. The time frame is less and we can hold a Charter amendment election concurrent with another election.

AMEND THE AMENDMENT – Mayor Pro-Tem Joe Beal requested the City Attorney’s input on how to go about to amend the amendment.

AMENDMENT ON THE FLOOR - Council Member Dock Jackson noted that we had a motion and amendment on the floor.

OFFER OF A SECOND AMENDMENT – Mayor Pro-Tem Joe Beal offered a second amendment, which will be that we approve the motion as originally stated by Council Member DeLaRosa and that we ask the City Manager to provide the Council with the process and schedule for creating a change to the Charter which would have the same intent as Council Member’s original motion.

CLARIFICATION OF AMENDMENT - Council Member Ken Kesselus acknowledged that that his Amendment was similar to Mayor Pro-Tem Beal’s amendment. Mayor Pro-Tem clarified the amendment due to the suggested change by Council Member McAnally.

WITHDRAW MOTION ON PROPOSED AMENDMENT - Council Member Ken Kesselus withdrew his motion to amend the Resolution.

Council held a brief discussion; Mayor Terry Orr requested a motion to approve the resolution.

MOTION – Council Member Willie De La Rosa made the motion to approve the Resolution and change the word “conscious” to “conscientious” in the 6th paragraph on page one.

SECONDED – Council Member Kay Garcia McAnally seconded the motion.

ABSTAINED – Mayor Pro-Tem Joe Beal stated he was unclear on what he was voting on.

MOTION PASSED with a vote of 4-1 (Abstention)

D.3 CONSIDERATION, DISCUSSION AND POSSIBLE ACTION ON THE PRESENTATION ON THE AUDIT PERFORMED OF THE COMMUNITY BY THE PARKS BOARD TO DETERMINE LOCATION FOR A PROPOSED SKATE PARK.

Public Works and Parks Director Trey Job addressed the City Council with consideration to his request and acknowledged the Members of the Parks Board were in attendance. The Parks Board Member Lee Harle addressed the City Council with their recommendation for the location of the Bastrop Skate Park. After careful evaluation of five locations within the City limits, the Board members recommended Fisherman’s Park for the City’s Skate Park. This location met all the criteria used for scoring: Compatibility, proximity to pedestrian routes/public transportation, existing facilities, access to restrooms and drinking water. Mr. Dildine thanked the Board Members for their efforts acknowledged the supporters who attended the meetings and offered their expert opinion. He also acknowledged the efforts and support of the City’s Public Works Director Trey Job.

Mayor Terry Orr invited Public Comments.

Public Comments were made by Mr. Joe Sims a veteran skate boarder with extensive experience and Ms. Elizabeth Sims mother of an avid skate boarder and Municipal Sign Review Board Member Mr. Herb Goldsmith who were all in support of the Skate Park at the Park Boards recommended location of Fisherman’s Park.

Mayor Terry Orr once again extended his invitation to Public Comment.

City Attorney JC Brown responded to clarification of a Public Hearing vs a Discussion and she noted that the City Council may invite input at their leisure; a Public Hearing and a Discussion are not the same. City Attorney JC Brown also noted that this discussion had met the legal requirement.

Mayor Pro-Tem Joe Beal requested to have comments on the discussion noted, which was confirmed by City Attorney JC Brown.

City Manager Mike Talbot concurred with the Parks Board recommendation and requested the City Councils approval on Park Boards site recommendation.

Mayor Terry Orr added his own appreciation to the Members of the Parks Board and guests. He stated he expects to have City Council Members out there taking lessons in efforts to show their support.

MOTION – Council Member Dock Jackson made the motion.

SECONDED – Council Member Ken Kesselus seconded the motion.

MOTION PASSED – Unanimous vote of 5-0

E. EXECUTIVE SESSION

E.1 The Bastrop City Council met in a closed/executive session pursuant to the Texas Government Code, Chapter 551, *et seq*, to discuss the following:

1. SECTION 551.071(1) (A) and SECTION 551.071(2) – Consultation with Attorney concerning: (1) potential, pending, threatened, and/or contemplated litigation or claims, including but not limited to “Pine Forest Investments Group, LLC v The City of Bastrop, et al, cause No. 29,052, In the 21st Judicial District Court of Bastrop County, Texas,” and/or (2) matter upon which the Attorney has a duty and/or responsibility to report to the governmental body, concerning same, and/or any other matters posted on the agenda.
2. SECTION 551.072– Deliberation regarding real property: Regarding the purchase, exchange, lease, disposition, or value of real property.

E.2 The Bastrop City Council will reconvene into open session to discuss, consider and/or take any actions necessary related to the executive sessions noted herein, or regular agenda items, noted above, and/or related items.

At 8:44 pm, Mayor Orr convened the Bastrop City Council into Executive Session. Mayor Orr reconvened the Bastrop City Council into open session to discuss, consider and/or take action(s) necessary related to the Executive Session noted herein at 8:45 pm.

No Action was taken.

F. ADJOURN

At 8:46pm, Council Member Willie DeLaRosa made the motion to adjourn the meeting. Seconded by Council Member Kay Garcia McAnally and motion was carried unanimously.

APPROVED:



Terry Orr, Mayor

ATTEST:



Elizabeth Minerva Lopez, City Secretary