March 26, 2013

The Bastrop City Council met in regular session on March 26, 2013 at 6:15 p.m. at the Council Chambers of City Hall, 1311 Chestnut Street, Bastrop, Texas. Members present were Mayor Terry Orr and Council Members Ken Kesselus, Kay Garcia McAnally, Joe Beal, Willie DeLaRosa and Dock Jackson.

ANNOUNCEMENTS

1. CALL TO ORDER

At 6:17 p.m. Mayor Terry Orr called the meeting to order with all members present.

2. PLEDGE OF ALLEGIANCE AND INVOCATION

Chief Financial Officer Karla Stovall led the pledges of allegiance to the U.S. and Texas flags. Reverend Bob Long led the invocation.

3. PRESENTATIONS

There were no presentations.

4. PROCLAMATIONS

There were no proclamations.

5. ANNOUNCEMENTS

Mayor Orr stated that the City of Bastrop is a major part of the Vietnam Memorial at the State Capital in Austin because the Monument was cast at the Deep in the Heart Art Foundry. Mayor Orr stated he wanted to take a personal privilege and thank Council Member Joe Beal for his service during the Vietnam War. Mayor Orr stated he is honored to be in the same room with Mr. Beal.

Mr. Beal thanked Mayor Orr and stated that he could not tell him what that meant to him.

CITY MANAGER INFORMATIONAL UPDATE REPORT: ITEMS FOR UPDATE, DISCUSSION AND POSSIBLE ACTION:

A. MEETINGS AND EVENTS ATTENDED:
   1. LOST PINES GROUNDWATER CONSERVATION DISTRICT LEGISLATIVE COMMITTEE ON MARCH 3, 2013.
   2. CITY COUNCIL SPECIAL UTILITY WORKSHOP MEETING ON MARCH 19, 2013.
   3. LOST PINES GROUNDWATER CONSERVATION DISTRICT MEETING ON MARCH 20, 2013.

B. UPDATE ON CITY PROJECTS:
   1. BOB BRYANT PARK WATER FACILITIES IMPROVEMENTS PROJECT.

2. STATE HIGHWAY 71 WASTEWATER PIPE BURSTING PROJECT.
3. FAYETTE STREET WASTEWATER IMPROVEMENTS PROJECT.
4. PECAN PARK SUBIVISION.
5. CONSTRUCTION NOTIFICATION SIGN AREA ON STATE HIGHWAY 71.
6. SHORT-TERM GOALS FOR WATER SUPPLY ESTABLISHED BY THE CITY COUNCIL AT THEIR PLANNING RETREAT OF MARCH 9, 2013.
7. SUBMITTAL OF THE "STRATEGIC PLANNING REPORT" FROM THE CITY COUNCIL PLANNING RETREAT AND ESTABLISHING A DATE WITH RAY & ASSOCIATES TO REVIEW AND DISCUSS THE REPORT.
8. SPECIAL EVENTS ORDINANCE.
9. ALLEY "A" SCHOOL ZONE IMPROVEMENTS.
10. SERVICE ROADS ASSOCIATED WITH STATE HIGHWAY 71/STATE HIGHWAY 20 OVERPASS.
11. SPLASH PAD IMPACT FEES.
12. COVERT PROJECT.

C. UPDATE ON CITY BUSINESS:
1. CONVENTION CENTER ACTIVITIES.
2. MAIN STREET PROGRAM ACTIVITIES.
3. COMMERCIAL/RESIDENTIAL CONSTRUCTION PROJECTS IN THE CITY.
4. YMCA ACTIVITIES.

D. DEPARTMENT AND BOARD REPORTS.

E. INVITING INPUT FROM COUNCIL RELATED TO ISSUES FOR POSSIBLE INCLUSION ON FUTURE AGENDAS, RELATED TO ISSUES SUCH AS (BUT NOT LIMITED TO) MUNICIPAL PROJECTS, PERSONNEL, PUBLIC PROPERTY, DEVELOPMENT AND OTHER CITY/PUBLIC BUSINESS.

City Manager, Mike Talbot stated his written City Manager Report was being distributed to the Council tonight because he had technical difficulties over the weekend. Mr. Talbot apologized for the Report being late.

Mr. Talbot addressed Item B.6. Mr. Talbot stated he had a very good meeting with Aqua Water.

Mr. Talbot addressed Item B.7. Mr. Talbot stated he will be coordinating a date for a Council Meeting with Ms. Katherine Ray to review the Strategic Planning Report prepared from the Council Retreat on March 9, 2013.

Mr. Talbot addressed Item A.3. Mr. Talbot stated he is the Chairman of the Lost Pines Groundwater Conservation District and at the March 20, 2013 meeting the first round of hearings on permits was conducted. Mr. Talbot stated four applications were tabled and the City of Bastrop's permit application was approved.

Mayor Orr addressed Item E. Mayor Orr invited input from the Council Members related to issues for possible inclusion on future agendas, related to issues such as (but not limited to) municipal projects, personnel, public property, development and other City/public business.

Council Member Ken Kesselus stated the Council had held a lengthy public hearing at the last Council meeting in which comments were made regarding the protection of public buildings and the City's current Ordinance regarding that protection. Mr. Kesselus stated he would hope that the City Manager and Mayor take a look at the City Ordinance regarding the protection of buildings in the City and call upon the Historical Landmark Commission and anyone else interested to strengthen that Ordinance if necessary.

City Manager, Mike Talbot stated he had already started that process and has had staff pull all documentation from 2010 when this was last addressed by the Historical Landmark Commission and the City Council. Mr. Talbot stated he has already contacted the Historical Landmark Commission and the Texas Historical Commission and when everything is gathered together, a meeting will be called of the Historic Landmark Commission.

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 SO REQUESTS.

A.1 APPROVAL OF MEETING MINUTES OF MARCH 9^{TH}, 12^{TH} & 19^{TH}, 2013.

A.2 ADOPTION OF A RESOLUTION OF THE CITY COUNCIL OF BASTROP APPROVING A PROJECT (SMALL BUSINESS FORUM IN CONJUNCTION WITH THE TEXAS GOVERNOR'S OFFICE AND TEXAS WORKFORCE COMMISSION IN AN AMOUNT NOT TO EXCEED $25,000), USING FUNDS PROVIDED BY THE BASTROP ECONOMIC DEVELOPMENT CORPORATION, IN AN AMOUNT EXCEEDING $10,000.

A.3 APPROVAL OF WAIVER OF FEE FOR HANGING BANNER PER REQUEST FROM THE FAMILY CRISIS CENTER.

A.4 ADOPTION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, AMENDING THE BUDGET FOR THE FISCAL YEAR 2013 IN ACCORDANCE WITH EXISTING STATUTORY REQUIREMENTS; APPROPRIATING THE VARIOUS AMOUNTS HEREIN; REPEALING ALL PRIOR ORDINANCES AND ACTIONS IN CONFLICTS HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

A.5 ADOPTION OF AN ORDINANCE AUTHORIZING THE VACATION AND ABANDONMENT OF 0.213 ACRE PORTION OF UNOPENED AUSTIN STREET – WEST OF MAIN STREET, PLATTED CITY OF BASTROP OWNERSHIP; PROVIDING FOR THE TERMS AND CONDITIONS OF SUCH VACATION AND ABANDONMENT; AUTHORIZING THE CITY MANAGER TO EXECUTE A QUITCLAIM DEED FOR A 2,784 SQUARE FEET PORTION OF THE 0.213 ACRES TO BE VACATED AND ABANDONED; AND PROVIDING FOR AN EFFECTIVE DATE.

A.6 APPROVAL OF REVISED LIBRARY PATRON BEHAVIOR POLICY.

A.7 APPROVAL OF VOLUNTEER POLICY FOR BASTROP PUBLIC LIBRARY.

A.8 ACCEPTANCE OF THE STRATEGIC PLAN PERFORMED AND PREPARED BY AVALANCHE CONSULTING FOR THE BASTROP ECONOMIC DEVELOPMENT CORPORATION.

Willie DeLaRosa moved to approve the Consent Agenda. Motion was seconded by Joe Beal and carried unanimously.

B. PUBLIC HEARINGS:

B.1 PUBLIC HEARING: ON A REQUEST TO VACATE AND ABANDON A 0.354 ACRE PORTION OF UNOPENED MILL STREET LOCATED EAST OF JACKSON STREET, NORTH OF BUILDING BLOCK 100 AND SOUTH OF BUILDING BLOCK 101 WITHIN THE CITY LIMITS OF THE CITY OF BASTROP, TEXAS.

Planning and Development Director, Melissa McCollum addressed the Council. Ms. McCollum stated the property/street to be vacated is unopened Mill Street and is East of Jackson Street and the Bastrop County Jail Complex. Ms. McCollum stated the 0.354 acres of right-of-way to be vacated is proposed to be sold to Bastrop County. Ms. McCollum stated the appraised value is $36,300.00. Ms. McCollum sated the portion of Mill Street right-of-way proposed for vacation is not needed for street/thoroughfare connectivity purposes and is not included in the City of Bastrop's Thoroughfare Plan. Ms. McCollum stated staff can foresee no current or future City use for Mill Street right-of-way property; therefore, recommends that the vacation be approved and sold to Bastrop County for $36,300.00 as identified in the February 1, 2013 appraisal report prepared by Paul Hornsby & Company Appraisers and Consultants.

Willie DeLaRosa asked if the County is going to do anything with Clay Street.

City Manager, Mike Talbot stated the Bastrop County initial plans included Clay Street, but they decided to scale back and they are not going to do anything with Clay Street at this time.

There were no public comments.

B.2 CONSIDERATION, DISCUSSION AND POSSIBLE ACTION ON THE FIRST READING OF A PROPOSED ORDINANCE AUTHORIZING THE VACATION AND ABANDONMENT OF 0.354 ACRE PORTION OF UNOPENED MILL STREET – EAST OF JACKSON STREET, NORTH OF BUILDING BLOCK 100 AND SOUTH OF BUILDING BLOCK 101, PLATTED CITY OF BASTROP OWNERSHIP; PROVIDING FOR THE TERMS AND CONDITIONS OF SUCH VACATION AND ABANDONMENT; AUTHORIZING THE CITY MANAGER TO EXECUTE A QUIT CLAIM DEED FOR THE 0.354 ACRES TO BE VACATED AND ABANDONED; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Orr read the caption of the Ordinance.

Mayor Orr asked if the City was actually selling the right-of-way.

City Manager, Mike Talbot stated “Yes” and that there were statutory requirements regarding this.

Ken Kesselus moved to approve the first reading of the Ordinance and place it on the Consent Agenda of the next regular Council Meeting for the second reading and adoption. Motion was seconded by Kay Garcia McAnally and carried unanimously.

B.3 CITIZEN COMMENTS.

There were no citizen comments.

C. OLD BUSINESS

D. NEW BUSINESS

ORDINANCES FOR FIRST READING:

D.1 CONSIDERATION, DISCUSSION AND POSSIBLE ACTION ON THE FIRST READING OF A PROPOSED ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, AMENDING AND CLARIFYING THE CITY OF BASTROP’S PERSONNEL POLICIES MANUAL: CHAPTER 11, SECTION 5: “MEALS”, SPECIFICALLY RELATED TO REIMBURSEMENT FOR “DAY-TRIP” MEALS, BUSINESS MEALS, AND GROUP MEALS; AND SECTION 2: “AUTHORIZATION REQUIRED”, RELATED TO ADVANCED NOTIFICATION AND APPROVAL BY THE CITY MANAGER FOR BUSINESS RELATED TRAVEL BY CITY DEPARTMENT HEADS; REPEALING CONFLICTING RESOLUTIONS AND POLICIES; INCLUDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

Mayor Orr read the caption of the Ordinance.

Chief Financial Officer, Karla Stovall addressed the Council. Ms. Stovall stated there are two proposed changes to the City’s Personnel Policies. Ms. Stovall stated the first is that the Internal Revenue Service (IRS) made a change where it makes employee reimbursement for meals for day-trips a taxable fringe benefit. Ms. Stovall stated staff contacted about ten (10) different cities and all do not reimburse employees for day-trip meals. Ms. Stovall stated the second change has to do with the City Manager approving, in advance, business travel by Department Heads.

Joe Beal stated that this will get the City in compliance with the Internal Revenue Service.

Dock Jackson asked if the City’s rate schedules for per diem had been looked at compared to other cities.

Ms. Stovall stated the other cities had not been polled regarding per diem rates and the City’s had been found sufficient so far.

Joe Beal moved to approve the first reading of the Ordinance and place it on the Consent Agenda of the next regular Council Meeting for the second reading and adoption. Motion was seconded by Willie DeLaRosa and carried unanimously.

D.2 CONSIDERATION, DISCUSSION AND POSSIBLE ACTION ON THE FIRST READING OF AN ORDINANCE AMENDING THE BUDGET FOR FISCAL YEAR 2012-2013 IN ACCORDANCE WITH EXISTING STATUTORY REQUIREMENTS; APPROPRIATING THE VARIOUS AMOUNTS HEREIN; REPEALING ALL PRIOR ORDINANCES AND ACTIONS IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Orr read the caption of the Ordinance.

Bastrop Economic Development Corporation (BEDC) Director, Dave Quinn addressed the Council. Mr. Quinn stated on Monday night, March 18, 2013, the BEDC Board approved the mega-grant for renovations to the building at 1008 Main Street, owned by Charlie Amos. Mr. Quinn stated this approval would require a BEDC budget amendment and the BEDC Board approved the budget amendment on Monday night as well.

Ken Kesselus moved to approve the first reading of the Ordinance and place it on the Consent Agenda of the next regular Council Meeting for the second reading and adoption. Motion was seconded by Kay Garcia McAnally and carried unanimously.

E. EXECUTIVE SESSION:

E.1 THE BASTROP CITY COUNCIL WILL MEET IN A CLOSED/EXECUTIVE SESSION PURSUANT TO THE TEXAS GOVERNMENT CODE, CHAPTER 551, TO DISCUSS THE FOLLOWING:

1. SECTION 551.071(1)(A) AND SECTION 551.071(2) - CONSULTATIONS WITH ATTORNEY: (1) THREATENED AND/OR CONTEMPLATED LITIGATION, AND (2) MATTERS UPON WHICH THE ATTORNEY HAS A DUTY AND/OR RESPONSIBILITY TO REPORT TO THE GOVERNMENTAL BODY.

At 6:45 p.m., Mayor Orr convened the Bastrop City Council into a closed/executive session pursuant to the Texas Government Code, Chapter 551, to discuss the following:

1. Section 551.071(1)(A) and Section 551.071(2) – Consultations with attorney: (1) Threatened and/or contemplated litigation, and (2) Matters upon which the attorney has a duty and/or responsibility to report to the governmental body.

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 7:20 p.m., Mayor Terry Orr reconvened the Bastrop City Council 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

No action was taken.

ORDINANCES AND OTHER ITEMS ELIGIBLE FOR CONSIDERATION AND/OR ACTION:

Mayor Orr stated that although the following Agenda items are not Public Hearings, it has been his custom and a custom of Council to invite citizens to comment on Agenda items. Mayor Orr stated he will continue that process. Mayor Orr stated since the last Council Meeting, as it has been his custom, he allowed whoever to address the Council. Mayor Orr stated he has come to find out that there are some components of the City's Ethics Ordinance that he did not adhere to during the last Council Meeting. Mayor Orr stated that at the time the Ethics Ordinance was being developed, a year ago, he understood it as a method to keep the Mayor from stealing money or appointing his brother as the Public Works Director. Mayor Orr stated the Ethics Ordinance has other elements which are further reaching and he respects what the Ethics Ordinance is. Mayor Orr stated he is going to do his best to uphold those principles that the Ordinance has and do his best to let citizens address the subject matter. Mayor Orr stated that prior to starting discussion on this item he is going to ask City Attorney, J.C. Brown to address the audience and the Council and give clarification of the Ethics Ordinance that we need to be aware of as individuals and as Council Members.

City Attorney, J.C. Brown addressed the Council and the audience. Ms. Brown stated when the Ethics Ordinance was adopted the question most raised by individuals was related to the various constraints on Boards and Commissions once a Board or Commission decision has been made. The question arose whether it was appropriate for a Board or Commission Member to approach the City Council and state opposition to a decision previously reached and recommended by the Board or Commission of which they were a member. Ms. Brown stated this was a topic which the Ethic Commission addressed and they determined that in order to make a decision in a fair and ethical manner, it was inappropriate for a board or commission member who sit on a board or commission that has made a decision for that board or commission member to come to the appellate board, which in this case is the City Council, and rehash the issue and personal views. Ms. Brown stated that if the issue before the Council affects the board or commission member personally then they are allowed to express their personal views to Council. Ms. Brown stated this particular issue has generated the most public interest since the Ethics Commission convened in late January and she asked for interpretation of this issue to clarify with the boards and commissions. Ms. Brown stated the Ethics Commission interpretation and intention of this particular section of the Ethics Ordinance is that once a decision is reached by a board or commission, everyone on that board or commission needs to buy into that decision and not present individual opposition to the City Council.

Mayor Orr asked that City Attorney, J.C. Brown address what can be discussed on the following items.

City Attorney, J.C. Brown stated that Agenda Items D.3 and D.4 are zoning of a particular piece of property that has carried Parkland zoning since 1991. Ms. Brown stated in the City there is no zoning designation of Parkland, and no uses legally stated. Ms. Brown stated that the City recognized this area and sought to correct it by bringing a recommendation to the Planning and Zoning Commission and then to Council. Ms. Brown stated first is base zone Parkland, then Office, and on top of that the City has Historical Preservation overlay. Ms. Brown stated the Historical Preservation overlay remains separate and apart from base zone, and the Council is not debating or discussing whether to change the Historic Preservation overlay. Ms. Brown stated the Agenda items address what the appropriate base zone should be. Ms. Brown stated the Historic Preservation overlay is not a topic for tonight.

Mayor Orr stated the Historic Preservation overlay will not be a topic for discussion tonight. Mayor Orr asked that everyone restrict their comments to the subject of zoning.

D.3 CONSIDERATION, DISCUSSION AND POSSIBLE ACTION ON ADOPTION OF AN ORDINANCE OF THE CITY OF BASTROP, TEXAS GRANTING A ZONING DISTRICT CHANGE FROM "PARKLAND" TO "OFFICE" FOR APPROXIMATELY 0.703 ACRE, COMMONLY KNOWN AS "702" MAIN STREET" IN THE CITY LIMITS OF BASTROP, TEXAS; AND ESTABLISHING AN EFFECTIVE DATE.

Mayor Orr read the caption of the Ordinance.

Planning and Development Director, Melissa McCollum addressed the Council. Ms. McCollum stated at the last Council meeting questions arose regarding the existing Bastrop County Historical Society (BCHS) property structure and location of possible setbacks and floodplain. Ms. McCollum called the Council's attention to a survey/diagram that shows the existing BCHS structures, where the 100 year floodplain line is located and the proposed office setbacks.

Council Member Kay Garcia McAnally asked who owns the property behind the Museum.

Ms. McCollum stated that area is known as Bastrop Commons and is owned by the City, and is the existing trail system. Ms. McCollum stated the City is retaining ownership of a portion of Austin Street and will connect with Ferry Park.

Council Member Dock Jackson asked what the zoning is for that property.

Ms. McCollum stated that portion of property does not have a zoning designation, but is colored green on the zoning map of the City and all parks are colored green on the zoning map. Ms. McCollum stated Parks is not a designation in the City's zoning.

City Attorney, J.C. Brown stated a Parkland zoning district is different from Bastrop Commons. Ms. Brown stated Bastrop Commons was designated in the original land use plan as dedicated park land use.

Mr. Jackson stated he hoped the City would address Parkland in the future.

City Manager, Mike Talbot stated the City will be redoing that in the future.

Mayor Orr asked that the public restrict their comments to three (3) minutes and comments be related to the zoning issue only.

Ann Beck addressed the Council. Ms. Beck stated she appreciated the Mayor's openness is government and at the meetings and there were no hiding doors here. Ms. Beck stated Ms. Brown had answered most of her concerns. Ms. Beck stated this is a zoning correction, the City finds these from time to time, and this is a correction that needs to be made.

Herb Goldsmith addressed the Council. Mr. Goldsmith stated he believed this zoning issue was contentious and believed if the City had form-based code zoning and knew what the use of the building was going to be, this would have been addressed, and there would have been a way to address what goes in there.

Julie Hart addressed the Council. Ms. Hart stated she had voiced her concerns at the last Council meeting. Ms. Hart stated this is a zoning issue and the City needs to be consistent with their decisions. Ms. Hart stated apartments can go in on this property if it is zoned Office, that is an allowable use. Ms. Hart stated that if the Council Members did not think apartments are a good fit for this area, they should vote "no". Ms. Hart stated the building on this property could be demolished and a new building of 15,000 square feet could be put there and she does not think that is appropriate for this area. Ms. Hart stated the last issue was that the Council be consistent with decisions. Ms. Hart stated a funeral home had been denied requested zoning because neighbors had voiced concerns about encroachment and another zoning request on State Highway 95 had been denied because of plan concerns. Ms. Hart asked why her neighborhood is not treated the same when they have concerns. Ms. Hart stated the Council was elected to vote in the best interest of the citizens. Ms. Hart encouraged the Council to vote their conscience.

Charlie Schroeder addressed the Council. Mr. Schroeder stated a comment was made at the last Council meeting that nothing could be built on this small area. Mr. Schroeder stated he is experienced in construction and has seen small areas like this built upon in Shoal Creek and Brushy Creek. Mr. Schroeder stated this area is buildable as a parking area and could be built too three stories for parking. Mr. Schroeder stated if the man who is purchasing this is willing to spend 4 to 5 million dollars than it is buildable. Mr. Schroeder requested the Council table action on this item to protect this building and save a piece of Texas history. Mr. Schroeder stated the City's Mission Statement states "preservation of the past" and that is not the message the Council is sending if this zoning request is approved.

Kay Garcia McAnally asked City Attorney, J.C. Brown if the Council can consider "preservation of the past"? Ms. McAnally asked if parking garages are allowed in Office zoning.

Ms. Brown stated "No" that tonight's consideration is zoning. Ms. Brown stated a commercial parking garage is not an allowable use in Office zoning.

Connie Schroeder addressed the Council. Ms. Schroeder stated the City Attorney made it very clear that if she spoke to the Council on this item she would be brought before the Ethics Commission.

Mayor Orr stated he will not unilaterally recognize you. Mayor Orr stated Ms. Schroeder was a citizen and it would not be appropriate for him to ignore her request to speak.

Ms. Schroeder stated she preferred to address the Council.

Mayor Orr asked if Ms. Schroeder was a member of the Planning and Zoning Commission.

Ms. Schroeder answered the Mayor and said she was a member of the Planning and Zoning Commission.

Mayor Orr addressed Ms. Schroeder and stated if she was here to speak on the zoning item, that would be inappropriate for her to do, and if she spoke on another subject that is germane to the issue.

Ms. Schroeder stated she believed there are more publicly documented views than there is diversity and she would ask that the Council consider tabling this item so all parties can consider the issue.

Libby Sartain addressed the Council. Ms. Sartian thanked the City Manager, staff and the Planning and Zoning Commission for all the time spent on cleaning up the zoning issue. Ms. Sartain stated this is less than ¼ of an acre of property and she does not think anyone could build anything on that.

Jimmy Ann Vaughn addressed the Council. Ms. Vaughn asked what happens to the walkway that the citizens of Bastrop paid for along the river. Ms. Vaughn stated that is zoning should be considered, it should be Parkland. Ms. Vaughn asked that the Council table this item until the walkway can be considered. Ms. Vaughn stated with enough money you can build all the way out to the river and that has been done in California and Austin. Ms. Vaughn stated she is concerned about the walkway, building over the walkway. Ms. Vaughn stated she is sure that the people who want to purchase the property would not do that, but what happens when the property and building is sold again.

City Manager, Mike Talbot stated the City has an easement through the property which overrides the zoning. Mr. Talbot stated the easement will occur in concurrence with the sale. Mr. Talbot stated since the public has traversed over this property for over 20 years the City has the easement by adverse possession.

Ken Kesselus moved to adopt the Ordinance. Motion was seconded by Joe Beal.

City Secretary, Teresa Valdez called the roll for the vote on the motion.

FOR MOTION: Ken Kesselus, Joe Beal, Willie DeLaRosa and Kay Garcia McAnally.
AGAINST MOTION: Dock Jackson.

D.4 CONSIDERATION, DISCUSSION AND POSSIBLE ACTION ON ADOPTION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS GRANTING A ZONING DISTRICT CHANGE FROM PUBLIC STREET RIGHT-OF-WAY TO “OFFICE” FOR APPROXIMATELY 2,784 SQUARE FEET OF A VACATED AND ABANDONED PORTION OF AUSTIN STREET WEST OF MAIN STREET IN THE CITY LIMITS OF THE CITY OF BASTROP, TEXAS; ESTABLISHING AN EFFECTIVE DATE.

Mayor Orr read the caption of the Ordinance.

Planning and Development Director, Melissa McCollum addressed the Council. Ms. McCollum stated this is the second reading of the Ordinance to rezone 2,784 square feet from public street right-of-way to O, Office. Ms. McCollum stated this is the portion of property the Council approved for vacation and it be quitclaimed to the Bastrop County Historical Society.

Julie Hart stated she had no further comments.

Libby Sartain stated she had no further comments.

Jimmy Ann Vaughn stated she had no further comments.,

Joe Beal moved to adopt the Ordinance. Motion was seconded by Willie DeLaRosa.

City Secretary, Teresa Valdez called the roll for vote on the motion.

FOR MOTION: Joe Beal, Willie DeLaRosa, Kay Garcia McAnally and Ken Kesselus.
AGAINST MOTION: Dock Jackson.

D.5 CONSIDERATION, DISCUSSION AND POSSIBLE ACTION ON ADOPTION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS GRANTING A ZONING DISTRICT CHANGE FROM AOS, 'AGRICULTURAL OPEN SPACE' TO PD, 'PLANNED DEVELOPMENT' FOR +/-26.25 ACRES, OUT OF THE MOZEA ROUSSEAU SURVEY, ABSTRACT NO. 56, LOCATED SOUTH OF CHILDERS DRIVE WITHIN THE CORPORATE LIMITS OF BASTROP, TEXAS TO BE KNOWN AS SECTION 5 OF PECAN PARK SUBDIVISION; ESTABLISHING AN EFFECTIVE DATE.

Mayor Orr read the caption of the Ordinance.

Planning and Development Director, Melissa McCollum stated this is the second reading of the Ordinance which would rezone 26.25 acres from AOS, Agricultural Open Space to PD, Planned Development. Ms. McCollum stated Lyn Alderson and Duke McDowell were present at the meeting tonight if the Council had any questions.

Willie DeLaRosa moved to adopt the Ordinance. Motion was seconded by Dock Jackson and carried unanimously.

D.6 CONSIDERATION, DISCUSSION AND POSSIBLE ACTION ON ACCEPTANCE OF THE UNAUDITED MONTHLY FINANCIAL REPORTS FOR THE PERIOD ENDING OF FEBRUARY 28, 2013.

Finance Director, Karla Stovall presented the unaudited monthly Financial Reports for the period ending February 28, 2012. Ms. Stovall reviewed the report.

Willie DeLaRosa moved to accept the unaudited monthly Financial Reports for the period ending February 28, 2012. Motion was seconded by Kay Garcia McAnally and carried unanimously.

D.7 CONSIDERATION, DISCUSSION AND POSSIBLE ACTION ON A VARIANCE TO THE SUBDIVISION REGULATIONS SECTION 5.40 SIDEWALKS,TO NOT REQUIRE

SIDEWALKS TO BE BUILDT ALONG LOOP 150 EAST FOR PINE VISTA SUBDIVISION WITHIN THE CITY LIMITS OF BASTROP, TEXAS.

Planning and Development Director, Melissa McCollum addressed the Council. Ms. McCollum called the Council's attention to the projection screen showing the location of the property. Ms. McCollum stated the Final Plat for Pine Vista Commercial Subdivision was approved October 23, 2012. Ms. McCollum stated the site development plans have been submitted for both Lots 1 and 2 and staff is currently reviewing those proposed developments. Ms. McCollum stated that in accordance with Section 9, Variance, Subdivision Ordinance, the applicant is asking for a variance to the sidewalk requirement Section 5.40. Ms. McCollum stated sidewalks are required in the subdivision process in accordance with Section 5.40 and sidewalks abutting business shall be a minimum width of six (6) feet. Ms. McCollum stated sidewalks are an important component in the overall transportation network. Ms. McCollum stated this segment is of pedestrian connectivity and is also identified on the City's 2007 Parks Master Plan. Ms. McCollum stated this segment of sidewalk would be part of the trail to connect the Bastrop State Park with downtown. Ms. McCollum stated that although there are topography constraints on the property, some of the earthwork and retaining walls appear to be necessitated partially by the site design rather than solely the sidewalk requirement. Ms. McCollum stated staff has discussed grading extending into the right-of-way with the Texas Department of Transportation (TxDOT) and TxDOT indicated they would evaluate the ability to allow grading within the right-of-way with intent of providing sidewalks along State Highway 71. Ms. McCollum stated that construction costs for 800 linear feet of 6 foot wide sidewalk was estimated as $21,120 by the owners engineer.

Council Member Willie DeLaRosa asked if the City has a cost estimate if a sidewalk was to be built from the Shell station out to this area. Mr. DeLaRosa stated he would guess that it would be $100,000 plus and that sidewalk might have been a dream and that is an unrealistic cost for someone who wants to put a business along there.

City Manager, Mike Talbot stated a cost estimate had not been done for a sidewalk from the Shell station to the area being discussed. Mr. Talbot stated that you also have to take into consideration the crossing of State Highway 95 and how that could be accomplished with safety in mind.

Council Member Kay Garcia McAnally asked what the City's options were.

Ms. McCollum stated the Council could table this item and get with TxDot to review what could be done regarding the slope, etc. or Council could require that the concrete cost of $21,100 be collected and set aside in a special fund for the sidewalk to be built in the future.

Council Member Dock Jackson stated that since he lives right down the road from there, the sidewalk would be important. Mr. Jackson stated he sees people all the time, especially children walking along the highway and it is a very dangerous situation. Mr. Jackson stated he hoped the City could address this and he knows it is costly.

Council Member Ken Kesselus stated that hill is very step and this is the first shot of commercial development going in that location. Mr. Kesselus stated that makes him think that whatever the Council decides will affect others. Mr. Kesselus stated he is pretty confused tonight.

Council Member Joe Beal asked the developer if he didn't get a decision tonight would it hold him up or could he continue to make progress on the project. Mr. Beal asked if a decision delay would hamstring them on losing time to get the project completed.

Brian Baird, Engineer for the project stated there is a lease that is due to expire. Mr. Baird stated this is a family business on a family budget. Mr. Baird stated the owner wanted the Council to fairly address this and if the Council needs more time they understand that. Mr. Baird stated the only way to put the sidewalks in, is in the TxDOT right-of-way.

Mayor Orr stated he thought when the Council was approving the Walnut Ridge Apartments project, there was consideration of a trail, not by the highway, but further to the South and that Walnut Ridge development actually had some space that the City required them to set aside for a trail to the State Park. Mayor Orr stated he was really hesitant about a pedestrian sidewalk next to a highway. Mayor Orr stated Old Austin Highway is an example of this and if anybody driving simply jumps the curb anyone walking along that sidewalk is in danger. Mayor Orr stated he would hope that what we as a Council plan has a basic safety aspect to it and he feels that this does not have a safety aspect to it. Mayor Orr stated when the Council discussed the Buc-ee's project, the Council decided the sidewalk was not appropriate.

Willie DeLaRosa moved to grant the Variance. Motion was seconded by Kay Garcia McAnally.

Dock Jackson stated that he liked the idea of the sidewalk and trail and he hopes the City looks at working on that pathway in the future.

Shawn Pletsch addressed the Council. Ms. Pletsch asked what the City staff had recommended. Ms. Pletsch stated she previously served on the Planning and Zoning Commission and suggested the developer take the first step to put in the infrastructure and see if the City is willing to help. Shawn Pletsch suggested the item be tabled because the City is going to have to find a way to put that trail/sidewalk in on that side of State Highway 95.

Mr. Beal stated the City staff had recommended denial of the variance request and hope to work with the landowner and TxDOT on a more affordable option for development.

Joe Beal stated if he had been quicker he would have made the motion to table this item in order to: 1) Figure out what TxDOT would allow; 2) Get estimate of what sidewalks would cost - Mr. Beal commented that the City receiving $21,000 for flat work to go into a special fund is a really good deal for the developer; and 3) City to continue to work with developer because it does not make sense, like Buc-ee's.

Council Member Willie DeLaRosa stated this is a small developer compared to Buc-ee's and he is concerned about costs. Mr. DeLaRosa stated he is not prepared to sit here and wait for TxDOT.

Council Member Ken Kesselus asked Mr. DeLaRosa if his argument was that the City will probably never have sidewalks across Highway 95, so go ahead and make that decision now.

Mr. DeLaRosa stated he did not want to put those costs on a small developer.

Council Member Ken Kesselus asked if it would be appropriate to amend the motion.

Mayor Orr stated the motion could be amended.

Mr. DeLaRosa stated that the Council overthinks a lot of things here and it is common sense.

Mayor Orr asked the City Secretary to call roll on the motion.

City Secretary, Teresa Valdez called the roll on the motion.
FOR MOTION: Willie DeLaRosa, Kay Garcia McAnally, Joe Beal, Ken Kesselus, and Dock Jackson.

Motion carried.

D.8 CONSIDERATION, DISCUSSION AND POSSIBLE ACTION ON A CONVERSATION WITH REPRESENTATIVES OF THE BASTROP MAIN STREET BOARD, THE HISTORIC LANDMARK COMMISSION, THE PLANNING AND ZONING COMMISSION AND THE ZONING BOARD OF ADJUSTMENT REGARDING CALLING FOR A PLANNING INITIATIVE FOCUSED ON A UNIFIED VISION AND FORM-BASED CODES AND CONCENTRATING ON THE GOALS OF THESE CITY BOARDS AND COMMISSIONS.

Council Member Ken Kesselus thanked Board and Commission members who are attending the meeting tonight and thanked them for their service to the City. Mr. Kesselus stated he prepared a Resolution and after discussing this with the Mayor and the City Manager they made him realize that he may be jumping the gun. Mr. Kesselus stated the City had received four (4) Resolutions from the following Boards and Commissions: Main Street Program, Historic Landmark Commission, Planning and Zoning Commission and the Zoning Board of Adjustment regarding Form-Based Codes at their Planning Retreat on March 9, 2013. Mr. Kesselus stated there is a lot of enthusiasm regarding this, and when there are four City boards and commissions with this much enthusiasm about something he thought the Council should move forward. Mr. Kesselus stated it was decided that the Council should talk about this first with the boards and commissions and decide if the creation of a task force is the way to go, or is there another way to approach this.

Lisa Patterson, Chair of the Planning and Zoning Commission addressed the Council.
Ms. Patterson stated that in January the Planning and Zoning Commission discussed the fact that they had the same argument over and over, parcels coming before them, what is the appropriate use, and it is not always the same. Ms. Patterson stated the Planning and Zoning Commission had a presentation on Form-based Codes. Ms. Patterson stated the Form-based Codes work with the area, have consistency and are more transparent to people coming before the Planning and Zoning Commission to do business. Ms. Patterson stated Form-based Codes gives the Planning and Zoning Commission more structure to make decisions. Ms. Patterson stated that form guides the function.

Dan Hays-Clark, representing the Historic Landmark Commission addressed the Council.
Mr. Hays-Clark stated Chestnut Street is a good example of why Form-based Codes would be good for the City of Bastrop. Mr. Hays-Clark stated Chestnut Street currently has three different types of areas from Main Street to Highway 95 and there is no control over what kind of

development can happen. Mr. Hays-Clark stated it could be commercial and developers are going to look at what they can get the biggest bang for the buck. Mr. Hays-Clark stated Form-based Codes help developers look at it and say this is easy. Mr. Hays-Clark stated Form-based Codes seem to streamline the process.

Steve Dewire, President of the Main Street Program, addressed the Council. Mr. Dewire stated Chestnut Street should be thought of as a corridor and Form-based Codes would apply balance and simplify the planning process. Mr. Dewire stated Form-based Codes make a lot of sense and gives better balance.

Herb Goldsmith , representing the Zoning Board of Adjustment, addressed the Council. Mr. Goldsmith distributed a handout to the Council which illustrates Form-based Codes very well. Mr. Goldsmith stated with Form-based Codes, the issue Ms. Hart had with the zoning of the museum property would have been handled administratively instead of going before the Council. Mr. Goldsmith stated Form-based Codes does not focus on use. Mr. Goldsmith stated he thought it was vital that the City proceed with Form-based Codes. Mr. Goldsmith stated did he have a recommendation as to the task force. Mr. Goldsmith stated the Planning and Zoning Commission should own this project with a representative from each of the boards and commissions that submitted resolutions and the City Manager. Mr. Goldsmith stated once they have put together the Planning Initiative then they would present it to the Council. Mr. Goldsmith stated a task force will lengthen this project. Mr. Goldsmith stated if the Council decided to move forward there will be plenty of community input. Mr. Goldsmith stated his recommendation was to let the Planning and Zoning Commission lead this initiative along with Ms. McCollum, a consultant, the City Manager and one City Council Member. Mr. Goldsmith stated they could move forward and come to the Council with a cost estimate.

Steve Dewire stated a task force means there is more exploration to be done while a committee allows it to move forward. Mr. Dewire stated the City is at a critical moment in time with the expansion on Loop 150 and the development of the XS Ranch. Mr. Dewire stated instead of studying it, the examples are there already, the Council should allow the pieces to fall in place.

Ms. Patterson stated this is a zoning change and the Planning and Zoning Commission would have to make a recommendation to Council. Ms. Patterson stated she does think that the Planning and Zoning Commission will have to be the driver on this.

Kay Garcia McAnally stated she was concerned about costs. Ms. McAnally asked how the City would know about costs before they moved forward.

Ms. Patterson stated a Request for Proposals would be developed and there would be a consultant to guide the Planning and Zoning Commission through the process.

Discussion was held among Council and the members of the boards and commissions in attendance.

City Manager, Mike Talbot stated two major initiatives were undertaken previously by the City: 1) the tree ordinance – did not educate the public and ordinance went down, and 2) In 2010 the Historic Landmark Ordinance – did not get the story right and that ordinance went nowhere.

Mr. Talbot stated if we do not get a plan the City will end up throwing $50,000 to $60,000 right out the window.

Mayor Orr stated this item is posted for action and the action would be that the City Manager put a recommendation together to give Council a sketch of how the City should move forward. Mayor Orr stated he would like to know some dollar amount before budget planning.

Mr. Talbot stated between himself, staff and the boards and commissions they are versed to get there. Mr. Talbot stressed to the Council that in the past initiatives that have had a lot of interest were started then we jumped before the most important part of the community was involved, that being the citizens.

Mayor Orr asked Mr. Kesselus if he was willing to work with the City Manager on putting together this planning initiative.

Mr. Kesselus stated he would do so.

Ken Kesselus moved that we establish a seven (7) member (I don't know what we call it, we can say a task force, which is the same to me as an ad hoc committee, we can say ad hoc body), we establish an ad hoc body to begin a planning initiative regarding form-based codes and taking into account the goals of the four (4) City boards and commissions that will be included on the task force; that the task force be made up of one (1)member from each of the Main Street Program Board, Historic Landmark Commission, Planning and Zoning Commission and Zoning Board of Adjustment, one (1) City Council Member and two (2) at large members, who could be a member of any of the commissions above, appointed by the Mayor and that the commissions establish their own representatives and the Mayor appoints the City Council Member and they go to work by being convened by the Chair of Planning and Zoning Commission and elect their own, whether or not she is their representative, she convenes the meeting, they elect their own chair, start working on procedure, figure out what as soon as possible something about money and that each of the four (4) boards and commissions and the City Council have a standing item on their agendas to receive progress reports from this planning party. Motion was seconded by Willie DeLaRosa.

Mayor Orr asked if there was inclusion of the City Manager and staff.

Mr. Beal asked Mr. Kesselus if that was the last part of his motion.

Mr. Kesselus stated "yes" that was the last part of his motion.

City Secretary, Teresa Valdez called the roll for the vote on the motion.

FOR MOTION: Ken Kesselus, Willie DeLaRosa, Joe Beal, Kay Garcia McAnally and Dock Jackson.

Motion carried.

E. EXECUTIVE SESSION:

E.1 THE BASTROP CITY COUNCIL WILL MEET IN A CLOSED/EXECUTIVE SESSION PURSUANT TO THE TEXAS GOVERNMENT CODE, CHAPTER 551, TO DISCUSS THE FOLLOWING:

1. SECTION 551.071(1)(A) AND SECTION 551.071(2) - CONSULTATIONS WITH ATTORNEY: (1) THREATENED AND/OR CONTEMPLATED LITIGATION, AND (2) MATTERS UPON WHICH THE ATTORNEY HAS A DUTY AND/OR RESPONSIBILITY TO REPORT TO THE GOVERNMENTAL BODY.
2. SECTION 551.072 – DELIBERATION REGARDING REAL PROPERTY: REGARDING THE PURCHASE, EXCHANGE, LEASE, OR VALUE OF REAL PROPERTY.
3. SECTION 551.087 – DELIBERATION REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS – JAMCo PROJECT.
4. SECTION 551.074 – PERSONNEL MATTERS: CITY MANAGER.

At 9:20 p.m., Mayor Terry Orr convened the Bastrop City Council into a closed/executive session pursuant to the Texas Government Code, Chapter 551 to discuss the following:

1. Section 551.071(1)(A) and Section 551.071(2) – Consultations with Attorney: (1) Threatened and/or contemplated litigation, and (2) Matters upon which the attorney has a duty and/or responsibility to report to the governmental body.
2. Section 551.072 - Deliberation regarding real property: Regarding the purchase, exchange, lease or value of real property.
3. Section 551.087 – Deliberation regarding economic development negotiations – JAMCo Project.

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 10:25 p.m., Mayor Terry Orr reconvened the Bastrop City Council 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.

E.3 CONSIDERATION, DISCUSSION AND POSSIBLE ACTION ON APPROVAL OF FIRST READING OF A RESOLUTION OF THE CITY COUNCIL OF BASTROP APPROVING A PROJECT, USING FUNDS PROVIDED BY THE BASTROP ECONOMIC DEVELOPMENT CORPORATION, IN AN AMOUNT EXCEEDING $10,000.

Joe Beal moved to adopt the Resolution and place it on the Consent Agenda of the next Council Meeting for the second reading and authorize the City Manager to enter into the JAMCo and the Bastrop Economic Development Corporation Agreement. Motion was seconded by Dock Jackson and carried unanimously.

F. ADJOURNMENT

At 10:29 p.m., Joe Beal moved to adjourn. Motion was seconded by Willie DeLaRosa and carried unanimously.

APPROVED: ATTEST:

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Terry Orr, Mayor Teresa Valdez, City Secretary