

January 8, 2013

The Bastrop City Council met in regular session on January 8, 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 6:15 p.m. Mayor Terry Orr called the meeting to order with all members present.

2. PLEDGE OF ALLEGIANCE AND INVOCATION

Assistant Police Chief Matt Wagner led the pledges of allegiance to the U.S. and Texas flags. Reverend Bill Hobby led the invocation.

3. PRESENTATIONS

A. CHARACTER EDUCATION – BASTROP STUDENT

Kolton Catchings an Eight Grade student at Cedar Creek Middle School presented the Character Education character trait “Loyalty” for the month of January.

B. MAYOR TO ADMINISTER OATH OF OFFICE TO PATROL OFFICER JOHN DUBOSE

Mayor Orr administered the Oath of Office to Patrol Officer John Dubose.

Kay Lynn Dubose, wife of Officer Dubose, officially pinned the City of Bastrop Police Department Badge to Officer Dubose’s uniform.

C. WAYFINDING PROJECT – CURTIS ROBERTS, fd2s

City Manager, Mike Talbot thanked Main Street Program Manager, Nancy Wood for an outstanding job on directing the Wayfinding Project. Mr. Talbot thanked consultant Curtis Roberts for his attention and sensitive manner in addressing the direction from the Main Street Program Board.

Nancy Wood thanked the Main Street Program Board for their work on the Wayfinding Project. Ms. Wood thanked Walton signage for the signs.

Curtis Roberts stated a project is only as good as the client.

Council Member Kay Garcia McAnally stated this particular project has caused lots and lots of compliments for the City of Bastrop.

Council Member Dock Jackson stated a day does not go by that he doesn't hear compliments about the Wayfinding signs.

Council Member Ken Kesselus stated he receives calls from a couple of citizens who usually criticize projects in Bastrop and this time they called and said "those signs are really good".

Mayor Terry Orr stated that this project added a station to the City of Bastrop. Mayor Orr stated he particularly liked that the Project had so much citizen involvement and that gave it credibility.

4. PROCLAMATIONS

A. MARTIN LUTHER KING, JR & CORETTA SCOTT KING DAY

Mayor Orr proclaimed Monday, January 21, 2013 as Martin Luther King, Jr. Day in the city of Bastrop.

5. ANNOUNCEMENTS

City Manager, Mike Talbot stated that during the holidays he had talked to the owners of the Lost Pines Theater and they had asked that he relay a message to the Council. Mr. Talbot stated the owners expressed sincere appreciation for the support they were given in the re-opening of the theater. Mr. Talbot stated the owners stated the attendance at the theater has exceeded expectations and they thank the community for the support. Mr. Talbot stated they are going to use this project as an example when going into other cities.

Mayor Orr announced that the City's sales tax for the month of December 2012 was 7% above the December 2011 sales tax amount.

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

A. MEETINGS AND EVENTS ATTENDED:

1. LOST PINES GROUNDWATER CONSERVATION DISTRICT MONTHLY MEETING ON DECEMBER 19, 2012.

B. UPDATE ON CITY PROJECTS:

1. CHESTNUT STREET SIDEWALK PROJECT.
2. BASTROP POWER & LIGHT ADMINISTRATIVE TRAINING BUILDING.
3. BOB BRYANT PARK WATER FACILITIES IMPROVEMENTS PROJECT.
4. STATE HIGHWAY 71 WASTEWATER PIPE BURSTING PROJECT.
5. FAYETTE STREET WASTEWATER IMPROVEMENTS PROJECT.
6. DISCUSSION AND REVIEW AND UPDATE OF THE CALENDAR REGARDING SCHEDULED MEETINGS AND PLANNING FOR 2013 FOR THE CITY COUNCIL.
7. FARM STREET PROJECT.
8. PARKS BOARD PUBLIC HEARING ON PROPOSED SKATE PARK TO BE HELD JANUARY 10, 2013.

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 sent to the Council on Monday.

Mr. Talbot addressed Item B.6. Mr. Talbot asked that the Council select a date for the Council Retreat. Mr. Talbot stated the Council can choose the date for the quarterly meeting at the end of the previous quarter's meeting.

It was the consensus of Council that March 9, 2013 be selected as the date for the Council Retreat.

Council Member Willie DeLaRosa stated he did not know why the Council should hold the Retreat at the Hyatt when the City has their own beautiful buildings to have a meeting in.

Council Member Ken Kesselus suggested the Council Retreat serve as the first quarterly meeting of the Council and then the Council select the date for the next quarterly meeting after the Retreat.

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 DECEMBER 11, 2012.

A.2 APPROVAL OF BASTROP MARKETING CORPORATION'S REQUEST FOR REIMBURSEMENT OF EXPENSES.

A.3 APPROVAL OF WAIVER OF FEE FOR HANGING BANNER ON BANNER PLAZA FOR ANNUAL EMPTY BOWL FUNDRAISER AS REQUESTED BY BASTROP COUNTY EMERGENCY FOOD PANTRY.

A.4 ADOPTION OF A RESOLUTION OF THE CITY OF BASTROP CITY COUNCIL REQUESTING THE MEMBERS OF THE 83RD LEGISLATIVE SESSION OF THE STATE OF TEXAS SUPPORT LEGISLATION THAT INCREASES FUNDING FOR THE TEXAS RECREATION & PARKS ACCOUNT AND LARGE COUNTY AND MUNICIPALITY RECREATION AND PARKS ACCOUNT LOCAL PARK GRANT PROGRAMS, AND THE TEXAS STATE PARK SYSTEM.

Mayor Orr noted a scrivener's error on page 30 of the Agenda packet. Mayor Orr stated "Bastrop" should be inserted where the "xxxxx" was typed.

Dock Jackson moved to approve the Consent Agenda with the correction noted by Mayor Orr. Motion was seconded by Kay Garcia McAnally and carried unanimously.

B. PUBLIC HEARINGS:

B.1 CITIZEN COMMENTS.

There were no citizen comments.

C. OLD BUSINESS

D. NEW BUSINESS

ORDINANCES FOR FIRST READING:

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

D.1 CONSIDERATION, DISCUSSION AND POSSIBLE ACTION OF APPROVAL OF SIGNS FOR THE BASTROP COUNTY HISTORICAL SOCIETY MUSEUM AND VISITOR CENTER, LOCATED AT 904 MAIN STREET, IN ACCORDANCE WITH LEASE AGREEMENT SECTION 4.11, SIGNED APRIL 29, 2009.

Planning and Development Director, Melissa McCollum addressed the Council. Ms. McCollum stated that in accordance with the lease agreement for the Bastrop County Historical Society executed on April 29, 2009, the signage for the Museum and Visitor Center must be approved by the Council. Ms. McCollum stated the Bastrop County Historical Society Museum and Visitor Center is requesting approval on all signage, particularly off-premise signage.

Robbie Sanders, President of the Bastrop County Historical Society addressed the Council. Ms. Sanders stated they are asking the continue what they have done in the past, the last six (6) years. Ms. Sanders stated the Society has put sponsor names in front of the Museum to recognize them for their support. Ms. Sanders called the Council's attention to the projection screen showing a picture of the old sign and then to a picture of the new proposed sign. Ms. Sanders stated they think the new sign is in keeping with the City's way of showing signage and sponsors.

Dan Hays-Clark distributed, to Council, pictures of signs and banners in Bastrop showing sponsors.

Discussion was held among Council, Ms. McCollum, Mr. Talbot and Ms. Sanders regarding the requested signage.

Joe Beal moved to approve the signs for the Bastrop County Historical Society Museum and Visitor Center. Motion was seconded by Willie DeLaRosa.

Ken Kesselus stated that a citizen had called him and asked him how the Council could allow something on a City building that the Council and City Code does not allow other people to do.

Discussion was held among Council and Mr. Talbot regarding the City's Code and off-premise signage.

Dock Jackson called for the Question.

City Secretary, Teresa Valdez called the roll for Joe Beal's motion.

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

Motion passed unanimously.

D.2 CONSIDERATION, DISCUSSION AND POSSIBLE ACTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CHANGE ORDER WITH MERCER CONSTRUCTION FOR THE FAYETTE STREET WASTEWATER IMPROVEMENTS PROJECT, INCREASING THE LINEAR FOOTAGE OF THE WASTEWATER MAIN TO BE REPLACED.

City Manager, Mike Talbot stated the City Council awarded the Fayette Street Wastewater Improvements Project to Mercer Construction in the amount of \$340,917.75. Mr. Talbot stated as the Council may recall, a major portion of this project is being funded by a Community Development Block Grant from the Texas Department of Agriculture (TDA). Mr. Talbot stated TDA rules and regulations allow a project scope of work to be increased by 25% of the bid amount for a given project. Mr. Talbot stated Mercer Construction has been performing exceptionally well on the Fayette Street Project and their bid was very competitive. Mr. Talbot stated the State Highway 71 Pipe Bursting Project came in under the budgeted amount by \$334,912. Mr. Talbot stated additional funds are available to execute a Change Order with Mercer Construction to do additional work associated with replacing additional wastewater main for the Fayette Street Project. Mr. Talbot stated based upon the Mercer bid for this Fayette Street Wastewater Project a Change Order for increasing the replacement of wastewater mains by 25% would cost the City \$85,229.44. Mr. Talbot stated this would allow the City to replace an additional 960 linear feet of wastewater main along Fayette Street. Mr. Talbot stated that given the advanced state of deterioration of the wastewater main replaced to date on Fayette Street, he would recommend that since the City has additional funds remaining from the State Highway 71 Pipe Bursting Project, this would be a prudent expenditure of some of these additional funds and the City execute a Change Order with Mercer Construction.

Brief discussion was held among Council.

Kay Garcia McAnally moved to authorize the City Manager to execute a change order with Mercer Construction for the Fayette Street Wastewater Improvements Project, increasing the

linear footage of the wastewater main to be replaced. Motion was seconded by Willie DeLaRosa and carried unanimously.

D.3 CONSIDERATION, DISCUSSION AND POSSIBLE ACTION REGARDING A REQUEST FROM THE BASTROP COUNTY HISTORICAL SOCIETY THAT THE CITY OF BASTROP ABANDON “ALL THAT CERTAIN TRACT OR PARCEL OF LAND CONTAINING 0.213 ACRE, BEING AN UNOPENED EXTENSION OF AUSTIN STREET (SEE IREDELL MAPS – VOLUME G, PAGE 252 – BASTROP CITY COUNCIL MINUTES) LYING SOUTH OF BUILDING BLOCK 17 WW AND WEST OF MAIN STREET, AND BEING ACROSS AN UN-PLATTED PORTION OF THE CITY OF BASTROP ACCORDING TO THE IREDELL MAP RECORDED IN PLAT CABINET 1, SLIDE 23A OF THE BASTROP COUNTY PLAT RECORDS, ALSO BEING REFERRED TO AS “BASTROP COMMONS” ON A DRAWING RECORDED IN VOLUME 541, PAGE 633 OF THE DEED RECORDS OF BASTROP COUNTY AND MENTIONED IN THE GRANT OF THE TOWN OF BASTROP RECORDED IN VOLUME 43, PAGE 587 OF THE DEED RECORDS OF BASTROP COUNTY.

City Manager, Mike Talbot stated the Bastrop County Historical Society submitted a letter, dated December 19, 2012 to his office requesting that the Council abandon a portion of Austin Street right-of-way that is currently unopened, so that they can then negotiate the purchase of a portion of the abandoned Austin Street right-of-way, over which the Society’s existing museum facility encroaches. Mr. Talbot called the Council’s attention to the projection screen showing a map of the area the Society is requesting the Council to abandon. Mr. Talbot stated from his and staff’s analysis that road would not be extended due to the topography. Mr. Talbot stated there are several items on the Agenda related to this. Mr. Talbot stated if the Council agrees to abandon this unopened portion of Austin Street, the Council must: 1) Hold a Public Hearing on abandoning a portion of the Austin Street right-of-way; 2) After holding the Public Hearing and receiving public input, determine that it is in the general public’s best interest to pass an ordinance abandoning that portion of unopened Austin Street right-of-way; and 3) Negotiate the sale of the portion of the abandoned right-of-way to the Society, which cost to the Society may not, by law, be less than the “fair Market value” (an independent appraisal will have to be done) for the portion of the Austin Street right-of-way sought to be acquired by the Society. Mr. Talbot stated notification of the Public Hearing regarding the abandonment must, at a minimum, be placed in the Legal Section of the Bastrop Advertiser. Mr. Talbot stated if the Council is in agreement with the Society’s request, he would recommend that this item be placed for Council consideration and/or action on the February 12, 2013 City Council Agenda, which will allow him and staff the necessary time to prepare all the required documentation (notices, hearing packet information, surveys and appraisal, etc.) that is associated with the Society’s request. Mr. Talbot stated that by Council addressing the zoning issue simultaneously with this request that would cut 30 days off of the process for the Society.

Discussion was held among Council and Mr. Talbot.

Ken Kesselus moved that the necessary compliance items be placed on the February 12, 2013 Council Agenda for the City to abandon “all that certain tract or parcel of land containing 0.213 acre, being an unopened extension of Austin Street (see Iredell Maps – Volume G, Page 252 – Bastrop City Council Minutes) lying south of Building Block 17 WW and west of Main Street, and being across an un-platted portion of the City of Bastrop according to the Iredell Map

recorded in Plat Cabinet 1, Slide 23A of the Bastrop County Plat Records, also being referred to as “Bastrop Commons” on a drawing recorded in Volume 541, Page 633 of the Deed Records of Bastrop County and mentioned in the Grant of the Town of Bastrop recorded in Volume 43, Page 587 of the Deed Records of Bastrop County and place Motion was seconded by Kay Garcia McAnally and carried unanimously.

D.4 CONSIDERATION, DISCUSSION AND POSSIBLE ACTION DIRECTING THE CITY MANAGER TO INITIATE A ZONING DISTRICT BOUNDARY AMENDMENT FOR PROPERTY LEGALLY DESCRIBED AS “ALL THAT CERTAIN TRACT OR PARCEL OF LAND CONTAINING 0.703 ACRE SITUATED IN BUILDING BLOCK 17 WEST OF WATER STREET, AND INCLUDING A PORTION OF THE ORIGINAL LOCATION OF WALNUT STREET, ACCORDING TO THE IREDELL MAP OF THE CITY OF BASTROP RECORDED IN PLAT CABINET 1, SLIDE 23A OF THE PLAT RECORDS OF BASTROP COUNTY” OR “702 MAIN STREET” FROM ITS CURRENT ZONING DISTRICT BEING OFFICE AND PARK LAND ZONING DISTRICT TO OFFICE DISTRICT.

City Manager, Mike Talbot stated this is another impediment holding up the Bastrop Historical Society from selling the property. Mr. Talbot stated the property legally described in the Agenda Item caption is owned by the Bastrop County Historical Society at 702 Main Street. Mr. Talbot stated this parcel of property is unusual in that the property is split almost equally in half by different zoning designations, one half being zoned “Office District” and one half being zoned “Park Land District”. Mr. Talbot stated this appears to have been an oversight during the original zoning done by the City on this property. Mr. Talbot stated the City’s Zoning Ordinance does not even address the zoning standards for a “Park Land District” so this designation is meaningless for this property for future use. Mr. Talbot stated the Society has operated a museum on the property, legally, over the years as a grandfathered non-compliant use. Mr. Talbot stated as a result of this situation, the Society is being blocked from selling this property because it is uncertain and confusing in which zoning designation applies or prevails. Mr. Talbot stated as things stand, the only allowable use for the property is a museum because that is the grandfathered use, which may continue. Mr. Talbot stated there is no record of how this situation developed years ago, but to address this problem, he recommends the City’s Zoning Boundary District Map be corrected to reflect “Office District” for the entire Society tract and that the Council so order the initiation of the zoning correction, as per the City’s Code.

Brief discussion was held among Council.

Joe Beal moved to direct the City Manager to initiate a Zoning District Boundary Amendment for property legally described as “all that certain tract or parcel of land containing 0.703 acre situated in Building Block 17 west of Water Street, and including a portion of the original location of Walnut Street, according to the Iredell Map of the City of Bastrop recorded in Plat Cabinet 1, Slide 23A of the Plat Records of Bastrop County” or “702 Main Street” from its current zoning district being Office and Park Land Zoning District to Office District. Motion was seconded by Kay Garcia McAnally and carried unanimously.

D.5 CONSIDERATION, DISCUSSION AND POSSIBLE ACTION DIRECTING THE CITY MANAGER TO INITIATE A ZONING DISTRICT BOUNDARY AMENDMENT FOR PROPERTY LEGALLY DESCRIBED “AS ALL THAT CERTAIN TRACT OR PARCEL OF LAND CONTAINING 2,784 SQUARE FEET, BEING A PART OF AN EXTENSION OF

AUSTIN STREET (SEE IREDELL MAPS – VOLUME G, PAGE 252 – BASTROP CITY COUNCIL MINUTES) LYING SOUTH OF BUILDING BLOCK 17 WW AND WEST OF MAIN STREET, AND BEING ACROSS AN UN-PLATTED PORTION OF THE CITY OF BASTROP ACCORDING TO THE IREDELL MAP RECORDED IN PLAT CABINET 1, SLIDE 23A OF THE BASTROP COUNTY PLAT RECORDS, ALSO BEING REFERRED TO AS “BASTROP COMMONS” ON A DRAWING RECORDED IN VOLUME 541, PAGE 633 OF THE DEED RECORDS OF BASTROP COUNTY AND MENTIONED IN THE GRANT OF THE TOWN OF BASTROP RECORDED IN VOLUME 43, PAGE 587 OF THE DEED RECORDS OF BASTROP COUNTY; SAID 2,784 SQUARE FOOT TRACT BEING ZONED OFFICE DISTRICT.

City Manager, Mike Talbot stated the property legally described in the Agenda Item caption is part of the unopened Austin Street right-of-way. Mr. Talbot stated this is the property in which the Bastrop County Historical Society’s currently existing museum structure encroaches into City owned and controlled property identified as an unopened portion of Austin Street right-of-way, located west of Main Street. Mr. Talbot stated due to this encroachment, the Society has requested that the Council consider abandoning unopened Austin Street right-of-way running from Main Street westward to the Colorado River. Mr. Talbot stated the Council addressed the abandonment request in Agenda Item D.3 tonight. Mr. Talbot stated since the Council voted to place the abandonment on the February 12, 2012 Council Agenda and sell a portion of the abandoned street right-of-way to the Society, the portion of abandoned Austin Street that is to be sold to the Society will also need to be zoned by the City, since road rights-of-way have no zoning district, *per se*, in the City of Bastrop. Mr. Talbot stated the logical zoning district would be the “Office District” since this would be consistent with the rest of the Society’s property and in keeping with the uses envisioned. Mr. Talbot stated the Society will be required to re-plat their property to incorporate this portion of the unopened street right-of-way into their overall property tract.

Willie DeLaRosa moved to direct the City Manager to initiate a Zoning District Boundary Amendment for property legally described “as all that certain tract or parcel of land containing 2,784 square feet, being a part of an extension of Austin Street (see Iredell Maps – Volume G, Page 252 – Bastrop City Council Minutes) lying south of Building Block 17 WW and west of Main Street, and being across an un-platted portion of the City of Bastrop according to the Iredell Map recorded in Plat Cabinet 1, Slide 23A of the Bastrop County Plat Records, also being referred to as “Bastrop Commons” on a drawing recorded in Volume 541, Page 633 of the Deed Records of Bastrop County and mentioned in the Grant of the Town of Bastrop recorded in Volume 43, Page 587 of the Deed Records of Bastrop County”; said 2,784 square foot tract being zoned Office District. Motion was seconded by Dock Jackson 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.

2. SECTION 551.072 – DELIBERATION REGARDING REAL PROPERTY:
REGARDING THE PURCHASE, EXCHANGE, LEASE, OR VALUE OF REAL
PROPERTY.

At 7:35 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.
2. Section 551.072 – Deliberation regarding real property: Regarding the purchase, exchange, lease, 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 8:29 p.m., Mayor 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.

Joe Beal moved to authorize the City Manager and City Attorney to pursue discussion and work related to potential legislative amendment to the State's Hotel Tax Act, to allow expenditures related to firefighting facilities, etc., and to work with the firm of Armbrust and Brown, as necessary. Motion was seconded by Ken Kesselus and carried unanimously.

F. ADJOURNMENT

At 8:31 p.m., Willie DeLaRosa moved to adjourn. Motion was seconded by Kay Garcia McAnally and carried unanimously.

APPROVED:

ATTEST:

Terry Orr, Mayor

Teresa Valdez, City Secretary