

November 27, 2012

The Bastrop City Council met in regular session on November 27, 2012 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 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, with the exception of Joe Beal and Willie DeLaRosa who were absent.

2. PLEDGE OF ALLEGIANCE AND INVOCATION

Bill Peterson led the pledges of allegiance to the U.S. and Texas flags. Reverend Bob Long led the invocation.

3. PRESENTATIONS

A. INTERNATIONAL SOCIETY OF ARBORICULTURE CERTIFIED ARBORIST – JASON ALFARO

City Manager, Mike Talbot stated Jason Alfaro began to work for the City in February 2006 and started out in the maintenance division of the Parks Department. Mr. Talbot stated Jason expressed a desire to improve the Parks Department and himself. Mr. Talbot stated Jason is now the Parks Superintendent. Mr. Talbot stated Jason has studied on his own time and passed the test to become an International Society of Arboriculture Certified Arborist. Mr. Talbot presented the International Society of Arboriculture Certified Arborist Certificate and a Day Off with Pay Certificate to Jason Alfaro.

4. PROCLAMATIONS

There were no proclamations.

5. ANNOUNCEMENTS

There were no announcements.

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

A. MEETINGS AND EVENTS ATTENDED:

1. LOST PINES GROUNDWATER CONSERVATION DISTRICT MEETING ON NOVEMBER 14, 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 PROJECT.
 5. REVIEW OF REVISED PARK ORDINANCE.
 6. FAYETTE STREET WASTEWATER IMPROVEMENTS PROJECT.
 7. GRAND OPENING OF BUC-EE'S.
 8. PINE FOREST UNIT #6.
 9. NEW CITY WEB-SITE.
 10. ANNUAL CITY HALL OPEN HOUSE.
 11. CITY MANAGER'S EVALUATION.
 12. PECAN PARK SUBDIVISION.
- 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 stated the Fayette Street Wastewater Improvements Project is a project that was long-term in planning. Mr. Talbot displayed on the overhead screen a picture of the wastewater pipe that had to be removed. Mr. Talbot stated this pipe was deteriorated and is a cause of infiltration of rain-water into the City's wastewater system. Mr. Talbot displayed a picture of the new replacement pipe. Mr. Talbot stated the contractor has laid 3000 linear feet of replacement pipe thus far.

Mr. Talbot addressed Item B.11. Mr. Talbot reminded the Council that final draft of the "Evaluation Process for the City Manager" would be on the December 11, 2012 Council Agenda for acceptance by the Council.

Mayor Orr addressed Item E and invited input from the Council.

Ken Kesselus addressed questions to Mr. Talbot regarding Police service and how it is paid for during special events such as "fun runs".

Mr. Talbot stated the City provides the service and then pays the General Fund back through services billed to the Hotel Occupancy Tax fund for special events.

Ken Kesselus asked the Council to consider placing on the next Council Agenda discussion regarding discontinuing the "Utility Committee" and instead the Council meeting six times a year on every other third Tuesday to meet as a utility board.

Mayor Orr stated Council Member Kesselus request would be placed on the next Council

Agenda.

Kay Garcia McAnally asked that the Bastrop Art In Public Places Task Force requests be placed on the next Agenda so they can put out the “call for artists”.

Mayor Orr stated that his understanding from Ms. Karol Rice’s presentation that she wanted feedback from the Council and then she would come back to Council with specific requests.

Mr. Talbot stated he will give Ms. Rice a telephone call regarding this.

Dock Jackson stated he will be moving forward with planning meetings between the City and Bastrop County and the Bastrop Independent School District.

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 NOVEMBER 13, 2012.

A.2 APPROVAL OF AN EXTENSION, FOR A PERIOD OF 180 DAYS COMMENCING ON DECEMBER 7, 2012 FOR THE PRELIMINARY PLAT FOR BEAR HUNTER DRIVE LOCATED WITHIN HUNTERS CROSSING SUBDIVISION SOUTH OF STATE HIGHWAY 71 AND WEST OF HUNTERS CROSSING BOULEVARD WITHIN THE CITY LIMITS OF BASTROP, TEXAS.

A.3 APPROVAL OF AN EXTENSION, FOR A PERIOD OF 180 DAYS COMMENCING ON DECEMBER 7, 2012 FOR THE PRELIMINARY PLAT FOR HUNTERS CROSSING, SECTION 9C LOCATED WEST OF STATE HIGHWAY 304 AND SOUTH OF HOME DEPOT WAY WITHIN THE CITY LIMITS OF BASTROP, TEXAS.

A.4 APPROVAL OF THE SPECIAL EVENT PERMIT SUBMITTED IN THE APPLICATION RECEIVED FROM THE DOWNTOWN BUSINESS ALLIANCE (DBA) TO HOST “CHRISTMAS PARADE & SALEBRATIONS” ON SATURDAY, DECEMBER 8, 2012, IN DOWNTOWN BASTROP.

A.5 APPROVAL OF THE SPECIAL EVENT PERMIT SUBMITTED IN THE APPLICATION RECEIVED FROM THE BLUEBONNET ELEMENTARY PTA TO HOST “RUN FOR THE BLUEBONNETS” ON SATURDAY, FEBRUARY 23, 2013, IN FISHERMAN’S PARK AND DOWNTOWN BASTROP.

A.6 APPROVAL OF NOTICE OF ACTIVITY SUBMITTED BY THE MAIN STREET MANAGER TO HOST “LOST PINES CHRISTMAS SWIRL AND FOOD TASTING EVENT” ON THURSDAY, DECEMBER 6, 2012, IN PRIVATELY-OWNED ESTABLISHMENTS IN DOWNTOWN BASTROP, TWO OF WHICH ARE

LOCATED WITHIN 300 FEET OF CALVARY EPISCOPAL CHURCH.

A.7 ADOPTION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS TO GRANT A ZONE CHANGE FROM GR, GENERAL RETAIL TO C-2, COMMERCIAL-2(HEAVY), FOR +/-1.646 ACRES OUT OF THE WALNUT STREET SUBDIVISION, BEING BLOCK A, LOT 1 (AMENDED PLAT OF LOTS 1 AND 2, BLOCK A, WALNUT STREET SUBDIVISION PHASE 1) WITHIN THE CITY LIMITS OF BASTROP, TEXAS; AND PROVIDING AN EFFECTIVE DATE.

A.8 ADOPTION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, AMENDING THE BUDGET FOR THE FISCAL YEAR 2012 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 captions of the Ordinances listed as Consent Agenda Items A.7 and A.8, in compliance with the City's Home Rule Charter.

Kay Garcia McAnally moved to approve the Consent Agenda. Motion was seconded by Dock Jackson and carried unanimously.

B. PUBLIC HEARINGS:

City Manager, Mike Talbot respectfully requested that Items B.1 and B.2 be pulled from the Agenda. Mr. Talbot stated the City Secretary had brought to his attention that 50% of the Public Hearing Notices mailed had been returned as "undeliverable". Mr. Talbot stated since public notification of properties within the 300 feet of property requesting the variance is a very important part of this process he would recommend these items be pulled and placed on the next Council Agenda. Mr. Talbot stated the addresses of property owners within the 300 feet will be verified and the public hearing notices will be mailed again.

B.1 PUBLIC HEARING: TO RECEIVE PUBLIC INPUT ON A REQUEST FROM DELI DEPOT, LOCATED AT 1006 MAIN STREET, BASTROP, TEXAS, FOR A VARIANCE TO BASTROP CODE OF ORDINANCES ARTICLE 4.02.004 SALE OF ALCOHOLIC BEVERAGES, DISTANCE OF PREMISES FROM CHURCH, SCHOOL OR HOSPITAL.

Pulled from Agenda.

B.2 CONSIDERATION, DISCUSSION AND POSSIBLE ACTION ON REQUEST FROM DELI DEPOT, LOCATED AT 1006 MAIN STREET, BASTROP, FOR A VARIANCE TO BASTROP CODE OF ORDINANCES ARTICLE 4.02.004 SALE OF ALCOHOLIC BEVERAGES, DISTANCE OF PREMISES FROM CHURCH, SCHOOL OR HOSPITAL.

Pulled from Agenda.

B.3 PUBLIC HEARING: TO RECEIVE PUBLIC INPUT ON A REQUEST FROM LINDA'S V., INCORPORATED FOR A VARIANCE TO BASTROP CODE OF ORDINANCES ARTICLE 4.02.004 SALE OF ALCOHOLIC BEVERAGES, DISTANCE OF PREMISES FROM CHURCH, SCHOOL OR HOSPITAL, FOR PROPERTY LOCATED AT 1800 WALNUT STREET, BASTROP, TEXAS, TO BE KNOWN AS LA HACIENDA SHOPPING PLAZA.

City Manager, Mike Talbot stated a letter dated November 14, 2012 was received from William Jenkins on behalf of Raul Vazquez, owner of Linda's V., Incorporated, requesting a variance to Bastrop Code of Ordinances Article 4.02.004. Mr. Talbot stated according to the Bastrop Code of Ordinances Article 4.02.004 the City Council may provide variances to the 300-foot limitation if the City Council determines that the enforcement of the regulation in a particular instance is not in the best interest of the public, constitutes waste or inefficient use of land or other resources, creates an undue hardship on an applicant for a license or permit, does not serve its intended purpose, or is not effective or necessary, or for any other reason the Council, after consideration of the health, safety, and welfare of the public and the equities if the situation, determines is in the best interest of the community. Mr. Talbot stated according to the Bastrop Code of Ordinances the Council is required to conduct a Public Hearing to receive public input on the requested variance. Mr. Talbot stated notice of the Public Hearing was provided to all property owners as stated in the Code and was published in the Bastrop Advertiser on Saturday, November 24, 2012.

Brief discussion was held among the Council and Mr. Talbot.

There were no public comments.

B.4 CONSIDERATION, DISCUSSION AND POSSIBLE ACTION ON REQUEST FROM LINDA'S V., INCORPORATED FOR A VARIANCE TO BASTROP CODE OF ORDINANCES ARTICLE 4.02.004 SALE OF ALCOHOLIC BEVERAGES, DISTANCE OF PREMISES FROM CHURCH, SCHOOL OR HOSPITAL, FOR PROPERTY LOCATED AT 1800 WALNUT STREET, BASTROP, TEXAS, TO BE KNOWN AS LA HACIENDA SHOPPING PLAZA.

City Manager, Mike Talbot recommended approval of granting the Variance.

Ken Kesselus moved to grant the Variance. Motion was seconded by Kay Garcia McAnally and carried unanimously.

B.5 CITIZEN COMMENTS.

There were no citizen comments.

C. OLD BUSINESS

C.1 CONSIDERATION, DISCUSSION AND POSSIBLE ACTION ON ADOPTION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BASTROP RATIFYING THE TERMS OF TWO PRIOR RESOLUTIONS, EXPANDING THE PUBLIC RIGHTS-OF-WAY ABANDONMENTS AND CONVEYANCES NOTED THEREIN, CLARIFYING PROPERTY

BOUNDARIES IN THE RIVERVIEW HEIGHTS ADDITION, AND OTHER RELATED FORMAL ACTIONS, ADOPTED BY THE CITY WITH THE INTENT TO ABANDON, VACATE AND CONVEY PORTIONS OF LINCOLN DRIVE TO ADJACENT PROPERTY OWNERS IN THE CITY OF BASTROP, TEXAS; AND PROVIDING AN EFFECTIVE DATE.

Mayor Orr read the caption of the Ordinance.

Planning and Development Director, Melissa McCollum addressed the Council. Ms. McCollum distributed a revised Ordinance to the Council. Ms. McCollum reviewed the Exhibits attached to the Ordinance. Ms. McCollum stated City staff is comfortable that this Ordinance is clarifying and cleaning up what was previously done in the 1952 and 1954 Resolutions.

Discussion was held among the Council, Ms. McCollum and Mr. Talbot.

Mayor Orr stated his concern was that a property owner would not have access to their property and he did not want the City to have to buy this right-of-way back in future years.

City Attorney, J.C. Brown stated no property owner is land locked.

Ken Kesselus moved to adopt the revised Ordinance which Ms. McCollum had distributed to the Council. Motion was seconded by Kay Garcia McAnally and carried unanimously.

D. NEW BUSINESS

ORDINANCES FOR FIRST READING:

D.1 CONSIDERATION, DISCUSSION AND POSSIBLE ACTION ON THE FIRST READING OF AN ORDINANCE MODIFYING THE CONTRACTUAL RATES PAID TO ALLIED WASTE SERVICES FOR RESIDENTIAL AND COMMERCIAL GARBAGE COLLECTION SERVICE BY ALLIED WASTE SERVICES; AMENDING THE RATE OF RESIDENTIAL AND COMMERCIAL GARBAGE SERVICE CHARGED TO THE CITIZENS OF BASTROP, TEXAS FOR ADMINISTRATIVE AND SERVICE RATES; AND PROVIDING AN EFFECTIVE DATE.

Mayor Orr read the caption of the Ordinance.

City Manager, Mike Talbot called the Council's attention to Page 111 in the Agenda packet. Mr. Talbot stated the City received the letter from Allied Waste Services in October per Contract Clause 13.02(b). Mr. Talbot stated Page 115 in the Agenda packet is the supporting documentation for the rate increase. Mr. Talbot stated he did have Chief Financial Officer Karla Stovall review the documentation submitted by Allied Waste Services and all numbers in alignment. Mr. Talbot stated Attachment A shows that residential customer rates will go from \$15.63 to \$15.82. Mr. Talbot stated Attachment B shows increases in the rates for commercial customers. Mr. Talbot stated it is his responsibility to point out to the Council that the letter was due August 1, 2012 and was a little late in getting to the City. Mr. Talbot stated in his opinion Allied Waste Services is performing in accordance with the Contract and he recommends approval of the Ordinance.

Mayor Orr stated that when the Consumer Price Index (CPI) showed a decrease rates also decreased.

Dock Jackson moved to approve the Ordinance and place it on the Consent Agenda for the second reading and adoption. Motion was seconded by Ken Kesselus and carried unanimously.

D.2 CONSIDERATION, DISCUSSION AND POSSIBLE ACTION ON THE FIRST READING OF AN ORDINANCE AMENDING THE BASTROP CITY CODE OF ORDINANCES, APPENDIX A FEE SCHEDULE, ARTICLE A.13.02 "WATER AND WASTEWATER RATES AND CHARGES" REPEALING CONFLICTING PROVISIONS; PROVIDING SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Mayor Orr read the caption of the Ordinance.

City Manager, Mike Talbot stated following the direction set forth by the Council last year this time this is the second year of implementation of the Capital Improvement Program. Mr. Talbot stated in order to remain consistent with Rimrock Consulting Company's recommendation of a rate increase of 9.9% and to properly provide water and wastewater service within the City, it is necessary to amend the current water and wastewater rates and charges.

Brief discussion was held among Council and Mr. Talbot.

Ken Kesselus moved to approve the Ordinance. Motion was seconded by Kay Garcia McAnally and carried unanimously.

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

D.3 CONSIDERATION, DISCUSSION AND POSSIBLE ACTION ON A REQUEST FROM THE BASTROP COUNTY HISTORICAL SOCIETY TO REMOVE THE TWO (2) ANTIQUE LAMP POSTS LOCATED ON THE SIDEWALK IN FRONT OF THE OLD CITY HALL.

City Manager, Mike Talbot called the Council's attention to a letter, in the Agenda packet that was delivered to the City Manager's Office from the Bastrop County Historical Society requesting that two (2) antique lamp posts located in front of Old City Hall be removed. Mr. Talbot stated in accordance with the Lease Agreement between the City and the Bastrop County Historical Society modifications to lease property must be approved by the owner (City Council).

Discussion was held among Council and Mr. Talbot.

Ken Kesselus moved that the City remove the two (2) antique lamp posts located on the sidewalk in front of the old city hall, put them in storage and if another location is found to use them, do so; any expense for patching the holes which are left after removing the posts will be paid for by the Bastrop County Historical Society if that is what the Lease Agreement states. Motion was seconded by Kay Garcia McAnally and carried unanimously.

D.4 CONSIDERATION, DISCUSSION AND POSSIBLE ACTION ON A REQUEST FROM THE BASTROP COUNTY MARTIN LUTHER KING HOLIDAY COMMISSION TO WAIVE THE FEES FOR USING THE CITY OF BASTROP CONVENTION CENTER FOR THE ANNUAL MARTIN LUTHER KING HOLIDAY EVENT ON JANUARY 21, 2013.

City Manager, Mike Talbot stated Reverend Bernie Jackson is present tonight to address the Council regarding this request.

Reverend Jackson stated she is not a member of the Bastrop County Martin Luther King Holiday Commission but was asked to bring the request to the Council. Reverend Jackson stated she understands that Convention Center fees are not waived and she is somewhat reluctant to make this request. Reverend Jackson asked that the Council find a way to partner with the Bastrop County Martin Luther King Holiday Commission to make the annual Martin Luther King Holiday event happen on January 21, 2013.

Reverend R.D. Smith addressed the Council. Reverend Smith stated he is not a member of the Commission. Reverend Smith stated when the annual event was held in Bastrop it would start at the Mt. Rose Church and end at the Opera House. Reverend Smith stated the crowd has become large and the Commission is looking for another place to host the event.

Ken Kesselus asked Council Member Dock Jackson who the members of the Commission were.

Council Member Jackson stated he is a member of the Commission and had intended to refrain from discussion on this item.

City Attorney, J.C. Brown stated that Mr. Jackson could provide facts if he were asked a question by the Council.

Mr. Jackson stated there are members from the cities of Bastrop, Elgin and Smithville, the County Judge, the School Districts and ex-officio members. Mr. Jackson stated there are about 10 to 12 members.

Ken Kesselus stated he wanted to make sure the Council was not setting a precedent by waiving fees for the Convention Center.

City Manager, Mike Talbot stated that the City has been very consistent with rules and policies of the Convention Center and to date have not deviated from them and he thinks it is important to be consistent and not deviate. Mr. Talbot stated this event rotates each year with the hosting from each of the three cities, Bastrop, Smithville and Elgin. Mr. Talbot stated a group of volunteers puts the event together. Mr. Talbot recommended that the fee for use of the Convention Center be funded out of the Bastrop Power & Light Community Service Support Fund, ensuring that the Council is remaining consistent with the policies and rules; that the Bastrop County Martin Luther King Holiday Commission get the proper 501(c)(3) documentation and the next time the event is hosted in Bastrop the Commission follow the same process as the other organizations requesting Community Service Support funds. Mr. Talbot stated the estimated amount was \$1500.

Ken Kesselus asked that the Commission complete as much of the Community Support Fund Application for Funding documentation for this year and submit to the City.

Mayor Orr stated he wanted the City of Bastrop to keep the event alive and see it go forward.

Kay Garcia McAnally moved to partner with the Bastrop County Martin Luther King Holiday Commission in the way Mr. Talbot recommended: 1) The fee for use of the Convention Center be funded out of the Bastrop Power & Light Community Service Support Fund, 2) the Bastrop County Martin Luther King Holiday Commission get the property 501(c)(3) documentation, 3) the next time the event is hosted in Bastrop the Commission follow the same process as the other organizations requesting Community Service Support funds, and 4) the Commission complete as much of the Community Support Fund Application for Funding documentation for this year and submit it to the City. Motion was seconded by Ken Kesselus. Motion carried 2:0.

FOR MOTION: Kay Garcia McAnally and Ken Kesselus.

ABSTAIN: Dock Jackson.

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: CCN EXPANSION BY ADJACENT MUNICIPALITIES.
2. SECTION 551.072 – DELIBERATION REGARDING REAL PROPERTY: REGARDING THE PURCHASE, EXCHANGE, LEASE, OR VALUE OF REAL PROPERTY: a) MUSEUM AND b) ACQUISITION OF PROPERTY FOR PUBLIC PURPOSE.
3. SECTION 551.087 – DELIBERATION REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS – PROJECT ZEBRA I.

At 7:45 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: CCN expansion by adjacent municipalities.

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 8:25 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.

No action was taken.

F. ADJOURNMENT

At 8:26 p.m., Ken Kesselus moved to adjourn. Motion was seconded by Kay Garcia McAnally and carried unanimously.

APPROVED:

ATTEST:

Terry Orr, Mayor

Teresa Valdez, City Secretary