

Bastrop, TX City Council Meeting Agenda
Bastrop City Hall City Council Chambers
1311 Chestnut Street
Bastrop, TX 78602
(512) 332-8800



April 10, 2018 at 6:30 P.M.

City of Bastrop City Council meetings are available to all persons regardless of disability. If you require special assistance, please contact the City Secretary at (512) 332-8800 or write 1311 Chestnut Street, 78602, or by calling through a T.D.D. (Telecommunication Device for the Deaf) to Relay Texas at 1-800-735-2989 at least 48 hours in advance of the meeting.

As authorized by Section 551.071 of the Texas Government Code, this meeting may be convened into closed Executive Session for the purposes of seeking confidential legal advice from the City Attorney on any item on the agenda at any time during the meeting.

The City of Bastrop reserves the right to reconvene, recess, or realign the Regular Session or called Executive Session or order of business at any time prior to adjournment.

1. CALL TO ORDER

- 2. PLEDGE OF ALLEGIANCE** – Bryan Simms, Cedar Creek High School, and Lacey Jordan, Bastrop Middle School

TEXAS PLEDGE OF ALLEGIANCE

Honor the Texas Flag; I pledge allegiance to thee, Texas, one state under God, one and indivisible.

- 3. INVOCATION** – Reverend Steve Newman, Retired

4. PRESENTATIONS

- 4A. Present Proclamation proclaiming April 2018 as Fair Housing Month.
- 4B. Present Proclamation recognizing April 8th-14th, 2018 as National Public Safety Telecommunicators Week for the City of Bastrop.
- 4C. Present Proclamation recognizing April 18, 2018 as National Lineman Appreciation Day.
- 4D. Receive presentation on availability of electricity in Downtown Bastrop.
- 4E. Mayor's Report

4F. Councilmembers' Report

4G. City Manager's Report

5. WORK SESSION/BRIEFINGS

5A. Receive presentation on the "Service Agreement for Water Customers".

5B. Receive presentation from Tim Sanders with BEFCO Engineering about the updated cost estimate to include bank stabilization between 104 and 106 Bush Cove.

5C. Discuss changes to the HOT Grant Process to better align with the purpose and values established with HOT Funding through the establishment of Visit Bastrop.

5D. Discuss the Proposed Ethics Ordinance and receive public comment.

5E. Discuss painting the trees as a part of the Bastrop story on the TxDOT Tahitian Overpass to make them more visible.

6. STAFF AND BOARD REPORTS

6A. Receive a Presentation from Melissa Middlebrooks, President, Keep Bastrop County Beautiful (KBCB), about the "Adopt a Street Program."

6B. Receive an update regarding the closure of the pool at Bastrop State Park for repairs beginning on April 2, 2018.

7. CITIZEN COMMENTS

At this time, three (3) minute comments will be taken from the audience on any topic. To address the Council, please submit a fully completed request card to the City Secretary prior to the beginning of the Citizens' Comment portion of the Council meeting. In accordance with the Texas Open Meetings Act, if a citizen discusses any item not on the agenda, City Council cannot discuss issues raised or make any decision at this time. Instead, City Council is limited to making a statement of specific factual information or a recitation of existing policy in response to the inquiry. Issues may be referred to City Staff for research and possible future action.

To address the Council concerning any item on the agenda, please submit a fully completed request card to the City Secretary prior to the consideration of that item.

It is not the intention of the City of Bastrop to provide a public forum for the embarrassment or demeaning of any individual or group. Neither is it the intention of the Council to allow a member of the public to slur the performance, honesty and/or integrity of the Council, as a body, or any member or members of the Council individually or collectively, or members of the City's staff. Accordingly, profane, insulting or threatening language directed toward the Council and/or any person in the Council's presence will not be tolerated.

8. CONSENT AGENDA

The following may be acted upon in one motion. A Councilmember or a citizen may request items be removed from the Consent Agenda for individual consideration.

- 8A. Consider action to approve City Council minutes from the March 22, 2018 Joint Council and Bastrop Economic Development Corporation meeting and March 27, 2018 regular meeting.

9. ITEMS FOR INDIVIDUAL CONSIDERATION

- 9A. Consider action to approve Resolution No. R-2018-23 of the City Council of the City of Bastrop, Texas adopting the Community Support Funding Calendar for the Fiscal Year 2019, as shown in Exhibit A; repealing all resolutions in conflict; and providing an effective date.
- 9B. Hold Public Hearing and consider action to approve Resolution R-2018-22 of the City Council of the City of Bastrop, Texas granting a variance to Bastrop Code of Ordinances Article 4.02.005 Sale of Alcoholic Beverages, Separation Requirements from Church, Public or Private School, or Public Hospital, on property located at 1800 Walnut Street within the city limits of Bastrop, Texas; and establishing an effective date.
- 9C. Consider action to approve Resolution No. R-2018-24 of the City Council of the City of Bastrop, Texas approving a Settlement and Release Agreement regarding *Crump, et al. v. Lost Pines Groundwater Conservation District, et al.*, Cause No. 194-21, 21st Judicial District, Bastrop County, Texas; *Crump, et al. v. Lost Pines Groundwater Conservation District*, Cause No. 232-21, 21st Judicial District, Bastrop County, Texas; and *McCall Ranch, L.P., et al. v. Lost Pines Groundwater Conservation District and City of Bastrop*, Cause No. 423-4980, 423rd Judicial District, Bastrop County, Texas, attached as Exhibit A; delegating certain actions related thereto; authorizing the City Manager to execute all necessary documentation; providing for severability; and establishing an effective date.
- 9D. Hold a Public Hearing and consider action to approve Ordinance 2018-03 of the City Council of the City of Bastrop, Texas amending the Code of Ordinances, Chapter 14 titled "Zoning," Article 14.03 titled "Historic Landmark Preservation"; and adding Appendix A titled "Fee Schedule," Section A14.01.003 titled "Fees for Historic Landmark Preservation," as attached in Exhibit A; providing for a penalty for the violation of this ordinance; providing a repealing clause; providing a severability clause; and providing an effective date and move to include on the April 22, 2018 agenda for a second reading.

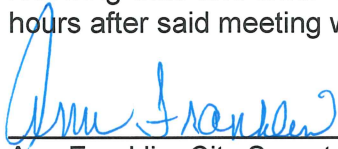
10. EXECUTIVE SESSION

- 10A. City Council shall convene into closed executive session pursuant to Section 551.071 of the Texas Government Code to discuss and deliberate litigation matters with the City Attorney regarding Pine Forest 6, et al vs. City of Bastrop, et al.

11. TAKE ANY NECESSARY OR APPROPRIATE ACTION ON MATTERS POSTED FOR CONSIDERATION IN CLOSED/EXECUTIVE SESSION

12. ADJOURNMENT

I, the undersigned authority, do hereby certify that this Notice of Meeting as posted in accordance with the regulations of the Texas Open Meetings Act on the bulletin board located at the entrance to the City of Bastrop City Hall, a place of convenient and readily accessible to the general public, as well as to the City's website, www.cityofbastrop.org and said Notice was posted on the following date and time: Friday, April 6, 2018 at 5:00 p.m. and remained posted for at least two hours after said meeting was convened.



Ann Franklin, City Secretary





STAFF REPORT

MEETING DATE: April 10, 2018

AGENDA ITEM: 4A

TITLE:

Present Proclamation proclaiming April 2018 as Fair Housing Month.

STAFF REPRESENTATIVE:

Lynda Humble, City Manager

ATTACHMENTS:

- Proclamation





PROCLAMATION



WHEREAS, adequate housing is a basic need and a right of all people; and

WHEREAS, throughout our national history, some groups of people have benefited more from housing opportunities than others; and

 **WHEREAS**, the Federal Fair Housing Act, initially adopted in the wake of the assassination of Dr. Martin Luther King, Jr. and subsequently augmented through amendments to the Act, prohibits discrimination in housing based on seven protected classes: race, color, religion, national origin, gender, disability, and familial status (the presence of children in the household); and

WHEREAS, April 2018 marks the 50th anniversary of the enactment of the Federal Fair Housing Act of 1968 (Title III of the Civil Rights Act); and

WHEREAS, Americans should continue to work together to uphold the Fair Housing Act and the principle of equal opportunity on which it is based.

NOW, THEREFORE, I, Connie Schroeder, Mayor of the City of Bastrop, do hereby proclaim the month of April 2018 as:

Fair Housing Month

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Official Seal of the City of Bastrop, Texas to be affixed this 10th day of April, 2018.

Connie B. Schroeder, Mayor



STAFF REPORT

MEETING DATE: April 10, 2018

AGENDA ITEM: 4B

TITLE:

Present proclamation recognizing April 8th-14th, 2018 as National Public Safety Telecommunicators Week for the City of Bastrop.

STAFF REPRESENTATIVE:

Steve Adcock, Public Safety Director

BACKGROUND/HISTORY:

National Public Safety Telecommunicator's Week began in 1981 in California. It is celebrated the second week of April each year, and offers a time for much-deserved thanks for our dispatchers and recognition for the crucial role they play assisting first responders.

ATTACHMENTS:

- Proclamation for National Public Safety Telecommunicators Week





PROCLAMATION



BASTROPTX
Heart of the Lost Pines / Est. 1832

WHEREAS, emergencies can occur at any time that require police, fire or emergency medical services; and

WHEREAS, when an emergency occurs the prompt response of police officers, firefighters and paramedics is critical to the protection of life and preservation of property; and

WHEREAS, the safety of our police officers and firefighters is dependent upon the quality and accuracy of information obtained from citizens who telephone the Bastrop police-fire communications center; and

WHEREAS, Public Safety Telecommunicators are the first and most critical contact our citizens have with emergency services; and

WHEREAS, Public Safety Telecommunicators are the single vital link for our police officers and firefighters by monitoring their activities by radio, providing them information and insuring their safety; and

WHEREAS, Public Safety Telecommunicators of Bastrop County have contributed substantially to the apprehension of criminals, suppression of fires and treatment of patients; and

WHEREAS, each dispatcher has exhibited compassion, understanding and professionalism during the performance of their job in the past year;

NOW THEREFORE, I, Connie Schroeder, Mayor of the City of Bastrop, do hereby proclaim April 8th -14th, 2018 as:

NATIONAL PUBLIC SAFETY TELECOMMUNICATORS WEEK

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Official Seal of the City of Bastrop, Texas to be affixed this 10th day of April, 2018.

Connie B. Schroeder, Mayor



STAFF REPORT

MEETING DATE: April 10, 2018

AGENDA ITEM: 4C

TITLE:

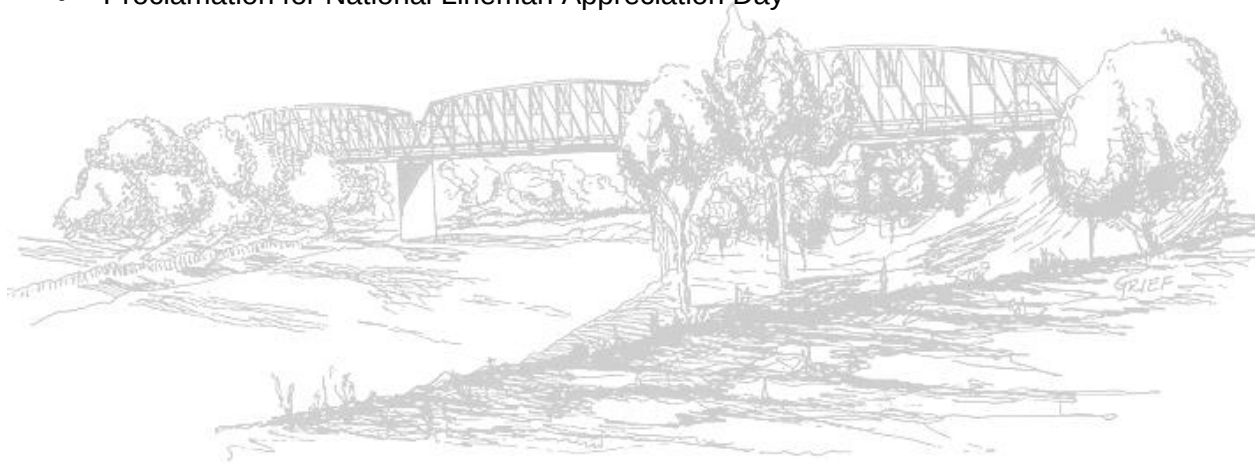
Present Proclamation recognizing April 18, 2018 as National Lineman Appreciation Day.

STAFF REPRESENTATIVE:

Lynda K. Humble, City Manager

ATTACHMENTS:

- Proclamation for National Lineman Appreciation Day





PROCLAMATION



WHEREAS, in 2012, the United States Senate first recognized the important role that linemen play in ensuring reliable electricity by bringing attention to linemen's history and role in society by creating the first National Linemen Appreciation Day; and

WHEREAS, the Power Lineman Trade began in 1879 with the invention of the Edison lightbulb; and

WHEREAS, Ezra Cornell, the first lineman in the United States, built the Morse Telegraph Line and later founded Cornell University, and

WHEREAS, there are approximately 155,000,000 electric customers in the United States served electrical power over 9 million miles of wire, hung on 170 million wood poles and 2.7 million transmission towers, and maintained by approximately 115,000 linemen; and

WHEREAS, National Lineman Day is a time to express our utmost appreciation to the great men and women that work on a daily basis in ensuring reliable electricity, a role that is performed almost invisibly; and

WHEREAS, the City of Bastrop is especially proud of the hard-working linemen of Bastrop Power and Light, who have allowed us to become accustomed to having very few outages lasting a short amount of time; and

WHEREAS, the City Council encourage all residents to also recognize the vital role our linemen play in providing safe, reliable, affordable electricity by expressing your thanks on social media using #ThankALineman.

NOW, THEREFORE, I, Connie Schroeder, Mayor of the City of Bastrop, do hereby recognize April 18, 2018 as:

National Lineman Appreciation Day

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Official Seal of the City of Bastrop, Texas to be affixed this 10th day of April, 2018.

Connie B. Schroeder, Mayor



STAFF REPORT

MEETING DATE: April 10, 2018

AGENDA ITEM: 4D

TITLE:

Receive presentation on availability of electricity in Downtown Bastrop.

STAFF REPRESENTATIVE:

Trey Job, Managing Director of Public Works & Leisure Services

ATTACHMENT:

Power point "Watt you need to know about BP&L"



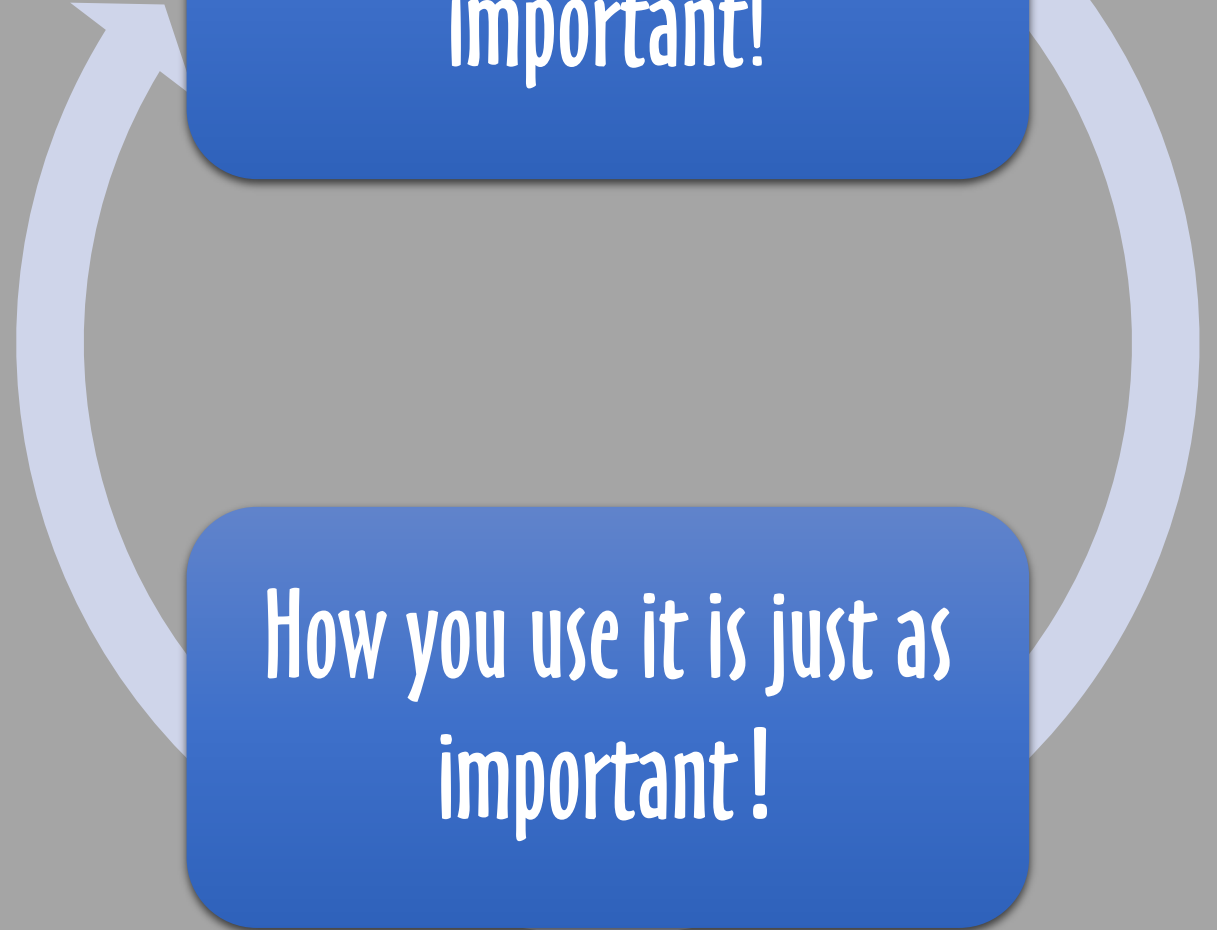
Watt you need
to know about



What do you know about
the power in your home
or business?

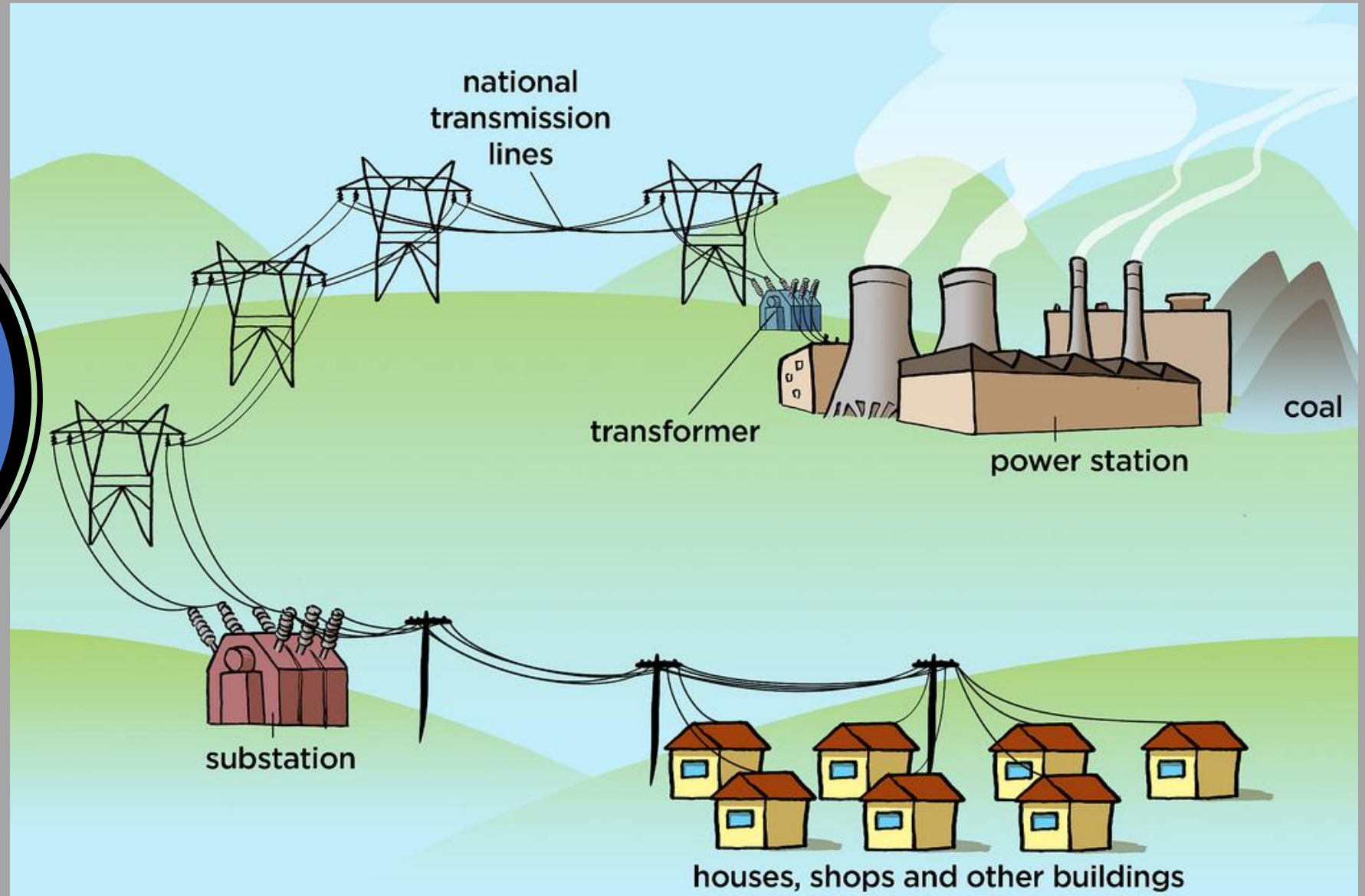
The power you have is
important!

How you use it is just as
important!



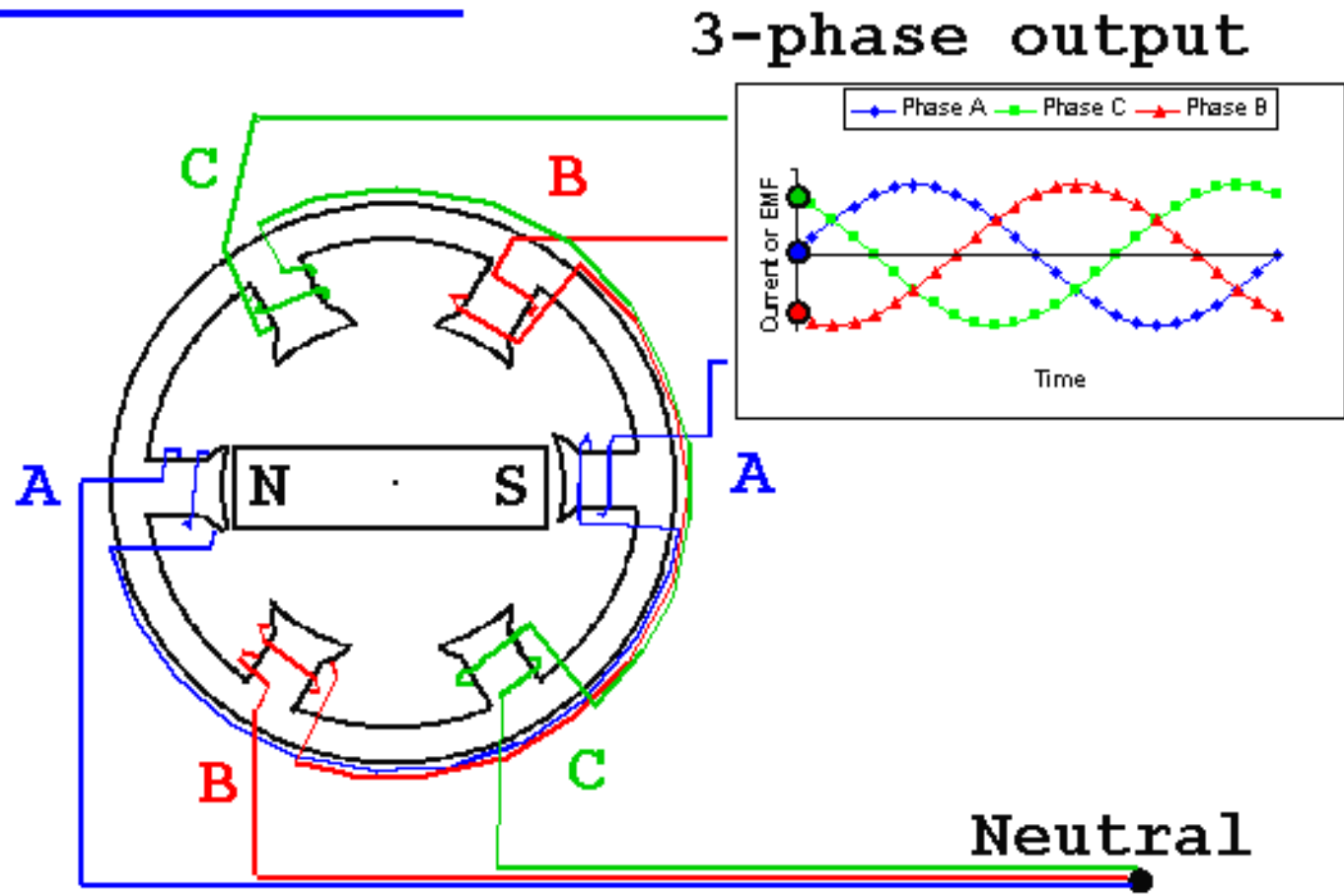
Let's start at the beginning

Electric Grid Example



Power is generated
and sent to the
transmission lines
by our provider.

The Generator



Typical voltages for long distance transmission are in the range of 155,000 to 765,000 volts in order to reduce line losses.

A typical maximum transmission distance is about 300 miles.

High-voltage transmission lines are quite obvious when you see them.

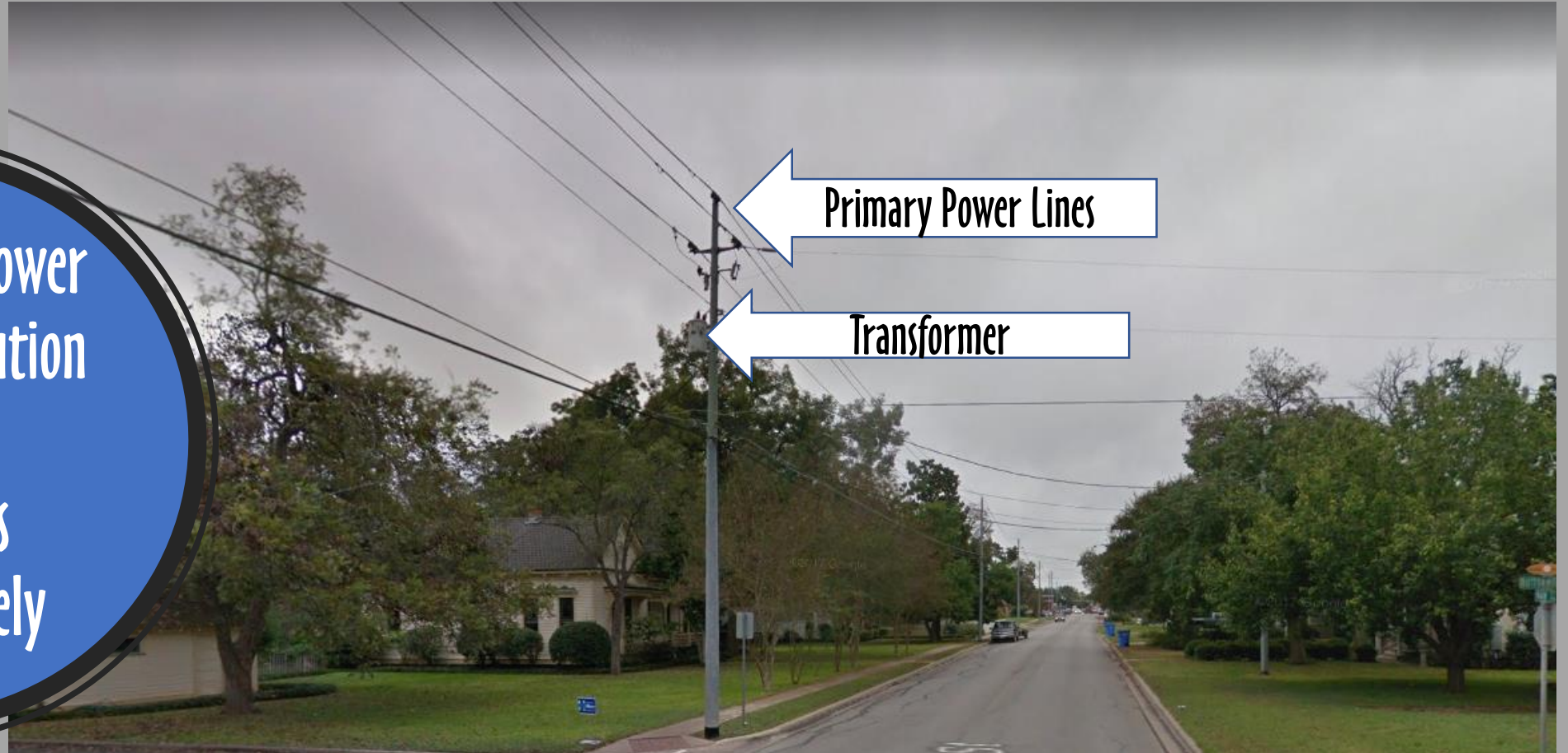


The Main St. Sub-Station
receives power from LCRA
at a high voltage. It is
then stepped down to
7,200 Volts.

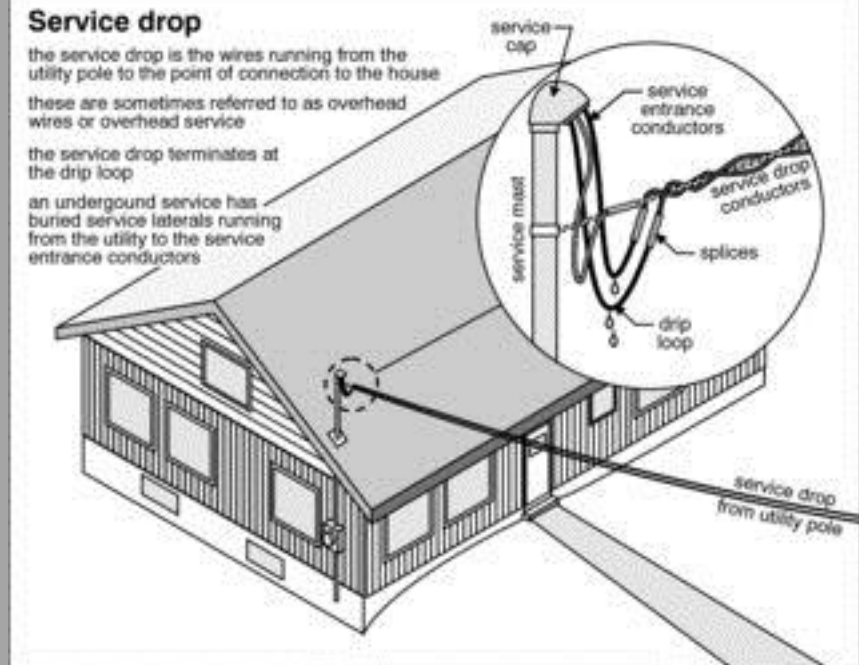
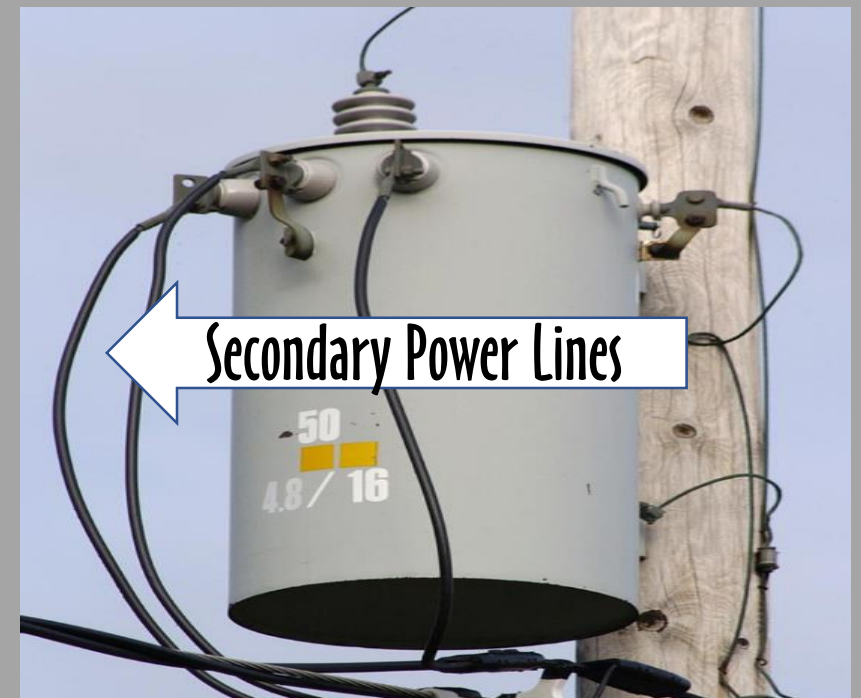


Main Street Sub-Station

We send the power
to our distribution
lines -
7,200 Volts
approximately



Here we have a close up view of a transformer.
The size is determined by the power requirement of the electrical service.
When power is overhead, this type of transformer is common for small businesses and homes.





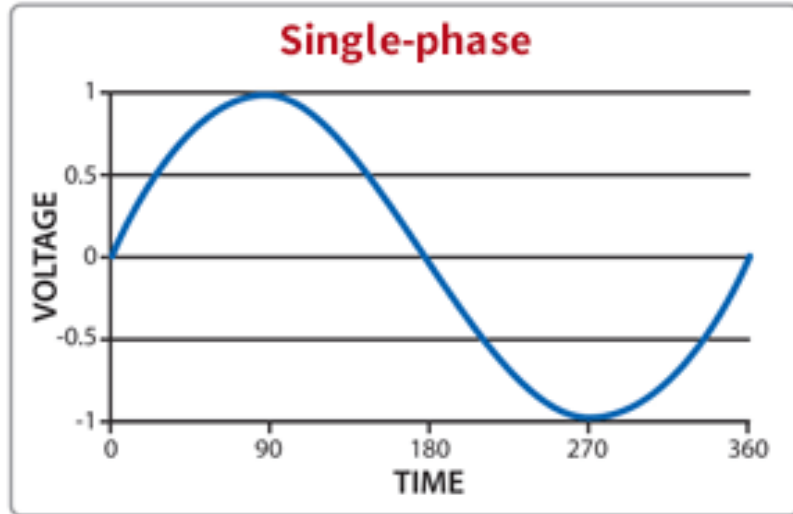
NOT THE KIND OF TRANSFORMER YOU NEED



In order to get the power you require, a bank of transformers may need to be built.

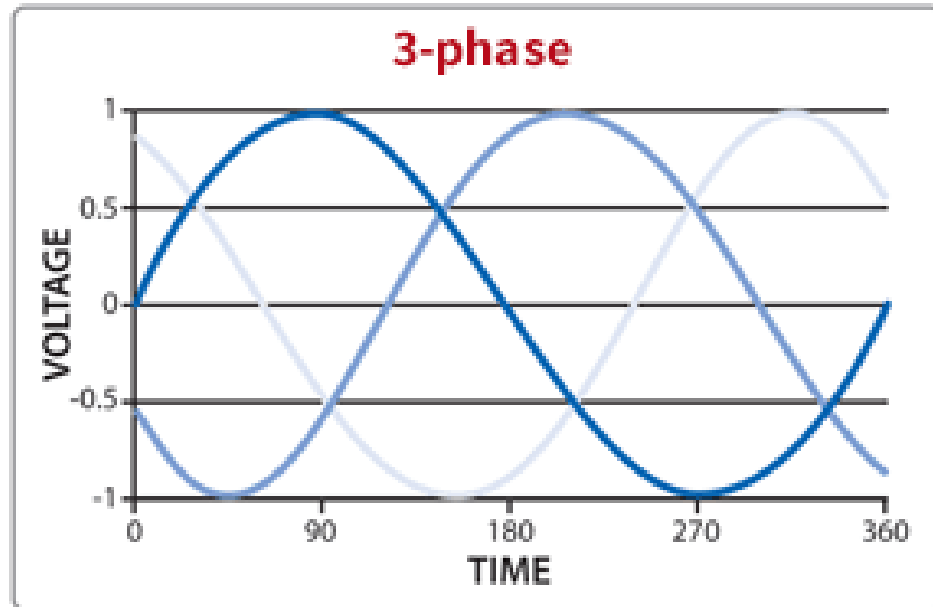


Transformers come in various shapes and sizes to fit the needs of the customer



Single phase power is:

- Used in most homes and small businesses
- Able to supply ample power for most smaller customers, including homes and small, non-industrial businesses
- Adequate for running motors up to about 5 horsepower; a single phase motor draws significantly more current than the equivalent 3-phase motor, making 3-phase power a more efficient choice for industrial applications



3-phase power is:

- Common in large businesses, as well as industry and manufacturing around the globe
- Increasingly popular in power-hungry, high-density data centers
- Expensive to convert from an existing single phase installation, but 3-phase allows for smaller, less expensive wiring and lower voltages, making it safer and less expensive to run
- Highly efficient for equipment designed to run on 3-phase

To illustrate the difference between single phase and three phase, imagine a lone paddler in a canoe. He can only move himself forward while his paddle moves through the water. When he lifts the paddle out of the water to prepare for the next stroke, the power supplied to the canoe is zero.

Now picture the same canoe with three paddlers. If their strokes are synchronized so each is separated by $\frac{1}{3}$ of a stroke cycle, the canoe receives constant and consistent propulsion across the water. More power is supplied and the canoe moves across the water more smoothly and efficiently.

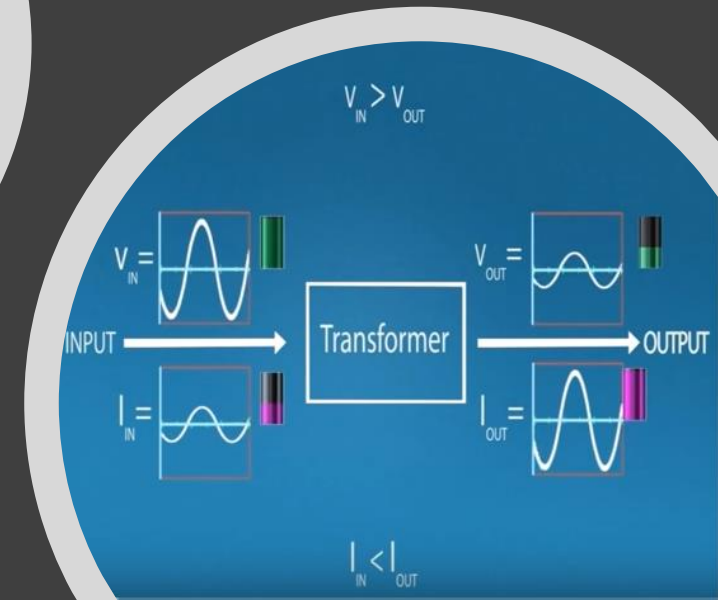
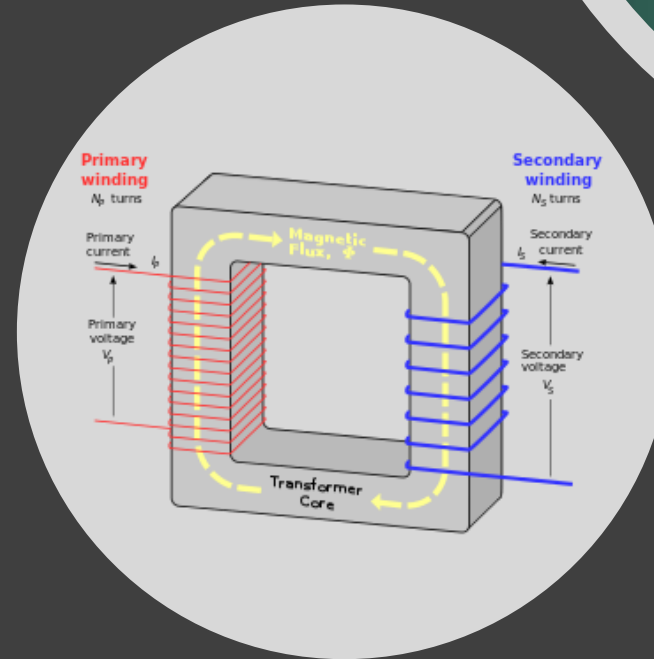
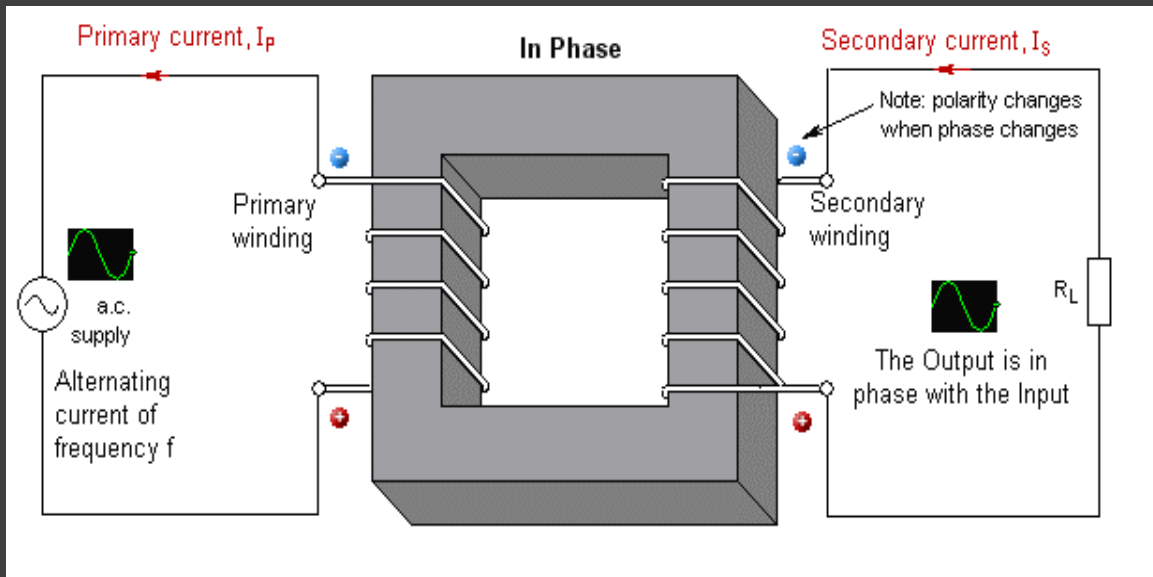


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A transformer can be wound to step power up or down, and has to be ordered to fit the customer needs.
There are 12 different types of transformers used by Bastrop Power & Light.





Example of 2 transformers to provide power to multiple locations on the same site (Buc-ee's)

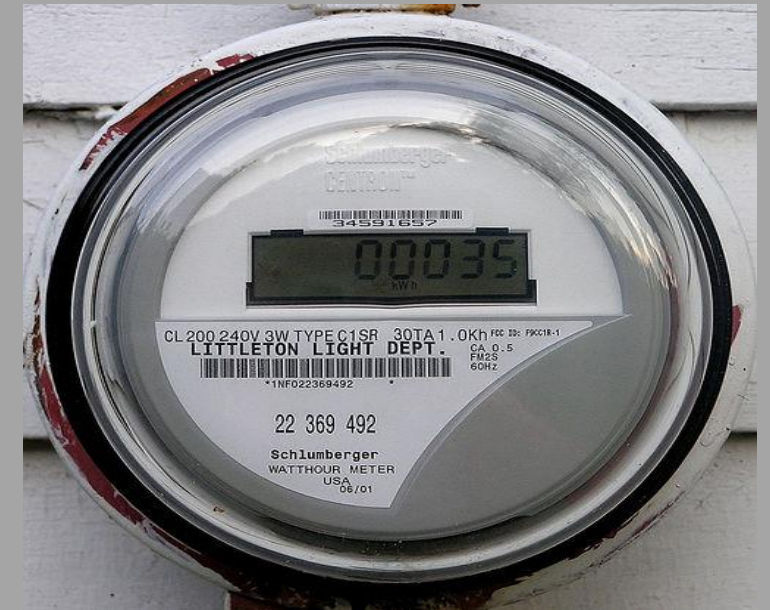


Example of a pad mounted transformer for a residence

Your transformer size is based upon the power requirements the customer provided to BP&L or another service provider.

Power requirements for your home or business:

- Imagine the pressure with which water flows can be compared to voltage.
- The rate at which the water flows can be compared to electrical current, or amperage, which is measured in amps.
- Voltage and amperage can be multiplied to give you wattage, which is an expression of how much work a piece of equipment can perform.



Power requirements for your home or business Cont'd:

- For context, a typical commercial electric range burner uses around 3000 watts on its highest setting. That wattage could be supplied by equipment connected to 240-volt supply and drawing 12.5 amps, since $240\text{ V} \times 12.5\text{ A} = 3000\text{ W}$.
- Similarly, a hot plate powered by 120 volts and drawing a current of 12.5 amps will produce up to 1500 watts of power. The higher a component's wattage, the more work it can perform. In terms of cooking and heating equipment, that means the equipment can produce more heat in a shorter period of time.



Be aware of the amount of power your home or business needs:

- Why could this be a problem?
- Remember when we discussed electricity and compared it to water?
- Here is an example: if you imagine power is just like water, there is enough water in a 12" water main at the street to have some fun playing in the sprinkler, but if you only have a $\frac{3}{4}$ inch meter you are limited on the amount of sprinklers you can add.



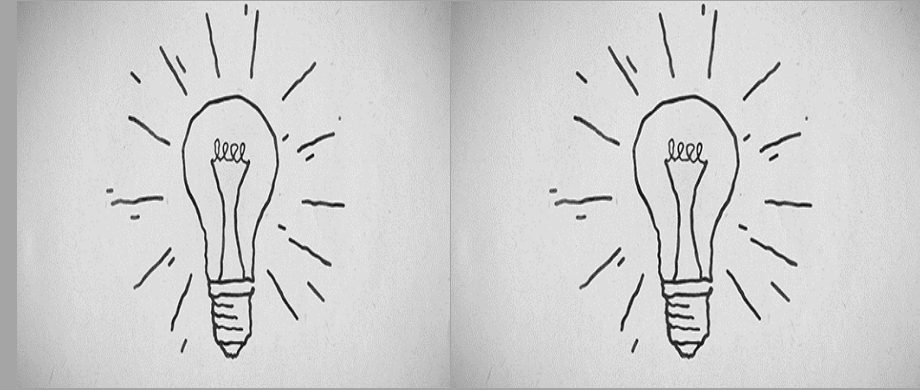
Be aware of the amount of power your home or business needs:

- For example you may be able to water 4 frogs, but if you want to add racoons you will need a bigger service line and meter.
- More Demand means you need a larger supply.



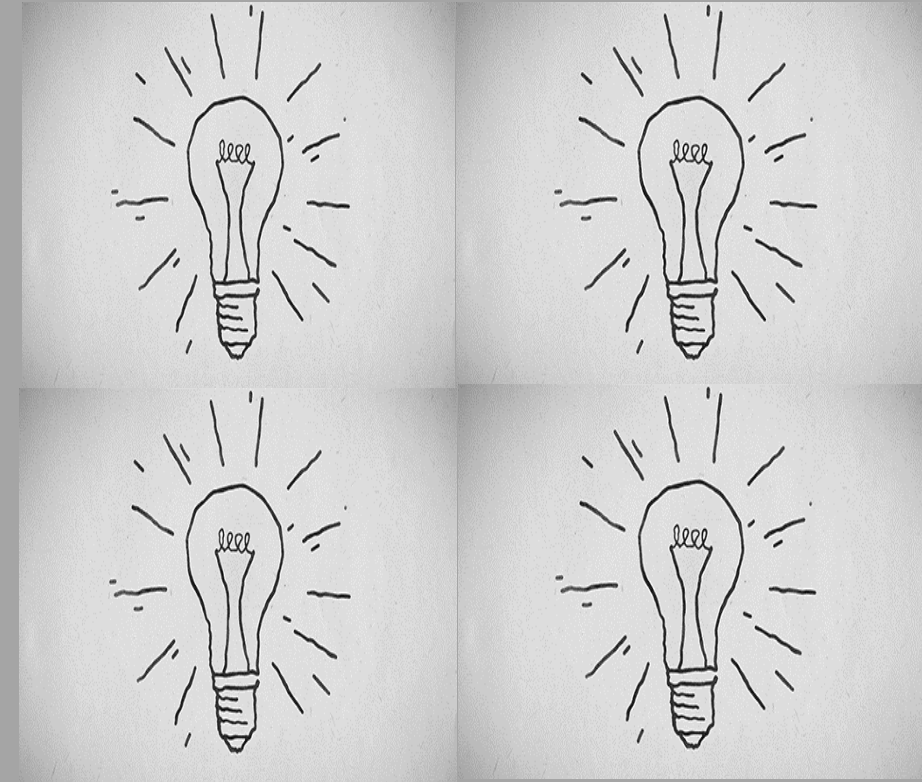
Be aware of the amount of power your home or business requires:

- A greater demand needs a greater supply.
- The same goes for electricity when you plug in multiple appliances that draw high amperage things will begin to happen such as:
 - Your light may dim
 - Breakers can trip
 - Wires will heat up, melting insulation or burning through a wire.
 - You could even damage appliances.



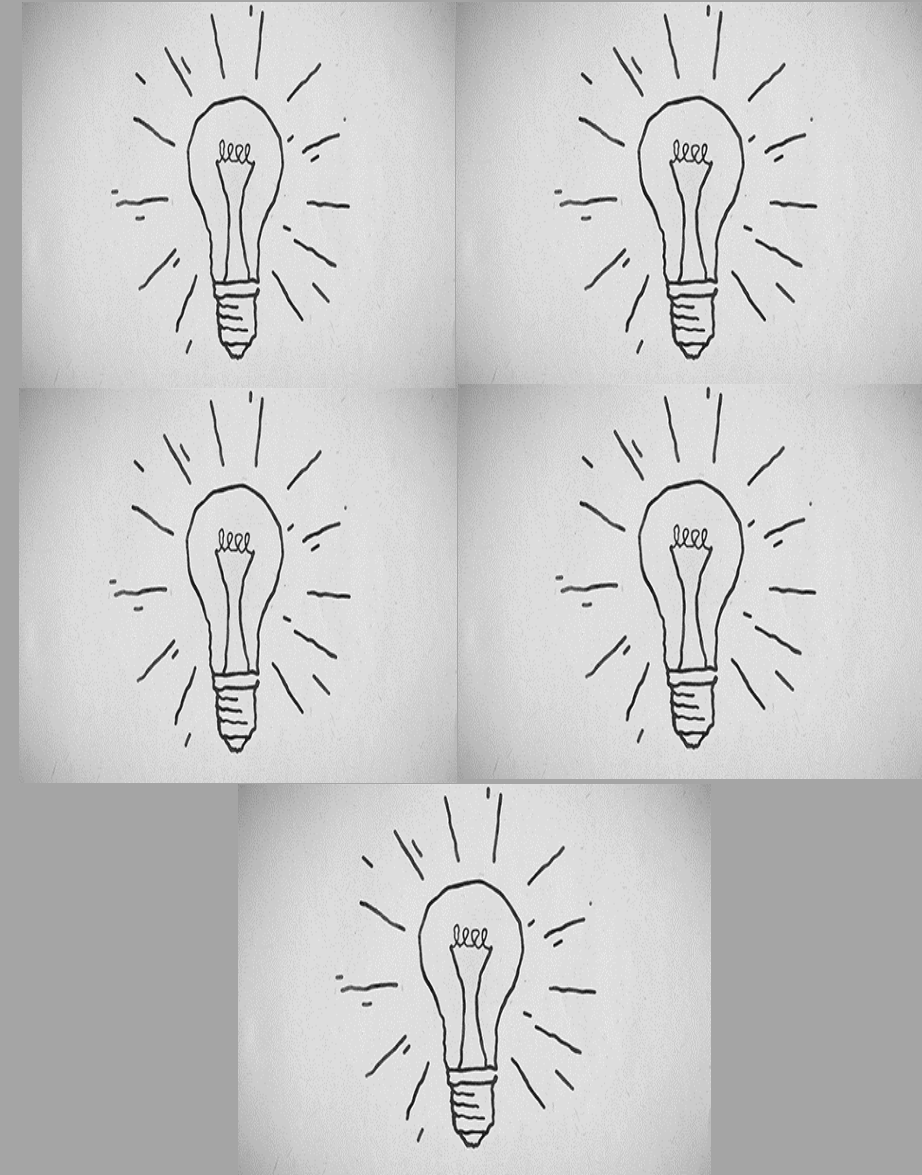
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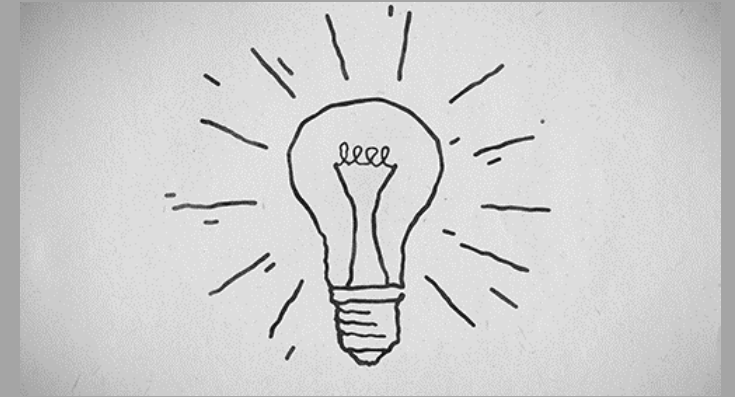
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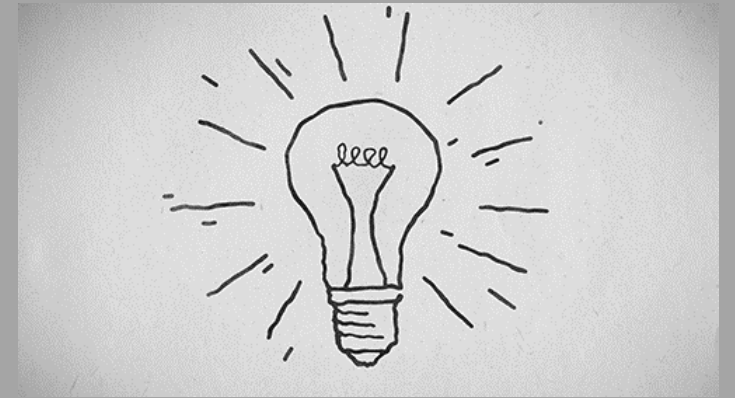
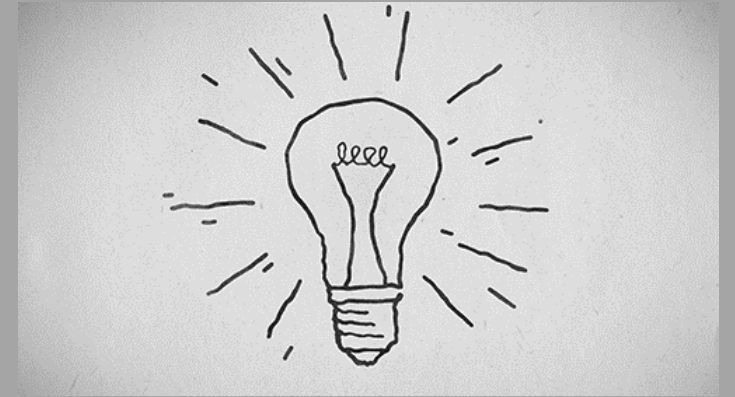
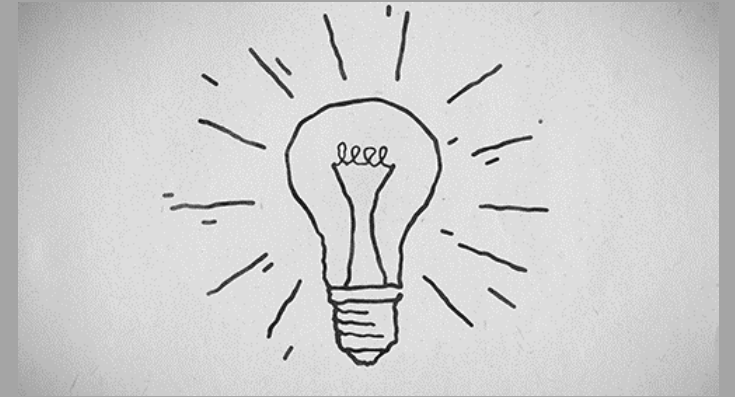
It is important to know what your power requirements will be especially when you decide to change the use of a building

- What is a change of use?
 - When a building is built, usually the owner or business owner know what type of business will be there.
- For example, if a building's original use was a bookstore, it would have minimum power requirements.
 - You will have a circuit for lighting
 - HVAC
 - Maybe a small kitchen area/break room with a coffee pot etc. . . .



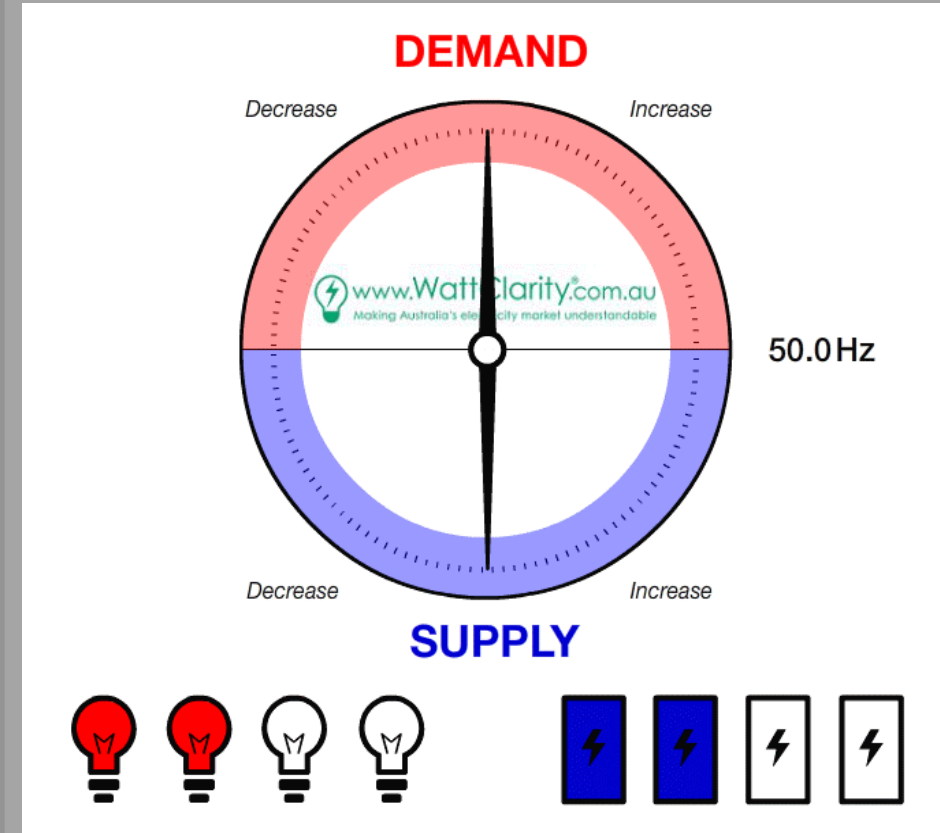
Change of use continued

- If the new property owner decided to change of use to a restaurant, a larger power supply would be required.
 - More circuits will be required for the new equipment.
 - An upgrade in the building's electrical service may require a greater power supply from the utility provider



Change of use continued

- In an effort to provide better customer service, additional questions will be added to the City's permit applications and plan review meetings, such as:
 - What type of work are you doing?
 - What do you want to accomplish?
 - Are you adding additional equipment or appliances that will require more power?
 - Have you contacted an electrician or engineer regarding what your load requirements will be?
 - Would you like a courtesy inspection to determine your current service and transformer size?





The End

Questions?



STAFF REPORT

MEETING DATE: April 10, 2018

AGENDA ITEM: 4E

TITLE:

Mayor's Report

STAFF REPRESENTATIVE:

Lynda Humble, City Manager

POLICY EXPLANATION:

Texas Local Government Code, Section 551.045 – Governing Body of Municipality or County: Reports about Items of Community Interest Regarding Which No Action Will Be Taken:

(a) Notwithstanding Sections 551.041 and 551.042, a quorum of the governing body of a municipality or county may receive from staff of the political subdivision and a member of the governing body may make a report about items of community interest during a meeting of the governing body without having given notice of the subject of the report as required by this subchapter if no action is taken and, except as provided by Section 551.042, possible action is not discussed regarding the information provided in the report.

(b) For purposes of Subsection (a), "items of community interest" includes:

- (1) expressions of thanks, congratulations, or condolence;
- (2) information regarding holiday schedules;
- (3) an honorary or salutary recognition of a public official, public employee, or other citizen, except that a discussion regarding a change in the status of a person's public office or public employment is not an honorary or salutary recognition for purposes of this subdivision;
- (4) a reminder about an upcoming event organized or sponsored by the governing body;
- (5) information regarding a social, ceremonial, or community event organized or sponsored by an entity other than the governing body that was attended or is scheduled to be attended by a member of the governing body or an official or employee of the political subdivision; and
- (6) announcements involving an imminent threat to the public health and safety of people in the political subdivision that has arisen after the posting of the agenda.

ATTACHMENTS:

- Power Point Presentation

Mayor's Report

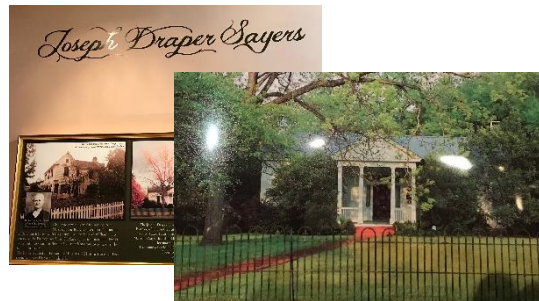
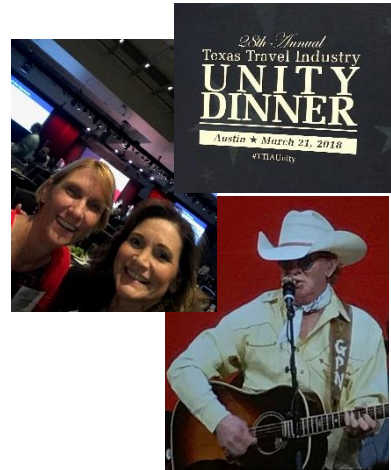
April 10, 2018



Latest Activities

March 17-29

Events in 2018: 94



Kite & Flower Day



Gov. Sayers Exhibit



Library Fund Raiser



Planned Events

March 30- April 10

- March 29
 - Guest Speaker for FCI National Women's History Month
 - Ribbon Cutting - Supreme Lending
- March 30 – Good Friday (City Offices Closed)
- April 1 – Easter Sunrise Service (Bastrop State Park)
- April 3 – Ribbon Cutting - RC's Playhouse
- April 4
 - Monthly Chamber Luncheon
 - BAIPP Meeting
- April 5 – Farm Street Opry
- April 6 – First Friday Art Walk
- April 10 – Bastrop City Council Meeting



Upcoming Events & City Meetings

- April 11 – Welcome Texas Electric Power Conference! (3 days in Bastrop)
- April 12-14 Cultivating Strong Towns Conference (San Marcos)
- April 15 – Annual Lost Pines Art Center Gala
- April 16 – BECD Monthly Meeting
- April 19 – Mid-Year Budget City Council Work Session
- April 20
 - BEDC Workforce Development Program
 - Texas Historical Foundation Annual Meeting
- April 21
 - Keep Bastrop County Beautiful River Rally Race
 - Crawfish on the Colorado benefiting Bastrop Animal Rescue
- April 22
 - River Clean-up Day
- April 23 EARLY VOTING STARTS!
- April 24 City Council





STAFF REPORT

MEETING DATE: April 10, 2018

AGENDA ITEM: 4F

TITLE:

Councilmembers' Report

STAFF REPRESENTATIVE:

Lynda Humble, City Manager

POLICY EXPLANATION:

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- (4) a reminder about an upcoming event organized or sponsored by the governing body;
- (5) information regarding a social, ceremonial, or community event organized or sponsored by an entity other than the governing body that was attended or is scheduled to be attended by a member of the governing body or an official or employee of the political subdivision; and
- (6) announcements involving an imminent threat to the public health and safety of people in the political subdivision that has arisen after the posting of the agenda.



STAFF REPORT

MEETING DATE: April 10, 2018

AGENDA ITEM: 4G

TITLE:

City Manager's Report

STAFF REPRESENTATIVE:

Lynda Humble, City Manager

POLICY EXPLANATION:

Texas Local Government Code, Section 551.045 – Governing Body of Municipality or County: Reports about Items of Community Interest Regarding Which No Action Will Be Taken:

(a) Notwithstanding Sections 551.041 and 551.042, a quorum of the governing body of a municipality or county may receive from staff of the political subdivision and a member of the governing body may make a report about items of community interest during a meeting of the governing body without having given notice of the subject of the report as required by this subchapter if no action is taken and, except as provided by Section 551.042, possible action is not discussed regarding the information provided in the report.

(b) For purposes of Subsection (a), "items of community interest" includes:

- (1) expressions of thanks, congratulations, or condolence;
- (2) information regarding holiday schedules;
- (3) an honorary or salutary recognition of a public official, public employee, or other citizen, except that a discussion regarding a change in the status of a person's public office or public employment is not an honorary or salutary recognition for purposes of this subdivision;
- (4) a reminder about an upcoming event organized or sponsored by the governing body;
- (5) information regarding a social, ceremonial, or community event organized or sponsored by an entity other than the governing body that was attended or is scheduled to be attended by a member of the governing body or an official or employee of the political subdivision; and
- (6) announcements involving an imminent threat to the public health and safety of people in the political subdivision that has arisen after the posting of the agenda.



STAFF REPORT

MEETING DATE: April 10, 2018

AGENDA ITEM: 5A

TITLE:

Receive presentation on the "Service Agreement for Water Customers".

STAFF REPRESENTATIVE:

Trey Job, Managing Director of Public Works & Leisure Services
Tracy Waldron, Chief Financial Officer

BACKGROUND/HISTORY:

The City of Bastrop Water Utilities Division is responsible for protecting the drinking water supply from contamination or pollution, which could result from improper plumbing practices. The purpose of this service agreement is to notify each customer of the plumbing restrictions which are in place to provide this protection. The Utility enforces these restrictions to ensure public health and welfare is maintained. Each customer must sign this agreement before the City of Bastrop Water Utilities Division will begin service. In addition, when service to an existing connection has been suspended or terminated due to a change in occupancy, the Water System will not re-establish service unless it has a signed copy of this agreement.

This is a standard agreement used throughout the water industry. However, it is a new form for the City of Bastrop, which will be presented to customers at the time a new account is opened or there is a change in service. This agreement adds a layer of customer service because it explains what is already required per State law, **TAC CHAPTER 290- PUBLIC DRINKING WATER SUBCHAPTER D: RULES AND REGULATIONS FOR PUBLIC WATER SYSTEMS §§290.38 - 290.47** Effective December 15, 2015, City Code 301.9, the Utilities Ordinance, Section 13.11.011, the Plumbing Ordinance, Section 3.06.041, and is also included within the Utility Policy.

The Water Utilities Division is partnering with Utilities Customer Service Division to get the agreement executed by customers at the time of service connect or change. Trey Job will provide Utilities Customer Service Division with training on the agreement as well as a "Frequently Asked Questions" sheet for use when working with water customers.

POLICY EXPLANATION:

TAC Chapter 290 - Public Drinking Water Subchapter D: Rules and Regulations for Public Water Systems §§290.38 - 290.47 (i) Plumbing Ordinance states a public water system must adopt an adequate plumbing ordinance, regulations, or service agreement with provisions for proper enforcement to ensure that neither cross-connections nor other unacceptable plumbing practices are permitted (See §290.47(b) of this title relating to Appendices). Should sanitary control of the distribution system not reside with the purveyor, the entity retaining sanitary control shall be responsible for establishing and enforcing adequate regulations in this regard. The use of pipes and pipe fittings that contain more than 0.25% lead or solders and flux that contain more than

0.2% lead is prohibited for installation or repair of any public water supply and for installation or repair of any plumbing in a residential or nonresidential facility providing water for human consumption and connected to a public drinking water supply system. This requirement may be waived for lead joints that are necessary for repairs to cast iron pipe.

FUNDING SOURCE:

N/A

ATTACHMENTS:

- City of Bastrop Draft Service Agreement



**CITY OF BASTROP
WATER SERVICE AGREEMENT**

This WATER SERVICE AGREEMENT (Agreement) is made and entered into by and between the City of Bastrop Water Utilities Division (Water System) and _____ (Customer(s)) for service at _____ (service address/location).

I. PURPOSE

The City of Bastrop Water Utilities Division is responsible for protecting the drinking water supply from contamination or pollution, which could result from improper plumbing practices. The purpose of this Agreement is to notify each customer of the plumbing restrictions, which are in place to provide this protection. The City enforces these restrictions to ensure public health and welfare is in compliance with state and federal law. Each customer must sign this Service Agreement before the City of Bastrop Water Utilities Division will establish service. In addition, when services to an existing connection has been suspended or terminated, the City will not re-connect service until a signed copy of this Agreement has been submitted by Customer.

II. PLUMBING RESTRICTIONS

The following undesirable plumbing practices are prohibited by State regulations:

- A. No direct connection between the public drinking water supply and a potential source of contamination is permitted. Potential sources of contamination shall be isolated from the public water system by an air-gap or an appropriate backflow prevention device.
- B. No cross-contamination between the public drinking water and a private water system is permitted. These potential threats to the public drinking water supply shall be eliminated at the service connection by the installation of an air-gap or a reduced pressure-zone backflow prevention device.
- C. No connection which allows water to be returned to the public drinking water supply is permitted.
- D. No pipe or pipe fitting which contains more than 0.25 percent lead may be used for the installation or repair of plumbing at any connection which provides water for human use.
- E. No solder or flux which contains more than 0.2 percent lead can be used for the installation or repair of plumbing at any connection which provides water for human use.

III. TERMS OF SERVICE

- A. The City shall maintain a copy of this Agreement as long as Customer and/or the premises is connected to the Water System.
- B. The Customer shall allow the property to be inspected for possible cross connections and other undesirable plumbing practices. These inspections shall be conducted by the Water

System or it's designated agent prior to initiating service and periodically thereafter. The inspections shall be conducted during the Water System's normal business hours.

- C. The City shall notify the Customer in writing of any cross connection or other undesirable plumbing practice(s) which has been identified during the initial inspection or the periodic re-inspection(s).
- D. The Customer shall immediately correct any undesirable plumbing practice(s) at the service location.
- E. The Customer shall, at their expense, properly install or cause to be installed, tested, and maintained any backflow prevention device(s) required by the Water System. Copies of all testing and maintenance records shall be provided to the Water System.

IV. ENFORCEMENT

If the Customer fails to comply with the terms of this Agreement, the City shall at its option, either terminate service or properly install, test, and maintain an appropriate backflow prevention device at the service connection. The Customer shall be responsible for any expenses associated with the enforcement of this Agreement.

Customer's Signature _____

Date _____

UNDERSTANDING WHY IT IS IMPORTANT TO PROTECT YOUR WATER SUPPLY

Service agreement form

Frequently asked questions

Is this form New ?

Yes ! It is new to the City of Bastrop's process. However, it is a standard form used by water utilities throughout the state.

Why do I have to sign this agreement ?

The State law requires water purveyors to adopt a plumbing ordinance or a service agreement that prevents the customer from making changes to their home or business that can impact public health. The requirements include a cross connection control program, and customer service inspections.

Why did you add it to the process?

This form will assist us in providing better customer service. For example, if you open a new water account by signing the form this gives you an opportunity to ask questions and sets clear expectations with the customer prior to cutting the water off when a violation is found.

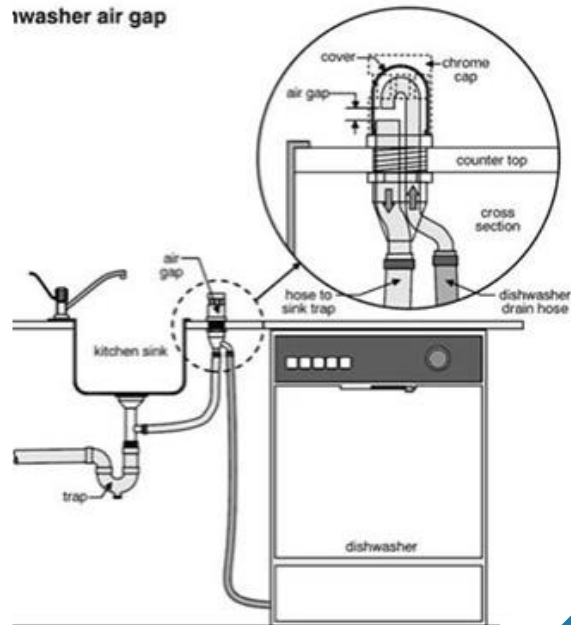
What is a cross-connection?

A cross-connection is any temporary or permanent connection between a public water system or consumer's potable (i.e., drinking) water system and any source or system containing non-potable water or other substances. An example is the piping between a public water system or consumer's potable water system and an auxiliary water system, cooling system, or irrigation system.

EXAMPLES OF A CROSS CONNECTION



washer air gap



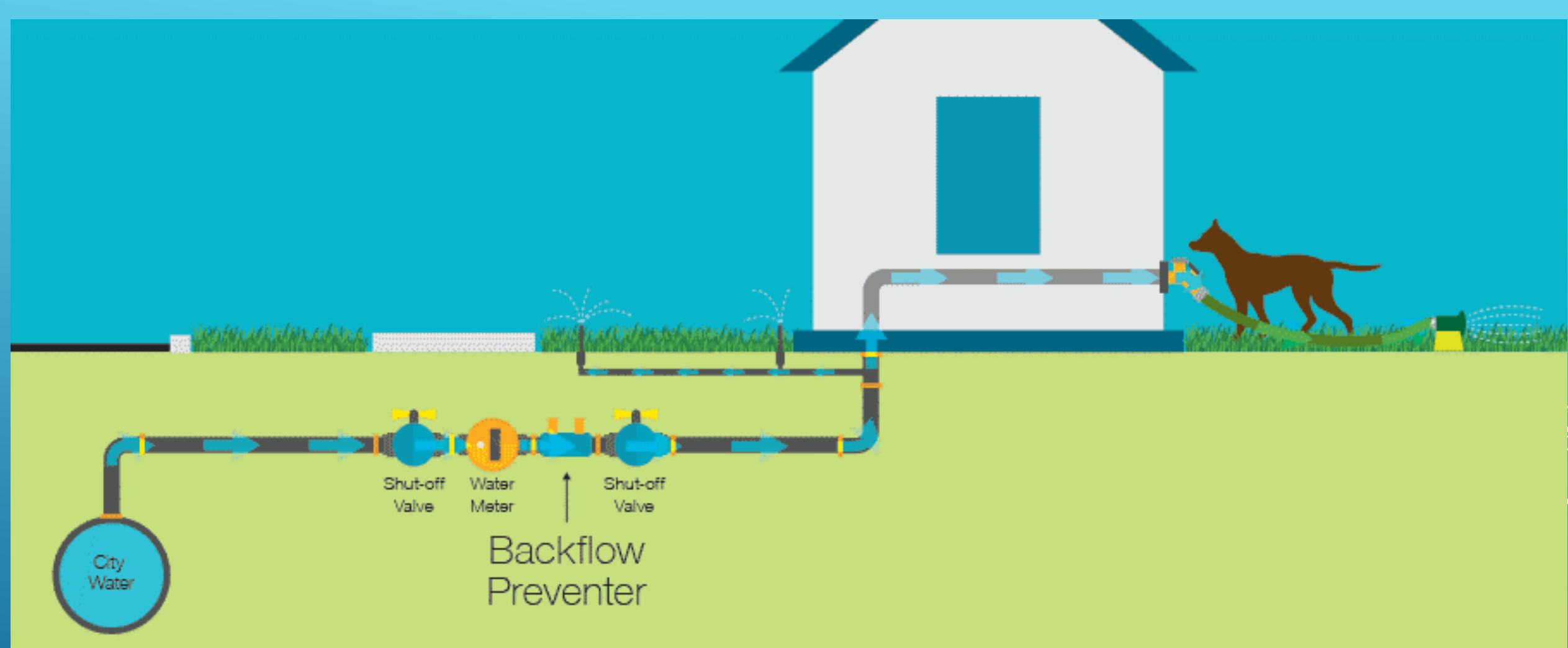
Frequently asked questions

What is backflow?

Backflow refers to the reverse flow of non-potable water, or other substances, through a cross-connection and into the piping of a public water system or customer's potable water system. Two types of backflow are backpressure backflow and back-siphonage.

What is a backflow prevention assembly?

A backflow prevention assembly is a means or mechanism to prevent backflow. The basic means for preventing backflow is an air gap, which either eliminates a cross-connection or provides barrier from backflow. The basic mechanism for preventing backflow is a mechanical backflow preventer, which provides a physical barrier to backflow. The principal types of backflow preventers are the reduced-pressure principle assembly, the pressure vacuum breaker assembly and the double check valve assembly.



Example of Back siphoning

3 COMMON CROSS CONNECTIONS

that may be affecting your restaurant business

CHEMICAL DISPENSERS

Connect chemical dispensers to a dedicated water supply

PRE-RINSE FAUCETS

Install check valves on the hot and cold water supply lines between the supply valves and the faucet

MOP SINK FAUCETS

Develop a procedure that will not require anything to be connected to the faucet that will stop the flow of water



THIS IS AN EXAMPLE OF A MOP
SINK FAUCET WITH PROPER
BACK FLOW PREVENTION

Questions ?





STAFF REPORT

MEETING DATE: April 10, 2018

AGENDA ITEM: 5B

TITLE:

Receive presentation from Tim Sanders with BEFCO Engineering about the updated cost estimate to include bank stabilization between 104 and 106 Bush Cove.

STAFF REPRESENTATIVE:

Trey Job, Managing Director of Public Works & Leisure Services

BACKGROUND/HISTORY:

Shortly after the flood on May 25, 2015, I was contacted by the property owners of 104 and 106 Bush Cove. Their properties were damaged during a flood event that took place on October 31, 2015. During the October flood event, the Colorado River crested at 36.14 feet. The increased level of the river caused a local tributary known as Piney Creek to back up at levels never seen before by the property owners. As the water in the Colorado River receded, the now saturated banks of Piney Creek began to slough off, causing the property owners along the creek to lose approximately six feet of bank or more. It also caused damage to the City's drainage infrastructure along Riverwood Drive. Once I received the call, I looked at the areas of concern along Riverwood and between the two aforementioned properties.

The initial meeting occurred in January 2016 between Trey Job and Tim Sanders, BEFCO Engineering, to discuss solutions. Various meetings with City staff, former Mayor Kesselus, current Mayor Schroeder and Council Members, and the property owners have occurred since January 2016. Two more large rain events occurred during April and May of 2016, while the project was being designed. During that time, several emails and meetings were held between the property owners, staff, and consultants. Once the design was completed, a request for qualifications was written, contract documents were drafted, and the **Riverwood Drainage Project** was scheduled to be awarded in the amount of \$251,170 at the May 23, 2017 Council Meeting. This scope of this project would stabilize the steep bank and drainage pipe located in the City's right-of-way along Riverwood Drive and re-route the water that currently drains between their homes through an agreed-upon easement on the Dayton's property to the Riverwood drainage pipe. The item was pulled from the agenda by Mayor Schroeder at Staff's request, once it was realized the lowest submitted base bid price from D & S Concrete Contractors was not complete. The **Riverwood Drainage Project** was to be rescheduled to the next available agenda opening in June 2017.

During the period of time between the May and June 2017, the property owners at 104 and 106 Bush Cove reviewed the project plans and did not feel the work being performed along the bank of Piney Creek was what they had been previously told. The Daytons are unwilling to grant an easement across their property to reroute the drainage unless the drainage easement between 104 and 106 Bush Cove is addressed. The property owners requested a meeting with Lynda Humble, City Manager, who had been employed with the City for less than two months. The meeting was at 106 Bush Cove on May 25, 2017. Councilmember Gary Schiff, Mrs. Humble, and I attended the meeting. The property owners in attendance were Walter and Mary Davenport from

104 Bush Cove, and Wayne and Glenda Dayton from 106 Bush Cove. The property owners felt that the bank erosion along Piney Creek was not being appropriately addressed. During the meeting, several options were discussed regarding maintenance and repair of the bank and what could be the contributed cause of the erosion. As a result of the meeting, I was instructed to contact BEFCO Engineering to coordinate soil sampling of the creek bank between the two properties owners' homes and to develop a revised cost estimate.

Terracon Consultants, Inc. were selected, and the engineering service agreement was executed and in place by July 1, 2017. Terracon performed the geotechnical engineering work, which included one bore sixty feet deep. The deliverables included a typical profile, as well as recommendations for design and construction. The geotechnical report was completed on October 26, 2017, and BEFCO gave a revised estimate on November 6, 2017, in the amount of \$476,000.00.

POLICY EXPLANATION:

To perform the work as requested by the property owners, the original Riverwood Drainage Project cannot move forward. Given the change in project scope and the 90% increase in the estimated cost of construction, a new project will be required to be engineered and bid before construction can occur. At this time, there is no identified source of funding for this project.

The Daytons and Davenports expressed an interest to staff for bank repair along Piney Creek behind their houses. The value of the both properties together is much less than the expense of repairing the bank along Piney Creek. Therefore, it does not meet the FEMA standards regarding cost benefit analysis. Therefore, it is not eligible for funding.

Mr. Tim Sanders, BEFCO Engineering, is going to provide an updated overview of the project including existing conditions, proposed improvements, estimated cost of the proposed improvements, and the findings of the geotechnical report.

FUNDING SOURCE:

There is no identified source of funding for this project. In February, Council received a Drainage Study by Halff Associates that identified several unfunded drainage projects totaling \$22.5 million, which are in addition to other drainage projects that have been submitted for grant and/or FEMA funding around the community resulting from the floods in 2015 and 2016.

RECOMMENDATION:

Staff recognizes the importance of this project to both the Davenports and Daytons. However, there are several other identified drainage projects throughout the community that are important to affected property owners as well. To ensure community equity regarding drainage funds, Staff would suggest that this project be scored and evaluated as a part of the Drainage Capital Improvement Program, which is not anticipated to be completed until FY 2019.

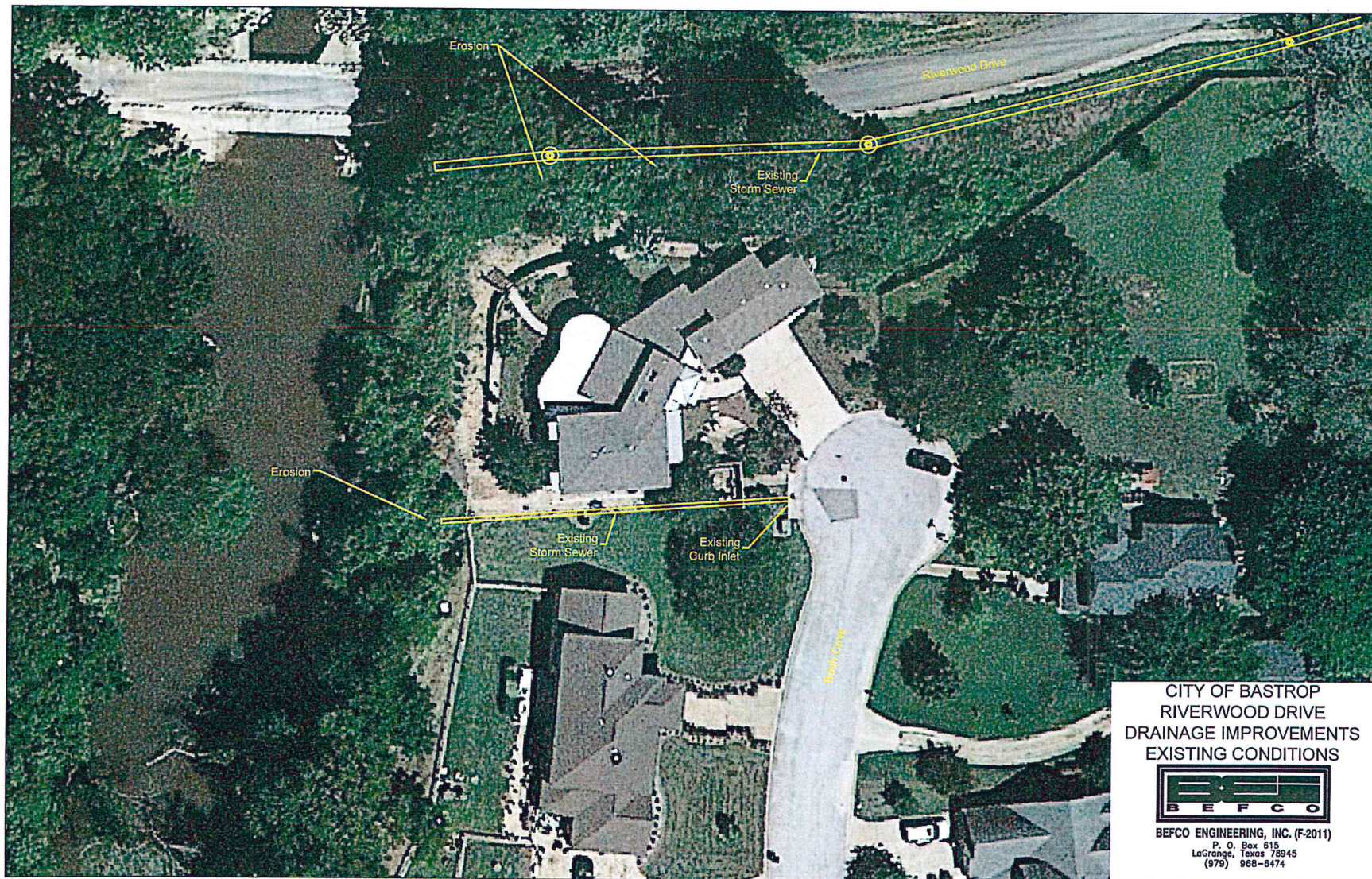
ATTACHMENTS:

- Presentation by BEFCO Engineering

CITY OF BASTROP
RIVERWOOD DRIVE
DRAINAGE IMPROVEMENTS

GENERAL LOCATION MAP





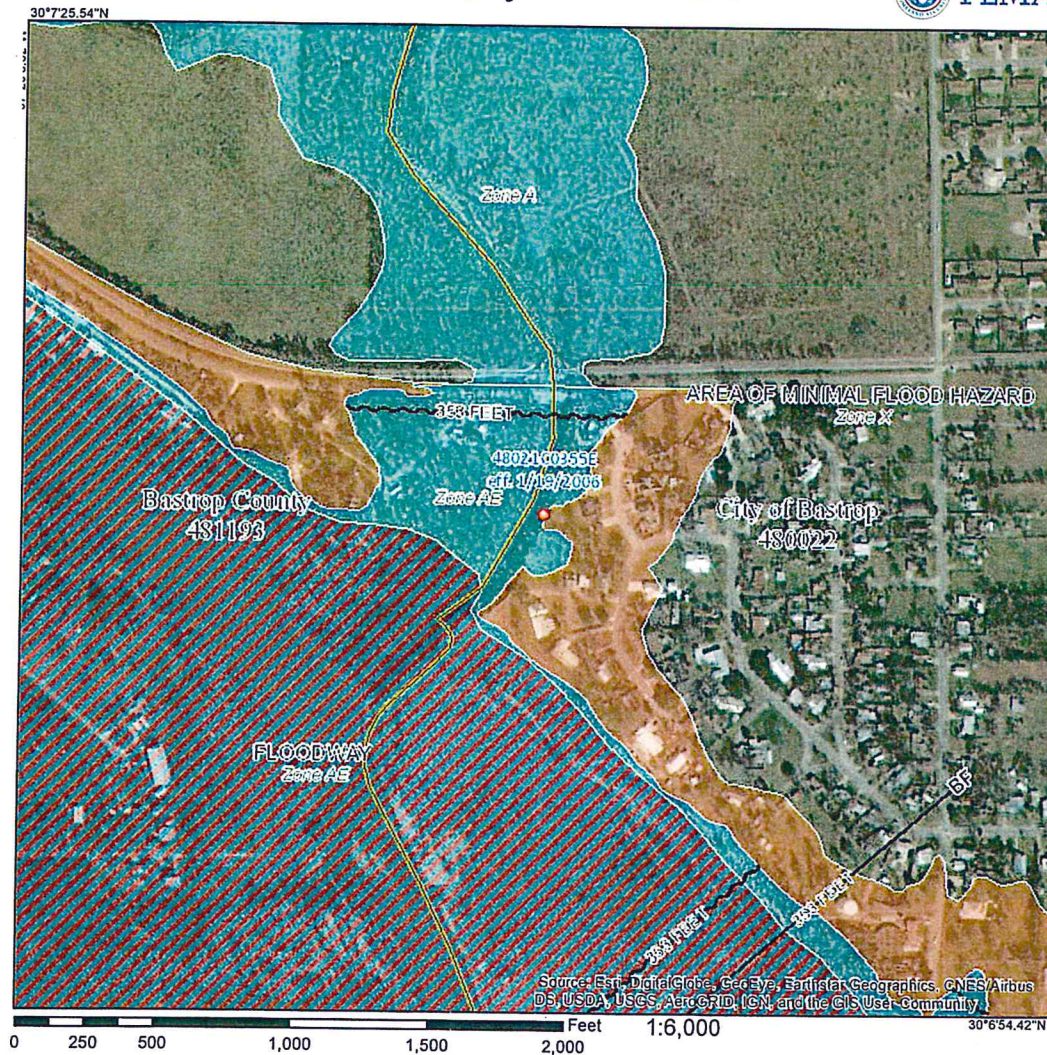
CITY OF BASTROP
RIVERWOOD DRIVE
DRAINAGE IMPROVEMENTS
EXISTING CONDITIONS



BEFCO ENGINEERING, INC. (F-2011)

P. O. Box 615
LaGrange, Texas 78945
(979) 968-6474

National Flood Hazard Layer FIRMette



Legend

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

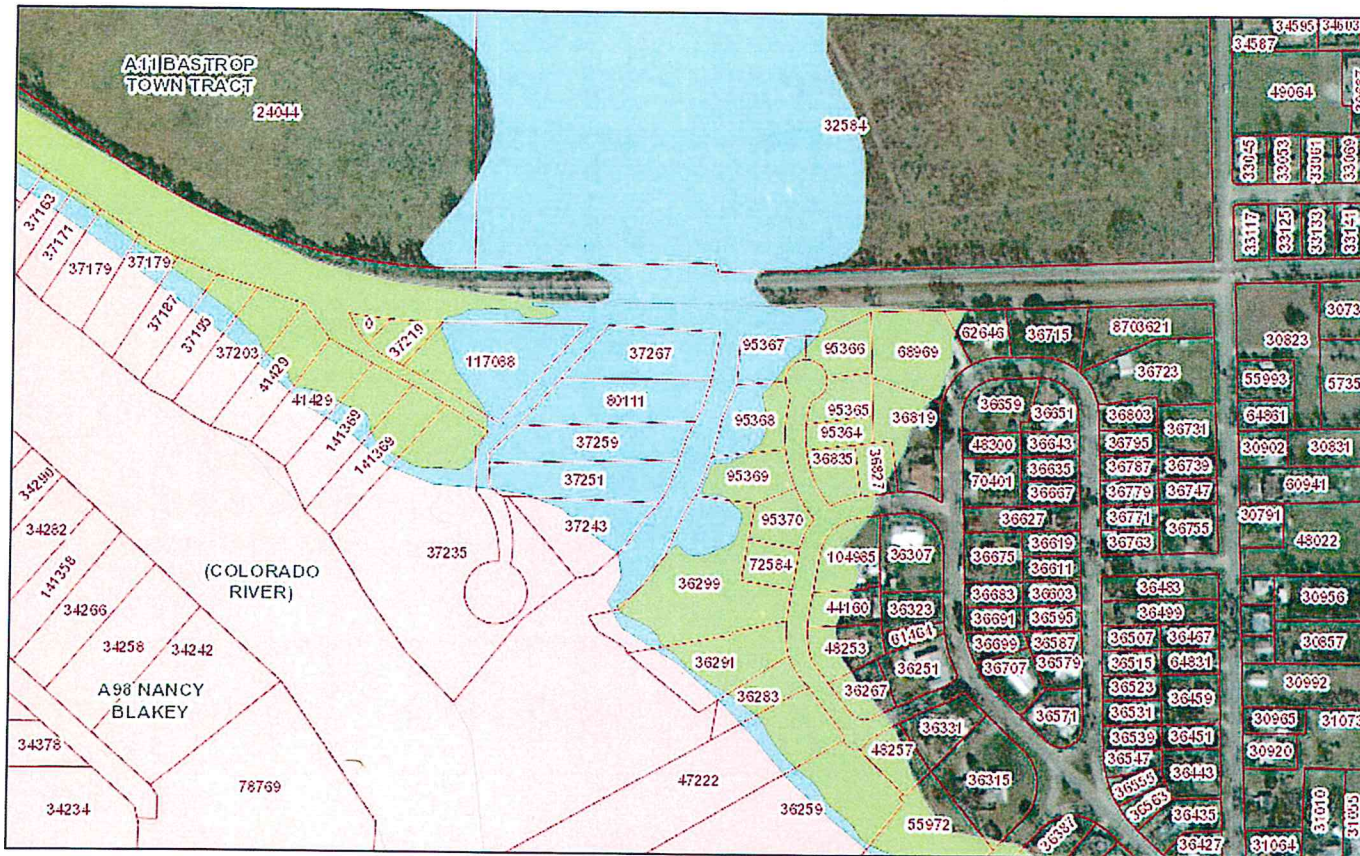
SPECIAL FLOOD HAZARD AREAS	Without Base Flood Elevation (BFE) Zone A, V, AE9
	With BFE or Depth
	Regulatory Floodway Zone AE, AO, AH, VE, X
OTHER AREAS OF FLOOD HAZARD	0.2% Annual Chance Flood Hazard, Area of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile Zone X
	Future Conditions 1% Annual Chance Flood Hazard Zone X
	Area with Reduced Flood Risk due to Levee. See Notes. Zone X
	Area with Flood Risk due to Levee Zone X
OTHER AREAS	NO SCREEN Area of Minimal Flood Hazard Zone X
	Effective LOMRs
GENERAL STRUCTURES	Area of Undetermined Flood Hazard Zone X
	Channel, Culvert, or Storm Sewer
OTHER FEATURES	Levee, Dike, or Floodwall
	Cross Sections with 1% Annual Chance Water Surface Elevation
MAP PANELS	Coastal Transect
	Base Flood Elevation Line (BFE)
OTHER FEATURES	Limit of Study
	Jurisdiction Boundary
OTHER FEATURES	Coastal Transect Baseline
	Profile Baseline
OTHER FEATURES	Hydrographic Feature
	Digital Data Available
MAP PANELS	No Digital Data Available
	Unmapped

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The base map shown complies with FEMA's base map accuracy standards.

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 2/23/2018 at 12:07:39 PM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: base map imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.

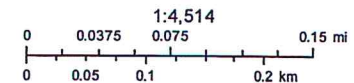
BCAD Map w/ Floodplain



February 23, 2018

Disclaimer: This product is for informational purposes only and has not been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of boundaries.

- | | | |
|--|---|--|
| Parcels | Flood Zone | Floodway |
| Abstracts | 500 Year Flood | |
| | 100 Year Flood | |



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

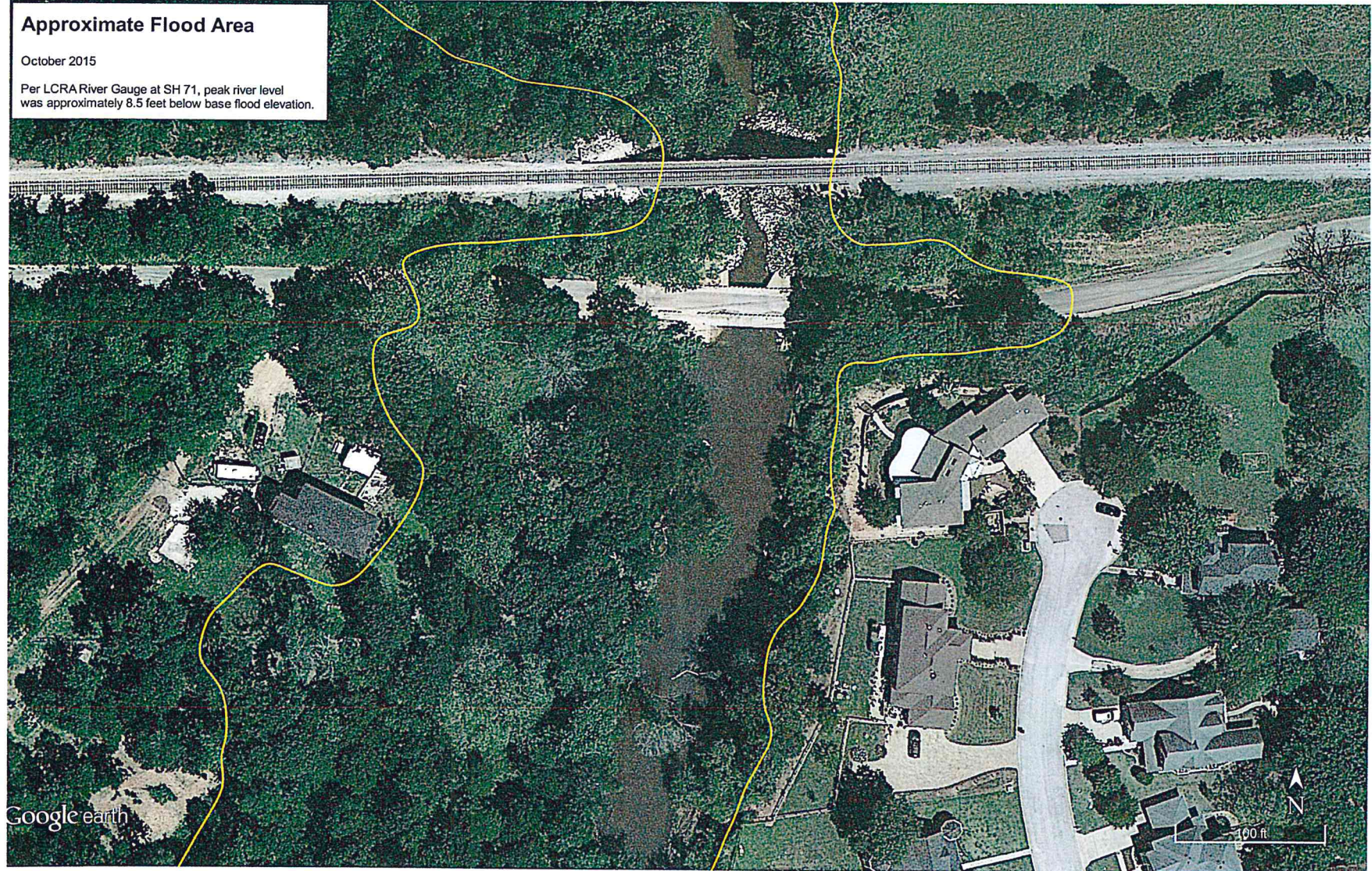
This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

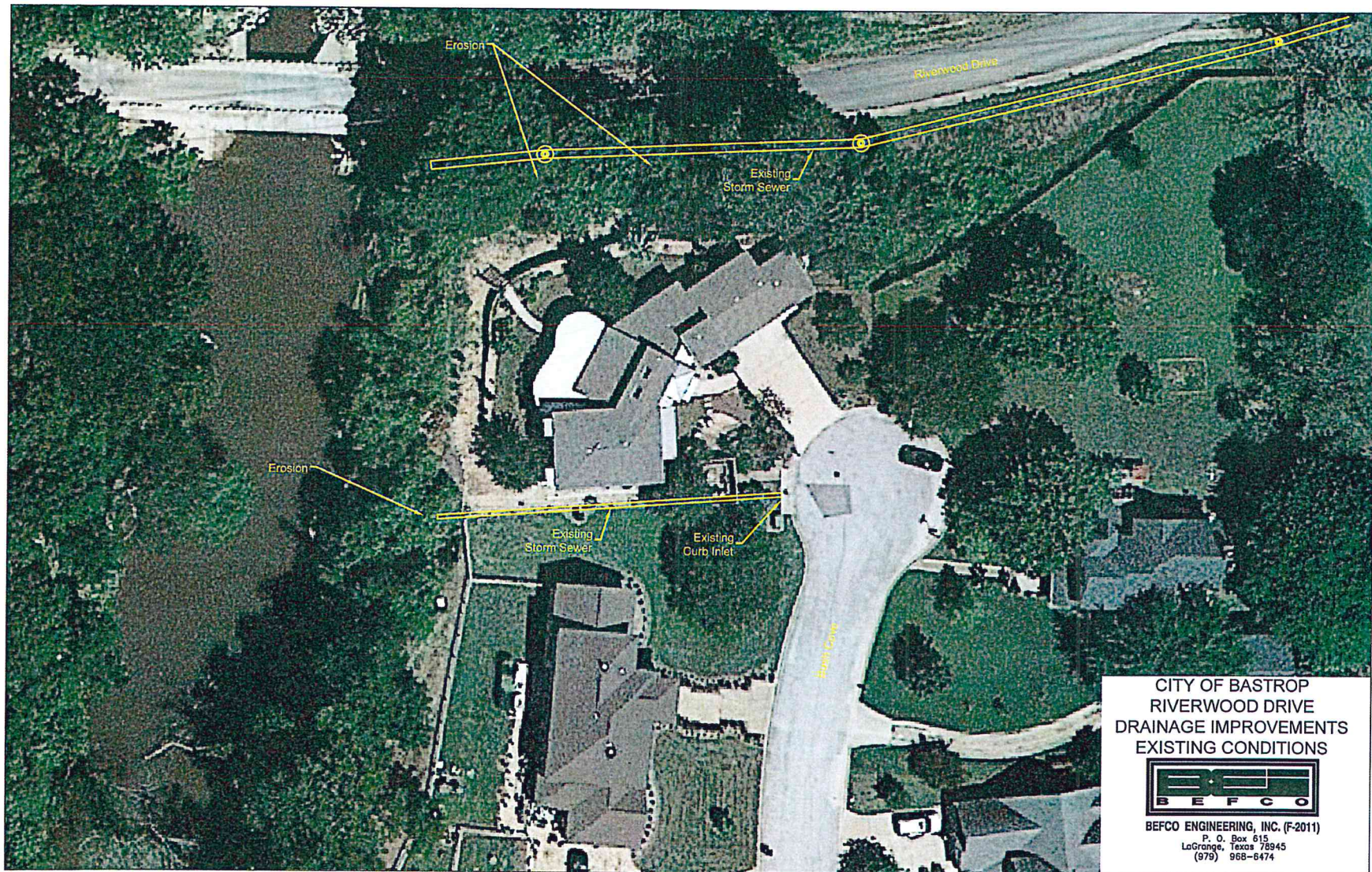
Bastrop County Appraisal District & BIS Consulting - www.bisconsultants.com

Approximate Flood Area

October 2015

Per LCRA River Gauge at SH 71, peak river level was approximately 8.5 feet below base flood elevation.





CITY OF BASTROP
RIVERWOOD DRIVE
DRAINAGE IMPROVEMENTS
EXISTING CONDITIONS



BEFCO ENGINEERING, INC. (F-2011)
P. O. Box 615
LaGrange, Texas 78945
(979) 968-6474



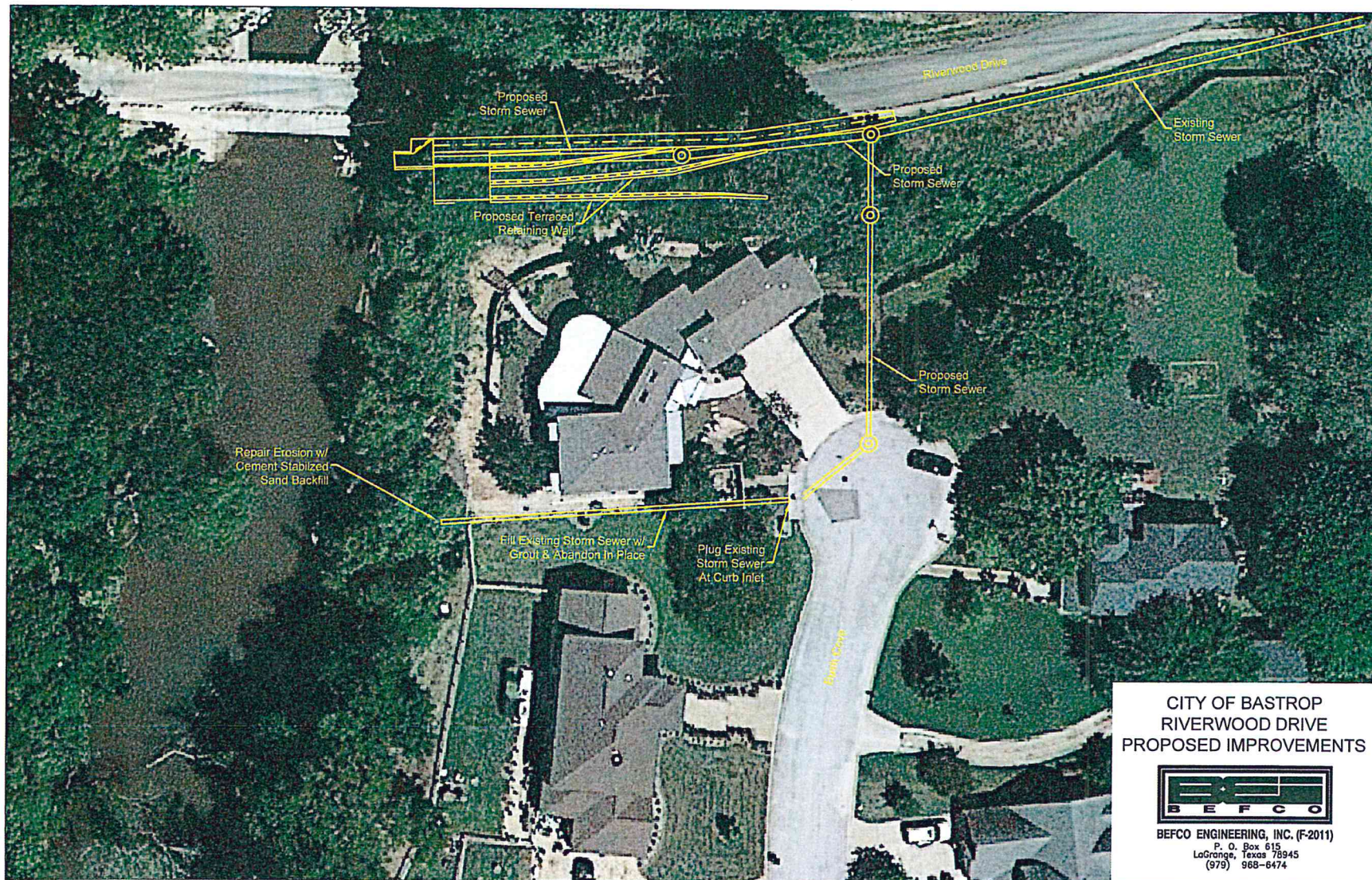
DIAGRAM IS FOR GENERAL LOCATION ONLY, AND IS NOT INTENDED FOR CONSTRUCTION PURPOSES

300 0 150 300
SCALE IN FEET

Project Mgr: JDH	Project No: A1175074	 Terracon Consulting Engineers & Scientists 4100 Imperial Loop, College Station, Texas 77805 Ph: (979) 844-3187 Fax: (979) 844-7604	BORING LOCATION PLAN Piney Creek Erosion Project 104/ 106 Bush Cove Bastrop, Texas	Exhibit
Drawn By: SNH	Scale: AS SHOWN			A-2
Checked By: JDH	Title No: A1175074			
Approved By: AGR	Date: 08-03-2017			

GEOTECHNICAL INVESTIGATION

1. Performed by Terracon Consultants, Inc.
2. Drilled 1 – 60' foot soil bore.
3. Issued report on October 27, 2017.
4. Slope Stability
 - a. Acceptable FS For Slopes = 1.5
 - b. Long Term Analyses: FS = 1.78
 - c. Short Term Analyses: FS = 2.7
 - d. Conclusion: Slope is stable in the short and long term conditions.
5. Recommendations:
 - a. Abandon existing storm sewer.
 - b. Backfill localized erosion with compacted cement stabilized sand and topsoil.



COST ESTIMATE FOR IMPROVEMENTS

1. Re-route storm sewer from Bush Cove curb inlet to existing Riverwood Drive storm sewer and abandon existing storm sewer between 104 and 106 Bush Cove: \$73,000
2. Repair erosion at storm sewer outlet with compacted cement stabilized sand, topsoil, and sod: \$135,000
3. Replace Riverwood Drive storm sewer and flume and install terraced retaining wall for erosion: \$206,000
4. 15% Contingency: \$62,000

TOTAL CONSTRUCTION COST: \$476,000

RIVERWOOD DRIVE DRAINAGE IMPROVEMENTS

Questions



STAFF REPORT

MEETING DATE: April 10, 2018

AGENDA ITEM: 5C

TITLE:

Receive presentation on proposed changes to the Hotel Occupancy Tax (HOT) Fund Distribution Process for Fiscal Year 2019 and provide feedback and direction to Staff.

STAFF REPRESENTATIVE:

Lynda Humble, City Manager
Tracy Waldron, Chief Financial Officer
Sarah O'Brien, Hospitality & Downtown Director

BACKGROUND/HISTORY:

Chapter 351 of the Tax Code provides the requirements on how HOT funds may be spent. As prioritized in the FY 18 Budget, staff has been working to leverage HOT funds to attract tourism and strengthen our sales tax base by maximizing our investment. Staff also continues to work to bring HOT fund users together under the strategic goals and vision that have been developed in line with the Council's Focus Areas, the City's 2018 Work Plan, and the Comprehensive Plan 2036 as outlined below:

2018 Focus Areas:

Uniquely Bastrop: Maintain and enhance our historic community feel by leveraging the unique combination of community, cultural and recreational assets that make Bastrop a special place to live and work.

Economic Vitality: Create sustainability by leveraging tourism, infrastructure renewal and investment; enhancing public/private partnerships; efficient planning and development processes; and fostering an inclusive and diverse environment that encourages entrepreneurial ventures.

Fiscal Responsibility: Prepare and manage budget; fiduciary responsibility.

2018 Work Plan Items:

Economic Vitality # 9: Continue ongoing development of the Bastrop visitor experience to include the community's culinary and cultural assets.

Fiscal Responsibility #9: Redesign the Hotel Occupancy Fund Community Program Funding Policy & Application to better leverage resources and maximize the visitors' experience.

Comprehensive Plan 2036:

Objective 8.1.3: Enhance the offerings available at the Bastrop Museum & Visitor Center.

ACTION 1: Create a visitor's feedback survey to better understand demand for other tourism activities.

ACTION 2: Increase the number of digital and interactive exhibits and consider offering virtual video tours on-line, either for free or for purchase.

ACTION 3: Use interactive media displays that allows people to choose how they interact with the museum and visitor center, as well as other locations downtown.

ACTION 4: Increase presence on social media by posting content on-line at regular and predictable intervals.

ACTION 5: Offer “flash” sales on social media. These are deals that come up periodically that are only available for a short time, typically a day or two. This will get people excited about the social media outlets and help to grow viewership.

Objective 8.1.4: Create multiple downtown destination events that rely on Bastrop’s cultural assets.

ACTION 1: Encourage visitors to downtown Bastrop with events that occur weekly, monthly, or annually. Lost Pines Christmas is a great example of this type of event

ACTION 2: Create a “demo day” downtown that occurs each month. Entrepreneurs and local businesses can demo their products, foods, and services.

The Comprehensive Plan also states that Bastrop’s continued emphasis on cultural arts and tourism development through coordinated policies will lead to hundreds of millions in economic activity for the region.

POLICY EXPLANATION:

The FY 18 budget emphasized Council’s desire to diversify our revenue sources and increase property tax valuations. A strategic focus on economic development to reduce the City’s dependence on sales tax was made a priority. Priority was given to leveraging the \$2,875,000 in annual Hotel Occupancy receipts to maximize the City’s opportunity to attract tourism and to work towards becoming a AAA- 4 Diamond destination for Hyatt guests. Staff is proposing several changes to the current HOT Fund Funding Application process, which will expand on our efforts from the current budget cycle and continue our focus on improving the Bastrop tourism experience. The proposed changes are outlined below:

- A. In FY 18, several HOT funded events were identified as being better suited for an alternative funding source. These festivals may or may not attract tourists but share historical importance as long-standing community events. Staff is recommending that in FY 19 the annual Bastrop Homecoming & Rodeo funding request be allocated out of the Hospitality & Downtown budget through funding provided by Bastrop Power & Light. If approved, Homecoming would join Juneteenth and a portion of the Patriotic Festival under this umbrella. All three (3) of these events are important to the City of Bastrop and would occur with or without HOT funds. Staff will continue to work with these event organizers to ensure they can define the value provided to the community through their annual funding allocation and require acknowledgement of BP&L as a sponsor on all marketing materials. Staff will develop a Community Event Request Form to provide transparency in the process.
- B. In FY 18, the City funded approximately \$81,000 in special event funding through the HOT Funding Application process. With the creation of Visit Bastrop, staff is recommending the allocation of an additional \$75,000 to Visit Bastrop’s FY 19 budget for development of a Tourism Special Event Funding program and application process. The difference in funding is due to FY 18 funding given to convention organizers, typically these types of requests will be allocated out of an inducement fund in a DMO’s operating budget as they are not annual requests. Visit Bastrop staff is better equipped to track the economic impact and generation of hotel occupancy tax that may occur from events designed with the tourist in mind. Since Visit Bastrop is charged with marketing our community and telling the Bastrop Story, allowing them to work directly with event organizers to promote and market events should prove beneficial to event organizers and ultimately help maximize the City’s return on our investment of Hotel Occupancy Tax. Event organizers would work

directly with Visit Bastrop staff to apply for event funding based on room night generation. Such a program would empower event organizers to demonstrate the value that their event provides the community. Visit Bastrop staff will utilize special event economic impact calculators specifically designed to track HOT and measure the economic impact that events provide to Bastrop. It should be noted that Visit Bastrop has already allocated a portion of their funding for events in their FY 18 budget, like marketing the Bastrop Music Festival. The Visit Bastrop Board of Directors will be able to contribute additional funding from their budget for events and conventions that are in line with the organization's mission.

- C. Staff believes that certain tourism assets, that have previously participated in the HOT Funding Application process, are better suited to be classified as Essential Tourism Assets and would like to recommend the creation of an Essential Tourism Asset Funding Program for non-profits who rely annually on HOT funds. These assets are critical to the Bastrop tourism picture. While they may not be the sole reason a visitor makes a trip to Bastrop, when actively programmed and leveraged properly, these assets paint a culturally rich landscape encouraging tourists to extend their stay and spend additional dollars with us. Examples of essential tourism assets include the Bastrop County Museum & Visitor's Center, Bastrop Opera House, and the Lost Pines Art Center. FY 18 was the first year that the Museum & Visitor's Center's contract was combined, since both visitor services and historic preservation are allowable under Chapter 351. The functions performed by the Bastrop County Historical Society should continue to be addressed in one funding agreement.

Over the last 12 months, with the creation of Visit Bastrop, the establishment of the City's Hospitality & Downtown Department, and the development of our Cultural Arts Master Plan on the horizon, we are now uniquely positioned to leverage and work in tandem towards our community goals related to tourism. We can now effectively market and promote these assets and their programs as part of the overall Bastrop experience. The Essential Tourism Asset Funding program would establish a stable funding source for these assets to effectively plan for our shared vision.

While the FY 18 HOT Funding Application contracts established a variety of deliverables and expectations with users, this new program would further define these tourism assets' roles in developing the Bastrop tourism picture. Staff would recommend incorporating the following deliverables into a funding agreement:

- a. Present 9-12 months' worth of programs annually (January – December) designed to appeal to tourists and attract overnight visitation to City Council.
 - i. All art work, images and details regarding the individual programs such as "performances," "classes," or "exhibits" for the contract period including ticket prices and purchasing methods. Specific program details must be received by Visit Bastrop through their online CRM system no later than 90 days in advance, preferably 120 days in advance.
 - ii. PR Opportunities to promote events should be provided directly to Visit Bastrop.
 - iii. Maintain an active social media and online digital presence.
- b. Annual Marketing Plan
- c. Strategic Plan that addresses identifying additional funding sources
- d. Annual Operating Budget
- e. In partnership with Visit Bastrop, develop a visitor intercept survey to include data such as: where the visitor is from, demographic data, social-economic data, how

they discovered Bastrop (advertising, social media, word-of-mouth), lodging information, length of stay, size of party, primary attractor, intent to return.

- f. Monthly year-over-year traffic counts and primary market origin.
- g. Participate in customer service, destination, board development and/or Hotel Occupancy Tax Training as provided by the City or Visit Bastrop.
- h. Develop and maintain a building rental program and policies allowing opportunities for additional revenue streams and access to the facility to outside users.
- i. Actively participate in the Cultural Arts Master Plan development and implementation process that is yet to be identified.
- j. Follow all applicable local, state and federal laws related to building improvements and expenditures of HOT'
- k. Other deliverables as currently defined in the FY 18 Funding Agreements specific to the assets roles in Bastrop's tourism picture.

All contracts would be for a multi-year period allowing the essential tourism assets to know how much funding will be available annually and allow for appropriate planning. Staff would recommend quarterly reporting requirements to City Council highlighting the assets' upcoming quarter of events and reviewing the current quarter's programs. Quarterly reporting will heighten the sense of accountability of the allocated HOT funds. Staff would present funding contracts in June for Council consideration for January – December programming in the following year. This lapse in time will allow appropriate time for marketing. Assets would be required annually to present proposed programming, marketing plans, and strategic plans to Council **before** funding would be allocated. Funding would occur, according to the contract, once approval is given by Council. The deliverables of each contract will be reviewed annually to ensure prior year compliance before funding is allocated in years 2 or 3. If an essential tourism asset does not perform according to contract, the asset may not be eligible for funding the next year, depending upon the cause of default.

FUNDING SOURCE:

FY 19 Hotel Occupancy Tax Fund

RECOMMENDATION:

Provide any direction or feedback to the proposed changes so that staff can begin communicating with event organizers and tourism assets. Staff will present Tourism Asset Contracts in June of 2018. Community Event Forms and Asset funding will be included in the FY 19 budget proposal.

ATTACHMENTS:

- FY 18 HOT Funding Budget
- FY 18 Sample HOT Fund Deliverables

CITY OF BASTROP
FY2018 APPROVED FUNDING

Organization		APPROVED FUNDING
Bastrop Chamber of Commerce		
	Project: 27th Annual Patriotic Festival	\$ 40,700
Bastrop County Historical Society		
	Project 1: Promotion of Museum & Historical Preservation	\$ 25,000
	Project 2: Tours	\$ 8,545
Bastrop County Women's Shelter dba Family Cris		
	Project: Pedal Through the Pines	\$ 1,800
Bastrop Homecoming, Inc.		
	Project: Bastrop Homecoming and Rodeo	\$ 20,000
Bastrop Juneteenth**		
	Project: Bastrop Juneteenth Celebration	\$ -
Bastrop Opera House		
	Project 1: Building Preservation and Reservation	\$ 35,000
	Project 2: Promotion of the Arts	\$ 25,000
	Project 3: The Art of Theatre	\$ 30,000
Blue Flame Cruisers		
	Project: 11th Annual Blue Flame Car and Motorcycle Show	\$ 3,000
Keep Bastrop County Beautiful		
	Project: Bastrop River Rally	\$ 8,000
Lost Pines Leathernecks		
	Project: Dept. of TX Marine Corps League State Convention	\$ 2,940
Tough Mudder Inc.		
	Project: Tough Mudder Central Texas 2018	\$ 25,000
TOTAL		\$ 224,985

** This organization is being funded \$5,000 out of another fund



Visitor Center & Museum

Proposed Contractual Elements

1. All groups will be required to attend the training provided by the Texas Hotel & Lodging Association, and submit reports as they have previously per our current Funding process or their contractual agreement I.E. the Visitor's Center.
2. All groups must provide COMPLETE event information to the Hospitality & Downtown department between 120 and 90 days prior to the event.
3. All groups that receive funding are required to populate the Visit Bastrop calendar of events on www.visitbastrop.com (when up and running) with their event offerings
4. Entities must all provide Visit Bastrop with any PR opportunities as much in advance as is possible and to have their websites cooperatively point to www.visitbastrop.com for a full destination presentation.
5. Must have an active social media presence and support Visit Bastrop's social media efforts
- Visitor Center- Currently Tier I Contractual agreement.
 - Allow training for volunteers and staff by Visit Bastrop to enhance the visitor experience
 - Participate in board training opportunities provide by the Downtown & Hospitality Department designed to strengthen your organization.
 - Provide volunteer assistance for goodie bag stuffing and distribution
 - Remain open for downtown special events
 - Provide Step on Guide Services
 - Assist Visit Bastrop and the Downtown & Hospitality Department with distribution and possible creation of visitor information to be distributed at the Visitor's Center. All materials must contain the City of Bastrop logo.
 - Work with Visit Bastrop and Explore Bastrop County to create "programming" that would be available for groups and conventions.
 - 8.1.3 of the COMP Plan: Create a visitor's feedback survey with the assistance of Visit Bastrop to better understand the demand for other tourism activities
 - 8.1.3 of the COMP Plan: Increase the number of digital and interactive exhibits and consider offering virtual tours online.
 - 8.1.3 of the COMP Plan. Use interactive media displays that allow people to choose how they interact with the Museum & Visitor Center

- 8.1.3 of the COMP Plan: Increase social media by posting content online at regular and predictable intervals.
 - 8.1.3 of the COMP Plan: offer “flash” sales on social media.
 - Long Term: Develop a strategic plan for the organization
- Bastrop County Museum- My recommendation is to lump their funding for the Museum into the Visitor’s Center Contract. Other deliverables specific to that request should be:
 - Offer free downtown walking tours on a regular basis. I.E. Every Saturday morning during Preservation Month to better tell the Bastrop story to residents and tourists
 - Work with the Bastrop Main Street Program to develop building markers that tell the story of the historic properties in the district.
 - Continue to assist with the data population of Downtown, TX
 - Provide an annual calendar of events for exhibits, openings, speakers etc. to the Hospitality and Downtown Department and Visit Bastrop January 1st of each year.
 - Long Term: Work to identify additional revenue sources



STAFF REPORT

MEETING DATE: April 10, 2018

AGENDA ITEM: 5D

TITLE:

Discuss the Proposed Ethics Ordinance and receive public comment.

STAFF REPRESENTATIVE:

Lynda K. Humble, City Manager

Alan Bojorquez, City Attorney

BACKGROUND/HISTORY:

City Council requested that City Attorney Alan Bojorquez, when hired in October, draft a new Ethics Ordinance for discussion and consideration, rather than attempting to amend the current ordinance.

City Attorney Alan Bojorquez is passionate about Ethics, specifically in the realm of local government. The City Attorney is considered an industry expert on this topic and has published numerous articles and routinely speaks on this subject.

At the March 27th Council meeting a discussion was facilitated by the City Attorney the proposed Ethics Ordinance. His presentation:

1. Educated the Council on the importance of how a quality Ethics ordinance should be structured.
2. Educated the Council on the important elements that should be contained in a quality Ethics ordinance.
3. Discussed the draft ordinance, sought input to ensure it meets the Council's expectations, and to understand additional issues that need to be addressed in an Ethics Ordinance specifically written for the City of Bastrop.

POLICY EXPLANATION:

At the March 27th Council meeting, staff was instructed to place this Ethics Ordinance on the April 10th Agenda for additional discussion with Council and to provide time for public comment.

ATTACHMENTS:

- Draft Ethics Ordinance

CITY OF BASTROP, TX
ORDINANCE NO. 2018-04

CODE OF ETHICS

**AN ORDINANCE OF THE CITY OF BASTROP, TEXAS
AMENDING THE CODE OF ORDINANCES, REPEALING
AND REPLACING ARTICLE 1.15 TITLED “CODE OF
ETHICS” AND PROVIDING FOR FINDINGS OF FACT,
REPEALER, SEVERABILITY, CODIFICATION,
EFFECTIVE DATE, PROPER NOTICE AND MEETING**

WHEREAS, the City Council of the City of Bastrop enacts this new Code of Ethics to foster a culture of integrity for those who serve the municipality and our citizenry; and

WHEREAS, the City Council strives to increase public confidence in our municipal government; and

WHEREAS, the City Council finds that it is the policy of the City that all City Officials and employees shall conduct themselves in a manner that assures the public that we are faithful stewards of the public trust; and

WHEREAS, the City Council has determined that city officials have a responsibility to the citizens to administer and enforce the City Charter and City Ordinances in an ethical manner; and

WHEREAS, the City Council wants to enhance public confidence in our municipal government, by providing that each city official must strive not only to maintain technical compliance with the principles of conduct set forth in this Article, but to aspire daily to carry out their duties objectively, fairly, and lawfully; and

WHEREAS, the City Council enacts this Ordinance to ensure that decision makers provide responsible stewardship of City resources and assets; and

WHEREAS, the City Council intends this Ordinance to provide a framework within which to encourage ethical behavior, and enforce basic standards of conduct while providing due process that protects the rights of the complainant and the accused, and not to provide a mechanism to defame, harass or abuse political opponents, or publicize personal grudges; and

WHEREAS, the City Council enacts this Ordinance pursuant to Section 3.14 of the Charter.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Bastrop, TX:

1. FINDINGS OF FACT

The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

2. AMENDMENT

Chapter 1, Article 1.15 of the City of Bastrop Code of Ordinances is hereby repealed and replaced, and after such amendment, shall read in accordance with *Attachment "A"*, which is attached hereto and incorporated into this Ordinance for all intents and purposes. Any underlined text shall be inserted into the Code and any struck-through text shall be deleted from the Code, as stated on *Attachment A*.

3. REPEALER

To the extent reasonably possible, Ordinances are to be read together in harmony. However, all Ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

4. SEVERABILITY

Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

5. CODIFICATION

The City Secretary is hereby directed to record and publish the attached rules, regulations and policies in the City's Code of Ordinances as authorized by Section 52.001 of the Texas Local Government Code.

6. EFFECTIVE DATE

This ordinance shall take effect upon the date of final passage noted below, or when all applicable publication requirements, if any, are satisfied in accordance with the City's Charter, Code of Ordinances, and the laws of the State of Texas.

7. PROPER NOTICE & MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

READ & ACKNOWLEDGED on First Reading on this, the ____ day of April 2018.

READ & APPROVED on the Second Reading on this, the ____ day of April 2018.

APPROVED:

by: _____
Connie Schroeder, Mayor

ATTEST:

Ann Franklin, City Secretary

APPROVED AS TO FORM:

Alan Bojorquez, City Attorney

**CITY OF BASTROP
CODE OF ORDINANCES
CHAPTER 1: GENERAL PROVISIONS
ARTICLE 1.15. CODE OF ETHICS**

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CITY OF BASTROP
CODE OF ORDINANCES
CHAPTER 1: GENERAL PROVISIONS
ARTICLE 1.15. CODE OF ETHICS

DIVISION 1. GENERAL

1.15.1 Authority

This Article is enacted pursuant to the authority granted to the City under Section 3.14 of the Charter.

1.15.2 Purpose

The purpose of this Article is to foster an environment of integrity for those that serve the City of Bastrop and our citizenry. The City Council enacted this Article in order to increase public confidence in our municipal government. It is the policy of the City that all City Officials and employees shall conduct themselves in a manner that assures the public that we are faithful stewards of the public trust. City Officials have a responsibility to the citizens to administer and enforce the City Charter and City Ordinances in an ethical manner. To ensure and enhance public confidence in our municipal government, each City Official must strive not only to maintain technical compliance with the principles of conduct set forth in this Article, but to aspire daily to carry out their duties objectively, fairly, and lawfully. Furthermore, this Article was enacted to ensure that decision makers provide responsible stewardship of City resources and assets.

It is not the purpose of this Article to provide a mechanism to defame, harass or abuse their political opponents, or publicize personal grudges. Rather, this Article is intended to provide a framework within which to encourage ethical behavior, and enforce basic standards of conduct while providing due process that protects the rights of the Complainant and the Accused.

1.15.3 Prospective

This Article shall apply prospectively, and shall not sustain any Complaints based on acts or omissions alleged to have taken place prior to adoption of this Article.

1.15.4 Applicability

This Article applies to the following persons:

- (a) City Officials.

- (b) Former City Officials whose separation from city service occurred less than two (2) years from the date of the alleged violation of this Article. Application of this Article to Former City Officials shall be limited to alleged violations:
 - (1) that occurred during the term as a City Official;
 - (2) of the prohibition on representing others for compensation; or
 - (3) of the prohibition of subsequent work on prior projects .
- (c) Vendors; and
- (d) Complainant(s).

1.15.5 Definitions

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accepted Complaint: a sworn allegation of a violation of this Article after the required documentation has been submitted to the City Secretary and determined to be administratively complete.

Accused: a City Official who has been charged in a Complaint with having violated this Article.

Actionable Complaint: an Accepted Complaint that has been deemed by a Panel to contain allegations and evidence that, if accepted as true, would support a finding that a violation of this Article occurred.

Advisory Opinions: written rulings regarding the application of this Article to a particular situation or behavior.

Article: the Code of Ethics for the City of Bastrop.

Baseless Complaint: a Complaint that does not allege conduct that would constitute a violation of this Article, or that does not provide evidence that, if true, would support a violation of this Article.

Board of Ethics: the oversight entity established by the Council to administer this Article.

Business Entity: a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, political subdivision, government agency, university, or any other entity recognized by law.

Candidate: a person who has filed an application for a place on a ballot seeking public office, or one who has publicly announced the intention to do so.

Charged: to be charged with a violation of this Article is to have an Accepted Complaint deemed Actionable.

City: the City of Bastrop in the County of Bastrop and State of Texas.

City Secretary: the person appointed to serve in the capacity provided for by Section 6.04 of the City Charter, or their designee and clerical staff acting in the City Secretary's absence.

City Official: for purposes of this Article, the term consists of the Council Members, City Manager, City Attorney, Department ~~Heads~~Directors, and members of the Planning and Zoning Commission ~~Members~~, Zoning Board of Adjustment, and Bastrop Economic Development Corporation's Board of Directors.

Code: the Code of Ordinances of the City of Bastrop, Texas, as such Code may be amended from time to time.

Complainant: the human individual who submitted a Complaint to the City.

Complaint: written documentation submitted to the City accusing a City Official of violating this Article.

Confidential Information: any written information that could or must be excepted from disclosure pursuant to the Texas Public Information Act, if such disclosure has not been authorized; or any non-written information which, if it were written, could be excepted from disclosure under that Act, unless disclosure has been authorized by the City Council or City Manager.

Council: the governing body of the City of Bastrop, Texas, including the Mayor and City Council Members.

Deliberations: discussions at the dais; voting as a Member of the Board or Commission; presentations as a member of the audience before any City Board or Commission; ~~conversing or corresponding with other City Officials or Staff~~. This term does not apply to a general vote on a broad, comprehensive or omnibus motion, such as approval of the City budget.

Department Heads: the employees appointed by the City Council, those being the City Manager, ~~City Secretary~~, City Attorney, and Municipal Court Judges.

Former City Official: a City Official whose separation from city service occurred less than ~~two~~ (2) years one (1) year from the date of an alleged violation of this Article.

Frivolous Complaint: a sworn Complaint that is groundless and brought in bad faith or groundless and brought for the purpose of harassment.

Interfere: a person interferes with a process or activity pertaining to this section when they intentionally and wrongfully take part in, or prevent, a City process or activity from continuing or being carried out properly or lawfully.

Panel: an *ad hoc* subcommittee of the Board of Ethics consisting of three (3) members assigned by the Chairperson or designated by the City Secretary (as applicable) on a rotating basis, at least one (1) of which is an attorney or retired jurist.

Pending Matter: an application seeking approval of a permit or other form of authorization required by the City, State or Federal law; a proposal to enter into a contract or arrangement with the City for the provision of goods, services, real property or other things of value; a case involving the City that is (or is anticipated to be) before a civil, criminal or administrative tribunal.

Person: associations, corporations, firms, partnerships, bodies politic and corporate, as well as to individuals.

Recklessly: a person acts recklessly when they are aware of but consciously disregard a substantial and unjustifiable risk that a certain result is probable from either their conduct, or in light of the circumstances surrounding their conduct. The risk must be of such a nature and degree that to disregard it constitutes a gross deviation from the standard of care that an ordinary person would exercise under the circumstances.

Relative: a family member related to a City Official within the third (3rd) degree of affinity (marriage) or consanguinity (blood or adoption).

Shall: a mandatory obligation, not a permissive choice.

Special Counsel: an independent, outside attorney engaged by the City to advise the City as an organization and/or the Board of Ethics.

Vendor: a person who provides or seeks to provide goods, services, real property to the City in exchange for compensation.

1.15.6 Cumulative & Non-Exclusive

This Article is cumulative of and supplemental to all applicable provisions of the City Charter, other City Ordinances, and State/Federal laws and regulations. Compliance with this Article does not excuse or relieve any person from any obligation imposed by any other Rule. Attempts to enforce this Article shall not be construed as foreclosing or precluding other enforcement options provided by other law.

DIVISION 2. RULES OF CONDUCT

1.15.7 Expectations

The following list conveys the City Council's expectations for City Officials. These expectations are aspirational, and shall not serve as the basis for a Complaint.

- (a) City Officials are expected to conduct themselves in a manner that fosters public trust.
- (b) City Officials are charged with performing their public duties in a way that projects a high level of personal integrity and upholds the integrity of the organization.
- (c) City Officials must avoid behavior that calls their motives into question and erodes public confidence.
- (d) City Officials shall place the municipality's interests and the concerns of those the City serves above private, personal interests.
- (e) Those who serve the City are expected to value honesty, trustworthiness, diligence, objectivity, fairness, due process, efficiency, and prudence as values the City professes.
- (f) City Officials must balance transparency with the duty to protect personal privacy and preserve the confidential information with which the City has been entrusted.
- (g) It is neither expected nor required that those subject to this Article relinquish or waive their individual rights.

1.15.8 Mandates

- (a) **Financial Disclosures.** All Candidates for City Council, including Candidates for Mayor, shall file financial information reports as required by, and in accordance with, State law. All prospective Vendors and City Officials shall file disclosure forms as required by, and in accordance with, State law.
- (b) **Business Disclosures.** All City Officials shall file with the City Secretary annual reports listing the names of human individuals with whom the City Official or the City Official's spouse is named partner in the following types of businesses: General Partnership, Limited Partnership, Limited Liability Partnership, or Limited Liability Corporation, or Professional Corporation. Annual reports shall be submitted within ninety (90) days of taking office. Failure to submit a report shall not serve as a basis for a Complaint unless the City Official fails to submit a report within thirty (30) days of being provided written notification of the omission. Neither the existence of a business relationship as described in this Section, nor the submission of a report required by this Section shall prevent a City Official from participating in Deliberations on matters pending before the City absent a Conflicting Interest.

1.15.9 Prohibitions

(a) Conflicts of Interest:

- (1) *Deliberation Prohibited.* It shall be a violation of this Code for a City Official to knowingly deliberate regarding a Pending Matter for which the City Official currently has a Conflicting Interest. City Officials with a current Conflicting Interest in a Pending Matter must recuse themselves and abstain from Deliberations. It is an exception to this recusal requirement if the City Official serves on the City Council, Planning and Zoning Commission, or Board of Adjustment; and a majority of the members of that body is composed of persons who are likewise required to file (and who do file) disclosures on the same Pending Matter.
- (2) *Disclosure Required.* If a City Official has a Conflicting Interest in a Pending Matter, the City Official shall disclose the nature of the Conflicting Interest by filing a sworn statement with the City Secretary. Disclosures under this subsection shall be for the time period, including the previous calendar year, and up to date where the Conflicting Interest arises before the City Official.
- (3) *Definition of Conflicting Interest.* For purposes of this Article, the term is defined as follows:

Conflicting Interest: a stake, share, equitable interest or involvement in an undertaking in the form of any one (1) or more of the following:

- (A) ownership of five percent (5%) or more voting shares or stock in a Business Entity;
- (B) receipt of more than five thousand dollars (\$5,000.00) in gross annual income from a Business Entity, as evidenced by a W-2, 1099, or similar tax firm;
- (C) ownership of more than five thousand dollars (\$5,000.00) of the fair market value of a Business Entity;
- (D) ownership of an interest in real property with a fair market value of more than one thousand dollars (\$1,000.00);
- (E) serves on the Board of Directors or as an Officer of a Business Entity, unless the City Official was appointed to that position by the City Council; and/or
- (F) serves on the Board of Directors (i.e., governing body) or as an Officer of a nonprofit corporation or an unincorporated association, unless the City Official was appointed to that position by the City Council.

A City Official is considered to have a Conflicting Interest if the City Official's relative has a conflicting interest.

The term Conflicting Interest does not include ownership of an interest in a mutual or common investment fund that holds securities or assets unless the City Official participates in the management of the fund.

(b) Gifts.

- (1) *General.* It shall be a violation of this Article for a City Official to accept any gift that might reasonably tend to influence such Officer in the discharge of official duties.
- (2) *Specific.* It shall be a violation of this Article for a City Official to accept any gift for which the fair market value is greater than fifty dollars (\$50.00). It shall be a violation of this Article for a City Official to accept multiple gifts from a single source for which the cumulative fair market value exceeds two-hundred dollars (\$200.00) in a single fiscal year.
- (3) It shall be a violation of this Article for a Vendor to offer or give a Gift to a City Official exceeding fifty dollars (\$50.00) per gift, or multiple gifts cumulatively valued at more than two-hundred dollars (\$200.00) per a single fiscal year.
- (4) *Definition of Gift.* Anything of monetary value, including but not limited to cash, the extension of credit, personal property, real property, services, meals, entertainment, and travel expenses.
- (5) *Exceptions.* This definition shall not apply to the following, which are allowed under this Article:
 - (A) a lawful campaign contribution;
 - (B) meals, lodging, transportation, entertainment, and related travel expenses paid for (or reimbursed by) the City in connection with the City Official's attendance at a conference, seminar or similar event, or the coordinator of the event;
 - (C) meals, lodging, transportation, or entertainment furnished in connection with public events, appearances or ceremonies related to official City business, or charity functions, or community events, if furnished by the sponsor of such events (who is in attendance);
 - (D) complimentary copies of trade publications and other related materials;
 - (E) attendance at hospitality functions at local, regional, state or national association meetings and/or conferences;

(F) any gift that would have been offered or given to the City Official because of a personal, familial, professional relationship regardless of the City Official's capacity with the City;

(G) tee shirts, caps and other similar promotional material;

(H) complimentary attendance at political or charitable fund raising events.

(6) *Donations.* It is not a violation under this Article for a City Official to accept a Gift prohibited by this Article on behalf of the City of Bastrop. Conveyance of a Gift prohibited by this Article to the City of Bastrop or a nonprofit corporation cures any potential violation.

(c) Outside Employment.

(1) *Applicability of Section.* This subsection applies to Department Heads.

(2) *Prohibition.* It is a violation of this Article for a Department Head to solicit, accept, or engage in concurrent outside employment which could reasonably be expected to impair independence of judgment in, or faithful performance of, official duties.

(3) *Disclosure and Consent.* It is a violation of this Article for a Department Head to accept employment from any Person other than the City without first disclosing the prospective employment arrangement in writing to the Mayor and receiving the Mayor's written consent.

(d) Representation of Others.

(1) *Current City Officials.* It shall be a violation of this Article for a City Official to represent for compensation any person, group, or entity before the City. For purposes of this subsection, the term compensation means money or any other thing of value that is received, or is to be received, in return for or in connection with such representation.

(2) *Former City Officials.* It shall be a violation of this Article for a City Official to represent for compensation any person, group, or entity before the City Council, or a board or commission of the City for a period of ~~two (2) years~~ one (1) year after termination of official duties. This prohibition applies to representation in the form of advocacy or lobbying regarding discretionary approvals of the City, not the routine, ministerial actions. For purposes of this subsection, the term compensation means money or any other thing of value that is received, or is to be received, in return for or in connection with such representation. The prohibition in this subsection solely applies to the Former City Official, and shall not be construed to apply to other affiliated Persons.

(e) Improper Influence. It shall be a violation of this Article for a City Official to use such person's official title/position to:

- (1) secure special privileges or benefits for such person or others;
- (2) grant any special consideration, treatment or advantage to any citizen, individual, business organization or group beyond that which is normally available to every other citizen, individual, business organization or group;
- (3) assert the prestige of the official's or employee's City position for the purpose of advancing or harming private interests;
- (4) state or imply that the City Official is able to influence City action on any basis other than the merits; and
- (5) state or imply to state or local governmental agencies that the City Official is acting as a representative of the City, as an organization, or as a representative of the City Council without first having been authorized by the City Council to make such representation (except the Mayor, City Manager, and City Attorney).

(f) Misuse of Information.

- (1) *Personal Gain.* It shall be a violation of this Article for a former City Official to use any confidential information to which the City Official had access by virtue of their official capacity and which has not been made public concerning the property, operations, policies, or affairs of the City, to advance any personal or private financial interest of any Person.
- (2) *Confidential Information.* It shall be a violation of this Article for a City Official to intentionally, knowingly, or recklessly disclose any confidential information gained by reason of the City Official's position concerning the property, operations, policies or affairs of the City. This rule does not prohibit the reporting of illegal or unethical conduct to authorities designated by law.

(g) Abuse of Resources. It shall be a violation of this Article for a City Official to use, request, or permit the use of City facilities, personnel, equipment, software, supplies, or staff time for private purposes (including political purposes), except to the extent and according to the terms that those resources are generally available to other citizens and the City Officials for official City purposes.

(h) Abuse of Position. It shall be a violation of this Article for any City Official to:

- (1) *Harassment & Discrimination.* Use the Official's position to harass or discriminate against any person based upon ethnicity, race, gender, gender identity, sexual orientation, marital status, parental status, or religion.
- (2) *Interference.* Interfere with any criminal or administrative investigation alleging the violation of any provision of this Article, the City Charter, administrative policy or executive order in any manner, including but not limited to seeking to persuade or coerce City employees or others to withhold their cooperation in such investigation is a violation of this Article.

- (i) **Subsequent Work on Prior Projects.** It shall be a violation of this Article for any former City Official, within one (1) year of the cessation of official duties for the City, to perform work on a compensated basis relating to a City contract or arrangement for the provision of goods, services, real property or other things of value, if while in City service the former City Official personally and substantially participated in the negotiation, award or administration of the contract or other arrangement. This Section does not apply to a City Official whose involvement with a contract or arrangement was limited to Deliberations as a member of the City Council, ~~Planning and Zoning Commission, Board of Adjustment, or Public Utilities Board~~ or a board or commission.

DIVISION 3. IMPLEMENTATION

1.15.10 Staffing

- (a) **City Secretary.** The City Secretary's Office shall be responsible to provide staff and clerical support to the Board of Ethics to assist in the implementation and enforcement of this Article. The degree of support required shall be at the discretion of the City Secretary. Nothing herein creates a duty for the City Secretary to enforce this Article. Furthermore, this Article shall not be construed as requiring the City Secretary to investigate allegations of violations of this Article submitted via the Fraud, Waste or Abuse hotline.
- (b) **Conflicts Log.** The City Secretary's Office shall, in cooperation with the City Secretary's Office, maintain a Conflicts Log on an ongoing basis listing the Conflicting Interests disclosed by City Officials in accordance with this Article. The log is a public record. The City Secretary is neither authorized nor required to inspect or act upon the content of the Conflicts Log.
- (c) **City Manager.** If a Complaint accuses the City Secretary of violating this Article, the duties of the City Secretary under this Article shall be performed by the City Manager for purposes of processing that Complaint.

1.15.11 Legal Counsel

- (a) **City Attorney.** The City Attorney shall provide legal support to the City Secretary and Board of Ethics in the administration of this Article. Nothing herein shall be construed to limit the authority of the City Attorney to render legal guidance in accordance with the City Attorney's professional obligations and standards.
- (b) **Special Counsel.** Independent, outside legal services shall be engaged by the City Attorney on the City's behalf to provide legal support to the City Secretary and Board of Ethics when:
- (1) in the City Attorney's discretion it is necessary in order to comply with the Texas Disciplinary Rules of Professional Conduct (for lawyers), or is in the best interest of the City; or
 - (2) when the City Council deems Special Counsel is necessary.

1.15.12 Training

- (a) **Curriculum.** The City Secretary shall approve a training program that provides an introduction and overview of the expectation, mandates and prohibitions provided for by this Article.
- (b) **Orientation.** City Officials shall complete a training session regarding this Article within ninety (90) days of commencing the official duties.
- (c) **Annual.** City Officials shall complete an annual training session regarding this Article.
- (d) **Exiting Officials.** Information shall be provided to City Officials terminating their City service regarding the continuing restrictions on the representation of others by certain former City Officials.

1.15.13 Board of Ethics

- (a) **Creation.** There is hereby created a Board of Ethics for the City of Bastrop.
- (b) **Appointment.** The Board of Ethics shall be appointed by majority vote of the City Council.
- (c) **Number.** The Board of Ethics shall consist of five (5) regular members, and three (3) alternate members.
- (d) **Terms.** Board of Ethics members (regular and alternates) shall be appointed for two (2) year, staggered terms. Members may be reappointed for successive terms. Appointment to fill a vacancy shall be for the remainder of the unexpired term. Members of the inaugural Board of Ethics shall draw straws to determine which two (2) members shall receive an initial term of one (1) year in order to stagger terms. In total, members may only serve three (3) consecutive terms. A member may be reappointed no sooner than one (1) year after expiration of a previous term.
- (e) **Eligibility.** Membership on the Board of Ethics is limited to residents of the City of Bastrop.
- (f) **Ineligibility.** The following shall disqualify a person from serving on the Board of Ethics:
 - (1) current service as a City Official;
 - (2) separation from city service as a City Official within two (2) years of the appointment;
 - (3) familial relations within the third (3rd) degree of affinity (marriage) or consanguinity (blood or adoption);
 - (4) current service as an elected official in Bastrop County; and / or
 - (5) conviction of a felony, or crime of moral turpitude.
- (g) **Alternates.** Alternate members of the Board of Ethics shall attend meetings only upon request by the City Secretary's Office. The role of an alternate is to participate in

meetings of the Board of Ethics as a replacement for a regular member who is absent or abstaining.

- (h) **Scope of Authority.** The Board of Ethics's jurisdiction shall be limited to implementation and enforcement of this Article.
- (i) **Amendments.** The Board of Ethics may recommend amendments to this Article. A recommendation from the Board of Ethics is not required for the City Council to exercise its discretion in amending this Article.
- (j) **Officers.** At the first meeting of each fiscal year the Board of Ethics shall select from among its members a Chairperson and Vice-Chairperson.
- (k) **Rules of Procedure:** The Board of Ethics shall adopt rules of procedure governing how to conduct meetings and hearings. Such procedural rules are subject to confirmation or modification by the City Council.
- (l) **Removal:** The City Council may by a vote of two-thirds (2/3) remove a member of the Board of Ethics for cause.

1.15.14 Advisory Opinions

- (a) **Requests.** Any City Official may request an Advisory Opinion on a question of compliance with this Article. Requests shall be submitted in writing to the City Secretary, who shall assign the request to a Panel.
- (b) **Issuance.** A Panel of the Board of Ethics shall issue Advisory Opinions upon request. Advisory Opinions shall be issued within thirty (30) days of receipt of the request.
- (c) **Reliance.** It shall be an affirmative defense to a Complaint that the Accused relied upon an Advisory Opinion. In making a determination on the proper disposition of a Complaint, the Board of Ethics may dismiss the Complaint if the Board finds that:
 - (1) the Accused reasonably relied in good faith upon an Advisory Opinion;
 - (2) the request for an Advisory Opinion fairly and accurately disclosed the relevant facts; and
 - (3) less than five (5) years elapsed between the date the Advisory Opinion was issued and the date of the conduct in question.

1.15.15 Complaints

- (a) **Complainants.** Any person who has first-hand knowledge that there has been a violation of Sections 3-112 and 3-113 of this Article may allege such violations by submitting a Complaint. The persons who may submit Complaints includes (but is not limited to) members of the Board of Ethics.
- (b) **Form.** Complaints shall be written on, or accompanied by, a completed form promulgated by the City Secretary.
- (c) **Contents.** A Complaint filed under this section must be in writing and under oath and must set forth in simple, concise, direct statements and must state:

- (1) the name of the Complainant;
 - (2) the street or mailing address, email address, and the telephone number of the Complainant;
 - (3) the name of each person Accused of violating this Article;
 - (4) the position or title of each person Accused of violating this Article;
 - (5) the nature of the alleged violation, including (whenever possible) the specific provision of this Article alleged to have been violated;
 - (6) a statement of the facts constituting the alleged violation and the dates on which or period of time in which the alleged violation occurred; and
 - (7) all documents or other material available to the Complainant that are relevant to the allegation.
- (d) **Violation Alleged.** The Complaint must state on its face an allegation that, if true, constitutes a violation of this Article.
- (e) **Affidavit.** A Complaint must be accompanied by an affidavit stating that the Complaint is true and correct or that the Complainant has good reason to believe and does believe that the facts alleged constitute a violation of this Article. The Complainant shall swear to the facts by oath before a Notary Public or other person authorized by law to administer oaths under penalty of perjury.
- (f) **Limitations Period.** To be accepted, a Complaint must be brought within six (6) months of the Complainant becoming aware of the act or omission that constitutes a violation of this Article. A Complaint will not be accepted more than two (2) years after the date of the act or omission.
- (g) **Filing.** Complaints shall be submitted to the City Secretary. Submission of Complaints may be made by hand delivery, by U.S. Mail, or email directed to an email address publicly listed by the City Secretary.
- (h) **Acceptance of Complaint.** Within five (5) business days of receiving a Complaint, the City Secretary shall determine if it is administratively complete, and timely.
- (1) *Administratively Complete.* A Complaint is administratively complete if it contains the information described above. If the Complaint is administratively complete, the City Secretary shall proceed as described in this Article. If the Complaint is incomplete the City Secretary shall send a written deficiency notice to the Complainant identifying the required information that was not submitted.
- The Complainant shall have ten (10) business days after the date the City Secretary sends a deficiency notice to the Complainant to provide the required information to the City Secretary, or the Complaint is automatically deemed abandoned and may not be processed in accordance with this Article. Within five (5) business days of a Complaint being abandoned, the City Secretary shall send written notification to the Complainant and the Accused.

- (2) *Timely.* To be timely, a Complaint must be brought within six (6) months of the Complainant becoming aware of the act or omission that constitutes a violation of this Article. A Complaint will not be accepted more than two (2) years after the date of the act or omission.
- (i) **Notification of Acceptance.** Within five (5) business days of determining that a Complaint is administratively complete, the City Secretary shall send a written notification of acceptance to the Complainant, the Accused, and the City Attorney.
- For purposes of this provision, a Complaint shall be considered Accepted when the City Secretary has deemed the submittal administratively complete, and timely.
- (j) **Confidentiality.** A Complaint that has been submitted to the City is hereby deemed confidential until such time as the Complaint is either dismissed or placed on an agenda for consideration by the Board of Ethics in accordance with this Article. Clerical and administrative steps shall be taken to identify and manage confidential information in accordance with this Article. The confidentiality created by this Article includes the fact that a Complaint was submitted and the contents of that Complaint. It shall be a violation of this Article for a City Official to publicly disclose information relating to the filing or processing of a Complaint, except as required for the performance of official duties or as required by law. Requests for records pertaining to Complaints shall be responded to in compliance with the State law. The limited confidentiality created by this Article is limited in scope and application by the mandates of the Texas Public Information Act, Chapter 552 of the Texas Government Code.
- (k) **Ex Parte Communications.** After a Complaint has been filed and during the pendency of a Complaint before the Board of Ethics, it shall be a violation of this Article:
- (1) for the Complainant, the Accused, or any person acting on their behalf, to engage or attempt to engage directly or indirectly about the subject matter or merits of a Complaint in *ex parte* communication with a member of the Board of Ethics or any known witness to the Complaint; or
 - (2) for a Member of the Board of Ethics, to knowingly allow an *ex parte* communication about the subject matter or merits of a Complaint, or to communicate about any issue of fact or law relating to the Complaint directly or indirectly with any person other than a Member of the Board of Ethics, the City Secretary's office, the City Attorney's office, or Special Counsel.

1.15.16 Preliminary Assessment

- (a) **Referral to Chairperson.** Accepted Complaint(s) shall be referred to the Chairperson of the Board of Ethics within five (5) business days of being determined administratively complete.
- (b) **Assignment of Panel.** Within five (5) business days of receiving an Accepted Complaint, the Chairperson of the Board of Ethics shall assign the Complaint to a Panel for Preliminary Assessment. The Chairperson shall order a meeting of the Panel, which shall be conducted in compliance with the Texas Open Meetings Act. Each Panel shall select a Presiding Officer to conduct Panel deliberations.

- (c) **Panel Determination.** Within ten (10) business days of being assigned an Accepted Complaint, the Panel shall review the Complaint on its face and determine whether the Complaint is:

- (1) *Actionable:* the allegations and evidence contained in the Complaint, if true, would constitute a violation of this Article.
- (2) *Baseless:* the allegations and evidence contained in the Complaint, if true, would not constitute a violation of this Article.

Actionable Complaints shall be returned to the Chairperson for listing on an agenda for a public hearing. Baseless Complaints shall be dismissed. Written notification of the Panel's determination shall be filed with the City Secretary and sent to the Chairperson, Complainant, the Accused, and the City Attorney within two (2) business days. Written notifications of dismissal shall include notice of the right to appeal.

- (d) **Appeals.** A Panel's preliminary assessment under this Section 3-120 may be appealed to the Board of Ethics by either the Complainant or the Accused, as applicable. An appeal shall be perfected by filing a written notice of appeal with the City Secretary within ten (10) business days of the date of the written notification.

1.15.17 Meetings

- (a) **Calling Meetings.** Meetings of the Board of Ethics shall be called upon request of the Chairperson, three (3) members, or the City Secretary.

- (b) **Quorum.** The quorum necessary to conduct meetings of the Board of Ethics shall be four (4). The Chairperson (or acting chairperson) shall count toward the establishment of a quorum and retains the right to vote.

(c) **Hearings:**

- (1) *Scheduling:* Hearings shall be scheduled by the City Secretary upon the filing of:
 - (A) a Panel determination that a Complaint is Actionable; or
 - (B) an Appeal challenging a Panel's dismissal of a Complaint as Baseless.
- (2) *Purpose:* The purpose of the hearing(s) shall be solely to determine whether:
 - (A) a violation of this Article occurred, and if so to assess the appropriate sanction;
 - (B) an Accepted Complaint was erroneously dismissed as Baseless by a Panel; and/ or
 - (C) an Accepted Complaint is Frivolous.
- (3) *Sworn Testimony:* All witness testimony provided to the Board of Ethics shall be under oath.

- (4) *Burden of Proof:* Because the burden of showing that a violation of this Article occurred is placed on the Complainant, it is the Complainant that has the obligation to put forth evidence, including testimony, supporting the Complaint. The Complainant is required to testify at the hearing. A Complainant's failure to testify at a hearing shall be grounds for dismissal of a Complaint.
- (5) *Representation:* The Accused shall have a right to present a defense. Both the Complainant and the Accuser have a right to be represented by legal counsel.
- (d) **Open Meetings.** All meetings and hearings of the Board of Ethics, including Panel deliberations, shall be conducted pursuant to the Texas Open Meetings Act. The Board of Ethics may convene in Executive Session (i.e., conduct a closed meeting) as allowed by the Act. All final actions of the Board of Ethics shall take place in open session.
- (e) **Postponement in Certain Instances.**
 - (1) *Board:* Proceedings may be postponed upon majority vote by the members of the Board of Ethics.
 - (2) *Parties:* The Complainant and the Accused are each entitled to one (1) postponement without cause. Additional postponements shall be solely for good cause and at the discretion of the Board of Ethics.
 - (3) *Criminal Proceedings:* If a Complaint alleges facts that are involved in a criminal investigation or a criminal proceeding before a grand jury or the courts, the Board of Ethics may, when a majority of its members deem appropriate, postpone any hearing or any appeal concerning the Complaint until after the criminal investigation or criminal proceedings are terminated.

1.15.18 Disposition

- (a) **Dismissal.** If the Board of Ethics determines at the conclusion of a hearing by simple majority vote of its members that a Complaint should be dismissed, it may do so upon finding:
 - (1) the Complaint is Baseless;
 - (2) the alleged violation did not occur;
 - (3) the Accused reasonably relied in good faith upon an Advisory Opinion, as provided in this Article; or
 - (4) the Complainant failed to testify at the hearing.
- (b) **Sanctions.** If the Board of Ethics determines by simple majority vote at the conclusion of a hearing that a violation has occurred, it may within ten (10) business days impose or recommend any of the following sanctions:
 - (1) *Letter of Notification.* If the violation is clearly unintentional, or when the Accused's action was made in reliance on a written Advisory Opinion ~~of the~~

~~City Attorney~~. A letter of notification shall advise the Accused of any steps to be taken to avoid future violations.

- (2) *Letter of Admonition*. If the Board of Ethics finds that the violation is minor and may have been unintentional, but calls for a more substantial response than a letter of notification.
- (3) *Letter of Reprimand*. If the Board of Ethics finds that the violation:
 - (A) was minor and was committed knowingly, intentionally or in disregard of this Article; or
 - (B) was serious and may have been unintentional.
- (4) *Recommendation of Suspension*. If the Board of Ethics finds that a violation was committed by a ~~M~~member of the Board of Ethics, Planning & Zoning Commission, ~~or~~ Zoning Board of Adjustment, or a Department ~~Head~~Director, and it:
 - (A) was serious and was committed knowingly, intentionally or in disregard of this Article or a state conflict of interest law; or
 - (B) was minor but similar to a previous violation by the Person, and was committed knowingly, intentionally or in disregard of this Article.

The final authority to impose a suspension rests with the City Council.

- (5) *Ineligibility*. If the Board of Ethics finds that a Vendor has violated this Article, the Board may recommend to the City Manager that the Vendor be deemed ineligible to enter into a City contract or other arrangement for goods, services, or real property, for a period of one (1) year.

Notice of all sanctions imposed by the Board of Ethics shall be transmitted to the Accused, Complainant, City Secretary, City Attorney, and City Council.

(c) Frivolous.

- (1) *Prohibition*. It is a violation of this Article for a Person to submit a Frivolous Complaint.
- (2) *Super-Majority Vote*. If the Board of Ethics determines at the conclusion of a hearing by a vote of two-thirds (2/3) of its Members that a Complaint was Frivolous, the Board may impose a sanction as provided by Section 3-122(b).
- (3) *Factors*. In making a determination on frivolity, the Board of Ethics shall consider the following factors:
 - (A) the timing of the sworn Complaint with respect to when the facts supporting the alleged violation became known or should have become known to the Complainant, and with respect to the date of any pending

election in which the Accused is a Candidate or is involved with a candidacy, if any;

- (B) the nature and type of any publicity surrounding the filing of the sworn Complaint, and the degree of participation by the Complainant in publicizing the fact that a Complaint was filed;
 - (C) the existence and nature of any relationship between the Accused and the Complainant before the Complaint was filed;
 - (D) if the Accused is a Candidate for Election to Office, the existence and nature of any relationship between the Complainant and any Candidate or group opposing the Accused;
 - (E) any evidence that the Complainant knew or reasonably should have known that the allegations in the Complaint were groundless; and
 - (F) any evidence of the Complainant's motives in filing the Complaint.
- (4) *External Remedies.* Complainants who submit Frivolous Complaints are hereby notified that their actions may subject them to criminal prosecution for perjury (criminal prosecution), or civil liability for the torts of defamation or abuse of process.

1.15.19 Reconsideration

The Complainant or Accused may request the Board of Ethics to reconsider its decision. The request must be filed with the City Secretary within five (5) business days of receiving the final opinion of the Board of Ethics. The request for reconsideration shall be sent to the Chairperson of the Board of Ethics and the non-filing party (Complainant or Accused). If the Chairperson finds, in the Chairperson's sole discretion, that the request includes new evidence that was not submitted at a prior hearing, and that the new evidence bears directly on the Board of Ethics's previous determination, the Chairperson shall schedule a hearing on the request for reconsideration to occur within thirty (30) business days after filing with the City Secretary. Absent new evidence, the Chairperson shall unilaterally dismiss the request for reconsideration and provide notice to the Parties.

1.15.20 Nepotism

- (a) **City Council.** No Person shall be employed by the City who is related to any member of the City Council within the third (3rd) degree of affinity or consanguinity.
- (b) **Department Supervisor.** No Person shall be employed by the City in a department if the Person is related to the City Manager or the department supervisor within the third (3rd) degree of affinity or consanguinity.
- (c) **Preexisting Employment.** The prohibitions of this Section do not apply to a Person who was employed by the City more than six (6) months prior.

1.15.21 General Procedural Matters

- (a) Deadlines.** Any deadline provided in this Article shall be construed as expiring at 5:00 p.m. local time on the last day.
- (b) Mailbox Rule.** Under this Article, a deadline for any response or request for appeal is met when the date the response or request for appeal is mailed falls within the timeline requirements of this Article. The posted date of any mailing will control whether it meets the timeline requirements of this Article.



STAFF REPORT

MEETING DATE: April 10, 2018

AGENDA ITEM: 5E

TITLE:

Discuss painting the trees as a part of the Bastrop story on the TxDOT Tahitian Overpass to make them more visible.

STAFF REPRESENTATIVE:

Lynda K. Humble, City Manager

BACKGROUND/HISTORY:

This item is on the agenda for discussion at the request of Council Member Gary Schiff:

"I would like to Council to consider funding the painting of the Bastrop reliefs on the Tahitian and 95 overpasses on 71. Alternatively, the Council could approve a resolution encouraging BEDC to fund the painting since they funded the Tahitian reliefs. Obviously, the proposed measure would have to be done with approval and coordination with TxDOT."

TxDOT does not have an issue with these trees being painted. The City's Maintenance Management Agreement (MMA) with TxDOT would have to be amended granting the City permission to paint and maintain their upkeep. This item has been discussed previously while the overpasses were being constructed. Ongoing concerns about graffiti was the reason given for the City not following through with this project.

RECOMMENDATION:

Staff is seeking direction from Council regarding Council Member Schiff's request.

Picture of Art Work on TxDOT Bridge:





STAFF REPORT

MEETING DATE: April 10, 2018

AGENDA ITEM: 6A

TITLE:

Receive a Presentation from Melissa Middlebrooks, President, Keep Bastrop County Beautiful (KBCB), about the “Adopt a Street Program.”

STAFF REPRESENTATIVE:

Trey Job, Managing Director of Public Works & Leisure Services

BACKGROUND/HISTORY:

Keep Bastrop County Beautiful received community support funding in the FY 2018 budget from Bastrop Power & Light. One of the specific requirements included in this year’s funding agreement was for KBCB to research and implement an Adopt-a-Street Program in 2018. Melissa Middlebrooks, President of KBCB, will present their proposed program to City Council.

POLICY EXPLANATION:

City Council and the Executive Team have put a great deal of effort into developing an Organizational Work Plan that addresses nine focus areas that are identified as drivers to successfully fulfill the City’s Mission & Vision. In addition to being a stipulation in the Community Support Funding Agreement, this item is also identified in the FY18 Work Plan as UE#6 (Unique Environment), which is “Establish and Implement an Adopt-a-Street Program in partnership with Keep Bastrop County Beautiful”.

Keep Bastrop County Beautiful is a nonprofit, 501(c)3, organization dedicated to inspiring individuals and businesses to improve their community and the natural environment. Adopt-a-Street partners make a commitment to:

- Adopt approximately 1/2 a mile for one year
- Host at least 4 cleanups a year along the adopted segment with one of the cleanups coinciding with the [Don't mess with Texas® Trash-Off](#) in April

By adopting a street, the group receives guidance from Keep Bastrop County Beautiful in planning cleanups, as well as cleanup supplies, trash collection, and a great marketing bump from your street sign! The program also builds community ties by engaging with colleagues and friends, and increasing civic visibility.

The City has committed to picking up the bagged trash once clean-up is completed, and purchasing the signs identify the adopted sections of streets. We have also discussed allowing neighborhoods to implement a section of roadway under a ½ mile. For example, if a neighborhood on a 300-foot cul-de-sac is interested in just keeping the block clean, the city would provide a sponsorship sign for that group of neighbors.

FUNDING SOURCE:

This project was funded through Community Support awarded in FY 2108. Signs identifying adopted streets will be funded from the current street sign line item in the Public Works budget.

ATTACHMENTS:

- Power Point Presentation



Adopt-a-Street Program

Trey Job

Managing Director of Public Works & Leisure Services

About the Keep Bastrop County Beautiful

- Keep Bastrop County Beautiful is a nonprofit, 501(c)3, organization dedicated to inspire individuals and businesses to improve their community and the natural environment.

KBCB Mission, Vision & Goals

- ▶ **Mission:**
- ▶ To inspire individuals and businesses to improve their communities and the natural environment.
- ▶ **Vision:**
- ▶ To make Bastrop County a clean and beautiful county in which to live, work and visit and to support environmental and conservation initiatives.
- ▶ **Goals:**
- ▶ The goals of Keep Bastrop County Beautiful, a non-profit community 501 (c) (3) organization are:
- ▶ Litter prevention
- ▶ Beautification
- ▶ Waste reduction

Board of Directors

Position

President

Vice President

Treasurer

Secretary

Board Member

Board Member

Board Member

Board Member

Board Member

Board Member

Board Member

Board Member

Board Member

Name

Melissa Middlebrooks

Joni Groom

Shanda Hernandez

Christy Hunn

Megan Brandon

Matilda Hernandez

Paul Jameson

David Junek

Laura Kelly

Mike Lopez

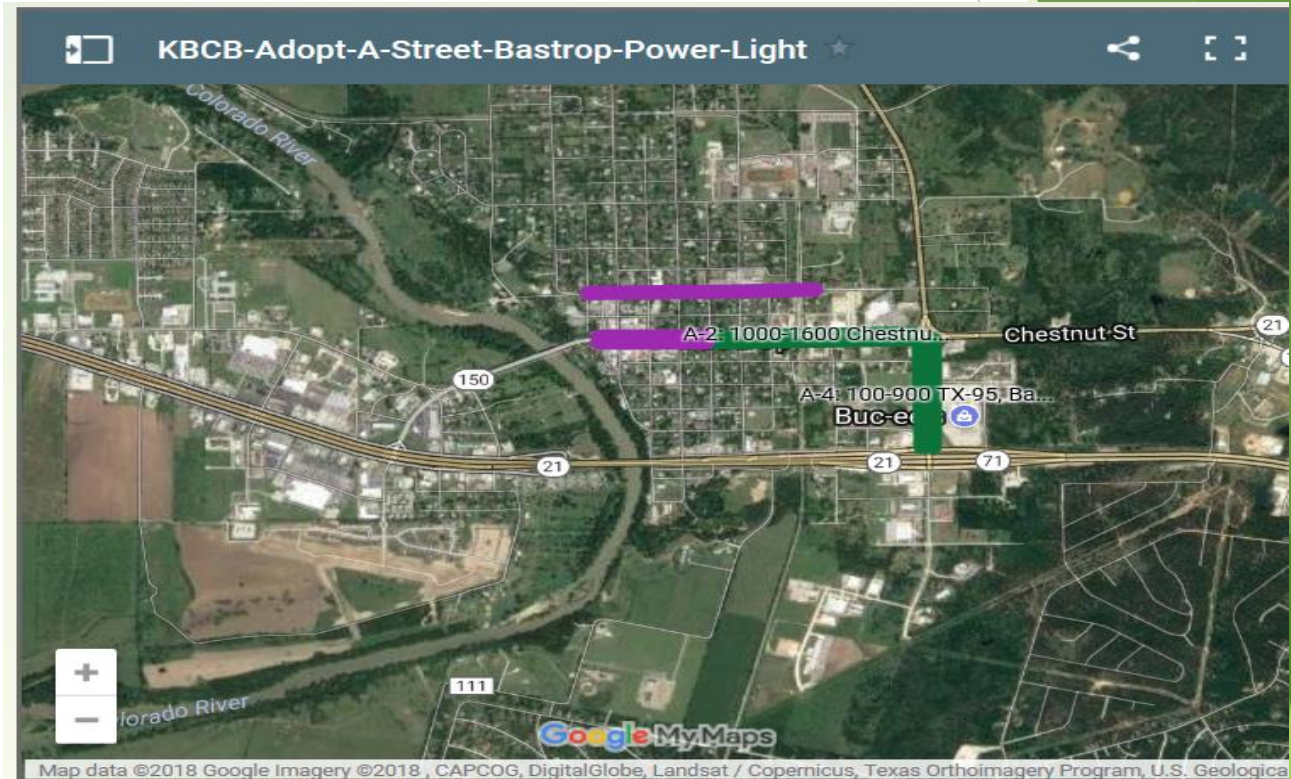
James Milburn

Scott Selstad

Mary Liz Singleton

Adopt-A-Streets:

- ▶ Adopt-a-Street partners make a commitment to:
- ▶ Adopt approximately 1/2 a mile for one year
- ▶ Host at least 12 cleanups a year along the adopted segment with one of the cleanups coinciding with the Don't mess with Texas® Trash-Off in April.



Adopt-A-Street Partners Agreement:

- ▶ Group shall adopt a street agreed upon by both KBCB & Group
- ▶ Street is adopted by Group for a period of one (1) year - with option to renew
- ▶ Group agrees to clean up litter along adopted street at least once per month for 12 months, but can have as many clean-ups at Group decides.
- ▶ Group may obtain free clean-up supplies from KBCB as needed. Must request 2 weeks prior to clean-up event, using Cleanup Supply Request/Report Form.
- ▶ Group will complete the Report Form following each cleanup and include all relevant details.
- ▶ Group is responsible for prohibiting participants from possessing or consuming alcoholic beverages while in the cleanup.

City of Bastrop's Commitment



EXAMPLE

- ▶ Install signage (discuss which one is free/which one paid for)
- ▶ Pick-up trash bags

Questions?





STAFF REPORT

MEETING DATE: April 10, 2018

AGENDA ITEM: 6B

TITLE:

Receive an update regarding the closure of the pool at Bastrop State Park for repairs beginning on April 2, 2018.

STAFF REPRESENTATIVE:

Trey Job, Managing Director of Public Works & Leisure Services

BACKGROUND/HISTORY:

The City of Bastrop has dedicated funds to the YMCA for several years to assist with the operational cost of operating the pool at the Bastrop State Park. The annual funding of \$30,000 is used for utilities, staffing, and the general overall operation of the pool. One of the requirements of funding is to provide a pool that can be used by the general public of the Bastrop Community.

The pool at Bastrop State Park has leaked for approximately two years, and has gotten increasingly worse each year since it was discovered. It reached a critical point last year, and all attempts to repair it were unsuccessful. So, the State made a decision to expedite the repairs before the end of their fiscal year. The repairs are scheduled to begin in early April, and will last approximately sixteen weeks. This repair schedule poses a problem for the YMCA, since part-time summer help to operate the pool is hired during April and May. By not being able to hire and put employees to work until late July or early August, potential staff will have already found other jobs and will be preparing to return back to school. Because of this, the YMCA feels they will not be able to safely staff the facility and will not be opening the pool for the 2018 summer season. The YMCA is currently seeking other opportunities to provide a public pool to the Bastrop Community.

FUNDING SOURCE:

The pool was funded through the community support line items in the Water Wastewater and Bastrop Power and Light FY 18 budget.

ATTACHMENTS:

- Email from Terry Moore, Executive Director of the Bastrop YMCA.

Reply Reply All Forward

Wed 3/28/2018 8:44 PM



Terry Moore <Terry.Moore@austinyymca.org>

Update of situation of the Bastrop State Park Pool

To: Trey Job

Cc: Andrew Wiggins; Jamie Creacy (Jamie.Creacy@tpwd.texas.gov)

Trey,

As per our conversation, here is a recap in writing.

I will submit the required quarterly report for community support funding in April. But the YMCA of Austin will not be requesting a check for the remainder of the 2018 Funding.

I was part of a pre-construction meeting today at the Bastrop State Park for the complete renovation of the Bastrop State Park Pool. Construction will begin on April 2 and is expected to last a minimum of 16 weeks. So if all goes well and there are no unexpected complications, the project could be done the end of the third week of July.

Over the past years, the pool has been leaking water at an increasing alarming rate. It reached a critical point this past year. The state tried a couple different options to repair it but was unable to do so. It was decided the pool could not continue to operate in its current state. The state expedited the process in an effort to get the project done before the end of their FY. Watching them today, it was apparent that they all want the project to be done as quickly as possible.

With the repairs being completed so late in the season, it creates an insurmountable hardship in hiring staff to operate the facility. Lifeguards, swim instructors and other staff are typically hired in April and May to work full time hours during the summer months. The typical number of summer work staff ranges from 35 to 45 employees. By not being able to hire and put them to work until late July or early August, potential staff will have already found other jobs and will be preparing to return back to school. It's because of this, we don't feel we would be able to safely staff the facility and will not be opening the pool for the 2018 summer season.

The YMCA recognizes this will be a devastating blow for the community. The Bastrop State Park pool is the only public pool in the county, excluding the facility in Elgin. We are currently exploring other opportunities to fill in some gaps created by this loss. But we also recognize they will be small stop gaps because of the lack of water resources in our county. Our goal is to find as many opportunities available to serve in a teaching *safety around water* capacity.

I apologize for this bad news. But on the upnote, when the facility renovation is complete it will be much more efficient to operate which you know, will be a great long term benefit to the community.

Thanks for your understanding and help through this time.

Please let me know if I can answer any questions you may have. Or if you have any suggestions, I would be anxious and open to hear them.

Sincerely,

Terry Moore
Executive Director

Be part of the movement! Give today <http://bit.ly/2unkYRQ>



YMCA OF AUSTIN
Bastrop Branch
1112 Main Street
Bastrop, TX 78602
City Hall Office #: 512 332
8805 **Y Office #:** 512 321
9622



Bastropymca.org



STAFF REPORT

MEETING DATE: April 10, 2018

AGENDA ITEM: 7

TITLE:

CITIZEN COMMENTS

At this time, three (3) minute comments will be taken from the audience on any topic. To address the Council, please submit a fully completed request card to the City Secretary prior to the beginning of the Citizens' Comment portion of the Council meeting. In accordance with the Texas Open Meetings Act, if a citizen discusses any item not on the agenda, City Council cannot discuss issues raised or make any decision at this time. Instead, City Council is limited to making a statement of specific factual information or a recitation of existing policy in response to the inquiry. Issues may be referred to City Staff for research and possible future action.

To address the Council concerning any item on the agenda, please submit a fully completed request card to the City Secretary prior to the consideration of that item.

It is not the intention of the City of Bastrop to provide a public forum for the embarrassment or demeaning of any individual or group. Neither is it the intention of the Council to allow a member of the public to slur the performance, honesty and/or integrity of the Council, as a body, or any member or members of the Council individually or collectively, or members of the City's staff. Accordingly, profane, insulting or threatening language directed toward the Council and/or any person in the Council's presence will not be tolerated.



STAFF REPORT

MEETING DATE: April 10, 2018

AGENDA ITEM: 8A

TITLE:

Consider action to approve City Council minutes from the March 22, 2018 Joint Council and Bastrop Economic Development Corporation meeting and March 27, 2018 regular meeting.

STAFF REPRESENTATIVE:

Lynda Humble, City Manager
Ann Franklin, City Secretary

BACKGROUND/HISTORY:

N/A

POLICY EXPLANATION:

Section 551.021 of the Government Code provides as follows:

- (a) A governmental body shall prepare and keep minutes or make a tape recording of each open meeting of the body.
- (b) The minutes must:
 1. State the subject of each deliberation; and
 2. Indicate the vote, order, decision, or other action taken.

FUNDING SOURCE:

N/A

RECOMMENDATION:

Consider action to approve City Council minutes from the March 22, 2018 Joint Council and Bastrop Economic Development Corporation meeting and March 27, 2018 regular meeting.

ATTACHMENTS:

- March 22, 2018, DRAFT Joint Council and Bastrop Economic Development Corporation Meeting Minutes.
- March 27, 2018, DRAFT Regular Meeting Minutes.

**MINUTES OF JOINT WORKSHOP WITH BASTROP, TX CITY
COUNCIL AND BASTROP ECONOMIC DEVELOPMENT
CORPORATION
MARCH 22, 2018**

The Bastrop City Council and the Bastrop Economic Development Corporation met in a Joint Workshop Meeting on Thursday, March 22, 2018, at 6:30 p.m. at the Bastrop City Hall Council Chambers, located at 1311 Chestnut Street, Bastrop, Texas. Members present for the Bastrop City Council were: Mayor Schroeder, Mayor Pro Tem Schiff and Council Members Jones, Ennis, Nelson and Peterson. Officers present were: City Manager, Lynda Humble and City Secretary, Ann Franklin. Members present for the Bastrop Economic Development Corporation were: Drusilla Rogers, Sam Kier, Kevin Plunkett, Ron Spencer and Kathryn Nash. Staff present: Economic Development Director, Shawn Kirkpatrick.

CALL TO ORDER

Mayor Connie Schroeder called the meeting of the Bastrop City Council to order with a quorum being present at 6:30 p.m.

Vice Chair Kevin Plunkett called the meeting of the Bastrop Economic Development Corporation to order with a quorum being present at 6:30 p.m. Chair Camillo Chavez was absent.

Council waived Section 4.5. Work Session/Briefings of the Rules of Procedure for the City of Bastrop to allow citizens to speak on item 2A only.

WORK SESSION

- 2A. Discuss default and possible remedy of two (2) agreements between the City of Bastrop and Bastrop Fine Arts Guild and one (1) agreement between the Bastrop Economic Development Corporation and Bastrop Fine Arts Guild.
Presentation was made by City Manager, Lynda Humble and Economic Development Director, Shawn Kirkpatrick.

Background/Action Summary

City Manager Lynda Humble stated that she and Mayor Schroeder met with Mark Rose and Patricia of the Art Guild regarding the request for HOT Funding. At the time of the meeting with Mark and Patricia regarding the Art Guild's request for HOT Fund the City Manager brought to their attention the three (3) agreements between the City and BEDC that were in default and indicated that no additional funding from the City would be provided until these agreements were cured. The process for curing the default was discussed and the decision for curing rests solely with the Bastrop City Council and Bastrop Economic Development Corporation, Mayor Schroeder suggested a joint meeting to have a collective conversation. Mr. Rose agreed that the Art Guild Board would study the agreement and prepare a plan on how to cure the default. An Art Guild Board retreat was scheduled for late January, Mr. Rose asked if once the retreat had taken place if he could come back and have a meeting with the City Manager and Mayor to make sure that the board's plan to cure met the intent of the three (3) contracts. A meeting was held on February 20th which included the Mayor, City Manager and BEDC Director, the goal was to have a proposed plan prepared that met the intent of the contracts and reviewed by the end of February.

The City Council and Bastrop Economic Development Board will need to discuss the parameters of the original agreement and factor in what Mr. Rose is proposing. The

determination as to whether or not the cure proposed is sufficient rests solely with the City Council and Bastrop Economic Development Corporation. Staff is seeking direction from both policy bodies on how they wish to proceed. Once staff has direction from the two policy bodies the direction must go before both policy bodies because staff will either have to initiate a default provision under the existing agreement or staff must create an additional contract to acknowledge the cure provisions that was agreed upon in order to have the Bastrop Art Guild execute the agreement.

Mark Rose, Bastrop Fine Arts Guild made a presentation regarding the Art Guild's default and their plan to cure.

CITIZEN COMMENTS

Herb Goldsmith – He stated that the Art Center is now competing against the “struggling Convention and Exhibit Center” because the Lost Pines Art Center is now a “fully functioning indoor event center” and will have outdoor amenities, this website is a well developed event marketing and booking component. He pointed out the features of the Art Center's website and refund timeframe. He stated the Art Center has no constraints, it doesn't say it is for artist conferences or things of that nature, it simply says they have a venue for the public. He stated when the “Policy and Procedures” are clicked on the Bastrop Convention Center website you get three pages of caveat, when you click rates you are told to contact the staff, you cannot book online nor get an estimate. He stated although the Convention Center can host a real convention, there are only four events till the end of August. He urged the listeners to visit the Art Center website because it appears to be able to beat the Bastrop Convention Center on how to market and quickly book rather significant events and still be fluent enough to have small events. As a result the Lost Pines Art Center is a significant competitor to the Bastrop Convention Center for hosting events. Any further funding of the Bastrop Art Center by the City appears to be in conflict with the City's best interest due to the significant change in the Bastrop Art Center's Operation. The Lost Pines Art Center even has a continuous National internet social media marketing via its membership in “Event Up”. Over a Million dollars a year is paid to keep the Bastrop Convention Center operating, if the Bastrop Convention Center could be run more efficiently, more events could be booked. “This business model impacts success.”

Glen Johnson – His comments as follows were based on Mr. Mark Rose's letter. He stated Mr. Rose's letter seems to be slightly different from his presentation today. The agreement between the City of Bastrop and the BEDC with the Bastrop Fine Arts Guild, the contrast requiring compliance, responsibilities laid out in the contract or suffering the consequence of default. The agreements reflect consents set forth by the then City Manager (Mike Talbot) in his August 12, 2014 memorandum to the Council. Mr. Talbot wrote about the provisions and the claw backs of the funding of the Bastrop County Historical Society when it occupied the renovated City building formally holding City offices. His concern regarding the grant to the Bastrop Art Guild was as you may know the City has never provided grant funds of this magnitude to a non-City owned facility. To be enforceable and protective of the City and the Guild alike, careful and complete documentation is critical and necessary. The Art Guild admits it did not notify the City or BEDC of the default as required by the contracts and offered an excuse “sloppy approach to our contractual obligations”. The Art Guild admits in this letter to City Council and BEDC that it is in default and states it will not cure the default. The Art Guild seeks time to do a portion of the project it has not done but wishes to do. However, it states it refuses to complete the project as defined and agreed to in the contracts. It will not employ three (3) people as required by the BEDC contract, which is a major purpose of the BEDC grant, nor will it complete the project as defined in the City and BEDC contracts set forth in the authority and project definition provisions.

The Guild knew that it was not going to complete the projects as defined in the City contracts during the first year of operation, failed to notify the City of that planned permanent default. Apparently the Guild want to retroactively revise its obligations under the contract to reduce its obligations. The retroactive provisions of the contracts were not contemplated in the original agreements, the agreements provided that the Guilds performance subsequent that the Guild successfully initiate and complete development of the project within the timeframe stated and agreed upon herein. That was not done. Successfully operate the project noted herein, that apparently has not been done. And successfully fulfill all contractual obligations without default as specified herein. Both of the agreements for the City the Guilds execution and performance constitutes a valid and binding obligation of the Guild at the time the Guild accepts funding from the City for the project. The Guild acknowledges the City is acting reliance upon the Guilds full and complete performance of all stated conditions, precedence and other performance obligation set forth in making these decisions to commit substantial resources for the project. The BEDC contract is similarly worded performance requirements in its authority section. The Guild admits it defaulted in completion of the project on time, did not announce its default when it became clear it would occur and states it would not complete the project as defined and required by the agreements. The Guild will not hire three (3) employees as required by the BEDC contract because it does not have the money to do so and would not hire three (3) employees even if it had the money. The Guild would not build the efficient apartment nor does it have plans to complete two silos for working artist studios (that is in the letter, not sure if that is still what the position is.).

Bonnie Coffey – She stated that she knows a little about running a 501c3 because for over 17 years she was a city employee who ran a division in the mayor's office who had a 501c3 organization in City operations. She served on the committee that reviewed and evaluated resumes for the position of the Art Guild Executive Director and made recommendations to the board. Through that process she had the opportunity to observe the leadership and the board of the Guild and interact with them. "As someone who understands the complex nature and boundaries of a 501c3 organization I was concerned by what I saw, that concern moved toward alarm when I attended an Art Guild Board meeting in January 2016. What I saw was a nonprofit board that didn't have a clue about their fiduciary or corporate responsibilities. As the meeting progressed and I tried to explain to them the importance of fully understanding and observing these responsibilities it became clear to me that not only were they uninformed about what was expected of them, some were downright hostile when I tried to explain their legal obligations. Non-profit boards that do not fulfill their financial and legal responsibilities and obligations should be unacceptable in any and all circumstances. It also sets a precedence that is a dangerous place for both a city and a nonprofit. What happens when a future private groups asks 'You gave them General Fund money, why not us?'"

Connor McAnally – He stated that he fully believes in public funding for the Arts, it is an important thing for all communities. "However, it absolutely has to be accountable for the safety of the Arts. The reason being, if an organization gets money and doesn't fulfill its obligation under a contract with public funds affectively, it brings the Arts in to disrepute, the business of the Arts into disrepute and it makes further public funding for the Arts much more difficult. The City is the patrons of the Arts, representing the citizens who are the patrons of the Arts in this community. Making sure that any money that is public money coming out of tax payer's pockets that goes into any Arts organization must be accountable and it must be well used. I do not applaud a building going from 3.4 million to 5.6 million. I am appalled that neither the City Council nor BEDC has performed an audit. There is no business plan before the Council at this time. The Community has invested \$500,000 in one downtown business that is a private business, the City does not own it and it is not fulfilling its obligation. The City needs

to enforce the default so that the Arts overall can be protected and when people from the Arts come to the City in the future the City can expect deliverance.”

Direction was given to Bastrop Economic Development staff to:

- Revise the scope
- Review Art Guild’s business plan
- Review audit
- Run an analysis on what FTEs are and a comparison of what the contract calls for and what is in existence.

Direction was given to City Staff:

In Section 2.11 – Project, City of Bastrop agreement with the Arts Guild

- Sentence 3, eliminate the conversion of the silos to working artist studios.
- Sentence 3, eliminate the use of the silo as an efficiency apartment.
- Sentence 3, the City of Bastrop will extend the deadline to September 20, 2018.
- Sentence 4, the City of Bastrop will extend the deadline to July 30, 2018.

The assurance is that the Art Guild will not get any more public money until they have clearly met the purpose of the agreement. The City Manager was asked to work with Mr. Rose to ensure clarity of the revisions to the scope were documented in writing.

Mayor Schroeder recessed the Council Meeting at 9:30 p.m.

Mayor Schroeder called the Council Meeting back to order at 9:40 p.m.

- 2B. Review and discuss the Bastrop EDC Strategic Plan, Updates, and Supplements.
This item was withdrawn.
- 2C. Discuss other economic development related issues or concerns and next steps.
Discussion was held.

ADJOURNMENT

Mayor Connie Schroeder adjourned the Bastrop City Council meeting at 9:47 p.m. without objection.

Vice Chair Kevin Plunkett adjourned the Bastrop Economic Development Corporation meeting at 9:47 p.m. without objection.

APPROVED:

ATTEST:

Mayor Connie B. Schroeder

City Secretary Ann Franklin

**MINUTES OF REGULAR COUNCIL MEETING
BASTROP CITY COUNCIL
March 27, 2018**

The Bastrop City Council met in a Regular Meeting on Tuesday, March 27, 2018, at 6:30 p.m. at the Bastrop City Hall Council Chambers, located at 1311 Chestnut Street, Bastrop, Texas. Members present were Mayor Schroeder, Mayor Pro Tem Schiff and Council Members Jones, Ennis, Nelson and Peterson. Officers present were City Manager Lynda Humble, City Secretary Ann Franklin and City Attorney Alan Bojorquez.

CALL TO ORDER

At 6:30 p.m. Mayor Schroeder called the meeting to order with a quorum being present.

PLEDGE OF ALLEGIANCE

Jacob Anguiano and Fallon Hall, Bastrop Intermediate School, led the Pledge of Allegiance.

INVOCATION

Shane Sorenson, Visit Bastrop Director of Sales, gave the invocation.

PRESENTATIONS

- 4A. A proclamation of the City Council of the City of Bastrop, Texas, recognizing the month of April as Child Abuse Prevention Month for the City of Bastrop.
The proclamation was read into record by Mayor Schroeder.

- 4B. Mayor's Report

A MINUTE WITH THE MAYOR – Boards and Commissions Calendar for 2018:

- In June the City Manager will bring a revised boards and commissions ordinance before Council;
- July 17th Volunteer Fair (this will also be open to all non-profit);
- In August, receive applications and conduct interviews;
- In September, appointments will be made (appointments will be effective October 1st);

ACTIVITIES OF MAYOR SCHROEDER SINCE THE LAST COUNCIL MEETING:

- March 17
 - Kite and Flower Day
 - “Irish I was in Bastrop” – Pub Crawl
 - St. Patrick was an Irishman
- March 19
 - BEDC Monthly Meeting
- March 20
 - BEDC Launch
 - Ribbon Cutting – All City Real Estate
- March 21
 - Texas Travel Industry Association Unity Dinner

- **March 22**
 - **Historical Society Exhibit – Governor Sayers and Cowboys, Cows & Cattlemen**
 - **Joint City Council and BEDC Board Meeting**
- **March 23**
 - **BEST Breakfast Meeting**
 - **Wesley's Farewell Luncheon**
 - **Library Fund Raiser**
 - **FCI Battle Buddy Walk**
 - **Deep In the Foundry Night Art Pour**
- **March 24**
 - **Water & Wastewater Special Workshop**
 - **Bastrop Youth Performing Arts Academy Fund Raiser**
- **March 27**
 - **City Council Meeting**

UPCOMING EVENTS

- **March 29**
 - **Speaker at FCI Women's Leadership meeting**
 - **Ribbon Cutting Supreme Lending**
- **March 30**
 - **Good Friday (City Offices Closed)**
- **April 1**
 - **Easter Sunrise Service (Bastrop State Park)**
- **April 3**
 - **Wheels Sports Plaza Public Meeting**
- **April 4**
 - **Monthly Chamber Luncheon**
 - **BAIPP Meeting**
- **April 5**
 - **Farm Street Opry**
- **April 6**
 - **First Friday Art Walk**
- **April 7**
 - **Smithville Jamboree Parade on Bastrop City Float!**
- **April 10**
 - **Bastrop City Council Meeting**
- **April 11**
 - **Ribbon Cutting Anytime Fitness**

4C. Councilmembers' Report Council Member Ennis

- **Attended the Main Street Program Board meeting on March 14th.**
- **Opening of two exhibits at the Museum and Visitor Center of Bastrop County Historical Society – Cowboys, Cows and Cattlemen and the Governor Sayers Exhibit.**

Council Member Jones

- **March 24th - Attended the water and wastewater workshop.**

Council Member Peterson

- **Participated in the Veteran's Suicide Prevention Walk at the Federal Correctional Institute, the walk was to bring awareness to suicide prevention for veterans.**

4D. City Manager's Report

Friday, March 23rd was Wesley Brandon's last day as City of Bastrop Engineer. Jerry Palady, Palco ECS, LLC will serve as interim Director of Engineering and Development.

5. WORK SESSION/BRIEFINGS**5A. Presentation of appreciation from Bastrop County Emergency Food Pantry regarding Empty Bowl Project.**

Presentation was made by Bastrop Emergency Food Pantry and Support Center Executive Director, Tresha Silva.

5B. Presentation regarding Follow-Up to November Chicken/Rooster Public Meeting.

Presentation was made by City Manager, Lynda Humble; Public Safety Director/Chief of Police Steve Adcock; and Code Enforcement/Animal Control Officer, Troy Walters.

The following policy direction was given to staff: when the City Manager works with staff and comes back to Council after the trapping is done there will be a point in time where no free roaming feral chickens exist in the City limits of Bastrop, Texas. Clarification Summary: No more free roaming chickens, the funding of the coup would be done by outside sources but the City would agree to provide the location.

The City Manager stated that this will be a multi-year funding issue in order to get the chickens removed from the community. The City has a year-long agreement with Trapper Dan and an every other month proposal through February of 2019. The City Manager plans to put money in next year's budget to perpetuate the cycle of aggressively managing it. Get through next fiscal year and as fiscal year 2020 is built the progress may be evaluated to determine if a third year of funding is needed. City Manager stated, the law limits what can be legally done, every appropriate means will be exercised to legally remove the chickens without violating the law.

5C. Review and discuss Draft Ethics Ordinance.

Presentation was made by Alan Bojorquez.

Consensus from Council to go with Draft A. This item will be brought back at the April 10th meeting, allotting time for public input.

Mayor Schroeder recessed the meeting at 8:25 P.M.

Mayor Schroeder called the meeting back to order at 8:31 P.M.

6. STAFF AND BOARD REPORTS

- 6A. Receive monthly report from Visit Bastrop.
Presentation was made by Visit Bastrop President and CEO, Dale Lockett.
- 6B. Receive presentation on the unaudited Comprehensive Monthly Financial Report for the period ending February 28, 2018.
Presentation was made by Chief Financial Officer, Tracy Waldron.

CITIZEN COMMENTS

Mike Kelly – Stated that Pine Forest Investment Group was informed by the people in the Bastrop Independent School District that Judge Pape was going to buy the Bastrop Independent School District's interest in the Pine Forest land and use his bond reserve fund to begin developing Pine Forest. Mr. Kelly stated he felt it was ill advised policy for the City of Bastrop to join in with Judge Pape.

CONSENT AGENDA

A motion was made by Mayor Pro Tem Schiff to approve Item 8A listed on the Consent Agenda after being read into the record by Mayor Schroeder. Seconded by Council Member Peterson, motion was approved on a 5-0 vote.

- 8A. Consider action to approve City Council minutes from the February 20, 2018 workshop and March 13, 2018 regular meeting.

ITEMS FOR INDIVIDUAL CONSIDERATION

- 9A. Consider action to approve Resolution R-2018-19 of the City Council of the City of Bastrop, Texas, approving the Final Plat known as Bastrop Grove, Section 1, being 30.970 acres out of the Nancy Blakey Survey, Abstract 98, located south of the State Highway 71 and north of the extension of Agnes Street, within the city limits of Bastrop, Texas; as shown in Exhibit A; repealing all conflicting resolutions; and providing an effective date.

Presentation was made by Planning Department Assistant Director, Jennifer Bills.

A motion was made by Council Member Jones to approve Resolution No. R-2018-19, seconded by Council Member Ennis, motion was approved on a 5-0 vote.

- 9B. Consider action to approve Resolution No. R-2018-18 of the City Council of the City of Bastrop, Texas, authorizing repealing and replacing polling locations of Resolution No. R-2018-03 ordering the May 5, 2018 General Election to adopt changes to early voting locations and Election Day polling locations; and establishing an effective date.
Presentation was made by City Secretary, Ann Franklin.

A motion was made by Mayor Pro Tem Schiff to approve Resolution No. R-2018-18, seconded by Council Member Jones, motion was approved on a 5-0 vote.

- 9C. Consider action to approve Resolution No. R-2018-20 of the City Council of the City of Bastrop, Texas, approving a Joint Agreement between the City of Bastrop and Bastrop County Water Control and Improvement District No. 2 for the May 5, 2018 General Election for Bastrop, Texas, attached as Exhibit A; authorizing the Mayor to execute all necessary documents; and providing an effective date.

Presentation was made by City Secretary, Ann Franklin.

A motion was made by Mayor Pro Tem Schiff to approve Resolution No. R-2018-20, seconded by Council Member Jones, motion was approved on a 5-0 vote.

- 9D. Consider action to approve Resolution No. R-2018-21 of the City Council of the City of Bastrop, Texas, approving an amended contract for election services between the Elections Administrator of Bastrop County and the City of Bastrop for the May 5, 2018 General Election for Bastrop, Texas, attached as Exhibit A; authorizing the City Manager to execute all necessary documents; and providing an effective date.

Presentation was made by City Secretary, Ann Franklin.

A motion was made by Mayor Pro Tem Schiff to approve Resolution No. R-2018-21, seconded by Council Member Jones, motion was approved on a 5-0 vote.

EXECUTIVE SESSION

The City Council met at 9:17 p.m. in a closed/executive session pursuant to the Texas Government Code, Chapter 551, et seq, to discuss the following:

- 10A. City Council shall convene into closed executive session pursuant to Section 551.071 of the Texas Government Code to discuss and deliberate litigation matters with the City Attorney regarding Pine Forest 6, et al vs. City of Bastrop, et al.
- 10B. City Council shall convene into closed executive session pursuant to Section 551.074 to conduct a semi-annual performance evaluation of the City Manager as required by her employment agreement.

The Bastrop City Council reconvened at 10:32 p.m. into open (public) session.

TAKE ANY NECESSARY OR APPROPRIATE ACTION ON MATTERS POSTED FOR CONSIDERATION IN CLOSED/EXECUTIVE SESSION

No action was taken.

ADJOURNMENT

Adjourned at 10:32 p.m. without objection.

APPROVED:

Mayor Connie B. Schroeder

ATTEST:

City Secretary Ann Franklin



STAFF REPORT

MEETING DATE: April 10, 2017

AGENDA ITEM: 9A

TITLE:

Consider action to approve Resolution No. R-2018-23 of the City Council of the City of Bastrop, Texas adopting the Community Support Funding Calendar for the Fiscal Year 2019, as shown in Exhibit A; repealing all resolutions in conflict; and providing an effective date.

STAFF REPRESENTATIVE:

Tracy Waldron, Chief Financial Officer

BACKGROUND/HISTORY:

Staff has researched historical records to see when community support funding started. We have found minutes as far back as 1994. This funding opportunity has been offered for over 25 years. The funds come for Bastrop Power & Light. There is not a formal written policy for this funding process.

POLICY EXPLANATION:

Organizations providing charitable services to the citizens of Bastrop, that are not currently being provided by a City of Bastrop department, are eligible to apply for Community Support funding using the application process.

FUNDING SOURCE:

Bastrop Power & Light Fund

RECOMMENDATION:

Move to approve Resolution No. R-2018-23 of the City Council of the City of Bastrop, Texas adopting the Community Support Funding Calendar for the Fiscal Year 2019, as shown in Exhibit A; repealing all resolutions in conflict; and providing an effective date.

ATTACHMENTS:

- Resolution 2018-23
- Exhibit A

RESOLUTION NO. R-2018-23

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, ADOPTING THE COMMUNITY SUPPORT FUNDING CALENDAR FOR THE FISCAL YEAR 2019, AS SHOWN IN EXHIBIT A; REPEALING ALL RESOLUTIONS IN CONFLICT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Bastrop, Texas, has funded community service organizations for over 25 years; and

WHEREAS, the City of Bastrop, Texas relies on these community service organizations to provide services to their citizens that they do not currently offer; and

WHEREAS, the City Manager and the City Council of the City of Bastrop, Texas, desire to have a funding calendar that establishes a timeline with specific dates to ensure a fair and equitable application process for all community service organizations.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, THAT:

SECTION 1. The City Council hereby adopts the Fiscal Year 2018-2019 Community Support Funding Calendar as shown in the attached ***Exhibit "A"***. Dates are subject to adjustment due to scheduling requirements. Meetings will be posted in accordance with the Texas Open Meetings Act.

SECTION 2. Any prior resolution of the City Council in conflict with the provisions contained in this resolution are hereby repealed and revoked.

SECTION 3. Should any part of this resolution be held to be invalid for any reason, the remainder shall not be affected thereby, and such remaining portions are hereby declared to be severable.

SECTION 4. This resolution shall take effect immediately from and after its passage, and it is duly resolved.

DULY RESOLVED AND ADOPTED by the City Council of the City of Bastrop this
10th day of April 2018.

CITY OF BASTROP, TEXAS

APPROVED:

Connie B. Schroeder, Mayor

ATTEST:

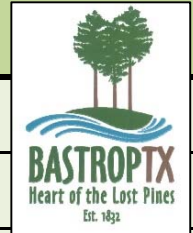
Ann Franklin, City Secretary

APPROVED AS TO FORM:

Alan Bojorquez, City Attorney

City of Bastrop

FY 2018-19 Community Support Funding Calendar



April 10	Council to accept Community Support Calendar
May 14	Funding applications available at City Hall and on the City's website
June 29	Deadline for submitting funding applications to Finance Office by 5:00pm
July 12	Submit Organizational History Summary and funding applications to City Secretary for Agenda
July 24	Council Meeting - Organizations to present their funding request (limit to 3 minutes)
Sept. 11	Council Meeting - First Reading Budget Ordinance
Sept. 25	Council Meeting - Second Reading Budget Ordinance



STAFF REPORT

MEETING DATE: April 10, 2018

AGENDA ITEM: 9B

TITLE:

Hold Public Hearing and consider action to approve Resolution R-2018-22 of the City Council of the City of Bastrop, Texas granting a variance to Bastrop Code of Ordinances Article 4.02.005 Sale of Alcoholic Beverages, Separation Requirements from Church, Public or Private School, or Public Hospital, on property located at 1800 Walnut Street within the city limits of Bastrop, Texas; and establishing an effective date.

STAFF REPRESENTATIVES:

Allison Land, Planner and GIS Coordinator

BACKGROUND/HISTORY:

Permitted locations of alcohol sales are established by three location criteria: zoning district, frontage along specified sections of road, and proximity to churches, schools, and public hospitals. When a site is in a zone or along a frontage that allows the use, but distance to a church, school, or hospital prohibits alcohol sales, the Bastrop Code of Ordinances gives City Council the authority to approve a variance to the distance requirement.

The location requesting the variance is Casa Chapala, which is a restaurant moving into the building on the corner of SH 95 and Walnut, next to Buc-ee's. This site was previously La Hacienda. Since the site has changed ownership, a re-evaluation of the separation requirements is required. The measurement from Casa Chapala's property line to Emile Elementary School's property line, as measured using TABC's methods, is less than the required 300 feet.

Alcohol sales in this location were approved for La Hacienda with a variance in 2012. Council has also previously approved a variance for Buc-ee's.

PUBLIC COMMENTS:

Notifications were mailed to 34 surrounding property owners on March 20, 2018. At the time of this report, no responses have been received.

POLICY EXPLANATION:

Article 4.02.005 Separation Requirements from Church, Public or Private School, or Public Hospital

- (a) No person shall sell or engage in the business of selling any alcoholic beverage where the place of business of such person is located within three hundred (300) feet of any church, public or private school, or public hospital

The premises requesting the variance is located at 1800 Walnut Street, which is within 300 feet of a public school (Emile Elementary School). The distance to a public school is measured in a direct line from property line to property line as defined in state law.

Article 4.02.005 Separation Requirements from Church, Public or Private School, or Public Hospital

(b) This section does not apply to:

- (1) a holder of a license or permit who also holds a food and beverage certificate covering premises that are located within three hundred (300) feet of a private school, as the term "private school" is defined by the Texas Alcoholic Beverage Code; or
- (2) any place of business that is legally selling alcoholic beverages at the same location for a continuous period of one year preceding the establishment, construction or purchase of property for the establishment or construction of a church, public or private school, or public hospital; or
- (3) businesses that were in operation at the time this section was originally enacted, until such a time as such businesses have a change in ownership.

None of the above items apply to Casa Chapala, therefore, it does not qualify for any exemptions to the separation requirements.

Article 4.02.006 Variance to Separation Requirements

(a) The council may provide variances if, after notice and a public hearing, the council determines that enforcement of the regulation in a particular instance:

- (1) is not in the best interest of the public;
- (2) constitutes waste or inefficient use of land or other resources;
- (3) creates an undue hardship on an applicant;
- (4) does not serve its intended purpose;
- (5) is not effective or necessary; or
- (6) for any other reason the council, after consideration of the health, safety, and welfare of the public and the equities of the situation, determines is in the best interest of the community.

The restaurant is in a location previously approved for alcohol sales. State Highway 95 provides a significant barrier between the restaurant requesting to sell alcohol and the elementary school.

FUNDING SOURCE:

N/A

RECOMMENDATION:

Hold Public Hearing and consider action to approve Resolution R-2018-22 of the City Council of the City of Bastrop, Texas granting a variance to Bastrop Code of Ordinances Article 4.02.005 Sale of Alcoholic Beverages, Separation Requirements from Church, Public or Private School, or Public Hospital, on property located at 1800 Walnut Street within the city limits of Bastrop, Texas; and establishing an effective date.

ATTACHMENTS:

- Attachment 1: Property Owner Notice including Location Map and Variance Request Letter
- Resolution



**Notice of Public Hearing
City of Bastrop
City Council**



Dear Property Owner:

The **City Council** will conduct a public hearing **Tuesday, April 10, 2018 at one of the following meeting times 6:30 p.m.** in the **City Hall Council Chambers located at 1311 Chestnut Street, Bastrop, Texas** to consider action to grant a variance to Bastrop Code of Ordinances Article 4.02.005 Sale of Alcoholic Beverages, Separation Requirements from Church, Public or Private School, or Public Hospital, on property located at 1800 Walnut Street, within the city limits of Bastrop, Texas, establishing an effective date.

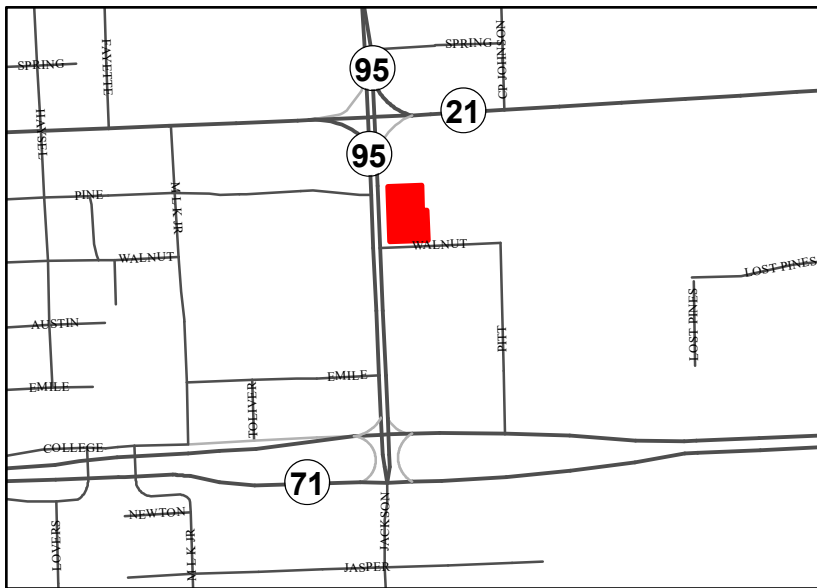
Owner/Applicant:	Guadalupe Barragan, Casa Chapala Mexican Dining
Business:	Casa Chapala
Address:	1800 Walnut Street, Bastrop, TX 78602
Legal Description:	Walnut Street Subdivision, BLOCK A, Lot 1, ACRES 1.646
Vary Distance From:	Public School (Emile Elementary School)

The site location map and applicant's request are attached for reference.

As a property owner within 300 feet of the above referenced property, you are being notified of the upcoming meetings per the Bastrop Code of Ordinances Business Regulations.

Property owners wishing to request a variance to separation requirements must follow the rules within the City Business Regulations, Chapter 4, Article 4.02.005, which can be read online at: https://library.municode.com/tx/bastrop/codes/code_of_ordinances

For more information or to provide comments on this project, you can contact the Planning & Development offices at (512) 332-8840, plan@cityofbastrop.org, or visit the office at 1311 Chestnut Street, Bastrop, Texas.



Location Map Variance to Separation Requirements Casa Chapala 1800 Walnut St

1 inch = 173.35 feet



The accuracy and precision of this cartographic data is limited and should be used for information /planning purposes only. This data does not replace surveys conducted by registered Texas land surveyors nor does it constitute an "official" verification of zoning, land use classification, or other classification set forth in local, state, or federal regulatory processes. The City of Bastrop, nor any of its employees, do not make any warranty of merchantability and fitness for particular purpose, or assumes any legal liability or responsibility for the accuracy, completeness or usefulness of any such information, nor does it represent that its use would not infringe upon privately owned rights.

Date: 3/13/2018



Casa Chapala Mexican Dining
1800 Walnut St.
Bastrop, TX 787602

City of Bastrop
P.O.Box 427
Bastrop , Texas 78602

March 10, 2018

To whom it may concern:

We are writing this letter to request an official dispensation for the proposed Mexican restaurant with full service bar and Mixed Beverage permit, at the former location of La Hacienda Mexican Restaurant. The new restaurant name will be as follows: Casa Chapala Mexican Dining & Banquets, Located at 1800 Walnut St. Bastrop, TX 78762, the restaurant will be managed and operated by the owners of the company, BP Casa Mia LLC, dba Casa Chapala Mexican Dining & Banquets.

The restaurant will bring more tax revenues to the City of Bastrop, from the sale of food, beer, wine and mixed beverages, while operating under the rules and regulations of the City of Bastrop and the TABC., and to start at least 25 job openings will be created and made available to the residents of Bastrop.

The City of Bastrop will also see an influx of visitors to this city as the original Casa Chapala restaurant has been in business in Austin, for over 11yrs and has a growing number of loyal guests that we are sure will want to visit our new location in Bastrop, or will make sure to keep it top of mind, when traveling to Houston or other coastal cities.

In closing we want to thank you for your time and consideration to the request of dispensation for the sale of Alcohol for our new restaurant. Please do not hesitate to call us if you have any questions, comments or suggestions at 512 458-7848 or via e-mail at chapala@casachapala.com.

Respectfully,


Guadalupe Barragan
v-president

RESOLUTION NO. R-2018-22

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS GRANTING A VARIANCE TO BASTROP CODE OF ORDINANCES ARTICLE 4.02.005 SALE OF ALCOHOLIC BEVERAGES, SEPARATION REQUIREMENTS FROM CHURCH, PUBLIC OR PRIVATE SCHOOL, OR PUBLIC HOSPITAL, ON PROPERTY LOCATED AT 1800 WALNUT STREET WITHIN THE CITY LIMITS OF BASTROP, TEXAS; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Guadalupe Barragan of Casa Chapala Mexican Dining and Banquets is the Applicant representing 1800 Walnut Street, acknowledges that the property located within 300 feet of a church, public or private school, or public hospital, as defined by and as the measurement of applicable distances are set forth by the State of Texas in the Alcoholic Beverage Code; and

WHEREAS, separation requirements do not apply to businesses that were in operation at the time this section was originally enacted, until such a time as such businesses have a change in ownership; and

WHEREAS, the Applicant represents new ownership of the business known as Casa Chapala, formerly known as La Hacienda; and

WHEREAS, the Applicant has applied for a variance pursuant to the Bastrop Code of Ordinances, Article 4.02.007; and

WHEREAS, authority is granted to City Council to allow variances in the Texas Alcoholic Beverage Code, Chapter 107.33; and

WHEREAS, public notice was sent in accordance with the Bastrop Code of Ordinances 4.02.007; and

WHEREAS, after consideration of public input received at the hearing and all other information presented, City Council finds by a majority vote of all members that it is in the public interest to grant a variance to the separation requirements of the premises to a public school.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS:

Section 1: That a variance to the distance separation requirements established in the Bastrop Code of Ordinances Article 4.02.005 is hereby granted for the property located at 601 Chestnut Street #C within the Bastrop city limits.

Section 2: That this Resolution shall take effect immediately upon its passage.

DULY RESOLVED AND ADOPTED by the City Council of the City of Bastrop this 10th day of April, 2018.

APPROVED:

Connie B. Schroeder, Mayor

ATTEST:

Ann Franklin, City Secretary

APPROVED AS TO FORM:

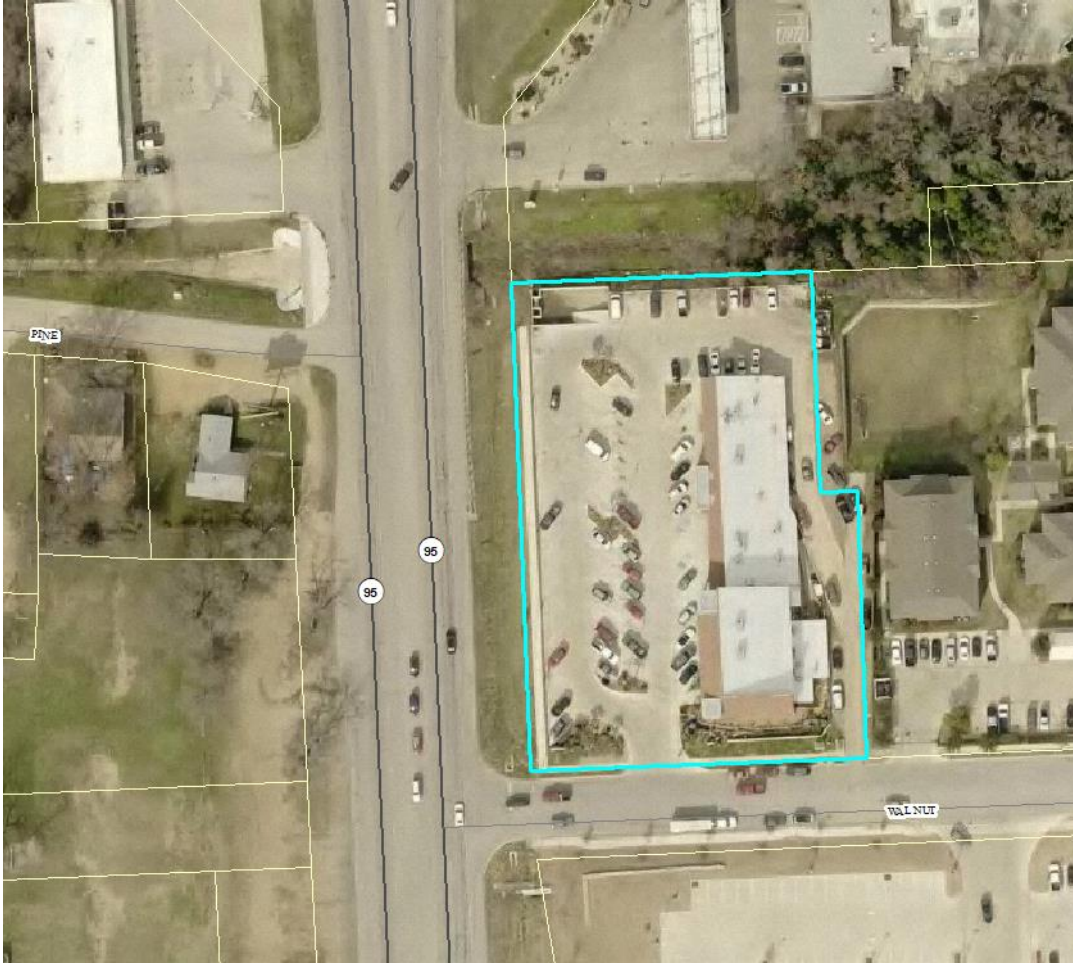
Alan Bojorquez, City Attorney

Variance to Separation Requirements

Item 9C

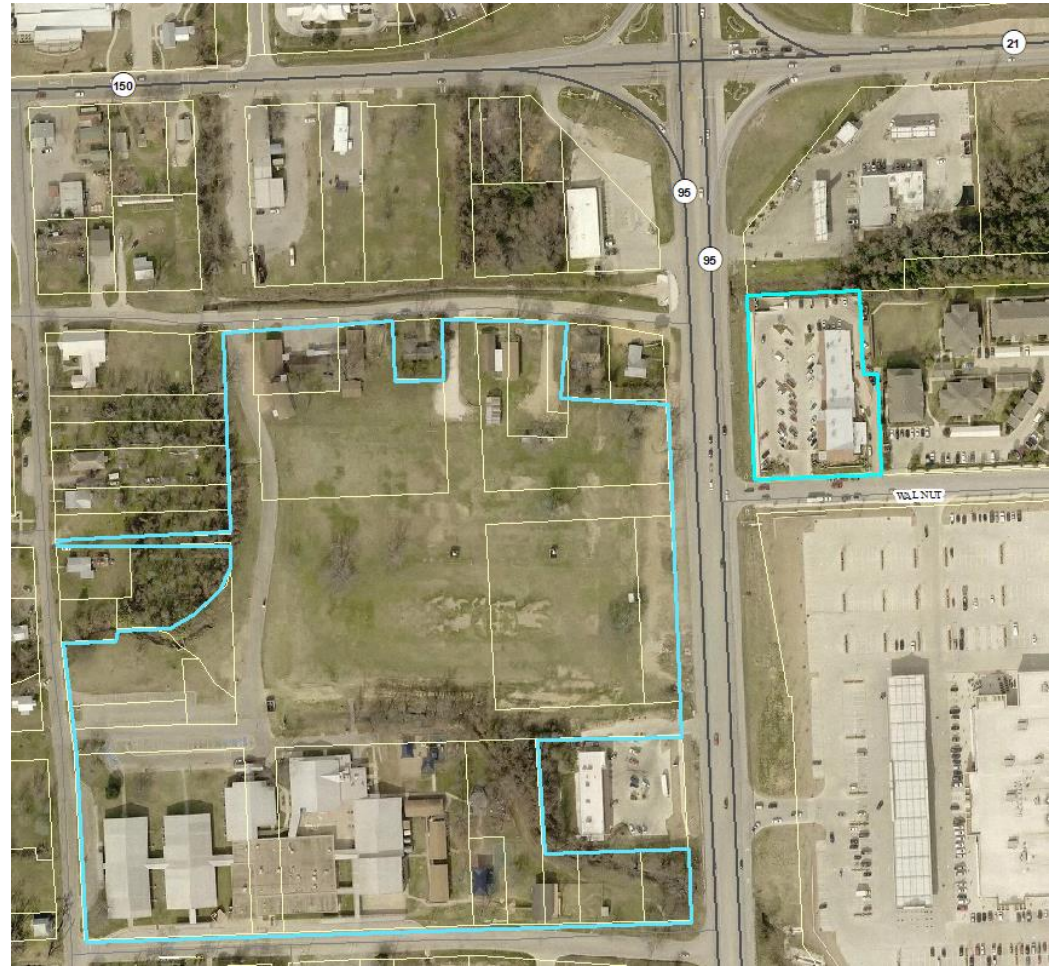
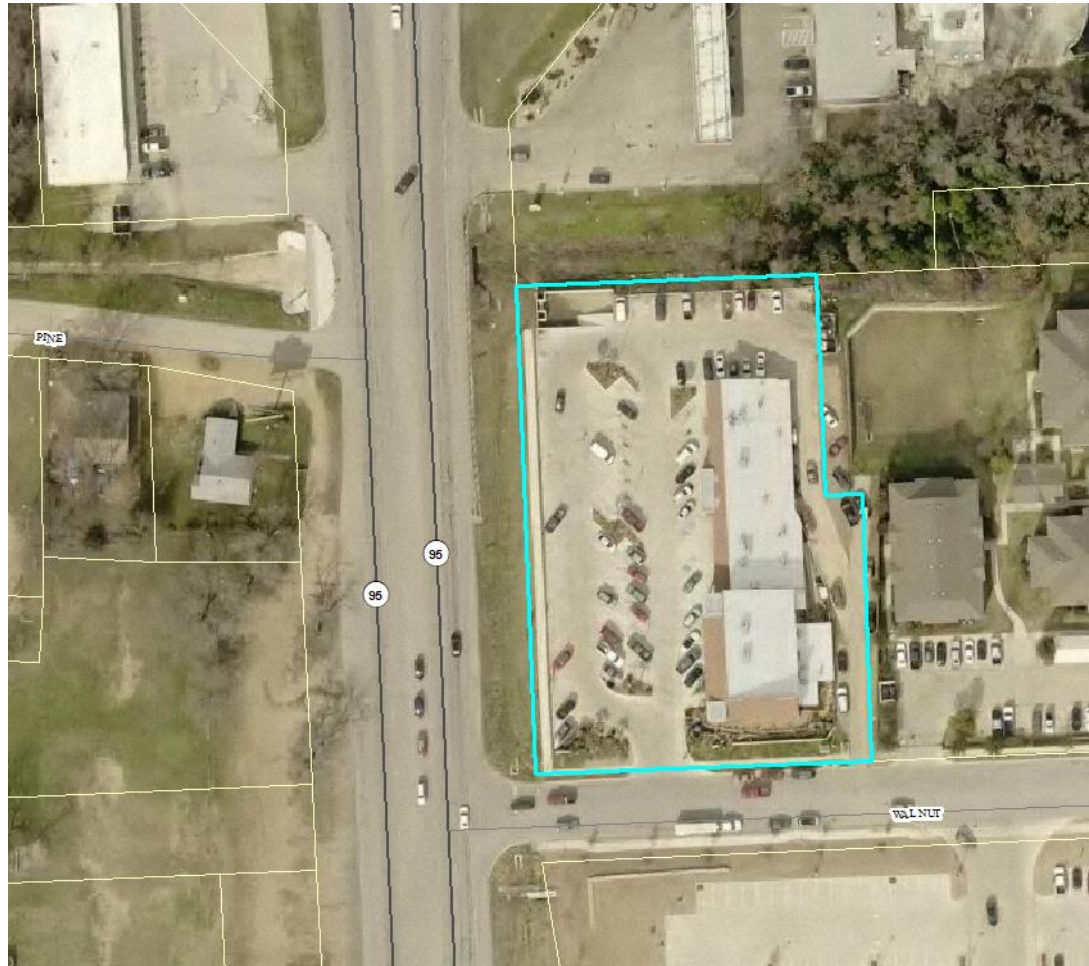
Sale of Alcohol within 300 feet of Church, School, or Hospital

Location Requesting Variance



- 1800 Walnut St
- Corner of Walnut & SH 95
- Casa Chapala

Location Requesting Variance



Alcohol Sales

- ✓ • Must be allowed by Zoning District
- ✓ • Must be in a permitted location per the Sale of Alcoholic Beverages section 4.02.011
- ✗ • Must meet the Separation Requirements
 - Emile Elementary School

Policy – Separation Requirement

- Bastrop Code of Ordinances 4.02.005
- Requires premises to be 300 feet from a church, public or private school, or public hospital
 - **Schools - Direct line from nearest property line to nearest property line**
- City Council may grant variances to the separation requirements

Policy – Separation Requirement Exceptions

- (1) A holder of food and beverage certificate covering premises that are located within three hundred (300) feet of a *private* school
- (2) Any place of business that is legally selling alcoholic beverages before the church, school, or hospital existed
- (3) Businesses that were in operation at the time this section was originally enacted, until such a time as such businesses have a change in ownership.

Policy – Variance Approval Criteria

- Enforcement would create an instance that:
 - 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;
 - 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 of the situation, determines is in the best interest of the community.

Variance Approval Criteria – Casa Chapala

- Location is across a major highway (SH 95)
- Previous business (La Hacienda) in this location sold alcohol

Casa Chapala



- Mexican restaurant with full service bar
- Bastrop is the 2nd location
- Original location in Austin
 - 11 years in business



Previous Variances Nearby

- La Hacienda (previous business in this location)
- Buc-ee's

Policy – Variance Process

- ✓ • Applicant sends a letter to the City
- ✓ • Sign posted at location
- ✓ • Surrounding property owners notified
 - Public Comments Received
 - For: none
 - Against: none
 - Public Hearing
 - Resolution approved or denied

Questions?



STAFF REPORT

MEETING DATE: April 10, 2018

AGENDA ITEM: 9C

TITLE:

Consider action to approve Resolution No. R-2018-24 of the City Council of the City of Bastrop, Texas approving a Settlement and Release Agreement regarding *Crump, et al. v. Lost Pines Groundwater Conservation District, et al.*, Cause No. 194-21, 21st Judicial District, Bastrop County, Texas; *Crump, et al. v. Lost Pines Groundwater Conservation District*, Cause No. 232-21, 21st Judicial District, Bastrop County, Texas; and *McCall Ranch, L.P., et al. v. Lost Pines Groundwater Conservation District and City of Bastrop*, Cause No. 423-4980, 423rd Judicial District, Bastrop County, Texas, attached as Exhibit A; delegating certain actions related thereto; authorizing the City Manager to execute all necessary documentation; providing for severability; and establishing an effective date.

STAFF REPRESENTATIVE:

Lynda K. Humble, City Manager

BACKGROUND/HISTORY:

In conjunction with the progress made to exercise the option for additional water rights and move forward with the property rights acquisition in connection with City Well No. 1, the following three (3) lawsuits need to be finalized, which have been essentially over since last April, pending some outstanding claims for attorneys' fees:

- (1) *Crump, et al. v. Lost Pines Groundwater Conservation District, et al.*, Cause No. 194-21, 21st Judicial District, Bastrop County, Texas;
- (2) *Crump, et al. v. Lost Pines Groundwater Conservation District*, Cause No. 232-21, 21st Judicial District, Bastrop County, Texas; and
- (3) *McCall Ranch, L.P., et al. v. Lost Pines Groundwater Conservation District and City of Bastrop*, Cause No. 423-4980, 423rd Judicial District, Bastrop County, Texas.

Please note that Council assigned these cases to be resolved by Russell Rodriguez Hyde Bullock LLP in August 2017. Art Rodriguez, Partner, is present to answer any questions regarding these matters.

On April 25, 2016, the City, Lost Pines Ground Conservation District, and McCall Ranch, L.P. settled their dispute at issue (how much water could be withdrawn annual from City Well No. #1) by entering into an agreement for an operating permit for the water well to withdraw annually 2,000 acre feet of water from the Simsboro Aquifer identified as District Well Number 5854819 ("City Well No. 1"). This settlement was issue-based and was silent as to any claim for attorney fees. In August, the Permit was final and resolved the substance of all these cases. However, when the City exercised the option for additional water rights and made demand for its real property, resolving the lingering matters in these cases became more pressing.

The only claim remaining in the City's favor is a claim for the possibility that a court would grant a request by the City for the opposing party – McCall Ranch, L.P. to pay the city's attorney fees. Any chance of success for such a claim is considered remote, at best, in our attorney's estimation. The settlement for Lost Pines, having been in all three (3) lawsuits, and with their role only being the regulatory body, provides only a \$5,000 in fees, which is offered more as a token, rather than spend any more money on attorney fees in an attempt to litigate the matter.

POLICY EXPLANATION:

Consider action to approve Resolution No. R-2018-24 of the City Council of the City of Bastrop, Texas approving a Settlement and Release Agreement regarding *Crump, et al. v. Lost Pines Groundwater Conservation District, et al.*, Cause No. 194-21, 21st Judicial District, Bastrop County, Texas; *Crump, et al. v. Lost Pines Groundwater Conservation District*, Cause No. 232-21, 21st Judicial District, Bastrop County, Texas; and *McCall Ranch, L.P., et al. v. Lost Pines Groundwater Conservation District and City of Bastrop*, Cause No. 423-4980, 423rd Judicial District, Bastrop County, Texas, attached as Exhibit A; delegating certain actions related thereto; authorizing the City Manager to execute all necessary documentation; providing for severability; and establishing an effective date.

ATTACHMENTS:

- Resolution
- Exhibit A - Settlement and Release Agreement



RESOLUTION NO. R-2018-24

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS APPROVING SETTLEMENT AND MUTUAL RELEASE AGREEMENTS REGARDING *CRUMP, ET AL. V. LOST PINES GROUNDWATER CONSERVATION DISTRICT, ET AL.*, CAUSE NO. 194-21, 21ST JUDICIAL DISTRICT, BASTROP COUNTY, TEXAS; *CRUMP, ET AL. V. LOST PINES GROUNDWATER CONSERVATION DISTRICT*, CAUSE NO. 232-21, 21ST JUDICIAL DISTRICT, BASTROP COUNTY, TEXAS; AND *MCCALL RANCH, L.P., ET AL. V. LOST PINES GROUNDWATER CONSERVATION DISTRICT AND CITY OF BASTROP*, CAUSE NO. 423-4980, 423RD JUDICIAL DISTRICT, BASTROP COUNTY, TEXAS, ATTACHED AS EXHIBIT A; DELEGATING CERTAIN ACTIONS RELATED THERETO; AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY DOCUMENTATION; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, there are three lawsuits currently pending for which the City is a party: (1) *Crump, et al. v. Lost Pines Groundwater Conservation District, et al.*, Cause No. 194-21, 21st Judicial District, Bastrop County, Texas; (2) *Crump, et al. v. Lost Pines Groundwater Conservation District*, Cause No. 232-21, 21st Judicial District, Bastrop County, Texas; and (3) *McCall Ranch, L.P., et al. v. Lost Pines Groundwater Conservation District and City of Bastrop*, Cause No. 423-4980, 423rd Judicial District, Bastrop County, Texas (collectively, "Lawsuits"); and

WHEREAS, on April 25, 2017, the City and certain parties entered into a Memorandum of Settlement resolving all disputes between them related to the City's request for an operating permit for a water well from the Simsboro Aquifer; and

WHEREAS, the parties to the Lawsuits seek to settle their differences and release each other from all claims, counter-claims, and liability brought in the Lawsuits, or that could be brought in the Lawsuits.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS:

SECTION 1. The recitals contained in the preamble of this Resolution are determined to be true and correct and are hereby adopted as a part of this Resolution.

SECTION 2. The City Council of the City of Bastrop hereby approves and authorizes the City Manager to settle the Lawsuits and execute a Settlement and Mutual Release Agreement in the form of the attached Exhibit A. The City Council further directs the City Manager to direct legal counsel to execute the appropriate documents to dismiss said Lawsuits.

SECTION 3. It is hereby declared that the sections, paragraphs, sentences, clauses, and phrases of this Resolution are severable and, if any phrase, clause, sentence, paragraph, or section of this Resolution shall be declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this Resolution, because the same would have been enacted by the City Council without the incorporation of any such unconstitutional phrase, clause, sentence, paragraph, or section.

SECTION 4. All resolutions and parts thereof in conflict herewith are hereby expressly repealed insofar as they conflict herewith.

SECTION 5. This Resolution shall take effect immediately after passage hereof.

SECTION 6. This Resolution was read and adopted at a meeting that was open to the public and notice of the time, place and purpose of said meetings was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

DULY RESOLVED AND ADOPTED by the City Council of the City of Bastrop, Texas on the 10th day of April, 2018.

APPROVED:

Connie Schroeder
Mayor

ATTEST:

Ann Franklin
City Secretary

APPROVED AS TO FORM:

Alan Bojorquez, City Attorney

SETTLEMENT AND MUTUAL RELEASE AGREEMENT

This SETTLEMENT AND MUTUAL RELEASE AGREEMENT (“Agreement”) is made and entered by and between: (1) the persons and entities listed in Footnote 1¹ (collectively referred to as “Landowners”), (2) the Lost Pines Groundwater Conservation District, the General Manager of the Lost Pines Groundwater Conservation District, and the Board of Directors of the Lost Pines Groundwater Conservation District (collectively referred to as “District”); and (3) the City of Bastrop (“City”). The Landowners, District, and City are singularly referred to as a “Party” and collectively as “Parties.”

RECITALS

WHEREAS, there are three lawsuits currently pending between the Parties: (1) *Crump, et al. v. Lost Pines Groundwater Conservation District, et al.*, Cause No. 194-21, 21st Judicial District, Bastrop County, Texas; (2) *Crump, et al. v. Lost Pines Groundwater Conservation District*, Cause No. 232-21, 21st Judicial District, Bastrop County, Texas; and (3) *McCall Ranch, L.P., et al. v. Lost Pines Groundwater Conservation District and City of Bastrop*, Cause No. 423-4980, 423rd Judicial District, Bastrop County, Texas (collectively, “Lawsuits”);

WHEREAS, on April 25, 2017, the City and Landowners entered into a Memorandum of Settlement resolving all disputes between them related to the City’s request for an operating permit for a water well to withdraw annually 2,000 acre feet of water from the Simsboro Aquifer identified as District Well Number 5854819 (“City Well No. 1”), which settlement is referred to herein as “April 25, 2017 Settlement”;

WHEREAS, certain claims and counter-claims remain pending between the Parties in the Lawsuits;

WHEREAS, the Parties desire to release each other from all claims, counter-claims, and liability brought in the Lawsuits, or that could be brought in the Lawsuits;

NOW, THEREFORE, in consideration of the mutual promises and covenants and agreements contained herein and in the Memorandum of Settlement, dated April 25, 2017, and for other good and valuable consideration, the Parties, intending to be legally bound, hereby agree as follows:

1. **Settlement Payment.** Upon receipt by McCall Ranch, L.P. of a fully executed copy of this Agreement, McCall Ranch, L.P. shall tender payment of FIVE THOUSAND DOLLARS (\$5,000.00) to the Lost Pines Groundwater Conservation District by delivering a check made payable to the “Lost Pines Groundwater Conservation District” (the “Settlement

¹ “Landowners” collectively refers to (1) McCall Ranch, L.P., Mary Jo Goertz, Robert Martinez, Christi Martinez, Karen Sue Bennight Morris,, Anita Kay Linenberger, Aya Linenberger Lueders, Dara K. Hoffernek, Maurice Bennight, Marlene Bennight, Linda Evans Logan, James K. Logan, Kay Graves, Troy Graves, Renee Diamond, Paul Diamond, Charles Tarket, Caliva & Spencer Family Trust, Lyn F. Caliva, Janet Spencer, and Bar W. Ranch Partnership, Ltd. (collectively, “McCall Ranch Group”); and (2) Grant Crump, David Odom, Jimmy Odom, Linda Odom, Tommy Odom, Linda Odom, Jimmy Williamson, and Sarah Williamson (collectively, “Crump Group”).

Payment”) to counsel for the District not later than three (3) business days after the fully executed copy of this Agreement is received by McCall Ranch, L.P.

2. Dismissal of Lawsuits. The Parties to each of the Lawsuits agree to file an Agreed Nonsuit with Prejudice in each of the Lawsuits within three (3) business days after the Settlement Payment in Paragraph 1 is delivered to counsel for the District, with each side bearing its own attorneys’ fees and costs. The form of the agreed nonsuits for each of the three Lawsuits is attached as Exhibits A, B, and C hereto.

3. Parties’ Mutual Release and Agreement. For the consideration set forth in this Agreement and the Memorandum of Settlement, dated April 25, 2017, the Parties hereby and fully and unconditionally release, relinquish, dismiss, and forever discharge each other from any and all claims, counter-claims, causes of action, damages, or demands in the Lawsuits or that could have been brought in the Lawsuits. The Parties understand, acknowledge, warrant, and agree that: (i) none of this Agreement shall constitute or shall be used or construed as an admission of fault or liability on the part of any Party; (ii) the releases in this Agreement are knowing and voluntary and are executed without reliance on any statement or representation by any of the released Parties, except to the extent such statements and representations are expressly set forth in this Agreement; and (iii) nothing in this Agreement shall operate to restrict, limit, or preclude a claim, counter-claim, or cause of action for breach of or to enforce this Agreement.

4. Additional Terms and Acknowledgements. The Parties acknowledge that the agreements set forth in this Agreement are supported by full and adequate consideration and that this Agreement is intended to be a contract between the Parties, fully enforceable. The Parties agree to cooperate to prepare all documents and take other actions necessary to put this Agreement into effect.

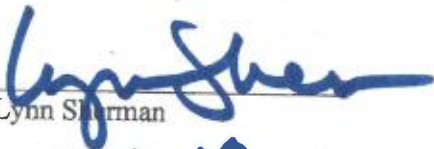
5. Signatures. This Agreement may be executed in several counterparts, including by electronic means such as facsimile and e-mail, each of which shall be fully effective as an original and all of which together shall constitute one and the same instrument.

6. Authority. If this Agreement is executed by an attorney for a Party, the attorney executing this Agreement represents and warrants that he or she has full authority to execute this Agreement on behalf of and in the name of the Party represented by that attorney.

7. Effective date. This Agreement shall be effective on the day it is fully executed by the Parties.

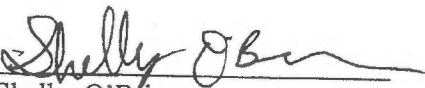
AGREED and APPROVED:

MCCALL RANCH GROUP

By: 
Lynn Sherman

Date: 4-2-18

CRUMP GROUP

By: 
Shelby O'Brien

Date: 4-2-18

**LOST PINES GROUNDWATER CONSERVATION DISTRICT, GENERAL MANAGER
OF THE DISTRICT, AND BOARD OF DIRECTORS OF THE DISTRICT**

By: 
Natasha Martin

Date: 4-2-2018

THE CITY OF BASTROP

By: _____
Lynda Humble

Date: _____

EXHIBIT A

CAUSE NO. 194-21

GRANT CRUMP, DAVID ODOM, JIMMY	§	IN THE DISTRICT COURT OF
AND LINDA ODOM, TOMMY AND LINDA	§	
ODOM, MR. AND MRS. J.D. RHOADES,	§	
DAVID AND BRIDGET VANCE, AND	§	
JIMMY AND SARAH WILLIAMSON,	§	
Plaintiffs	§	
	§	
vs.	§	
	§	BASTROP COUNTY, TEXAS
LOST PINES GROUNDWATER CONSER-	§	
VATION DISTRICT; JAMES TOTTEN, IN	§	
HIS OFFICIAL CAPACITY AS GENERAL	§	
MANAGER OF THE LOST PINES	§	
GROUNDWATER CONSERVATION	§	
DISTRICT; AND MICHAEL TALBOT,	§	
WILLIAM "BILLY" SHERRILL, DOUG	§	
PRINZ, ALICE DARNELL, DAVID	§	
FLEMING, KEITH HANSBERGER, LARRY	§	
SCHATTE, CLIFTON SEIDEL, MICHAEL	§	
SIMMANG, AND CARL STEINBACH, IN	§	
THEIR RESPECTIVE OFFICIAL	§	
CAPACITIES AS DIRECTORS OF THE	§	
LOST PINES GROUNDWATER	§	
CONSERVATION DISTRICT,	§	
Defendants.	§	21st JUDICIAL DISTRICT

**AGREED NONSUIT WITH PREJUDICE AND MOTION TO DISMISS WITH
PREJUDICE**

COME NOW Plaintiffs, Defendants, and Intervenor City of Bastrop in the above-styled and numbered cause of action, and file this Agreed Nonsuit with Prejudice and would show the Court the following:

Plaintiffs, Defendants, and Intervenor have settled their dispute and wish to dismiss with prejudice all of their claims and counter-claims in the above styled and numbered cause against each other. Per the parties' agreement, each of the parties shall bear their own attorney's fees and costs in connection with the claims being non-suited with prejudice. A proposed order is being provided for the Court.

Respectfully submitted,

By: /s/ Shelby O'Brien

Shelby O'Brien (SBN 24037203)
sobrien@enochkever.com
ENOCH KEVER PLLC
5918 W. Courtyard Drive, Suite 500
Austin, Texas 78730
512.615.1200 / 512.615.1198 (fax)

**Attorneys for Grant Crump, David Odom,
Jimmy Odom, Linda Odom, Tommy Odom,
Linda Odom, Jimmy Williamson,
and Sarah Williamson**

By: /s/ Natasha Martin

Natasha J. Martin (SBN 24083255)
nmartin@gdhm.com
Mary A. Keeney (SBN 11170300)
mkeeney@gdhm.com
**GRAVES, DOUGHERTY, HEARON &
MOODY, P.C.**
401 Congress Ave., Suite 2200
Austin, Texas 78701
512.480.5639 / 512.536.9939 (fax)

**Attorney for Lost Pines Groundwater
Conservation District**

By: /s/ George Hyde

George Hyde (SBN 45006157)
**RUSSELL RODRIGUEZ HYDE BULLOCK,
LLP**
1633 Williams Drive, Suite 200
Georgetown, Texas 78628
512.930.1317 / 512.929.1641 (fax)

Attorneys for the City of Bastrop

CERTIFICATE OF SERVICE

I hereby certify that on April __, 2018, a true and correct copy of the foregoing document was served, via electronic service, on all counsel of record:

George Hyde (SBN 45006157)
**RUSSELL RODRIGUEZ HYDE BULLOCK,
LLP**
1633 Williams Drive, Suite 200
Georgetown, Texas 78628
512.930.1317 / 512.929.1641 (fax)

Attorneys for the City of Bastrop

Natasha J. Martin (SBN 24083255)
nmartin@gdhm.com
Mary A. Keeney (SBN 11170300)
mkeeney@gdhm.com
**GRAVES, DOUGHERTY, HEARON &
MOODY, P.C.**
401 Congress Ave., Suite 2200
Austin, Texas 78701
512.480.5639 / 512.536.9939 (fax)

**Attorney for Lost Pines Groundwater
Conservation District**

/s/ Shelby O'Brien

Shelby O'Brien

EXHIBIT B

CAUSE NO. 232-21

GRANT CRUMP, DAVID ODOM, JIMMY	§	IN THE DISTRICT COURT OF
ODOM, LINDA ODOM, TOMMY ODOM,	§	
LINDA ODOM, JIMMY WILLIAMSON,	§	
AND SARAH WILLIAMSON,	§	
Plaintiffs	§	
	§	
vs.	§	BASTROP COUNTY, TEXAS
	§	
LOST PINES GROUNDWATER CONSER-	§	
VATION DISTRICT,	§	
Defendant.	§	21 st JUDICIAL DISTRICT

AGREED NONSUIT WITH PREJUDICE AND
MOTION TO DISMISS WITH PREJUDICE

COME NOW Plaintiffs and Defendant in the above-styled and numbered cause of action, and file this Agreed Nonsuit with Prejudice and would show the Court the following:

Plaintiffs and Defendant have settled their dispute and wish to dismiss with prejudice all of their claims and counter-claims in the above styled and numbered cause against each other. Per the parties' agreement, each of the parties shall bear their own attorney's fees and costs in connection with the claims being non-suited with prejudice. A proposed order is being provided for the Court.

Respectfully submitted,

By: /s/ Shelby O'Brien

Shelby O'Brien (SBN 24037203)

sobrien@enochkever.com

ENOCH KEVER PLLC

5918 W. Courtyard Drive, Suite 500

Austin, Texas 78730

512.615.1200 / 512.615.1198 (fax)

**Attorneys for Grant Crump, David Odom,
Jimmy Odom, Linda Odom, Tommy Odom,
Linda Odom, Jimmy Williamson,
and Sarah Williamson**

By: /s/ Natasha Martin

Natasha J. Martin (SBN 24083255)

nmartin@gdhm.com

Mary A. Keeney (SBN 11170300)

mkeeney@gdhm.com

**GRAVES, DOUGHERTY, HEARON &
MOODY, P.C.**

401 Congress Ave., Suite 2200

Austin, Texas 78701

512.480.5639 / 512.536.9939 (fax)

**Attorney for Lost Pines Groundwater
Conservation District**

By: /s/ George Hyde

George Hyde (SBN 45006157)

**RUSSELL RODRIGUEZ HYDE BULLOCK,
LLP**

1633 Williams Drive, Suite 200

Georgetown, Texas 78628

512.930.1317 / 512.929.1641 (fax)

Attorneys for the City of Bastrop

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served via electronic service on April __, 2018 to the following counsel of record.

George Hyde (SBN 45006157)
**RUSSELL RODRIGUEZ HYDE BULLOCK,
LLP**
1633 Williams Drive, Suite 200
Georgetown, Texas 78628
512.930.1317 / 512.929.1641 (fax)

Attorneys for the City of Bastrop

Natasha J. Martin (SBN 24083255)
nmartin@gdhm.com
Mary A. Keeney (SBN 11170300)
mkeeney@gdhm.com
**GRAVES, DOUGHERTY, HEARON &
MOODY, P.C.**
401 Congress Ave., Suite 2200
Austin, Texas 78701
512.480.5639 / 512.536.9939 (fax)

**Attorney for Lost Pines Groundwater
Conservation District**

/s/ Shelby O'Brien

Shelby O'Brien

EXHIBIT C

CAUSE NO. 423-4980

McCALL RANCH, L.P., MARY JO	§	IN THE DISTRICT COURT
GOERTZ, ROBERT MARTINEZ,	§	
CHRISTI MARTINEZ, KAREN SUE	§	
BENNIGHT MORRIS, ANITA KAY	§	
LINENBERGER, AYA LINENBERGER	§	
LUEDERS, DARA K. HOFFERNEK,	§	
MAURIC BENNIGHT, MARLENE	§	
BENNIGHT, LINDA EVANS LOGAN,	§	
JAME K. LOGAN, KAY GRAVES,	§	
TONY GRAVES, RENEE DIAMOND,	§	
CHARLES TARKET, CALIVA &	§	
SPENCER FAMILY TRUST, LYN F.	§	BASTROP COUNTY, TEXAS
CALIVA, JANET SPENCER, BAR W.	§	
RANCH PARTNERSHIP, LTD., GRANT	§	
CRUMP, DAVID ODOM, JIMMY ODOM,	§	
LINDA ODOM, TOMMY ODOM, LINDA	§	
ODOM, JIMMY WILLIAMSON AND	§	
SARAH WILLIAMSON,	§	
<i>Plaintiffs,</i>	§	
	§	
v.	§	
	§	
LOST PINES GROUNDWATER	§	
CONSERVATION DISTRICT AND	§	
CITY OF BASTROP,	§	
<i>Defendants.</i>	§	423rd JUDICIAL DISTRICT

**AGREED NONSUIT WITH PREJUDICE AND MOTION TO DISMISS WITH
PREJUDICE**

COME NOW Plaintiffs and Defendants in the above-styled and numbered cause of action, and file this Agreed Nonsuit with Prejudice and would show the Court the following:

Plaintiffs and DefendantS have settled their dispute and wish to dismiss with prejudice all of their claims and counter-claims in the above styled and numbered cause against each other. Per the parties' agreement, each of the parties shall bear their own attorney's fees and costs in connection with the claims being non-suited with prejudice. A proposed order is being provided for the Court.

Respectfully submitted,

By: /s/ Shelby O'Brien

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Dara K. Hoffernek, Maurice Bennight,
Marlene Bennight, Linda Evans Logan,
James K. Logan, Kay Graves, Troy Graves,
Renee Diamond, Paul Diamond, Charles
Tarket, Caliva & Spencer Family Trust,
Lyn F. Caliva, Janet Spencer and Bar W.
Ranch Partnership, Ltd., Plaintiffs**

CERTIFICATE OF SERVICE

I hereby certify that on April __, 2018 a true and correct copy of the foregoing document was served, via electronic service, on all counsel of record:

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Renee Diamond, Paul Diamond, Charles
Tarket, Caliva & Spencer Family Trust,
Lyn F. Caliva, Janet Spencer and Bar W.
Ranch Partnership, Ltd., Plaintiffs**

/s/ Shelby O'Brien
Shelby O'Brien



STAFF REPORT

MEETING DATE: April 10, 2018

AGENDA ITEM: 9D

TITLE:

Hold a Public Hearing and consider action to approve Ordinance 2018- 03 of the City Council of the City of Bastrop, Texas amending the Code of Ordinances, Chapter 14 titled "Zoning," Article 14.03 titled "Historic Landmark Preservation"; and adding Appendix A titled "Fee Schedule," Section A14.01.003 titled "Fees for Historic Landmark Preservation," as attached in Exhibit A; providing for a penalty for the violation of this ordinance; providing a repealing clause; providing a severability clause; and providing an effective date and move to include on the April 22, 2018 agenda for a second reading.

STAFF REPRESENTATIVE:

Jennifer C. Bills, AICP, LEED AP, Assistant Planning Director

BACKGROUND/HISTORY:

The Historic Landmark Commission was created in 1998 to prioritize the protection, enhancement, and perpetuation of sites, landmarks or districts of historical and cultural importance and significance, which is necessary to promote the economic, cultural, educational, and general welfare of the public.

The Historic Landmark Preservation Ordinance is within Chapter 14 – Zoning of the Bastrop Code of Ordinances. The last major update to this section was adopted on October 23, 2007. Work was done in 2009-10 to update the ordinance in order to give the Historic Landmark Commission and City Council the ability to establish historic overlay districts and bring the ordinance up to Certified Local Government standards. The draft amendment went to City Council but was not approved. Since that draft was completed, the City has adopted the Form-Based Code, which contains standards that address some of the concerns of the 2009-10 draft ordinance.

The Texas Historical Commission manages the Certified Local Government (CLG) program. It is a local, state and federal government partnership for historic preservation. As a CLG city, Bastrop would be eligible to apply for grant funds to complete historic surveys and draft historic design guidelines. To qualify for CLG status the local government must:

1. Enforce state or local legislation that protects historic properties
2. Establish a qualified review commission composed of professional and lay members
3. Maintain a system for surveying and inventorying historic properties
4. Provide for public participation in the historic preservation process, including recommending properties to the National Register of Historic Places.

The HLC reviewed recommendations from the CLG Program Manager. Using the recommendations and the 2009 draft as a starting point, the Commission began work in January 2018 to revise the ordinance.

Below is a summary of the main changes being proposed (from the currently adopted code):

Section 14.03.001: General

- Updated definitions.
- Historic Landmark Commission
 - Added some flexibility if members with exact criteria are not available.
 - Updated commission responsibilities.
 - Historic Preservation Officer moved to a staff position.

Section 14.03.002 – Categories of Preservation

- Categories for categories.
 - Removed Significant designation (process to convert To Historic Landmarks in section 14.0.002(g))
 - Historic Landmarks
 - Created a process for designating Historic Districts
- Process for designation of Historic Landmarks
 - Change to the process - HLC recommends directly to City Council, does not go through P&Z Commission first.
- Process for removal of Historic Landmarks
 - The original criteria to receive the designation is no longer applicable for reasons not attributable to the acts or omissions of the owner or occupant.
 - The site or structure has been rendered unreasonably irreparably altered by an Act of God.
 - The required majority for City Council approval for removal of designation shall be two-thirds of the full membership.
- Added process for designation of historic districts.
- Added process for the removal of historic districts.
 - The required majority for City Council approval for removal of designation shall be two-thirds of the full membership.

Section 14.03.003 – Certificate of Appropriateness

- Required for any alteration of site, structure or sign (Historic Landmark & historic district)
- Defined exemptions
- Application Procedure
 - Added reference to fee schedule
 - Added Administrative Approval
 - Revised application timelines
 - Appeal process
 - Clarified expiration

Section 14.03.004 – COA for Demolition or Relocation

- Added differentiation for relocation (moving onto or off of a site within a historic district)
- Added application information
- Added criteria for demolition and relocation
- Demolition for unsafe building as deemed by the city moved to exemptions (Section 14.03.003)

Section 14.03.006 – Incentive

- Continue the refund incentive for current and future Historic Landmarks.
- Revised section to clarify refund amount based on annual budget.

PUBLIC COMMENTS:

No public comments have been received at the time of this report.

POLICY EXPLANATION:

City Council identified Historic Landmark Ordinance Review as one of the priorities for Fiscal Year 2018. This has been further defined in the five-year Organizational Work Plan that was developed by the City Manager.

8. Uniquely Bastrop			
Maintain and enhance our historic community feel by leveraging the unique combination of community, cultural and recreational assets that make Bastrop a special place to live and work.			
UB#2: Strengthen local preservation ordinance and obtain Certified Local Government designation.			
Responsible Parties	Planning & Zoning; Hospitality & Downtown	Quarters:	2-4
Comprehensive Plan:	8.3.3	Council Priority:	Uniquely Bastrop
Funding Source:	N/A	Secondary Focus Areas:	Economic Vitality, Manage Growth
UB#12: Apply for funding to develop design guidelines for the Historic District.			
Responsible Parties	Hospitality & Downtown; Planning & Zoning	Quarters:	FY 2019
Comprehensive Plan:	8.3.3	Council Priority:	Uniquely Bastrop
Funding Source:	Grants	Secondary Focus Areas:	Economic Vitality, Organizational Excellence, Fiscal Responsibility

HISTORIC LANDMARK COMMISSION RECOMMENDATION:

The Historic Landmark Commission has reviewed the attached draft and recommended approval to the Planning & Zoning Commission.

PLANNING & ZONING RECOMMENDATION:

The Planning & Zoning Commission recommended approval of the attached draft by a unanimous vote at their regular meeting on March 29, 2018.

Comments and question from P&Z:

- Do houses destroyed by an Act of God have to be rebuilt with historic standards?
 - No. Infill and rebuilding standards will be in the future Design Standards. They cover general compatibility (size, height, setbacks) with the area not strict building design.
- Do window replacements need Certificates of Appropriateness?
 - Not if they are replaced with the same style of window.
- The incentive should be greater.
 - The refund is more of an acknowledgement of the property and funds to maintain the historic nature.

RECOMMENDATION:

Hold a Public Hearing and consider action to approve Ordinance 2018- 03 of the City Council of the City of Bastrop, Texas amending the Code of Ordinances, Chapter 14 titled "Zoning," Article 14.03 titled "Historic Landmark Preservation"; and adding Appendix A titled "Fee Schedule," Section A14.01.003 titled "Fees for Historic Landmark Preservation," as attached in Exhibit A; providing for a penalty for the violation of this ordinance; providing a repealing clause; providing a severability clause; and providing an effective date and move to include on the April 22, 2018 agenda for a second reading.

ATTACHMENTS:

- Ordinance
- PowerPoint Presentation



ORDINANCE 2018-03

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS AMENDING THE CODE OF ORDINANCES, CHAPTER 14 TITLED "ZONING," ARTICLE 14.03 TITLED "HISTORIC LANDMARK PRESERVATION"; AND ADDING APPENDIX A TITLED "FEE SCHEDULE," SECTION A14.01.003 TITLED "FEES FOR HISTORIC LANDMARK PRESERVATION"; AS ATTACHED IN EXHIBIT A; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City adopted Ordinance 98-42 creating the Historic Landmark Preservation Ordinance, in recognition of the need and desire to preserve and maintain historic structures within the City; and

WHEREAS, Ordinance 98-42 was amended by Ordinance 2003-12 and Ordinance 2007-30 to continue and strengthen historic preservation through creating incentives; and

WHEREAS, the City Council finds that the Historic Landmark Preservation Ordinance has been beneficial to the health, safety, and welfare of the public by preserving historic assets within the City; and

WHEREAS, the Historic Landmark Commission has evaluated the effectiveness of the Historic Landmark Preservation Ordinance and recommended certain revisions to improve the effectiveness and administration of the ordinance; and

WHEREAS, the Historic Landmark Commission reviewed the proposed ordinance and recommended approval at their regular February 22, 2018 meeting; and

WHEREAS, notice of the public hearing was placed in the newspaper March 3, 2018, in accordance with the Bastrop Code of Ordinances, Chapter 14; and

WHEREAS, the Planning & Zoning Commission reviewed the proposed ordinance, and after a public hearing, recommended approval at their regular March 29, 2018 meeting; and

WHEREAS, the City Council finds that the adoption of the ordinance would further enhance the public health, safety, and welfare for the citizens of Bastrop through preservation of historic landmarks and historic districts.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS:

Section 1: The Code of Ordinances of the City of Bastrop, Texas, is hereby amended by replacing Chapter 14 "Zoning," Article 14.03 "Historic Landmark

Preservation” and adding Appendix A “Fee Schedule,” Section A14.01.003 “Fees for Historic Landmark Preservation”; as attached in Exhibit A.

Section 2: To the extent reasonably possible, ordinances are to be read together in harmony. However, all ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matter regulated, herein.

Section 3: Should any word, sentence, paragraph, subdivision, clause, phrase or section of this Ordinance or of the City of Bastrop Code of Ordinances, as amended hereby, be adjudged or held to be voided or unconstitutional, the same shall not affect the validity of the remaining portions of said Ordinances or the City of Bastrop Code of Ordinances, as amended hereby, which shall remain in full force and effect.

Section 4: This Ordinance shall take effect upon adoption, or when all applicable publication requirements, if any, are satisfied in accordance with the City’s Charter, Code of Ordinances, and the laws of the State of Texas.

READ and ACKNOWLEDGED on the First Reading on the 10th day of April, 2018.

READ and ADOPTED on the Second Reading on the 24th day of April, 2018.

APPROVED:

Connie B. Schroeder, Mayor

ATTEST:

Ann Franklin, City Secretary

APPROVED AS TO FORM:

Alan Bojorquez, City Attorney

ARTICLE 14.03 - HISTORIC LANDMARK PRESERVATION

Sec. 14.03.001 - General.

(a) *Purpose and intent.* The City Council hereby declares that as a matter of public policy the protection, enhancement, and perpetuation of sites, landmarks or districts of historical and cultural importance and significance is necessary to promote the economic, cultural, educational, and general welfare of the public. It is recognized that the city represents the unique confluence of time and place that shaped the identity of generations of citizens, collectively and individually, and produced significant historic, architectural, and cultural resources that constitute their heritage. This article is intended to:

- (1) Protect and enhance the landmarks, which represent distinctive elements of the city's historic, architectural, and cultural heritage;
- (2) Foster civic pride in the accomplishments of the past;
- (3) Protect and enhance the city's attractiveness to visitors, thereby supporting and stimulating the economy;
- (4) Insure the harmonious, orderly, and efficient growth and development of the city;
- (5) Promote economic prosperity and welfare of the community by encouraging the most appropriate use of such property within the city;
- (6) Encourage stabilization, restoration, and improvements of such properties and their values.

(b) *Definitions.* The following definitions shall apply to this article.

Alteration. Any change, demolition or modification to a structure or site designated as a Historic Landmark or located in a local historic district including, but not limited to the following:

- (1) Exterior changes to or modification of any buildings or structures, architectural details or visual characteristics
- (2) Construction of new structures
- (3) Disturbance, placement or removal of exterior objects that affect the exterior qualities of the property.

Architectural Element: The unique details and component parts that combined, form the architectural style of a structure, building or object.

Certificate of Appropriateness: A document evidencing the approval of the Historic Landmark Commission, signed and dated by the Chairperson of the Historic Landmark Commission, for alteration, installation, relocation, excavation, restoration, modification, rehabilitation, change, demolition, construction, removal, or improvement of a Historic Landmark or of a building or property located within a local historic district.

Construction: The act of adding an addition to an existing building, structure or object or the erection of a new principal or accessory building, structure or object on any lot, parcel or site.

Contributing Structure: A building, structure, property or object within a local historic district which has not been designated a historic landmark under this ordinance, but which adds to the historical integrity or architectural qualities that make the local Historic District significant.

Demolition: An act or process which: (1) destroys a lot, parcel or site or building, structure or object in its entirety, (2) destroys a part of a lot, parcel or site or building, structure or object and permanently impairs its structural, historic or architectural integrity, (3) removes the building, structure or object or any part thereof from the original lot, parcel or site without the requisite Certificate of Appropriateness and/or moving permit, or (4) removes architectural elements and features from the exterior of a building, structure or object.

Design Guidelines: Architectural and style guidelines adopted by the City that encourage and promote the existing historical features of the City and detail those alterations, installations, relocations, excavations, restorations, modifications, rehabilitations, changes, demolition, construction, removal, or improvement of a Historic Landmark or of a structure or site located within a local historic district that are deemed compatible and appropriate for the area. If local design guidelines have not been adopted, *The Secretary of the Interior's Standards for the Treatment of Historic Properties* shall be used as the design guidelines.

Historic district: A geographically defined neighborhood or area that has a significant historical, architectural, or cultural significance to the overall character and identity of the City.

Historic Landmark: A site, and/or all structure(s), located *thereon*, that have been designated by the City of Bastrop through criteria established within this Ordinance.

Inventory: A list of properties that have been identified and evaluated as meeting specified criteria of significance as a contributing or non-contributing historic structure or site.

Non-Contributing Structure: A structure within a designated local historic district that is not considered to be of historical significance or which does not possess significant physical features, historical associations, or historical architectural qualities.

Ordinary maintenance: This generally refers to activities relating to a property that would be considered ordinary or common for maintaining the property, such as a) Repair using the same material and design as the original and does not require structural modifications; b) Repainting; c) Reroofing, using the same type; or d) Repair of sidewalks and driveways.

Overlay zones: A set of zoning requirements that is described in the ordinance text, is mapped, and is imposed in addition to those of the underlying district. Development within the overlay zone must conform to the requirements of both zones or the more restrictive of the two.

Preservation: The stabilization of an historic building, its materials and features in their present condition to prevent future deterioration. Preservation focuses on the maintenance and repair of existing historic materials and retention of a property's form as it has evolved over time.

Reconstruction: The act or process of reassembling, reproducing or replacing by new construction, the form, detail and appearance of property and its setting as it appeared at a particular period of time by means of removal of later work or by the replacement of missing earlier work or by reuse of original materials.

Rehabilitation: The act or process of returning a property to a state of utility through repair or alteration that makes possible an efficient contemporary use while preserving those portions or features of the property that are significant to its historical, architectural, and cultural values.

Removal: Permanently moving a structure or feature from its current location.

Relocation: Any change of the location of a structure in its present location to another location within the city limits.

Restoration: The act or process of accurately recovering the form and details of a building, structure or object or lot, parcel or site and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacements of missing earlier work.

Sign: Any object, device, display, or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination, or projected images. The foregoing enumeration of signs shall not be considered exclusive. The term "sign" shall include all other devices or structures as may reasonably be included under it, whether attached or unattached. The definition excludes all governmental flags and signs of governmental entities.

Significant Historic Landmark: A designation established under Ordinance 2007-30 for a site or structures.

Site: The location of a significant event, a prehistoric or historic occupation or activity, building or structure, whether standing, ruined, or vanished, where the location itself possesses historical, cultural, architectural or archeological value regardless of the value of any existing structure.

Structure: Something built or constructed, such as a building, bridge, monument, or statue.

- (c) *Historic landmark commission created.* There is hereby created a commission to be known as the city historic landmark commission.
- (1) The commission shall consist of seven members, residents of the city, to be appointed by the mayor with approval by the City Council as follows; every effort will be made to find professionals who meet the criteria below:
 - (A) One shall be an architect, planner, or representative of a design profession;
 - (B) One shall be a representative elected by the county historical society;
 - (C) One shall be a licensed real estate professional;
 - (D) One shall be an owner of an historic commercial structure or property;
 - (E) One shall be an owner of an historic residential structure or property;
 - (F) One shall be a member from the city's Planning and Zoning Commission;
 - (G) One shall be a general resident of the city.

However, if specified professionals above cannot be appointed, City Council will consider other types of professionals.

- (2) All commission members, regardless of background, shall have a known and demonstrated interest, competence, or knowledge in historic preservation within the city.
- (3) Commission members shall serve for a term of three (3) years, with the exception of the member who is serving on the commission as the Planning and Zoning Commission representative, and that member shall serve for a term that is concurrent with that member's Planning and Zoning Commission term.
- (4) Each seat on the commission will be assigned a "place." Commission members' terms of service shall be "staggered," so that the entire membership of the commission will not be subject to replacement at any single point in time. In the event of a vacancy on the commission, an individual appointed to fill the vacancy will serve only the remaining term of the individual who is being replaced by the appointee, so that the staggering of terms shall remain intact.
- (6) Attendance requirements for the commission members are set forth in Section 1.02.002(b).
- (7) The commission shall be empowered to:
 - (A) Prepare rules and procedures as necessary to carry out the business of the commission, which shall be ratified by the City Council.
 - (B) Approve or disapprove Certificates of Appropriateness, demolition or removal of historic structures, and economic hardship applications.
 - (C) Conduct surveys and maintain an inventory of significant historic, architectural, and cultural landmarks.
 - (D) Make recommendations to the City Council on the designation of Historic Landmarks, Historic Districts, contributing and non-contributing structures.
 - (E) Make recommendations for properties to the National Register of Historic Places.
 - (F) Increase public awareness of the value of historic, cultural, and architectural preservation by developing and participating in public education programs.
 - (G) To assist the City Council in the adoption of design guidelines for the exteriors of Historic Landmarks, properties located inside of Historic Districts, and contributing and non-contributing structures, to address architectural and general design elements of structures, including acceptable materials for construction; appropriate architectural character, scale, and detail; acceptable appurtenances or additions to new or existing structures; and acceptable textures and ornamentation.
 - (H) Prepare and submit annually to the City Council a report summarizing the work completed during the previous year.
 - (I) To perform any other functions requested by City Council.
- (8) The commission shall meet at least monthly, if business is at hand. Special meetings may be called at any time by the Chair, or on the written request of any two commission members.
- (d) *Appointment of Historic Preservation Officer.* The City's Planning Director or other city staff designated by the City Manager shall serve as Historic Preservation Officer. This officer shall

have as a principal duty the administration of this ordinance and the coordination of the City's various efforts and programs that further historic preservation.

Sec. 14.03.002 - Categories of preservation.

(a) Establishment of categories

There shall be two categories of preservation for historically, culturally, architecturally or archaeologically significant properties in the city, as follows:

- (1) Historic Landmarks,
- (2) Local Historic Districts, which may contain Historic Landmarks and contributing structures or sites; and non-contributing structures or sites.

(b) Criteria for Historic Landmark status

- (1) A structure or site is considered a local Historic Landmark if it is designated as a Recorded Texas Historic Landmark or State Archeological Landmark, or is included on the National Register of Historic Places.
- (2) A structure or site also may be designated by the City as a Historic Landmark if it meets two or more of the criteria set out below.
 - (A) Possesses significance in history, architecture, archeology, or culture;
 - (B) Is associated with events that have made a significant contribution to the broad patterns of local, regional, state, or national history;
 - (C) Is associated with the lives of persons significant in our past;
 - (D) Embodies the distinctive characteristics of a type, period, or method of construction;
 - (E) Represents the work of a master designer, builder, or craftsman; or
 - (F) Represents an established and familiar visual feature of the City.

(c) Process for designation of Historic Landmarks

- (1) Owners of property being considered for designation as a Historic Landmark shall be notified prior to the Commission hearing on the recommended designation. The Commission shall provide notice to property owners within two hundred (200) feet of the property and conduct a public hearing.
- (2) After consideration by the Historic Landmark Commission, a recommendation regarding designations shall be submitted the City Council to conduct a public hearing and consider the designations of a Historic Landmark. The adoption of the Landmark shall be through a Resolution.
- (3) Upon designation of a Historic Landmark, the City Council shall cause the designation to be noted as follows:
 - (a) Recorded in the Official Real Property Records of Bastrop County
 - (b) Designated on the Historic Resource Map of the City of Bastrop
 - (c) Provide the property owner with a plaque and require the installation indicating the designation of the landmark as a City of Bastrop Historic Landmark.

(d) Process for removal of Historic Landmarks designation

- (1) Designated Historic Landmarks shall retain such designation until such time as the City Council, upon receipt of an application from the owner, approves the withdrawal. The procedures for a removal of designation of a Historic Landmark shall follow the same process as the designation process.

(A) Criteria for approving removal:

- i. The original criteria that was met to receive the designation is no longer applicable for reasons not attributable to the acts or omissions of the owner or occupant.
 - ii. The site or structure has been rendered unreasonably irreparably altered by an Act of God.
- (2) The required majority for City Council approval for removal of designation shall be two-thirds of the full membership.

(e) *Criteria for creation of a Historic District*

An area of the City may be considered for designation as a Historic District if it:

- (1) Contains properties and an environmental setting which meet one or more of the criteria for designation of a Historic Landmark; or
- (2) Constitutes a distinct section of the City that possesses a unique historical, architectural, archeological or cultural significance.

(f) *Process for the designation of local historic district*

- (1) These provisions pertaining to the designation of local historic districts constitute a part of the official zoning map of the City of Bastrop.
- (2) Upon recommendation of the Historic Landmark Commission and the Planning and Zoning Commission, the City Council may establish, after following all required legal procedures, one or more Historic Districts. The Historic Landmark Commission shall prepare, or cause to be prepared, and adopt, design guidelines for each individual district, including standards for new and/or infill construction. If there is more than one district, and the Historic Landmark Commission finds that design guidelines for one district are appropriate for another district, they may adopt the same guidelines.
- (3) An inventory of all contributing and non-contributing structures located within a historic district to be prepared and the record of the status of each structure within each historic district shall be maintained in City records.
- (4) Owners of property located within an area considered for designation as a local historic district shall be notified prior to the public hearing(s) on the recommended designation. The adoption of a local district will be processed according to the same procedures required for a zoning amendment. At the public hearing(s), owners, interested parties, and technical experts may present testimony or documentary evidence that will become part of a record regarding the historic, architectural, or cultural importance of the proposed local Historic District.
- (5) Upon designation of a local historic district, the City Council shall cause the designation to be recorded as follows:
 - (a) Recorded in the Official Real Property Records of Bastrop County,

- (b) Designated on the Historic Resource Map of the City of Bastrop.
- (6) Designated Historic Districts shall retain such designation until such time as the City Council, upon receipt of an application and formal request made by at least 51 percent of the owners of real property located within the Historic District petitions for removal. The procedures for a removal of designation of a local Historic District shall follow the same process as the designation process.
 - (A) Criteria for approving removal
 - i. The original criteria that was met to receive the designation is no longer applicable for reasons not attributable to the acts or omissions of the owner or occupant.
 - ii. The site or structure has been rendered unreasonably irreparably altered by an Act of God.
- (7) The required majority for City Council approval for removal of designation shall be two-thirds of the full membership.
- (g) Any existing structure or site designated as a Significant Landmark or a Historic Landmark under Ordinance No. 2007-30 are specifically saved from repeal and shall retain such designation until such time that those designated landmarks are redesignated in accordance with the processes and procedures under this ordinance. As soon as practical following adoption of this Ordinance, the City shall begin the process to designate any landmarks deemed appropriate for consideration as Historic Landmarks in accordance with the processes and procedures contained within this ordinance.
- (h) *Relationship of designations to zoning*
 - (1) If there is any conflict between the design guidelines and any provision of the zoning ordinance, the most restrictive regulation shall apply.
 - (2) If there is any conflict between the provisions of this section and any other provision of the zoning ordinance, the most restrictive regulation shall apply, in the absence of a specific directive to the contrary.

Section 14.03.003. Certificate of Appropriateness

(a) *Requirement for Certificate of Appropriateness*

No person, firm, corporation or other organization shall carry out any project that includes the construction, reconstruction, alteration, restoration, rehabilitation, relocation or demolition of any Historic Landmark or any structure, site or sign within a Historic District, nor shall any person make any material change to any structural exterior elements or architectural features visible from a public right-of-way which affect the appearance and cohesiveness of any Historic Landmark or any structure or site within a Historic District without prior approval of a Certificate of Appropriateness.

(b) *Certificate of Appropriateness Exemptions*

A Certificate of Appropriateness shall not be required for the following:

- (1) Ordinary maintenance, as defined in this Ordinance.

- (2) Interior construction or alterations provided the alterations do not alter the exterior wall of the building.
- (3) New, modifications or removal of existing awnings (to include changes in color), canopies, exterior paint color or exterior lighting that are attached to a single-family or two-family residential structure provided the alterations do not alter the exterior wall of a building designated as a historic landmark.
- (4) Demolition of a building or structure that the Building Official has declared a dangerous structure in accordance with Article 3.12 of this Ordinance, as amended, or determined that demolition is necessary for the preservation of the public health, safety and welfare.
 - (A) Should the Building Official declare a building a dangerous structure or determine that demolition is necessary for the preservation of public health, safety and welfare, the Building Official shall coordinate with the Historic Preservation Officer and property owner to identify historic and significant architectural features that are unique to the building or structure, era or district and that may be salvaged.
 - (B) The Historic Preservation Officer shall create a record of the building or structure to be demolished through archival-quality photo-documentation, drawings, and other information similar to those required by the Historic American Buildings Survey. The list of identified historic and significant architectural features to be salvaged shall also be made part of this record.
- (5) New fence, railing or wall that is consistent with the Historic District's characteristics and applicable guidelines.
- (6) Site landscape alterations and other hardscape features provided that these do not alter a building or structure designated as a Historic Landmark or that is a contributing historic structure to the Historic District.

(c) Certificate of Appropriateness Application Procedure

- (1) When a Certificate of Appropriateness is required, no work can begin before the Historic Preservation Officer or the Commission has first issued a Certificate of Appropriateness. The Certificate of Appropriateness shall be in addition to and not in lieu of any permits required (i.e. building, sign, alcohol, etc.). The Building Official cannot approve any application for a sign or building permit to a structure and/or site that requires, but does not have a Certificate of Appropriateness.
- (2) The owner or owner's agent shall file an application, as provided by the City, for such a certificate. The application shall contain at a minimum:
 - (A) Application fee as established in Appendix A – Fee Schedule
 - (B) Contact information for the applicant and/or owner;
 - (C) A detailed description of all proposed work;
 - (D) Location and photographs of existing conditions;
 - (E) Elevation drawings, photographs, or illustrations of the proposed changes;
 - (F) Samples of materials to be used;
 - (G) If the proposal includes signs or lettering, a scale drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination (if any), and a plan showing the sign's location on the property; and
 - (H) Any other information that the City may deem necessary in order to visualize the proposed work.

- (l) The Historic Preservation Officer shall review the submission and determine if the application is complete. If the application does not meet the requirements to be approved administratively, the application will be forward to the Historic Landmark Commission for consideration at their next available meeting agenda.
- (d) *Administrative Approval of a Certificate of Appropriateness*
- (1) A Certificate of Appropriateness may qualify for administrative approval by the Historic Preservation Officer if the proposed project meets all of the following conditions:
 - (A) All of the standards identified in the Design Guidelines for the specific district in which it is located are met;
 - (B) There will not be a change in materials or design of the structure or site;
 - (C) There is no increase in the height of an existing structure or site;
 - (D) The neighborhood compatibility standards established within the Design Guidelines for the specific district in which it is located are met;
 - (E) There is no demolition of any structure or site;
 - (F) The proposed structure or site is not designated as a Historic Landmark.
 - (2) The Historic Preservation Officer may elect to present a Certificate of Appropriateness to the Historic Landmark Commission for review and consideration.
 - (3) If the Historic Preservation Officer does not approve a Certificate of Appropriateness, the application may be forwarded to the Historic Landmark Commission for review and consideration at the request of the applicant.
- (e) *Historic Landmark Commission Approval of Certificate of Appropriateness*
- (1) The Commission shall review an application for a certificate of appropriateness at a regularly scheduled or special meeting within forty-five (45) days from the date the application is deemed administratively complete for review, at which time an opportunity will be provided for the applicant to be heard. The Commission shall approve, deny, or approve with conditions or modifications the permit, within thirty (30) days after the review meeting, provided however, both review and action may occur at the same meeting. In the event the Commission does not act within sixty (60) days from the date the application is deemed administratively complete for review, a permit will be deemed approved.
 - (2) All decisions of the Commission shall be in writing. The Commission's decision shall state its findings pertaining to the approval, denial, or modification of the application. A copy shall be provided to the applicant and a copy shall be maintained in the files of the Planning and Development Department and distributed to other appropriate city departments.
 - (3) An applicant for a Certificate of Appropriateness who is dissatisfied with the action of the Commission relating to the issuance or denial of a Certificate of Appropriateness shall have the right to appeal the determination to the City Council. The applicant has fifteen (15) calendar days from date of the Commission action to file for the appeal. The appeal request will be place on the next available City Council agenda. To be considered, the appeal shall set forth in writing the grounds for such appeal and shall provide the City with any pertinent evidence and all related documentation related to the appeal. The City Council shall use the adopted approval criteria for the appeal review.

- (4) A Certificate of Appropriateness shall expire two (2) years from the date of approval if the proposed scope of work has not been completed. If a building permit for approved work has been issued, the Certificate of Appropriateness will expire two (2) year from the permit issue date. The Commission, upon determination of a reasonable need, may authorize one (1) extension of an additional six (6) months to obtain a building permit for the work in which the Certificate of Appropriateness was approved upon showing of just cause by the applicant.

(f) *Criteria of Approval of a Certificate of Appropriateness*

- (1) In considering an application for a Certificate of Appropriateness, the commission shall be guided by any locally adopted design standards, and where applicable, the following from the *Secretary of the Interior's Standards for the Rehabilitation of Historic Buildings*. Any adopted design standards and *Secretary of the Interior's Standards* shall be made to the property owners of historic landmarks.
- (A) Every reasonable effort shall be made to adapt the property in a manner which requires minimal alteration of the building, structure, object, or site and its environment.
 - (B) The distinguishing original qualities or character of a building, structure, object, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
 - (C) All buildings, structures, objects, and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier or later appearance shall be discouraged.
 - (D) Changes that may have taken place in the course of time are evidence of the history and development of a building, structure, object, or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.
 - (E) Distinctive stylistic features or examples of skilled craftsmanship which characterize, a building, structure, object, or site shall be kept to the greatest extent practical.
 - (F) Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should reflect the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historical, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other building or structures.
 - (G) The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.
 - (H) Every reasonable effort shall be made to protect and preserve archeological resources affected by, or adjacent to, any project.
 - (I) Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant

historical, architectural, or cultural material, and such design is compatible with the size, color, material, and character of the property, neighborhood, or environment.

- (J) Wherever possible, new additions or alterations to buildings, structures, objects, or sites shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the building, structure, object, or site would be unimpaired.

(g) Consideration of Previously Denied Application

A new application for a Certificate of Appropriateness for a structure or site that was previously denied a similar Certificate of Appropriateness shall not be considered if the Historic Landmark Commission or the City Council, on appeal, for the structure or site within one (1) year from the date of the final decision. If there has been a substantial change in the conditions affecting the structure or site or the proposed project is substantially different from the previous application, the City may find that are sufficient to warrant consideration prior to the one (1) year period.

(h) Enforcement

- (1) All work performed pursuant to a Certificate of Appropriateness issued under this ordinance shall conform to any conditions or requirements included therein. It shall be the duty of the building inspector or his designee to inspect periodically any such work to assure compliance. In the event work is not being performed in accordance with the Certificate of Appropriateness, the building official or his designee shall issue a stop-work order, and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop-work order is in effect.
- (2) A stop-work order may be lifted following submission and approval of plans for corrective action or work, or other plans to bring the project into compliance with the conditions or requirements of the Certificate of Appropriateness or other approvals.

Section 14.03.004. Certificate of Appropriateness Required for Demolition or Relocation

(f) Certificate of Appropriateness for Demolition or Relocation Required

A permit for demolition, removal, or relocation for any Historic Landmark or any structure or site within a local historic district shall not be granted by the City without the review and approval of a Certificate of Appropriateness by the Historic Landmark Commission in accordance with the provisions of this ordinance.

(g) Procedure for Certificate of Appropriateness for Demolition

- (1) An application for a Certificate of Appropriateness shall contain the following minimum information:
 - (A) Application fee as established in Appendix A – Fee Schedule
 - (B) Owner and agent contact information;
 - (C) A detailed description of the reason the proposed demolition is necessary;
 - (D) Location of the proposed demolition;

- (E) Evidence of the existing conditions of the property which justify the need for demolition;
 - (F) A detailed description of the methods of demolition including the process and procedure for removal of all debris and how surrounding properties will be protected during the demolition process;
 - (G) Any other information that the City may deem necessary in order to determine the need for the proposed demolition.
- (2) The Commission shall hold a public hearing on the application within forty-five (45) days after the date a complete application is filed with the City. The applicant, property owner, and all property owners located within two hundred (200) feet of the property proposed to be demolished shall be mailed a written notice ten (10) days prior to the hearing.
- (3) When considering the Certificate of Appropriateness for Demolition, the Commission shall consider the following:
- (A) The historic value of the structures or site;
 - (B) The state of repair of the structures or site;
 - (C) The existing and potential usefulness, including the economic usefulness, of the structures, buildings or objects on the lot, parcel or site;
 - (D) The reasons for preserving the structures, buildings or objects on the lot, parcel or site;
 - (E) The character of the neighborhood;
 - (F) Any other factors the Commission deems appropriate when considering the proposed demolition.
- (4) When considering the Certificate of Appropriateness for Relocation, the Commission shall consider the following:
- (A) The style of construction and compatibility with the local Historic District
 - (B) The historic value and structural state of the structure;
 - (C) The historic value of the site;
 - (D) The reasons for preserving the structure on an alternate site;
 - (E) The character of the neighborhood;
 - (F) Any other factors the Commission deems appropriate when considering the proposed demolition.
- (5) If the Commission determines, that the evidence supports the demolition, removal or relocation of the structure or if the Commission determines that the interest of preserving historic values will not be adversely affected by such demolition, removal or relocation that the interest of preserving historical values can best be served by the removal of the structures, buildings or objects, it shall issue a Certificate of Appropriateness for Demolition of the structures or site.
- (6) If no action has been taken by the Commission within sixty (60) days of original receipt by the Commission of the application, the Certificate of Appropriateness for Demolition shall be deemed approved by the Commission.
- (7) Any applicant who is dissatisfied with the action of the Commission relating to the issuance or denial of a Certificate of Appropriateness shall have the right to appeal the determination to the City Council. The applicant has fifteen (15) calendar days from date of the Commission action to file for the appeal. The appeal request will be placed on the next available City Council agenda. To be considered, the appeal shall set forth

the grounds for such appeal and shall provide the City with any pertinent evidence and all related documentation related to the appeal. The City Council shall use the adopted approval criteria for the appeal review.

Section 14.03.005. Failure to Maintain Resulting in Demolition by Neglect

(a) State of Demolition by Neglect

No owner or person, firm, corporation or other organization with an interest in real property that is designated as a Historic Landmark, a structure or site that has been certified, registered or designated by any Federal, State or other authorized body/entity as having historical significance, or any structure or site that is located within a local Historic District, shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgment of the Commission, produce a detrimental effect upon the character of a Historic Landmark, the District as a whole, or the life and character of the property itself. Examples of such deterioration include:

- (1) Deterioration of exterior walls or other vertical supports.
- (2) Deterioration of roofs or other horizontal members.
- (3) Deterioration of exterior chimneys.
- (4) Deterioration or crumbling of exterior stucco or mortar.
- (5) Ineffective waterproofing of exterior walls, roof, or foundations, including broken windows or doors.
- (6) Deterioration of any feature creating a hazardous condition which could lead to the claim that demolition is necessary for the public safety.

(b) Demolition By Neglect Hearing Procedure

- (1) Upon notification to the Commission of such a state of disrepair, the Commission shall notify the owner in writing, informing the owner of the violation and the specifics of the alleged deterioration, requesting that the owner appear before the Commission for determination of the existence of detrimental deterioration.
- (2) If, after a public hearing before the Commission, the Commission determines that the deterioration has produced a detrimental effect as described in Subsection A of this section, the owner shall cure the deterioration by restoration or other appropriate actions within a reasonable period of time as determined by the Commission but in no case longer than 180 calendar days from the determination by the Commission. The owner must comply with all requirements of requesting a Certificate of Appropriateness from the Commission. Failure of the owner to cure the deterioration within the time specified by the Commission shall cause the property owner to be subject to penalties as defined in Section 14.03.009, which may be assessed civilly or in municipal court.

- (c) Any applicant who is dissatisfied with the action of the Commission relating to the issuance or denial of a Certificate of Appropriateness shall have the right to appeal the determination to the City Council. The applicant has fifteen (15) calendar days from date of the Commission action to file for the appeal. The appeal request will be placed on the next available City Council agenda. To be considered, the appeal shall set forth the grounds for such appeal and shall provide the City with any pertinent evidence and all related documentation related to the appeal. The City Council shall use the adopted approval criteria for the appeal review.

Section 14.03.006. Incentives for Historic Landmarks**(a) Continuation of Existing Incentives**

All properties previously granted an Incentive (refund of City Taxes) under Section 14.03.002 of the Bastrop Code of Ordinances as of the date of this Ordinance shall be eligible to maintain the Incentive and are specifically saved from repeal; however, the City Council may modify or end the program at any time at the City's discretion. A list of all properties subject to the Incentive, along with the determination of what historic elements are to be included in the valuation of the Incentive, shall be maintained on file in the City's Historic Preservation Officer's and the City Secretary's office.

(b) New Applications for Incentives

To encourage historic preservation, the City may offer an incentive to owners of local Historic Landmarks to encourage the stabilization, rehabilitation and renovation of properties designated as historic landmarks. The incentives may include:

- (1) Historic Landmark Marker: Owners of qualifying historic landmarks will be presented with an official historic landmark marker to designate the structure, with the cost of the marker borne by the City.
- (2) Property Tax refund: Owners of qualifying historic landmarks may be eligible for a refund of a portion of their City property taxes, provided under paragraph (c) below.

An owner seeking inclusion in the Incentive program shall submit an application to the Historic Preservation Officer to determine whether the property meets the criteria for a local Historic Landmark. Incentives will be granted upon the favorable recommendation of the Historic Landmark Commission and approval by the City Council.

(c) Calculation of Refund Incentives

The amount of the refund shall be based on a uniform percentage of the assessed value of the contributing structures, determined by the City Council, each budget year, which can be financed by the amount of general funds appropriated for such refunds. Refunds shall be based on the assessed value of the historic improvements only and shall exclude the value of the underlying land or any noncontributing structures. Refunds will be based on taxes paid in full by July 31st. Eligibility for such refund shall require compliance with all requirements of this Ordinance. If a historic landmark property has been determined to not be adequately maintained, in the opinion of the Historic Preservation Officer, the Incentive will not be paid. An aggrieved property owner may appeal that determination to the City Council.

(d) Loss of Incentives

No owner, owner's agents, contractors and/or representatives shall alter or totally or partially destroy any Historic Landmark subject to incentives under this Section without first obtaining a Certificate of Appropriateness or Demolition Permit in accordance with the terms of this ordinance. If a Historic Landmark subject to incentives is altered or totally or partially destroyed without a Certificate of Appropriateness, the owner shall be required to restore the structure to its original state, within a reasonable period of time as established by the

Commission but in no case longer than 180 calendar days from the date of any notice of violation provided to the property owner. No incentives will apply during the time that the owner is restoring the property. Failure to restore the Historical Landmark to its pre-destruction condition shall subject the owner to the penalties set forth in this Ordinance and the owner shall:

- (1) no longer be entitled to the incentives set forth herein, and
- (2) immediately remit to the City monies in an amount equal to the total City Tax revenues that were refunded in the current and prior years because of the incentives, plus interest calculated at an annual rate as established by the then-current Texas Private Prompt Payment Act.

If an owner has obtained a Certificate of Appropriateness for Demolition or Relocation under Section 14.03.004, then the Incentive for the structure will cease immediately upon the demolition or relocation, but no remittance of past refunds is required.

(e) Transferability of Incentives

The benefits of the incentive program relating to Historic Structures under this Section are transferable and run with the property.

Sec. 14.03.007 - Economic hardship.

(a) Economic hardship application procedure

- (1) After receiving written notification from the commission of the denial of a certificate of appropriateness, or an application to demolish, an applicant may commence the hardship process. No building permit or demolition permit shall be issued unless the commission makes a finding that hardship exists.
- (2) When a claim of economic hardship is made due to the effect of this article, the owner must prove that:
 - (A) The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible;
 - (B) The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return; and
 - (C) Efforts to find a purchaser interested in acquiring the property and preserving it have failed.
- (3) The applicant shall consult in good faith with the commission, local preservation groups and interested parties in a diligent effort to seek an alternative that will result in preservation of the property. Such efforts must be shown to the commission.
- (4) The commission shall hold a public hearing on the application within sixty (60) days from the date the application is received by the either the building inspector or the preservation officer. Following the hearing, the commission has thirty (30) days in which to prepare a written recommendation to the building inspector or other official. In the event that the commission does not act within ninety (90) days of the receipt of the application, a permit may be granted by the building inspector.
- (5) All decisions of the commission shall be in writing. A copy shall be sent to the applicant by certified mail and a copy filed with the city clerk's office for public inspection. The

commission's decision shall state the reasons for granting or denying the hardship application.

- (6) An applicant submitting a hardship application who is dissatisfied with the decision of the commission relating to the approval or denial of such application shall have the right to appeal the commission's decision to the City Council. The applicant has fifteen (15) calendar days from date of the Commission action to file for the appeal. The appeal request will be place on the next available City Council agenda. To be considered, the appeal shall set forth the grounds for such appeal and shall provide the City with any pertinent evidence and all related documentation related to the appeal. The City Council shall use the adopted approval criteria for the appeal review.

Section 14.03.08. Penalties

Any person, firm, association of persons, corporation or other organization violating the provisions of this ordinance shall be deemed to be guilty of a misdemeanor and, upon conviction, shall be fined an amount not to exceed the amount set out in Appendix A – Fee Schedule, Article A14.01 of the Bastrop Code of Ordinances. Each day that a violation continues shall be deemed a separate and distinct offense. Violations of this ordinance may be enforced civilly and/or in municipal court, at the City's discretion.

...

Appendix A – Fee Schedule

A14.001.003 Fees for Historic Landmark Preservation

Historic Landmark Designation Consideration	\$100
Removal of Historic Landmark or Historic District	\$300
Certificate of Appropriateness	\$50
Certificate of Appropriateness Demolition or Relocation	\$100

Historic Landmark Preservation Ordinance Amendment

April 10, 2018



Background

- Historic Landmark Commission:
 - Created in 1998 with the adoption of Section 14.03 - Historic Landmark Preservation.
- Last ordinance update:
 - October 23, 2007
- Major revisions drafted in 2009.
 - Were recommended by P&Z.
 - Were not adopted at City Council.



Current update

- Needed to strengthen historic preservation efforts.
- Needed to qualify for Certified Local Government (CLG) Program with the Texas Historical Commission.
- The HLC used the previous 2009 draft and recommendations from the CLG Program Manager to revise the existing ordinance.



Background

- Historic Landmark Commission:
 - Created in 1998 with the adoption of Section 14.03 - Historic Landmark Preservation.
- Last ordinance update:
 - October 23, 2007
- Major revisions drafted in 2009.
 - Were recommended by P&Z.
 - Were not adopted at City Council.



Section 14.03.001: General

- Updated definitions.
- Historic Landmark Commission
 - Added some flexibility if members with exact criteria are not available.
 - Updated commission responsibilities.
 - Historic Preservation Officer moved to staff.



Section 14.03.002 – Categories of Preservation

- Categories for categories.
 - Removed Significant designation (process to convert To Historic Landmarks in section 14.0.002(g))
 - Historic Landmarks
 - Created a process for designating Historic Districts
- Process for designation of Historic Landmarks
 - Change to the process - HLC recommends directly to City Council, does not go through P&Z Commission first.
- Process for removal of Historic Landmarks
 - The original criteria to receive the designation is no longer applicable for reasons not attributable to the acts or omissions of the owner or occupant.
 - The site or structure has been rendered unreasonably irreparably altered by an Act of God.
 - Approval of 2/3 of City Council for removal.



Section 14.03.002 – Categories of Preservation (cont.)

- Process for designation of historic districts
 - Recommendation to Planning & Zoning, then to City Council for adoption.
- Process for removal of historic districts
 - Formal request from 51% of owners of real property (not owners of majority of property)
- The required majority for City Council approval for removal of designation shall be two-thirds of the full membership.



Section 14.03.003 – Certificate of Appropriateness

- Required for any alteration of site, structure or sign (Historic Landmark & historic district)
- Defined exemptions
- Application Procedure
 - Added reference to fee schedule
 - Added Administrative Approval
 - Revised application timelines
 - Appeal process
 - Clarified expiration



Section 14.03.004 – COA for Demolition or Relocation

- Added differentiation for relocation (moving onto or off of a site within a historic district)
- Added application information
- Added criteria for demolition and relocation
- Demolition for unsafe building as deemed by the city moved to exemptions (Section 14.03.003)



Section 14.03.006 – Incentives for Historic Landmarks

- Continue the refund incentive for current and future Historic Landmarks.
 - Provides a refund (ranges from \$100-\$1,000) based on the value of the historic part of property
- Revised section to clarify refund amount based on annual budget.



Historic Landmark Commission Recommendation

- The HLC reviewed the current draft at their regular meeting on February 21, 2018 meeting.
- Recommended forwarding the current draft Historic Landmark Preservation Ordinance to Planning & Zoning Commission for review and a recommendation of approval to City Council.



Planning & Zoning Commission Meeting

- The P&Z reviewed the current draft at their regular meeting on March 29, 2018 meeting.
- Comments and questions:
 - Do houses destroyed by an Act of God have to be rebuilt with historic standards?
 - No. Infill and rebuilding standards will be in the future Design Standards. They cover general compatibility (size, height, setbacks) with the area not strict building design.
 - Do window replacements need Certificates of Appropriateness?
 - Not if they are replaced with the same style of window.
 - The incentive should be greater.
 - The refund is more of an acknowledgement of the property and funds to maintain the historic nature.



Planning & Zoning Commission Recommendation

- Recommended approval of the draft ordinance by a vote of 7-0.



Recommendation

- Hold Public Hearing and approve the first reading of the Historic Landmark Preservation Ordinance.





STAFF REPORT

MEETING DATE: April 10, 2018

AGENDA ITEM: 10A

TITLE:

City Council shall convene into closed executive session pursuant to Section 551.071 of the Texas Government Code to discuss and deliberate litigation matters with the City Attorney regarding Pine Forest 6, et al vs. City of Bastrop, et al.

STAFF REPRESENTATIVE:

Lynda Humble, City Manager





STAFF REPORT

MEETING DATE: April 10, 2018

AGENDA ITEM: 11

TITLE:

Take any necessary or appropriate action on matters posted for consideration in closed/executive session

STAFF REPRESENTATIVE:

Lynda Humble, City Manager

