

## **February 9, 2010**

The Bastrop City Council met in regular session on February 9, 2010 at 6:00 p.m. at the Council Chambers of City Hall, 904 Main Street, Bastrop, Texas. Members present were Mayor Terry Orr and Council Members Julie Hart, Ken Kesselus, Kay Garcia McAnally, Joe Beal and W.L. "Bill" Peterson.

### **ANNOUNCEMENTS**

#### **1. CALL TO ORDER**

At 6:00 p.m. Mayor Terry Orr called the meeting to order with all members present.

#### **2. PLEDGE OF ALLEGIANCE AND INVOCATION**

Willie DeLaRosa led the pledges of allegiance to the U.S. & Texas Flags. Reverend Richard Shahan led the invocation.

#### **3. PRESENTATIONS**

##### **CHARACTER EDUCATION – BASTROP STUDENT**

Andrew Peterson, a Senior at Bastrop High School, presented the Character Education character trait "Justice" for the month of February.

##### **A. BASTROP COUNTY COMPREHENSIVE PLAN**

Mayor Orr stated the Bastrop County Comprehensive Plan was not complete so this presentation would not be done tonight.

#### **4. PROCLAMATIONS**

##### **A. MAIN STREET BIRTHDAY**

Mayor Orr proclaimed that the Mayor and City Council of Bastrop during the third-year celebration of the Main Street Program hereby: 1) Salute the Bastrop Main Street Program, its volunteers and its partners on truly becoming a "Distinctive Destination"; 2) Express our deep pride in and appreciation of all human and financial resources that have been invested in this special place; and 3) Pledge our continuing confidence and support of this ongoing initiative.

#### **5. ANNOUNCEMENTS**

Mayor Orr states this was a good week in Bastrop. The City was recognized as one of American's Dozen Distinctive Designations 2010 by the National Trust for Historical Preservation. The City also received two significant grants: 1) \$350,000 to the Fire Department

and area communications; and 2) \$400,000 applied to upgrade Fisherman's Park Boat Ramp and surrounding area.

#### A. CONSENT AGENDA

ALL OF THE FOLLOWING ITEMS ON THE CONSENT AGENDA ARE CONSIDERED TO BE SELF-EXPLANATORY BY THE COUNCIL AND WILL BE ENACTED WITH ONE MOTION. THERE WILL BE NO SEPARATE DISCUSSION OF THESE ITEMS UNLESS A COUNCIL MEMBER SO REQUESTS.

A.1 APPROVAL OF MEETING MINUTES OF JANUARY 19 & 26, 2010.

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

A.3 APPROVAL OF SPECIAL EVENT PERMIT APPLICATION SUBMITTED BY THE FAMILY CRISIS CENTER TO HOST "PEDAL THROUGH THE PINES" ON SATURDAY, MARCH 6, 2010.

A.4 APPROVAL OF SPECIAL EVENT PERMIT APPLICATION SUBMITTED BY THE BASTROP HIGH SCHOOL TO HOST "SHATTERED DREAMS" ON WEDNESDAY AND THURSDAY, MARCH 10 & 11, 2010 ON CHAMBERS STREET IN FRONT OF THE HIGH SCHOOL AND IN THE PERFORMING ARTS CENTER.

A.5 ACKNOWLEDGMENT OF A RESOLUTION APPROVING PROJECTS USING FUNDS PROVIDED BY THE BASTROP ECONOMIC DEVELOPMENT CORPORATION IN AN AMOUNT EXCEEDING \$10,000 FOR THE BEDC DOWNTOWN MATCHING GRANT PROGRAM, (TO FUND \$25,000 RENOVATION GRANT FOR THE \$121,618 COST OF THE C.R. HAYNIE BUILDING AT 1010 MAIN – ANITA'S RESTAURANT; TO FUND \$2,200 FAÇADE GRANT OF THE \$4,400 COST OF THE 809 MAIN STREET BUILDING – LIL' BIT OF COUNTRY ANTIQUES; AND TO FUND \$1,000 OF A \$2,000 RENOVATION OF THE CHAMBER OF COMMERCE BUILDING AT 927 MAIN STREET.

A.6 ADOPTION OF A RESOLUTION CALLING FOR AND ESTABLISHING PROCEDURE FOR A GENERAL ELECTION FOR BASTROP, TEXAS ON MAY 8, 2010.

A.7 APPROVAL OF AN AGREEMENT TO CONDUCT JOINT ELECTION BETWEEN THE CITY OF BASTROP AND BASTROP INDEPENDENT SCHOOL DISTRICT FOR THE MAY 8, 2010 ELECTION.

.8 APPROVAL OF A CONTRACT FOR ELECTION SERVICES BETWEEN THE ELECTIONS ADMINISTRATOR OF BASTROP COUNTY AND THE CITY OF BASTROP FOR THE MAY 8, 2010 ELECTION.

A.9 APPROVAL OF HISTORIC LANDMARK DESIGNATION FOR 930 MAIN STREET, ALSO KNOWN AS THE B.D. AND E.S. ORGAIN BUILDING AND THE BURCH BUILDING.

A.10 APPROVAL OF HISTORIC LANDMARK DESIGNATION FOR 1002 WALNUT STREET, ALSO KNOWN AS THE KESSELUS-MAYS HOUSE.

A.11 ADOPTION OF A RESOLUTION OF THE CITY OF BASTROP RELATED TO SUPPORT FOR THE FISCAL YEAR 2010 PRESERVE AMERICA HISTORIC PRESERVATION FUND GRANTS TO PRESERVE AND PROMOTE AMERICAN'S HERITAGE AND CULTURAL ASSETS.

A.12 ACKNOWLEDGMENT OF QUARTERLY INVESTMENT REPORT AND UNAUDITED MONTHLY FINANCIAL REPORTS.

Joe Beal moved to approve the Consent Agenda. Seconded by Bill Peterson and carried unanimously.

#### B. PUBLIC HEARINGS:

B.1 PUBLIC HEARING: CONSIDER A REQUEST FOR A CONDITIONAL USE PERMIT TO ALLOW FOR A COMMERCIAL ANTENNA SUPPORT STRUCTUER TO BE CONSTRUCTED ON AN APPROXIMATELY 0.23 ACRE LEASED SITE OUT OF LOT 1, BLOCK A OF THE BASTROP BUSINESS AND INDUSTRIAL PARK PHASE ONE WHERE THE PROPERTY IS ZONED A/OS, AGRICULTURAL/OPEN SPACE WITHIN THE CITY LIMITS OF BASTROP, TEXAS; SETTING OUT CONDITIONS; AND PROVIDING AN EFFECTIVE DATE.

City Manager, Mike Talbot introduced Tom Yantis. Mr. Talbot stated Mr. Yantis is doing Interim City Planner Work for the City while that position is vacant.

Mr. Yantis addressed the Council. Mr. Yantis reviewed the Staff Report in the Agenda packet addressing the request for the Conditional Use Permit. Mr. Yantis stated on January 28, 2010 the Planning and Zoning Commission held a public hearing on this item and unanimously recommended to the City Council approval of the Conditional Use Permit with the following conditions: 1) All relevant conditions as specifically stated in Section 43.5 of the Zoning Ordinance of the City of Bastrop, Texas except those specific conditions for which variances were granted by the Zoning Board of Adjustment on July 1, 2009; 2) The lessee of the 0.23 acre site (Global Tower Partners) shall resolve any and all compliance issues relating to the Houston Toad to the satisfaction of Bastrop County and the United States Fish and Wildlife Service prior to the issuance of a building permit for the antenna and support structure; and 3) The construction of the antenna and support structure shall not adversely affect the future ability to develop the remainder of Lot 1, Block A of the Bastrop Business and Industrial Park for public parkland purposes.

Discussion was held among Council and Mr. Yantis.

Willie DeLaRosa addressed the Council and asked what were the first two requirements in Section 43.5 of the Zoning Ordinance that the applicant did not meet.

Mr. Yantis reviewed these two requirements: 1) Section 43.5 A.3. – In Agricultural/Open Space zoning commercial antenna and support structures in excess of the height allowed in the Agricultural/Open Space District may be allowed by Conditional Use Permit (CUP). However, the antenna support structures (tower) must be set back from all property lines a distance equal to the height of the tower. Mr. Yantis stated this request is not in compliance with this. The tower does not meet the required setback of 300 feet from all property lines. At its closest point to a property line it is setback 86 feet from the eastern property line of the parent tract adjacent to the Bluebonnet Trails MHMR property. Mr. Yantis stated the Zoning Board of Adjustment granted a variance to this requirement on July 1, 2009; and 2) Section 43.5 C. – No commercial antenna support structure shall be closer to any residential district boundary line or residential dwelling than a distance equal to twice the height of the support structure (tower). Such setback/distance shall be measured as the shortest possible distance in a straight line from the structure to the closest point of a residential district boundary line, and/or any residential dwelling outside a residential district. Setbacks from residentially zoned property do not apply to antennae attached to utility structures exceeding fifty (50) feet in height, or to antennae placed wholly within or mounted upon a building. Mr. Yantis stated this is also not in compliance. The tower does not meet the required setback of 600 feet from a residential zoning district boundary. At its closest point to a residential zoning district the tower is setback 420 feet from the northern property line along South Street. Mr. Yantis stated the Zoning Board of Adjustment granted a variance to this requirement on July 1, 2009.

Mr. W. Bebb Francis, III, Attorney At Law representing the applicant, addressed the Council and gave a presentation on the request for the Conditional Use Permit.

Mr. Monty Prewit, Regional Leasing Manager for Global Tower Partners, addressed the Council. Mr. Pruet addressed questions as to the various providers that are being contacted and how this will benefit Bastrop.

Mayor Orr asked whether this tower would have an extremely bright strobe light like some of the other towers in Bastrop County.

Jonel Stancu, representing Cricket radio frequency, addressed the Council. Mr. Stancu explained the coverage area and why the height of the tower is required.

Willie DeLaRosa stated he was representing Alta Vista Cemetery Association and he was here to gather information to take to the Board Members and Trustees. Mr. DeLaRosa asked if something happened to the tower, who was responsible for the damage.

Mr. Francis stated the entity owning the tower would be responsible.

Discussion was held among Council and Mr. Francis.

Mr. Francis stated he would address the lighting questions and the liability questions in a letter to the City Manager.

**B.2 CONSIDER AN ORDINANCE GRANTING A CONDITIONAL USE PERMIT TO ALLOW FOR A COMMERCIAL ANTENNA SUPPORT STRUCTURE TO BE CONSTRUCTED ON AN APPROXIMATELY 0.23 ACRE LEASED SITE OUT OF LOT 1, BLOCK A OF THE BASTROP BUSINESS AND INDUSTRIAL PARK PHASE ONE WHERE THE PROPERTY IS ZONED A/OS, AGRICULTURAL/OPEN SPACE WITHIN THE CITY LIMITS OF BASTROP, TEXAS; SETTING OUT CONDITIONS; AND PROVIDING AN EFFECTIVE DATE. (FIRST READING)**

Mayor Orr read the caption of the Ordinance.

Mr. Talbot stated when he receives the letter from Mr. Francis he will forward a copy to the Council and Mr. DeLaRosa.

**B.3 PUBLIC HEARING: CONSIDER APPROVAL OF A PRELIMINARY PLAT FOR THE B & B SUBDIVISION RE-PLAT TO CREATE TWO LOTS WITH VARIANCE TO THE SUBDIVISION ORDINANCE SECTION 5.70 (A) TO ALLOW A SETBACK OF 25' RATHER THAN 50' ALONG STATE HIGHWAY LOOP 150 (ALSO KNOWN AS CHESTNUT STREET), AN AREA ZONED C2-COMMERCIAL.**

Yvonne Pritchard, Project Manager for the Bastrop Planning Department, addressed the Council. Ms. Pritchard stated the applicants Kirk and Kevin Brumley ( B & B Investments) is requesting approval of a preliminary re-plat to create two (2) lots. Ms. Pritchard reviewed the staff report in the Agenda Packet. Ms. Pritchard stated the applicants are seeking a variance to the City's Subdivision Ordinance Section 5.70 Building Lines (A) which states that the minimum setback on State Highways shall be fifty (50) feet. Ms. Pritchard stated the original Lot 1 of B & B Subdivision was platted in 2003 with a 25' setback along State Highway 95 and State Highway Loop 150 (also known as Chestnut Street). Ms. Pritchard stated Celso Harper, with TxDOT had no comments on the plat and stated that TxDOT has no plans to widen State Highway Loop 150. Ms. Pritchard stated on January 28, 2010 the Planning and Zoning Commission held a public hearing and unanimously recommended to approve the plat provided City Council approve the variance request.

Discussion was held among Council.

There were no public comments.

**B.4 DISCUSSION AND POSSIBLE ACTION TO APPROVE A PRELIMINARY PLAT FOR THE B & B SUBDIVISION RE-PLAT TO CREATE TWO LOTS WITH A VARIANCE TO THE SUBDIVISION ORDINANCE SECTION 5.70(A) TO ALLOW A SETBACK OF 25' RATHER THAN 50' ALONG STATE HIGHWAY LOOP 150 (ALSO KNOWN AS CHESTNUT STREET), AN AREA ZONED C2-COMMERCIAL.**

Joe Beal moved to approve the Preliminary Plat with the variance. Seconded by Julie Hart and carried unanimously.

## B.5 CITIZEN COMMENTS

There were no citizen comments.

## C. OLD BUSINESS

## D. NEW BUSINESS

### ORDINANCES FOR FIRST READING:

#### D.1 DISCUSSION AND POSSIBLE ACTION ON AN ORDINANCE AMENDING FAIRVIEW CEMETERY ORDINANCE NO. 2009-31 AND PROVIDING AN EFFECTIVE DATE.

Mayor Orr read the caption of the Ordinance.

Mr. Talbot stated when the Council adopted Ordinance No. 2009-31 (Fairview Cemetery) there were to be five members appointed to serve as the Cemetery Advisory Board. During the discussion of appointments to this Board the Council extended an invitation to persons who had previously served on the Cemetery Task Force. Mr. Talbot stated there were six (6) citizens who had served on this Task Force and all accepted the invitation to serve on the Cemetery Advisory Board. Mr. Talbot stated Mayor Orr appointed and it was confirmed by Council that these individuals serve on the Cemetery Advisory Board, therefore an amendment to the original Ordinance is being proposed to change the number of members on the Cemetery Advisory Board from five (5) to six (6).

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

#### D.2 DISCUSSION AND POSSIBLE ACTION REGARDING AUTHORIZING THE CITY MANAGER TO EXECUTE A PROPOSAL FROM BEFCO ENGINEERING TO PERFORM ENGINEERING SERVICES FOR STREET AND UTILITY CONSTRUCTION ON FARM STREET COMMENCING AT THE INTERSECTION OF FARM STREET AND FAYETTE STREET EXTENDING THE IMPROVEMENTS EASTWARDLY APPROXIMATELY ONE THOUSAND AND SEVENTY-SEVEN FEET.

Mr. Talbot stated during the final approval of the Convention Center site plan the Council received comments from residents on Farm Street about: 1) the condition of Farm Street in this area and need for improvements down to Fayette Street; 2) Drainage, sidewalks, lighting, water and wastewater issues. Mr. Talbot stated the Council determined that the proposed improvement would be a benefit to the Convention Center. Mr. Talbot called the Council's attention to the proposal from BEFCO Engineering, Inc. for engineering and surveying work that must be done to make these improvements. Mr. Talbot stated the work was included in the overall budget of

the Convention Center with the exception of the wastewater improvements. Mr. Talbot stated the wastewater improvement will need to be funded out of the water and wastewater fund.

Bill Peterson moved to authorize the City Manager to execute a proposal from BEFCO Engineering to perform engineering services for street and utility construction on Farm Street commencing at the intersection of Farm Street and Fayette Street extending the improvements eastwardly approximately one thousand and seventy-seven feet. Seconded by Julie Hart and carried unanimously.

**D.3. DISCUSSION AND POSSIBLE ACTION REGARDING APPROVAL OF A RESOLUTION OF THE CITY OF BASTROP AS HEREINAFTER REFERRED TO AS “APPLICANT”, DESIGNATING CERTAIN OFFICIALS AS BEING RESPONSIBLE FOR, ACTING FOR, AND ON BEHALF OF THE APPLICANT IN DEALING WITH THE TEXAS WATER DEVELOPMENT BOARD (TWDB) FOR THE PURPOSE OF PARTICIPATING IN THE TEXAS ENVIRONMENTAL INFRASTRUCTURE PROGRAM (TEIP), HEREINAFTER REFERRED TO AS THE “PROGRAM”; CERTIFYING THAT THE APPLICANT IS ELIGIBLE TO PARTICIPATE IN THE PROGRAM; AND CERTIFYING THAT THE APPLICANT’S MATCHING FUNDS ARE READILY AVAILABLE.**

Mr. Talbot stated the City has been notified by the Texas Water Development Board that there is up to 75% grant matching money available through the Texas Water Development Board for “Water System Improvements Projects”. Mr. Talbot stated in consultation with K. Friese and Associates, we agree that the City of Bastrop should apply for grant funding for Phase II of the Bob Bryant Park Water System Improvements. Mr. Talbot stated these improvements include: Ground water storage tank, pumps, water system components and another shallow water well. Mr. Talbot stated staff became aware of this grant funding about a week ago and wanted to get the City application in as soon as possible.

Bill Peterson moved to adopt the Resolution. Seconded by Julie Hart and carried unanimously.

**D.4 DISCUSSION AND POSSIBLE ACTION REGARDING APPROVAL OF REVISING A PORTION OF THE APPROVED CITY OF BASTROP COMPREHENSIVE TRANSPORTATION PLAN AS IT RELATES TO THE ALIGNMENT OF HASLER STREET SOUTHWARDLY FROM THE INTERSECTION OF HASLER & MARIE STREETS.**

Mr. Talbot stated the Council had previously instructed staff to re-evaluate the extension of Haslet Street southwardly to as in the future it could connect to an east/west collector street. Mr. Talbot called the Council’s attention to a handout showing two options that have been developed. Mr. Talbot stated staff is recommending “Option B” because this has the least impact on surrounding property and still allows for the southward connection to east/west collector street.

Discussion was held among Council and Mr. Talbot.

Kay Garcia McAnally moved to approve “Option B”, the revising of a portion of the approved City of Bastrop Comprehensive Transportation Plan as it relates to the alignment of Hasler Street

southwardly from the intersection of Hasler & Marie Street. Seconded by Bill Peterson and carried unanimously.

#### D.5 DISCUSSION AND POSSIBLE ACTION REGARDING APPROVAL OF A PROPOSED PROGRAM ON DEALING WITH GRAFFITI IN THE CITY OF BASTROP.

Mr. Talbot stated Ms. Carolyn Banks had provided the Council with a copy of a proposed program to deal with Graffiti in the City of Bastrop. Mr. Talbot stated Ms. Banks could not be in attendance tonight but asked that the Council review her proposal.

Discussion was held among Council.

No action was taken.

#### D.6 CITY MANAGER INFORMATIONAL UPDATE REPORT.

##### A. ITEMS FOR UPDATE, DISCUSSION AND POSSIBLE ACTION:

1. REVIEW AND DISCUSSION WITH CITY MANAGER REGARDING DEPARTMENTAL REPORTS.
2. UPDATE ON THE CHESTNUT STREET PROJECT.
3. UPDATE ON THE FOOD PANTRY PROJECT.
4. UPDATE ON THE DEVELOPMENT OF THE NEW WELL AT BOB BRYANT PARK.
5. PLANNING & ZONING MEETING OF FEBRUARY 25, 2010 – PUBLIC HEARING ON THE PROPOSED HISTORICAL PRESERVATION ORDINANCE.
6. ANNOUNCEMENT ON FEBRUARY 3, 2010 REGARDING THE CITY OF BASTROP BEING SELECTED AS ONE OF THE TWELVE CITIES IN AMERICA TO BE SELECTED AS “DISTINCTIVE DESTINATION” BY THE NATIONAL TRUST FOR HISTORIC PRESERVATION.
7. PRESENTATION BY CITY MANAGER TO PRESERVE TEXAS.
8. UPDATE ON THE CVS DEVELOPMENT PROJECT.
9. DISCUSSION & DIRECTION TO CITY MANAGER REGARDING THE FARMER’S MARKET.
10. MAIN STREET PLANNING RETREAT – JANUARY 30, 2010.
11. TEXAS PARKS AND WILDLIFE GRANT.
12. UPDATE ON ALLEY B INFRASTRUCTURE IMPROVEMENTS.
13. BASTROP MARKETING CORPORATION REPORT AND REVIEW OF AGREEMENT.
14. FOLLOW UP ON ANY ITEMS DISCUSSED AT FEBRUARY 8, 2010 PLANNING SESSION WITH THE CITY COUNCIL.
15. INVITING INPUT FROM COUNCIL RELATED TO ISSUES FOR POSSIBLE INCLUSION ON FUTURE AGENDAS, RELATED TO ISSUES SUCH AS (BUT NOT LIMITED TO) MUNICIPAL PROJECTS, PERSONNEL, PUBLIC PROPERTY, DEVELOPMENT AND OTHER CITY/PUBLIC BUSINESS.

Mr. Talbot gave an informational update on the listed items.

It was the consensus of Council for the City Manager to gather some dates for the Council to meet with the Planning and Zoning Commission.

## E. EXECUTIVE SESSION

E.1 THE BASTROP CITY COUNCIL WILL MEET IN A CLOSED/EXECUTIVE SESSION PURSUANT TO THE TEXAS GOVERNMENT CODE, CHAPTER 551, SECTION 551.071(1)(A) AND SECTION 551.071(2) (CONSULTATIONS WITH ATTORNEY); SECTION 551.072 (DELIBERATIONS ABOUT REAL PROPERTY) AND SECTION 551.074 (PERSONNEL MATTERS) TO DISCUSS THE FOLLOWING:

1. CONSULTATIONS WITH ATTORNEY: (1) THREATENED AND/OR CONTEMPLATED LITIGATION ; AND (2) MATTERS UPON WHICH THE ATTORNEY HAS A DUTY AND/OR RESPONSIBLIITY TO REPORT TO THE GOVERNMENTAL BODY.
2. DELIBERATIONS ABOUT REAL PROPERTY – ACQUISITION OF PROPERTY FOR PUBLIC PURPOSES; DISPOSITION OF CITY RIGHT-OF-WAY.
3. PERSONNEL MATTERS – CITY MANAGER EVALUATION

At 8:00 p.m., Mayor Orr convened the Bastrop City Council into a closed/executive session pursuant to the Texas Government Code, Chapter 551, Section 551.071(1)(A) and Section 551.071(2) (Consultations with Attorney); Section 551.072 (Deliberations about Real Property); and Section 551.074 (Personnel Matters) to discuss the following:

1. Consultations with Attorney: (1) threatened and/or contemplated litigation; and (2) matters upon which the attorney had a duty and/or responsibility to report to the governmental body.
2. Deliberations about Real Property – Acquisition of property of public Purposes; Disposition of City right-of-way.
3. Personnel Matters – City Manager evaluation.

2 THE BASTROP CITY COUNCIL WILL RECONVENE INTO OPEN SESSION TO DISCUSS, CONSIDER AND/OR TAKE ANY ACTIONS NECESSARY RELATED TO THE EXECUTIVE SESSION NOTED HEREIN, OR REGULAR AGENDA ITEMS, NOTED ABOVE, AND/OR RELATED ITEMS.

At 9:27 p.m., Mayor Orr reconvened the Bastrop City Council into open session to discuss, consider and/or take any action necessary related to the executive session noted herein, or regular agenda items, noted above, and/or related items.

## F. ADJOURNMENT

At 9:27 p.m., Bill Peterson moved to adjourn. Seconded by Joe Beal and carried unanimously.

APPROVED:

ATTEST:

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Terry Orr, Mayor

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Teresa Valdez, City Secretary