

**July 26, 2010**

The Bastrop City Council met in Special Session on Monday, July 26, 2010 at 5:30 p.m. at the Bastrop City Hall Council Chambers, 904 Main Street, Bastrop, Texas. Members present were Mayor Terry Orr and Council Members Bill Peterson, Kay Garcia McAnally, Julie Hart, Joe Beal and Ken Kesselus.

**1. CALL TO ORDER**

At 5:30 p.m., Mayor Terry Orr called the meeting to order with all members present, with the exception of Julie Hart who arrived at 5:45 p.m.

**2. DISCUSSION AND POSSIBLE ACTION ON ISSUES RELATED TO BUILDING MATERIAL SELECTION FOR THE NEW CITY HALL BUILDING.**

Mervin Fatter, Architect for the City Hall project, stated this would be the final round of materials being selected for the new City Hall building. Mr. Fatter called the Council's attention to samples of the materials chosen for the restrooms, shower and mill work areas. Mr. Mervin stated these materials were pretty timeless colors and would withstand the test of time.

Discussion was held among Council and Mr. Fatter.

Kay Garcia McAnally moved to accept the recommendations of the Architect. Seconded by Bill Peterson and motion carried unanimously.

**3. CONSIDERATION, DISCUSSION AND POSSIBLE ACTION WITH RESPECT TO A REPORT FROM THE CHARTER REVIEW COMMITTEE CONCERNING RECOMMENDED AMENDMENTS TO THE FOLLOWING SECTIONS OF THE CITY OF BASTROP CHARTER: 1) ARTICLE III, SECTION 3.02 (a); 2) ARTICLE III, SECTION 3.029(c); 3) ARTICLE III, SECTION 3.08; AND 4) ARTICLE XII, SECTION 12.01, AND A RECOMMENDED ADDITION TO THE CHARTER RELATED TO ONE RESIGN TO RUN PROVISIONS, INCLUDING ELECTION AND IMPLEMENTATION MATTERS.**

Council Member Ken Kesselus stated the Council had already seen the report from the Charter Review Committee concerning the recommended amendments to the Charter. Mr. Kesselus stated the Council had postponed reviewing the report in order to ensure that all Council Members were in attendance at the meeting. Mr. Kesselus stated City Attorney J.C. Brown has worked on language for the ballot propositions and he will be prepared to move on that tomorrow night if the Council so chooses. Mr. Kesselus suggested the Council review each recommendation from the Charter Review Committee and then decide whether they want to move ahead tomorrow night and act on each item.

Mr. Kesselus then lead the Council in a review of the following recommendations:

1. Charter Article III, Section 3.02(a) -the City Council is composed of5 members and the Mayor, for a total of6 members.

**Recommendation from the Charter Review Committee:** By a 5-2 vote, to change from having five (5) members of Council and a Mayor (a total size of6) to having seven (7) members of Council and a Mayor, (a total Council size of 8.)

**Reasons for recommendation:** 1) The City's population has grown dramatically since the Charter was passed; 2) Several other cities the size of Bastrop, or of a size to which Bastrop is growing, have six or more members on the council; 3) Since we are on a 6-8 year cycle for reviewing the Charter, this would be a way to act pro-actively; 4) Adding more members to the Council would give the Council more "brains at the table" and more person to share the load and to do so would allow two additional member from the community to participate in Council decision making; 5) Keeping the number of voting members (all but the mayor) at an odd number reduces the chance of ties; 6) Additional members on the Council would add more diversity; 7) Additional Council Members would help spread around workload of the Council; and 8) Additional members would increase the Council's ability to represent all citizens.

Council Member Julie Hart stated she did not see a lot of public sentiment to increase the number of Council Members. Ms. Hart stated as far as workloads for Council Members was concerned, the Council should look to staff for that.

Council Member Kay Garcia McAnally stated she agreed with Ms. Hart and that she is happy with five (5) Council Members and a Mayor.

Mayor Orr stated the phone calls he has received in regard to this recommendation were not in support of increasing the number of Council Members.

Council Member Bill Peterson stated he also did not support the recommendation to increase the number of Council Members.

Council Member Joe Beal stated he was fine with the number of members currently serving, and this number may need to be increased at some point in time. Mr. Beal stated he did not necessarily agree with the idea of adding more diversity because he thinks that the citizens are represented and if two more members were added he did not think the representation would be any better. Mr. Beal stated he would vote to not accept the recommendation from the Committee and make no change.

Mayor Orr stated it was the consensus of Council to not do anything on the Charter Review Committee's recommendation regarding the change from five (5) members of Council and a Mayor to having seven (7) members of Council and a Mayor.

2. Charter Article III, Section 3.02© -length of City Council Members' terms is two years.

**Recommendation by Charter Review Committee:** By a 7-0 vote, to increase the terms of City Council Members to three (3) years.

**Reasons for recommendations:** 1) The expensive nature of campaigning would be reduced; 2) It would give the Council more depth; 3) It would eliminate the possibility of Council having a 50% turn over due to one election and a 100% turnover in a 12-month period; 4) A three year rotation would insure that roughly 2/3 of the Council would always be experienced members. (The turnover difficulty is exacerbated by the 6-year length of term limit, and the three-year rotation would help.)

City Attorney, J.C. Brown stated there are some legal consequences on this recommendation. Ms. Brown explained that by the Texas Constitution Article XVI, Section 65(b) when elected officials are elected to serve three (3) year terms they are required to "resign to run" before announcing their candidacy. Ms. Brown stated that vacancies on the Council also could no longer be filled by Council and would have to be filled by the voters at a Special Election. Ms. Brown stated elections would also now be by majority and not plurality.

Mr. Kesselus stated it was the intention of the Charter Review Committee that part of their reasoning for three (3) year terms was to have a three-year rotation of Council, where someone is being elected every year and there would not be the problem of having all brand new Council Members. Mr. Kesselus stated if the Council was interested in doing this, the Charter could be amended for 1/3 of Council to run one year, 1/3 of Council to run the next year and the 1/3 of Council to run the following year.

Debbie Moore addressed the Council and stated that was the biggest part of the Committee's discussion. Ms. Moore stated in a two-year term a Council Member spends the first year of the term learning what to do, the second year introducing something and the third year would give that Council Member time to accomplish things.

Ms. Garcia McAnally stated at the public hearing a lot of people thought that two (2) three (3) year terms was right. Ms. Garcia McAnally stated she likes the two (2) three (3) years terms.

Ms. Hart stated she did not see any compelling reason in the public discussion to change this. Ms. Hart stated she is happy with the way it is right now.

Mr. Beal stated he had mixed feelings on this item. Mr. Beal stated where he comes down is that two (2) three (3) year terms is more efficient. Mr. Beal stated he thought a Council Member could be more contributory in a three (3) year. Mr. Beal stated a valid concern stated is "What do you do if a Council Member serves a bad two (2) years?"

Mr. Peterson stated he agree with the two (2) three (3) year terms, because it does take the first year to get your hands wrapped around things.

Mr. Kesselus stated the only person he heard voicing concerns about "reigning in" a Council Member at the public hearing was Charles Schroeder. Mr. Kesselus stated he explained to Mr. Schroeder that the Charter contained a "recall" provision for such cases. Mr. Kesselus stated for him the most important thing in regard to this recommendation was that the Committee and citizens believed there should be a six (6) year term limit. Mr. Kesselus stated in working with other boards, a three (3) year term is good, because there will be veterans providing maturity.

Discussion was held among Council and Ms. Brown.

Ms. Hart asked if anyone else on the Council had any problem with changing from plurality to majority.

Mayor Orr stated he had some concern in regard to the expense of elections.

***Joe Beal left the Council Meeting at 6:15 p.m.***

Mayor Orr asked the Council's feelings on this item.

Ms. Garcia McAnally, Joe Beal, Bill Peterson and Ken Kesselus stated they were in favor of the Council serving three (3) two (2) year terms.

Ms. Hart stated she was unsure at this time.

### **3. Charter Article III, Section 3.02(c) -Length of Mayor's term is two years.**

**Recommendation from Charter Review Committee:** By a 4-3 vote, to increase the term of the Mayor to 3 years.

**Reasons for recommendation:** Same as stated previously.

Mr. Kesselus stated he had asked Cam Chavez to prepare the minority report on this and he has not received the report.

Willie DeLaRosa addressed the Council and stated he agreed with Ms. Hart's comment's submitted at the July 13<sup>th</sup> Council Meeting -he always believed the Mayor and Council were two different titles and if you served six years as a Council Member then the next year you could run for Mayor.

Ms. Brown stated that is not the way the current Charter is written, but it could be written that way.

Mr. DeLaRosa stated he just wanted to present that and see if it generated any comments.

Mr. Kesselus stated the Committee had discussed that the Mayor has certain powers, privileges and maybe the Mayor should be held to be more accountable. Mr. Kesselus stated discussion was held in regard to the Mayor having three (3) year terms like the Council in order to give him time to get something done.

Mr. Kesselus stated in order to make things work, he would like to keep all Council Members including the Mayor with terms of three years. Mr. Kesselus stated as far as anyone can remember the Council and Mayor have always had consistent terms.

Mr. Peterson stated he agree with both the Council Members and the Mayor having three (3) years terms.

Ms. Garcia McAnally stated she agree with the Council Members and the Mayor having three (3) year terms.

Ms. Hart stated she agreed with the direction of Council, but she also agreed with Mr. DeLaRosa that someone stepping in to be Mayor should be someone with experience.

Mr. DeLaRosa asked if Mr. Chavez's minority report could be received by the Council meeting tomorrow night.

City Secretary, Teresa Valdez read a part of the Minutes of the June 28,2010 Charter Review Committee Meeting where Mr. Chavez commented on this item: "Mr. Chavez stated he was in favor of the Mayor having a 2 year term because of the current authority the Mayor has

regarding committee and board appointments and this position can be a little more vital for people and they can go to the poll and change that if they are not happy."

Ken Kesselus moved to ask the City Attorney to prepare the language for this proposition for the Council to decide tomorrow night. Motion seconded by Kay Garcia McAnally.

Ms. Hart stated she preferred not to vote on this item until Mr. Chavez had provided his minority report. Ms. Hart stated she did not understand the 4 -3 vote of the Charter Review Committee on this item.

Mr. Peterson stated he understood that there was confusion in regard to this at the Charter Review Committee.

Motion carried 3 :0. FOR MOTION: Bill Peterson, Ken Kesselus and Kay Garcia McAnally.  
ABSTAIN: Julie Hart

Ms. Hart stated she abstained for lack of information.

**4. Recommendation by Charter Review Committee:** By 7-0 vote, that the Charter be amended to include a requirement that any City Council Member must resign from the office before announcing to run for the office of Mayor.

**Reasons for recommendation:** 1) It is a matter of fairness, because under current Charter provisions the City Council Members who are on the opposite election cycle from the Mayor (holders of Places 1, 3 and 5) can run for Mayor and if they lose, retain their seats. But those who are on the same election cycle with Mayor (holders of Place 2 and 4) cannot run for Council and Mayor seats simultaneously, resulting in the fact that holders of Place 2 and 4 may not run for Mayor without giving up their seats; 2) To fix this inequity requires finding a way for every sitting Council Member to run against the Mayor without losing her/his seats in case she/he should lose the Mayor's race OR for no one to be able to run against the Mayor in such a way. The latter seems too difficult, so the former is the better option; and 3) Bastrop would be better served if any aspirant citizen would be required to choose to seek to be a City Council Member or a Mayor, without overlap.

Ms. Brown stated this can be handled in a number of different ways. Ms. Brown stated a trigger, such as "at time of filing" or "60 days before filing", could be put into the Charter in regard to this item.

Discussion was held among Council and Ms. Brown.

Ms. Hart suggested the Council let Ms. Brown develop some ballot language on this and then the Council discuss further.

5. Charter Article III, Section 3.08 -Which stated that a "Mayor shall be recognized as the chief executive officer of the City."

**Recommendation from Charter Review Committee:** By 7-0 vote, that "chief executive officer" be deleted and other language, such as "Presiding Officer" be added instead.

**Reasons for recommendation:** 1) This language is potentially confusing in our form of City government because it might mistakenly imply that duties clearly given to the City manager in other portions of the Charter are under the authority of the Mayor; 2) The City Attorney notes that while by State Law the Mayor is the chief executive officer for declaring emergencies, for more general usage she did not find among the 50 other city charters she pulled at random and examined any that used this language, which she concluded leaves our Charter with an extremely unusual provision; and 3) Our form of government clearly places the City Manager in charge of City operations, as opposed to the Mayor, and use of "chief executive officer" would be more consistent with the duties of the Manager as the Manager's job description parallels those of similar executives in modern organizations.

Discussion was held among Council and Ms. Brown.

Kay Garcia McAnally move to accept the recommendation for the Charter Review Committee and change the language to "Chief Presiding Officer", Seconded by Ken Kesselus and carried unanimously.

6. Charter Article XII, Section 12.01 -Which uses the word "chairman" when referring to the person who heads the Planning and Zoning Commission.

**Recommendation from Charter Review Committee:** By a 7-0 vote, that the word "chairman" be changed to "chair".

**Reason for recommendation:** Self evident.

Ken Kesselus moved to proceed with that change. Seconded by Bill Peterson and carried unanimously.

Mr. Kesselus thanked everyone for their patience and thanked the Committee and Staff for all the hard work.

Mayor Orr thanked everyone for their work on the Charter review.

4. WORKSHOP SESSION THE BASTROP CITY COUNCIL WILL ADJOURN SPECIAL SESSION AND CONVENE INTO A WORKSHOP SESSION TO DISCUSS:

- A. DISCUSSION OF COUNCIL MEMBERS PRIORITY LISTS.
- B. DISCUSSION, EVALUATION AND POSSIBLE ACTION RELATED TO THE COUNCIL'S "SHORT-TERM GOALS AND/OR PLANNING", (I.E. GOALS AND PLANNING THAT MAY BE IMPLEMENTED BY THE CITY WITHIN THE NEAR FUTURE INCLUDING [BUT NOT LIMITED TO]: 1) GROWTH IN THE CITY'S JURISDICTION, INCLUDING MA TIERS RELATED TO TRANSPORTATION, DEVELOPMENT AND ANNEXATION; 2) COUNCIL'S SHORT-TERM VISION, FOR THE CITY OF BASTROP AND ITS EXTRATERRITORIAL JURISDICTION; 3) CITY ORGANIZATION, ADMINISTRATION AND STAFFING; 4) CITY OPERATIONS, SERVICES, UTILITIES, FACILITIES AND PROPERTY IN THE CITY'S JURISDICTION; 5) ECONOMIC DEVELOPMENT IN THE CITY'S JURISDICTION; 6) CAPITAL IMPROVEMENTS IN THE CITY'S JURISDICITON; AND 7) CURRENT AND FUTURE WATER NEEDS IN THE CITY'S JURISDICTION.

At 6:57 p.m., Mayor Orr convened the Bastrop City Council into workshop session to discuss the following:

A. Discussion of Council Members priority lists.

City Manager, Mike Talbot stated he has taken the responses received from Council Members. Mr. Talbot stated some of the Council Members had utilized the forms he had provided and asked them to use and others had submitted lists or written answers. Mr. Talbot distributed the Draft of the Preliminary Summary of City Council Ranking -City of Bastrop Project Priority List. Mr. Talbot reviewed the Summary. Mr. Talbot stated once the Council has finished this process he is going to do a spreadsheet showing the priorities for the next five (5) years.

Discussion was held among Council in regard to the Summary.

Mayor Orr stated that whichever Council Members who did not turn in their Priority Ranking List to Mr. Talbot to please do so by this Friday.

Mr. Talbot reminded everyone that on the Ranking List #5 was a "high" ranking and #1 was "low" ranking.

- B. Discussion, evaluation and possible action related to the Council's "short-term goals and/or planning that may be implemented by the City within the near future including [but not limited to]: 1) Growth in the City's jurisdiction, including matters related to transportation, development and annexation; 2) Council's short-term vision, for the City of Bastrop and its extraterritorial jurisdiction; 3) City organization, administration and staffing; 4) City operations, services, utilities, facilities and property in the City's jurisdiction; 5) Economic development in the City's jurisdiction; 6) Capital Improvements in the City's jurisdiction; and 7) Current and future water needs in the City's jurisdiction.

Ms. Garcia McAnally stated that at some point the Council is going to have to discuss annexation.

5. THE BASTROP CITY COUNCIL WILL ADJOURN WORKSHOP SESSION AND RECONVENE INTO SPECIAL SESSION TO TAKE ANY NECESSARY ACTION(S).

At 7:26 p.m., Mayor Orr reconvened the Bastrop City Council into Special Session.

No action was taken.

6. ADJOURN

At 7:27 p.m., Bill Peterson moved to adjourn. Seconded by Kay Garcia McAnally and carried unanimously.

APPROVED:

ATTEST:

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Terry Orr, Mayor

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Teresa Valdez, City Secretary