

City of Bastrop, Texas

RESOLUTION NO. R-2017-14

**A RESOLUTION OF THE CITY COUNCIL AUTHORIZING REIMBURSEMENT OF LEGAL FEES TO CITY COUNCIL MEMBER DEBORAH JONES INCURRED IN HER DEFENSE OF ETHICS COMPLAINT NO. 2016-2.**

**WHEREAS**, under Division Five of the Code of Ordinances of the City of Bastrop, an Ethics Commission was created to enforce the City of Bastrop's Code of Ethics; and

**WHEREAS**, any person at any time may file an ethics complaint, regardless of merit, against the Mayor or any member of the City Council or other City official; and

**WHEREAS**, the Ethics Commission must consider all complaints filed with it so long as the complaint meets the minimal standards set forth in the Code of Ordinances of the City of Bastrop Sec. 1.15.131(a); and

**WHEREAS**, Council Member Kay McAnally filed an ethics complaint with the City of Bastrop Ethics Commission against Council Member Deborah Jones, which complaint was assigned case number 2016-2 by the Commission; and

**WHEREAS**, the alleged acts and omissions which formed the basis of the complaint were alleged to have occurred while Council Member Deborah Jones was acting within the scope of her official duties as a member of the City Council; and

**WHEREAS**, Article III, Sec. 3.10 of the Bastrop City Charter imposes on the City Attorney the duty to be the legal advisor to and attorney for all officers of the City acting in their official capacities; and

**WHEREAS**, because of the duties imposed on him by the City Charter, the interim City Attorney would have had a conflict of interest if he represented either Council Member McAnally or Council Member Jones in the ethics proceeding; and

**WHEREAS**, because of the interim City Attorney's conflict, in order to defend herself against the complaints and mitigate the damage done by them to her

reputation it was necessary for Council Member Deborah Jones to retain a private attorney at considerable expense to herself; and

**WHEREAS**, after an extended proceeding, due in part to the scheduling conflicts experienced by members of the Ethics Commission, the Commission ruled that the conduct alleged in the complaint was not illegal conduct and that there was no violation of the Ethics Ordinance by Council Member Jones; and

**WHEREAS**, the Mayor and City Council find that Council Member Deborah Jones was acting in good faith at all times relevant to the ethics complaint; and

**WHEREAS**, Council Member McAnally could have refrained from filing the complaint or could have dismissed it at any time but chose to proceed with it to its conclusion before the Ethics Commission, thereby requiring Council Member Jones to incur the continued expense of legal representation; and

**WHEREAS**, the City Council finds that a very significant public interest is served by this resolution because without it, individuals who may desire to run for Mayor or the City Council or accept an appointment to any of the City's Boards and Commissions will be reluctant to consider such service because of the risk of having to pay thousands of dollars to defend against ethics charges that have no merit; and

**WHEREAS**, under Article III, Section 3.07 of the Bastrop City Charter, "Council Members may receive reimbursement for necessary expenses incurred in the performance of their duties of office,..."; and

**WHEREAS**, the Attorney General of Texas has ruled repeatedly that the legal expenses of city officials and council members may be reimbursed under the common law when there is no violation found against the city official or council member; and

**WHEREAS**, the City Council finds that Council Member Jones has incurred legal fees defending against the ethics complaint in the amount of \$3,576.42 and that these fees are reasonable; and

**WHEREAS**, the City Council finds that the legal expenses incurred by Council Member Deborah Jones were necessary expenses incurred in the performance of her duties of office;

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

1. The City Manager is authorized to cause a reimbursement check to be issued, payable to Council Member Deborah Jones in the amount of \$3,576.42 for her necessary legal fees in defending against Ethics Complaint No. 2016-2.
2. The provisions of this Resolution are intended to be and are severable which means that if any part or provision is found to be illegal or improper, all other parts and provisions will remain in full force and effect.

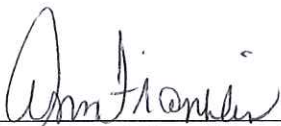
PASSED AND APPROVED this 28<sup>th</sup> day of March, 2017.



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Kenneth Kesselus, Mayor  
City of Bastrop, Texas

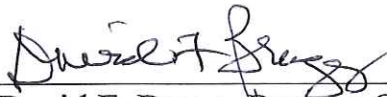
ATTEST:



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Ann Franklin, City Secretary  
City of Bastrop, Texas

APPROVED AS TO FORM:



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David F. Bragg, Bastrop City Attorney