

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



January 14, 2025
Regular City Council Meeting at 5:30 PM

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.

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.

PLEASE NOTE: ANYONE IN ATTENDANCE WISHING TO ADDRESS THE COUNCIL MUST COMPLETE A CITIZEN COMMENT FORM AND GIVE THE COMPLETED FORM TO THE CITY SECRETARY PRIOR TO THE START OF THE CITY COUNCIL MEETING. ALTERNATELY, IF YOU ARE UNABLE TO ATTEND THE COUNCIL MEETING, YOU MAY COMPLETE A CITIZEN COMMENT FORM WITH YOUR COMMENTS AT CITYOFBASTROP.ORG/CITIZENCOMMENT AT LEAST TWO HOURS BEFORE THE MEETING STARTS ON THE REQUESTED DATE. COMMENTS SUBMITTED BY THIS TIME WILL BE GIVEN TO THE CITY COUNCIL DURING THE MEETING AND INCLUDED IN THE PUBLIC RECORD, BUT NOT READ ALOUD. COMMENTS FROM EACH INDIVIDUAL IN ATTENDANCE WILL BE LIMITED TO THREE (3) MINUTES.

1. CALL TO ORDER

- 2. PLEDGE OF ALLEGIANCE** - Claire Culpepper and Jacob Bueno, Cedar Creek Middle School Student Council (StuCo)

TEXAS PLEDGE OF ALLEGIANCE - *Honor the Texas Flag; I pledge allegiance to thee, Texas, one state under God, one and indivisible.*

- 3. INVOCATION** - Lauren Hansell, Police Chaplain

4. EXECUTIVE SESSION

- 4A.** City Council shall convene into closed executive session pursuant to Texas Government Code Section 551.071 and Section 551.072 to seek the advice of legal counsel regarding real estate matters for Mayfest Park and adjacent property along Loop 150 East.

- 4B. City Council shall convene into closed executive session pursuant to Texas Government Code Section 551.071 and Section 551.087 to seek the advice of legal counsel regarding a 380 Agreement with Chestnut Commercial located at 1712 Chestnut Street, Bastrop, Texas.
- 4C. City Council shall convene into a closed executive session pursuant to Texas Government Code Section 551.071 and Section 551.072 to seek the advice of legal counsel and to deliberate regarding the proposed real estate acquisition of an easement located in the future Agnes Street location.
- 4D. City Council shall convene into a closed executive session pursuant to Texas Government Code Section 551.071 to seek consultation with legal counsel regarding the City of Bastrop Charter Amendments.

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

6. PRESENTATIONS

- [6A.](#) Mayor's Report
- [6B.](#) Council Members' Report
- [6C.](#) Proclamation - Recognizing January 20, 2025 as Dr. Martin Luther King, Jr. Day.
Submitted by: Victoria Psencik, Assistant City Secretary

7. WORK SESSIONS/BRIEFINGS

- 7A. Discussion regarding the process for engaging legal counsel from the Interim City Attorney, Denton Navarro Rodriguez Bernal Santee & Zech, P.C. (DNRBSZ).
Submitted by: Sylvia Carrillo-Trevino, ICMA-CM, CPM, City Manager

8. STAFF AND BOARD REPORTS

- [8A.](#) City Manager's Report

- 1. Update on Projects
 - a. Water Wells - Date online - February
 - b. Bridge - Texas Historic Designation and Notice to Proceed
 - c. Agnes Street - Ribbon cutting dates
 - d. Council Policy on Council travel - Ongoing/Draft
 - e. Short Term Rental public input meeting - January 22, 2025
 - f. B3 updates to date - Future updates
 - g. Year in Review - January 28, 2025

h. Governor's Small Business Summit - Bastrop selected

i. Refuse and recycling collection and locations in Downtown Bastrop - Container types, education etc

2. Update on adding two additional public meetings to the contract scope of work for the Halff and Associates update to the Comprehensive Plan.

3. Update on the unveiling of the Historical Marker for Leah Moncure, P.E. - Texas's First Woman Professional Engineer.

4. Governor's Small Business Summit - BEDC Application (Dori Kelley) - Presented in collaboration with the Chamber of Commerce.

8B. Updates on the Bastrop County Master Gardener's Community Garden Memorandum of Understanding and proposed plans.

Submitted by: Terry Moore, Parks & Recreation Director

8C. Receive a presentation on the unaudited Financial Statement as of September 30, 2024.

Submitted by: Edi McIlwain, Chief Financial Officer

9. **CITIZEN COMMENTS**

At this time, three (3) minute comments will be taken from the audience on any topic. Anyone in attendance wishing to address the Council must complete a citizen comment form and give the completed form to the City Secretary prior to the start of the City Council meeting. Alternately, if you are unable to attend the council meeting, you may complete a citizen comment form with your comments at www.cityofbastrop.org/citizencommentform at least two hours before the meeting starts on the requested date. Comments submitted by this time will be given to the City Council during the meeting and included in the public record, but not read aloud. 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 Manager for research and possible future action.

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.

10. **CONSENT AGENDA**

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

10A. Consider and act to approve the following Bastrop City Council meeting minutes:

1. Tuesday, December 10, 2024, Regular Meeting; and

2. Tuesday, December 17, 2024, Special Meeting.

Submitted by: Victoria Psencik, Assistant City Secretary

[10B.](#) Consider and act on the second reading of Ordinance No. 2024-45, Amending Chapter 13, Article 13.02, Section 13.02.012 – Providing for Line Extension Agreements for the extension of certain water and/or wastewater lines; and providing for a findings of fact, repealer; severability, codification, effective date, proper notice and meeting.

Submitted by: Vivianna Nicole Andres, Assistant to the City Manager

[10C.](#) Consider and act on the second reading of Ordinance No. 2024-46, of the City of Bastrop, Texas amending the Code of Ordinances, related to Chapter 14, The Bastrop Building Block (B3) Code, Article 6.3 General Lot Standards, Section 6.3.005 ALLEYS & DRIVEWAY LOCATIONS (a), (b) and (c) as attached in Exhibit A; and providing for findings of fact, repealer, severability, codification, effective date, proper notice, and meeting.

Submitted by: Kennedy Higgins, Senior Planner

[10D.](#) Consider and act on the second reading of Ordinance No. 2024-47, Amending the Code of Ordinances, related to Chapter 14, The Bastrop Building Block (B3) Code, Article 6.3 General Lot Standards, Section 6.3.006 PARKING (b)(4)(5)(7) and (9) as attached in Exhibit A; and providing for findings of fact, repealer, severability, codification, effective date, proper notice, and meeting.

Submitted by: Kennedy Higgins, Senior Planner

[10E.](#) Consider and act on the second reading of Ordinance No. 2024-48, Amending the Code of Ordinances, related to Chapter 14, The Bastrop Building Block (B3) Technical Manual, Article 2.1 General Standards And Requirements, section 2.1.006 Parking Areas (a)(1) as attached in Exhibit A; and providing for findings of fact, repealer, severability, codification, effective date, proper notice, and meeting.

Submitted by: Kennedy Higgins, Senior Planner

[10F.](#) Consider and act on the second reading of Ordinance No. 2024-49, Amending the Code of Ordinances, related to Chapter 14, The Bastrop Building Block (B3) Code, Article 6.3 General Lot Standards, Section 6.3.003 Building Placement (a)(3)(A) as attached in Exhibit A; and providing for findings of fact, repealer, severability, codification, effective date, proper notice, and meeting.

Submitted by: Kennedy Higgins, Senior Planner

[10G.](#) Consider and act on the second reading of Ordinance No. 2024-50, Amending the Code of Ordinances, related to Chapter 14, The Bastrop Building Block (B3) Code, Article 6.3 General Lot Standards, Section 6.3.006 PARKING (a) and (b)(1)(2) as attached in Exhibit A; and providing for findings of fact, repealer, severability, codification, effective date, proper notice, and meeting.

Submitted by: Kennedy Higgins, Senior Planner

[10H.](#) Consider and act on the second reading of Ordinance No. 2024-52, Amending the Code of Ordinances Chapter 1 “General Provisions”, Article 1.03 “Mayor & City Council”, Division 2 “Mayor”, Section. 1.03.032 – “Compensation” and Section. 1.03.033 “Expense Account”; Division 3 “City Council”, Section 1.03.061 “Composition; Meetings”, Section 1.03.062 “Compensation of Councilmembers” to Comply with the City of Bastrop Home Rule Charter; Providing for Findings of Fact, Adoption, Enforcement, Repealer, and Severability; Establishes an Effective Date; And Ensures Proper Notice and Meeting.

Submitted by: Irma G. Parker, City Secretary, TRMC, CMC

[10I.](#) Consider and act on Resolution No. R-2025-07, Canvassing Returns and Declaring the Results of the Adoption or Rejection of Proposed Amendments to the Existing Home Rule Charter at the Special Election Held on Tuesday, November 5, 2024; Providing a Severability Clause; And Providing an Effective Date.

Submitted by: Irma G. Parker, City Secretary, TRMC, CMC

[10J.](#) Consider and act on Resolution No. R-2025-04, regarding an Interlocal Agreement with Bastrop County for the Bastrop County Household Hazardous Waste Facility operation and maintenance obligations between the City of Bastrop and Bastrop County, as attached in Exhibit A; authorizing the City Manager to execute all necessary documents; and providing for findings of fact; repealer; severability; effective date; proper notice and meeting.

Submitted by: Vivianna Nicole Andres, Assistant to the City Manager

[10K.](#) Consider and act on Resolution No. R-2025-01, regarding the amended and restated Tri-party Agreement for Future Connections in the Colony Project to Off-Site Roadways, as attached in Exhibit A; authorizing the City Manager to execute all necessary documents; and providing for findings of fact; repealer; severability; effective date; proper notice and meeting.

Submitted by: Vivianna Nicole Andres, Assistant to the City Manager

[10L.](#) Consider and act on Resolution No. R-2025-03, approving a request to refund a Replat Application Fee in the amount of One Thousand, Nine Hundred Eighty-Six Dollars and Twenty-Nine Cents (\$1,986.29), and to refund the Board / Commission Appeal Application Fee in the amount of Three Thousand, Six Hundred Eighty-One and 00/100 Dollars (\$3,681.00) for the property located at 112 Post Oak Rim, Bastrop, Texas, within the city limits of Bastrop, as attached in Exhibit A; authorizing the City Manager to execute all necessary documents; and providing for findings of fact; repealer; severability; effective date; proper notice and meeting.

Submitted by: Vivianna Nicole Andres, Assistant to the City Manager

[10M.](#) Consider and act on Resolution No. R-2025-02, approving an Interlocal Agreement for road improvements with Bastrop County Water Control and Improvement District No. 2 (BCWCID 2); as attached in Exhibit A; authorizing the execution of all necessary documents; providing for repeal; and providing for an effective date.

Submitted by: Andres Rosales, Assistant City Manager

[10N.](#) Consider and act on Resolution No. R-2025-09, Ordering a General Election to be Held on Saturday, May 3, 2025 for Council Member Place 1 and Place 5 according to the

Bastrop Home Rule Charter; Designating Polling Places Within the City; Establishing Other Procedures for the Conduct of the General Election and Runoff Election, If Necessary, Including Providing that the Election is to be Held as a Joint Election in Conjunction with Bastrop County; Providing a Severability Clause; And Providing an Effective Date.

Submitted by: Irma G. Parker, City Secretary, TRMC, CMC

- [10O.](#) Consider and act on Resolution No. R-2025-11, Approving the Contract with the Bastrop County Election Administrator to Participate in a Joint Election for the May General Election Called And Ordered For Saturday, May 3, 2025; Authorize the City Manager to sign said Contract Agreement; Providing For A Repealing Clause, Severability, and Effective Date.

Submitted by: Irma G. Parker, City Secretary, TRMC, CMC

- [10P.](#) Consider and act to approve Resolution No. R-2025-12, A Resolution Updating Resolution No. R-2024-180, Accepting Donations for the Texas Municipal League (TML) Region 10 Quarterly Meeting, Hosted by the City of Bastrop; Ratifying a New Grand Total in the Amount of Two Thousand Four Hundred Forty And 00/100 Dollars (\$2,440.00); Authorizing Staff To Provide All Donors With An Official Donation Receipt Acceptable to the International Revenue Service to Claim a Charitable Donation; Providing for a Repealing Clause; And Establishing an Effective Date.

Submitted by: Andres Rosales, Assistant City Manager

11. ITEMS FOR INDIVIDUAL CONSIDERATION

- [11A.](#) Conduct a public hearing, consider, and act on the first reading of Ordinance No. 2025-04 of the City Council of the City of Bastrop, Texas amending the Code of Ordinances, related to Chapter 14, The Bastrop Building Block (B3) Code, Article 6.5 Building Types, Section 6.5.003 BUILDING STANDARDS PER PLACE TYPE A – LOT OCCUPATION (table) and Section 6.3.008 LOT OCCUPATION (a) and (b) as attached in Exhibit A; and providing for findings of fact, repealer, severability, codification, effective date, proper notice, and meeting and move to include on the January 28, 2025 Consent Agenda for the second reading.

Submitted by: Kennedy Higgins, Senior Planner, Development Services

- [11B.](#) Conduct a public hearing, consider, and act on the first reading of Ordinance No. 2025-03 of the City Council of the City of Bastrop, Texas amending the Code of Ordinances, related to Chapter 14, The Bastrop Building Block (B3) Code, Article 6.3 General Lot Standards, Section 6.3.007 CROSS ACCESS CONNECTIONS (a) as attached in Exhibit A; and providing for findings of fact, repealer, severability, codification, effective date, proper notice, and meeting and move to include on the January 28, 2025 Consent Agenda for the second reading.

Submitted by: Kennedy Higgins, Senior Planner, Development Services

- [11C.](#) Conduct a public hearing, consider, and act on the first reading of Ordinance No. 2025-02 of the City Council of the City of Bastrop, Texas amending the Code of Ordinances, related to Chapter 14, The Bastrop Building Block (B3) Code, Article 6.5 Building Types, Section 6.5.003 BUILDING STANDARDS PER PLACE TYPE A. Lot Occupation as attached in

Exhibit A; and providing for findings of fact, repealer, severability, codification, effective date, proper notice, and meeting and move to include on the January 28, 2025 Consent Agenda for the second reading.

Submitted by: Kennedy Higgins, Senior Planner, Development Services

- [11D.](#) Consider and act on Resolution No. R-2025-06, regarding a Visit Bastrop Destination Marketing Services Agreement between the City of Bastrop and Visit Bastrop, as attached in Exhibit A; authorizing the City Manager to execute all necessary documents; and providing for findings of fact; repealer; severability; effective date; proper notice and meeting.

Submitted by: Sylvia Carrillo-Trevino, ICMA-CM, CPM, City Manager

- 11E. Discussion and possible action on applications received for the Bastrop County Advisory Board of Health.

Submitted by: Sylvia Carrillo-Trevino, ICMA-CM, CPM, City Manager

- [11F.](#) Consider and act to approve the first reading of Ordinance No. 2025-01 of the City Council of the City of Bastrop, Texas amending the Code of Ordinances, related to Chapter 12 Titled "Traffic and Vehicles," Article 12.05 Titled "Speed Limits," amending section 12.05.006 titled "SH 21 Frontage Road speed limits." zoning for traffic and rate of speed therein, on SH 21 Frontage Road in the city limits of the City of Bastrop; defining speeding and fixing a penalty therefore; declaring what may be a sufficient complaint in prosecutions hereunder; repealing all prior ordinances that are in conflict herewith; and providing for findings of fact, enactment, codification, effective date, repealer severability, proper notice and meeting as shown in Exhibit A, and move to include on the January 28th Consent Agenda for second reading.

Submitted by: Kennedy Higgins, Senior Planner, Development Services

- [11G.](#) **POSTPONED 12/10/2024:** Conduct a public hearing, consider and act on the first reading of Ordinance No. 2024-44, of the City of Bastrop, Texas, approving the zoning change for 10.56 +/- acres out of Nancy Blakey Survey Abstract 98, located west of FM 969, within the City of Bastrop from P2 Rural to P5 Core as shown in Attachment 2; providing for findings of fact; providing for repealer; providing for severability; providing for enforcement; providing for proper notice and meeting; and establishing an effective date; and move to include on January 28, 2024, Consent Agenda for second reading.

Submitted by: Kennedy Higgins, Senior Planner

- [11H.](#) Consider and act to approve the first reading of Ordinance No. 2025-05, amending the budget for the Fiscal Year 2025 in accordance with existing statutory requirements; appropriating the various amounts herein as attached in Exhibit A; repealing all prior ordinances and actions in conflict herewith; and move to include on the consent agenda of the January 28, 2025, City Council agenda for a second reading.

Submitted by: Edi McIlwain, Chief Financial Officer

- [11I.](#) Consider and act on the following speaking requests for Mayor Lyle Nelson:

1. January 20, 2025 - Bastrop County Martin Luther King Jr., Walk and Program

2. January 21, 2025 - Bastrop ISD School Board meeting to read a proclamation recognizing the school board members

11J. Consider and act on Resolution No. R-2025-08, Appointing Karen Kincaid Brady, Executive Director of the Bastrop Museum and Visitor's Center to Place 7 of the Cultural Arts Commission for a Three-Year Term beginning January 2025 and Ending in September 2028; Receiving Confirmation by the City Council of the Appointment; And Providing for an Effective Date.

Submitted by: Mayor Lyle Nelson

11K. Consider and act on Resolution No. R-2025-05, approving a Public Improvement Plan Agreement with PRC 01 Bastrop LLC for Sendero, as attached in Exhibit A; authorizing the City Manager to execute all necessary documents; and providing for findings of fact; repealer; severability; effective date; proper notice and meeting.

Submitted by: Kennedy Higgins, Senior Planner, Development Services Department

11L. Consider and act on Resolution No. R-2025-10 in Support of Employee Kennedy Higgins Omitted from Resolution R-2024-179 Adopted on December 10, 2024 and Named in the Lee Dossier as Submitted by Council Member Cheryl Lee; Directing this Document with a Certified Copy is Delivered to Employee; Directing that this document be provided to the Human Resources Director for inclusion in this Employee's Personnel File; Providing for a Repealing Clause; And Establishing an Effective Date.

Submitted by: Irma G. Parker, City Secretary, TRMC, CMC

11M. Consider and act on Resolution No. R-2025-13, Ordering a Special Election to be held on Saturday, May 3, 2025 for the Recall of Mayor Lyle Nelson according to the Bastrop Home Rule Charter; Designating Polling Places within the City; Establishing other Procedures for the Conduct of the Special Election, Including Providing that the Election is to be held as a Joint Election in Conjunction with Bastrop County; Providing a Severability Clause; and Providing an Effective Date.

Submitted by: Irma G. Parker, City Secretary, TRMC, CMC

12. ADJOURNMENT

All items on the agenda are eligible for discussion and action unless specifically stated otherwise.

The Bastrop City Council reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by Texas Government Code Sections 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices), and 551.087 (Economic Development), and §551.086 (Competitive Matters regarding Electric Utility).

******** Notice is hereby given of the possibility of a quorum of any of the City of Bastrop Boards and Commissions at this City Council Meeting.***

NO Board/Commission action will be taken; NO deliberations will be held; and NO Board/Commission business will be conducted.

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 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: Thursday, January 9, 2025 at 5:30 p.m. and remained posted for at least two hours after said meeting was convened.

/s/Victoria Psencik
Victoria Psencik, Assistant City Secretary



STAFF REPORT

MEETING DATE: January 14, 2025

TITLE:

Mayor's Report

AGENDA ITEM SUBMITTED BY:

Sylvia Carrillo-Trevino, ICMA-CM, CPM, 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: January 14, 2025

TITLE:

Council Members' Report

AGENDA ITEM SUBMITTED BY:

Sylvia Carrillo-Trevino, ICMA-CM, CPM, 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;
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- (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: January 14, 2025

TITLE:

Proclamation - Recognizing January 20, 2025 as Dr. Martin Luther King, Jr. Day.

AGENDA ITEM SUBMITTED BY:

Victoria Psencik, Assistant City Secretary

BACKGROUND/HISTORY:

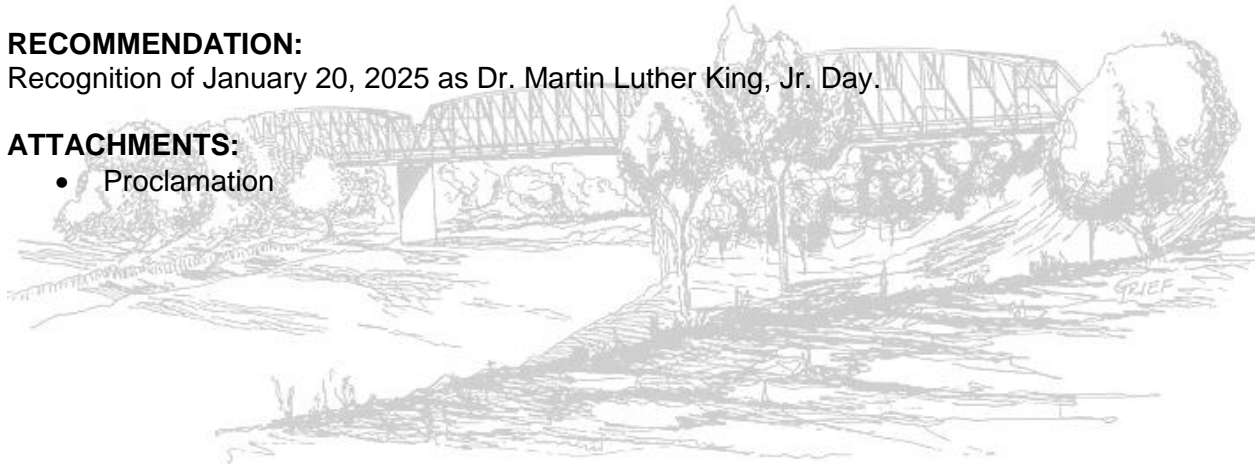
N/A

RECOMMENDATION:

Recognition of January 20, 2025 as Dr. Martin Luther King, Jr. Day.

ATTACHMENTS:

- Proclamation



Proclamation



WHEREAS, Dr. Martin Luther King, Jr. challenged our Nation to recognize that our liberty relies upon our common equality; and

WHEREAS, at a time when our Nation was sharply divided, Dr. King called on a generation of Americans to be “voices of reason, sanity, and understanding amid the voices of violence, hatred, and emotion”; and

WHEREAS, Dr. King devoted his life to the struggle for justice and equality, sowing seeds of hope for a day when all people might claim “the riches of freedom and the security of justice”; and

WHEREAS, on the Martin Luther King, Jr. Federal Holiday, we commemorate the 39th Anniversary of the holiday recognizing one of America’s greatest visionary leaders, and we celebrate the life and legacy of Dr. King; and

WHEREAS, Dr. King’s “I Have A Dream Speech” turns 62 in 2025, and reminds us to recognize that in these challenging times, too many Americans face limited opportunities, but our capacity to support each other remains limitless; and

WHEREAS, we must face the challenges with the same strength, persistence, and determination exhibited by Dr. King; and

WHEREAS, the American people are called to engage in public service and promote nonviolent social change so that our united, enduring efforts can achieve Dr. King’s unfinished movement toward equality; and

WHEREAS, all citizens are urged to join in on the 36th Annual Bastrop County Holiday Commission Walk on January 20, 2025, at 10:00 a.m. beginning at Paul Quinn African Methodist Episcopal Church located at 1108 Walnut Street, Bastrop, Texas for universal peace, justice, human rights, and social and economic progress for all people where the walk’s theme continues to be, “**Remember! Celebrate! Act! A Day On...Not a Day Off!**” and

NOW, THEREFORE, I, Sylvia Carrillo-Trevino, City Manager of the City of Bastrop, Texas, do hereby proclaim January 20th, 2025 as:

DR. MARTIN LUTHER KING, JR. 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 14th day of January 2025.

CITY OF BASTROP, TEXAS

Sylvia Carrillo-Trevino, City Manager

ATTEST:

Victoria Psencik, Assistant City Secretary



STAFF REPORT

MEETING DATE: January 14, 2025

TITLE:

City Manager's Report

AGENDA ITEM SUBMITTED BY:

Sylvia Carrillo-Trevino, ICMA-CM, CPM, 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.

ADDITIONAL SERVICES CONFIRMATION

TO: Syliva Carrillo Ray
City of Bastrop
1311 Chestnut Street
Bastrop, Texas 78602

DATE: Dec. 4, 2024

AVO: 45161

FROM: Halff Associates, Inc.
Ylda Capriccioso
Email: ycapriccioso@halff.com

PROJECT: Comprehensive Plan Update (Chapter 2 and 5)
VIA: Email

Thank you again for the opportunity to work with the City of Bastrop. Per comments at the City Council Workshop and conversations with city staff, we understand that you would like Halff Associates to add two additional public meetings to support this planning project. The inclusion of two additional public meetings will incur an amount not to exceed cost of \$16,325. This amount accounts for project administration (Phase 1) and the preparation, travel, supplies, and meeting summaries (Phase 7). The estimated cost for the one public meeting is \$4,915. However, with the addition of two meetings, associated project administration and management, prep/post time, and meeting attendance the total estimated hours increase from 34 hours to 94 hours.

One adjustment needed for consideration is that one project staff member will be on maternity leave, necessitating the involvement of additional staff to ensure coverage for meeting attendance and summary preparation. Efforts will be made to efficiently prepare and summarize all three meetings together. **The breakdown includes additional labor cost of \$15,800 with an estimated \$300 for additional meeting supplies and \$225 for travel, with a final cost not to exceed \$16,325.** This work will be included in Phase 3 Community Engagement but has been added to the scope of work as Phase 7 (page 11) and in Attachment E. We do anticipate an additional 30 days to be added to the calendar to accommodate this activity, this has been noted on the schedule in Attachment D.

If you have any questions or need further details, please feel free to contact me at ycapriccioso@halff.com. I'm happy to discuss any adjustments or provide additional clarification as needed.

We kindly request your signature below to confirm the scope and fee; however, as requested verbally, we are proceeding with the work as described above. If the scope and/or fee is not acceptable, please notify us immediately. If we do not receive notification of a change within one (1) working day we will conclude that the scope and fee outlined above is acceptable and we will bill you accordingly when the work is completed.

By: Syliva Carrillo
(Print name)
Title: City Manager

Signature: _____

Date: _____

Attachments:

SIGNED:

COPIES:

File Owner Contractor Other:

REVISED 12.05.2024

ATTACHMENT A
BASIC SCOPE OF SERVICES
PLANNING SERVICES FOR
Bastrop 5-Year Land Use Update
PROJECT DESCRIPTION

Halff shall provide planning services to the City of Bastrop (“City”) that result in Bastrop 5-Year Land Use Update (the “Project”). The primary purpose of this planning effort is to prepare an update to the City of Bastrop’s Comprehensive Plan, with a focus on growth and land use, Chapters 2 and 5, respectively. By engaging the citizens of Bastrop, we seek to evaluate and confirm the trajectory of growth and development. This planning process and the resulting policies will be critical to the City’s ability to continue to promote intentional and positive growth in the future. This involves reinforcing distinctive community assets, incorporating city leaders and citizen feedback into long-term objectives, and ensuring coherence across multiple master plans and regulations. Building upon recent plans, this effort integrates existing reviews to further refine our strategies for the City’s future development.

PLANNING PROCESS PARAMETERS

This Scope of Services (the “Scope of Services”) is subject to the following parameters:

1. It is anticipated that the Plan will take 9 months to complete – including delivery of a draft report to the City Council. The subsequent timeframe and adoption of the final Plan will vary depending on the City’s scheduling preferences.
2. The Project will begin from the date of contract execution and will follow a task-by-task schedule prepared as part of the Project initiation process outlined in this Scope of Services. Any adjustments made to the Project schedule during the Project term will be jointly agreed upon between the City and Halff.
3. The study area will include all property within the City of Bastrop city limits and extraterritorial jurisdiction. Other surrounding properties or facilities that may be utilized by the City of Bastrop with the goal of achieving an orderly long-term growth and development may be considered as mutually agreed upon between the City and Halff.
4. Draft and final Plan reports will be prepared in electronic (e.g., Adobe In-Design) format. Reports will be provided to the City in INDD, PDF format suitable for distribution electronically and for posting to the City website. Mapping files will be provided in ArcGIS format including shapefiles and layer packages for use by the City.
5. Tasks undertaken as part of this Project may occur concurrently where appropriate, or in some cases may vary from the sequence shown in the Scope of Services.
6. Day-to-day project record-keeping or summaries will be prepared in Microsoft Office programs (Word, Excel, PowerPoint, etc.).
7. References to a “Trip” within this Exhibit refer to travel to the City by members of the Halff team from outside of City of Bastrop. If deemed necessary and upon agreement between the City and

Halff "Trip" activities, meetings, and events may be conducted solely as "virtual" engagements using suitable video-conferencing technology.

8. Where possible, committee and planning meetings will be scheduled by Halff and/or the City on concurrent days and evenings for greater project efficiency.
9. Staff will support and participate in the preparation of the planning process, specifically in the facilitation and outreach efforts of the engagement process, collection of data, support of internal CPC committee and P&Z, review of plan recommendations, and general guidance.
10. Any additional meetings or events beyond those shown in the Scope of Services will be considered an additional service and are not included in this Scope of Services.
11. Only minor revisions will be made following approval or adoption to produce the final deliverables. Substantive revisions after approval or adoption may require additional services depending on their nature and the current budget status.
12. Halff anticipates that the GIS shapefiles and associated data represent an up-to-date depiction of the existing conditions. In the instance that the City's data is out-of-date, inaccurate, or otherwise not usable for creating base maps, or to perform the identified analyses set out in this Scope of Services, Halff may request that the City update the data so that it is accurate and usable, or may request an additional service to undertake the data creation/correction on behalf of the City. Delays in receiving accurate data or creating new base map data (as may be needed to undertake the requisite tasks set out in this Scope of Services), may delay overall completion of the Project.
13. Halff will prepare data analysis of demographics, existing conditions, or other relevant environmental factors using the latest data provided by the City or available publicly at the time of task compilation. Halff will request an additional service to update those analyses if existing conditions change during the Project.
14. Input and feedback derived from the public engagement process will be assessed and incorporated into the various plan elements rather than compiled as meeting notes and minutes.
15. The final document will be an edited version of the 2016 Comprehensive Plan.

PHASE 1 – INITIATION AND ADMINISTRATION

Project organization activities will enable Halff and the City to efficiently initiate the Project by providing that necessary project information and administrative structures are in place to begin subsequent research and public outreach activities.

TASK 1.01 - PROJECT INITIATION & KICK-OFF

Halff will coordinate a project kick-off conference call with the City to discuss project logistics, establish key milestones, request information to be provided by City, refine the planning process and calendar, coordinate field trips or site visits, overview the QA/QC process, establish project goals and schedule, discuss composition of stakeholder groups/advisory committee, discuss project brand considerations, and review the public engagement strategy.

- **Orientation.** City staff and Halff team will meet to go over scope, process and gain a complete understanding of the roles and responsibilities of all project participants and desired project outcomes.
- **Schedule.** A draft project schedule will be discussed and refined.
- **Public Engagement Plan.** Halff will develop a draft Public Engagement Plan (PEP) that outlines key milestones, dates, strategies, and input targets for the entire project. The PEP will also include detailed engagement strategies needed for the specific plans. The PEP will be developed and agreed upon by City staff and Halff team within the first month of the project. The document will be used to guide community engagement efforts.
- **Metrics.** Key project milestones will be discussed and agreed upon as well as QA/QC.

TASK 1.02 – REQUEST FOR INFORMATION AND DATA COLLECTION

Halff will obtain key maps, GIS files, CAD data, 3D modeling data, and any other relevant background data from the City, including digital copies of existing plans, studies, and other ongoing projects and plans from the City that may impact this planning process. Halff will utilize publicly available data to the best of Halff's ability. Halff will prepare a Request for Information (RFI) for the City to provide important background data, files, photos, plans, and other pertinent information to the Project. The RFI will also include information from City staff documenting progress implementing prior plan actions to understand previous plan implementation progress and which plan goals and objectives remain community priorities.

TASK 1.03 – PUBLIC ENGAGEMENT PLAN

Halff will work with the City to finalize the Public Engagement Plan (PEP). The documented PEP will be used to guide community engagement efforts and will expand upon this Scope of Services by outlining key milestones, outreach techniques, responsible parties, anticipated outreach schedule and by noting how each activity integrates with the planning process.

TASK 1.04 – BASE MAP

Halff will use relevant GIS data provided by the City to prepare a project base map. Halff assumes that the data is already available through existing GIS inventories. The City will work to assemble and provide Halff with the most current data in GIS shapefile format (for mapping items), PDF for reports or documents, and CAD for other applicable design elements. A data request form will be prepared at the beginning of the Project requesting specific datasets. Except as stated herein, Halff is not responsible for increasing the accuracy and precision or otherwise improving data received directly from the City or other vendors.

TASK 1.05 – PROJECT MANAGEMENT

Halff will conduct ongoing administrative tasks throughout the planning period. Halff will manage the Project so that it proceeds according to the Contract and this Scope of Services. This includes timely

communication with the City, coordination and scheduling of meetings and deliverables, preparing invoices and progress reports, and other project administration tasks. The Halff project manager and City's Project Administrator may hold check-in calls a monthly, or as needed to coordinate, review action items, and maintain the Project schedule.

TASK 1.06 – QA/QC

Halff will perform internal Quality Control and Quality Assurance (QA/QC) reviews of all deliverables.

Phase 1 Meeting Summary

- Phase 1 meetings include project check-in meetings and the Kick-off meeting (Trip #1), or as determined in the PEP.

Phase 1 Items Provided by City

- Attendance of meetings
- Confirmation of meeting and workshop dates, and location
- Communication to stakeholders, public and City Council for meeting notification and participation attendance.
- City data, plans, policies and procedures, maps, reports, capital expenditures, and other materials as described in the task descriptions and Exhibit C (City Support).

Phase 1 Deliverables:

- PDF document of the Public Engagement Plan (PEP) summarizing outreach strategies, public meetings, partnerships, stakeholders. The PEP will include the outreach schedule and locations for meetings or workshops. Overall Project Schedule; Meeting summaries in PDF document; OneDrive Folder Access; Stakeholder/Departmental Questionnaire PDF document; GIS shape files, PDF, and/or JPEG files of maps to be used in presentations, communication media, and other documents at the City.

PHASE 2 – EXISTING CONDITIONS

Halff will work with City staff to capture and analyze the community’s existing conditions and will identify factors that will influence how the Plan will be built. Subtasks will occur in conjunction with initial community engagement activities to align demand-based and research-based findings.

TASK 2.01 – EXISTING STUDIES REVIEW

Halff will review and analyze previous studies/plans and other documentation identified by the City that may influence the plan development and create alignment across the planning efforts for implementation. This will include but is not limited to:

- Previous park master plan;
- Previous trails master plan;
- Previous comprehensive plan;
- Master Drainage Plan
- Water and Wastewater Master Plan;
- Transportation Master Plan;
- Current land development regulations;
- Current city zoning and Future Land Use Plan;
- Development trends and maps.

TASK 2.02 – RECORD OF ACCOMPLISHMENTS

Halff will prepare a record of accomplishments from the current comprehensive plan for the City to complete related to what initiatives/actions from previous planning efforts have been completed and what initiatives/actions are still outstanding and still warranted.

Phase 2 Meeting Summary

- Phase 2 meetings include regular project check-in meetings, or as determined in the PEP.

Phase 2 Items Provided by City

- Record of Accomplishments Form; Department Questionnaire; Provide material to Halff as baseline understanding of staff needs and changes from 2016. Will not be used as sole guidance for edits to plan but is critical information to Halff to understand progress and present status.

Phase 2 Deliverables:

- Review of existing studies to be incorporated into final plan and record of accomplishments to be incorporated into final plan.

PHASE 3 – COMMUNITY ENGAGEMENT

Community outreach activities will occur throughout the Project term. Subtasks include those activities that will be administered on a recurring or ongoing basis. Where applicable, many of the subtasks listed herein are also cross-referenced in subsequent tasks to illustrate their relationship to other project activities. Two additional public meetings have been added to this phase but are

TASK 3.01 – COUNCIL VISIONING WORKSHOP

Halff will lead one (1) 60-75 minute workshop with City Council prior to or as part of the public kick-off. This visioning session is viewed as an opportunity to identify their general goals and desired outcomes for this process and visioning Q&A related to recent and future development of the community. This discussion of core values and desires with will help foster specific goals and priorities to achieve those community objectives through various future planning efforts.

TASK 3.02 – ONLINE SURVEY

Halff will prepare and administer one online public survey during the planning process, including drafting the survey and social media flyer, and seeking approval from the City. Halff will host the survey through third-party platform. The City will be responsible for advertising the survey through various channels, such as social media, the website, and other media outreach tools. The survey results will be tabulated by Halff and incorporated into the plan as necessary.

TASK 3.03 – PUBLIC MEETING

Halff will hold one (1) public meeting as a Community Open House during this Project. Halff will conduct a community open house towards the end of the outreach phase of the planning process. This open house will follow Council, P&Z, Stakeholder, Technical Committee inputs and exercises. The purpose of the open house is to present some preliminary plan themes, collect community preferences and big ideas, and glean a clear understanding of the citizen desires for future growth and development. The exact date and format will be determined in the Public Engagement Plan. Halff will prepare the necessary materials and activities, while the City will assist with securing a location, advertising, and staffing the open houses. The City will be responsible for advertising the meeting(s) through various channels, such as social media, the website, and other media outreach tools.

TASK 3.04 – TECHNICAL COMMITTEE

Halff will utilize a Technical Committee comprised of key staff from different departments in the City. This group will be convened for two (2) total meetings during this process. The primary role of the group is to review key issues and opportunities and provide feedback on the feasibility of proposed recommendations. The intent is that this group becomes the foundation for leading post-adoption plan implementation.

TASK 3.05 – STAKEHOLDER LISTENING SESSIONS

Halff will facilitate three (3) small group listening sessions (45 minutes) with key stakeholders identified by the City. Each group should be comprised of five to eight people and are intended to identify important issues as it relates to the planning Project in Bastrop. Halff may offer to send a stakeholder invite letter template to help the City. Meeting with the following potential stakeholders is suggested, but may be altered based on suggestions by the City:

- Developers
- Utility providers
- Neighborhood Associations
- Businesses
- Bastrop ISD

- County Representatives
- EDC

TASK 3.06 – ELECTED AND APPOINTED OFFICIALS BRIEFINGS

Halff will provide a total of three (3) in-person meetings with the Planning and Zoning Commission throughout the planning process. The three meetings will generally account for the following:

- a. Issue identification and land use workshop
- b. Midpoint check-in and review of public input and findings
- c. Presentation of the complete draft plan for feedback and final direction

Phase 3 Meetings Summary

- A total of 11 meetings including 2 Technical Committee meetings, 3 Stakeholders Listening Sessions, 1 Public Meeting, 1 Workshop, 3 P&Z briefings, and 1 City Council Meeting, or as determined in the PEP.

Phase 3 Items Provided by City

- Facilitation of meeting, participation in presentations.

Phase 3 Deliverables:

- Meeting presentations and summaries, advertisements, public meeting presentation boards, draft and final survey questions, survey summary, and a stakeholder invite letter.

PHASE 4 – ANALYSIS

Following the receipt of data and documentation provided as part of prior phases, the City and Halff will affirm baseline assumptions regarding the City's conditions, assets and organizational structure. Baseline analysis activities will take place concurrent to initial community outreach activities and results will be affirmed by the City prior to Halff's initiation of subsequent needs assessment activities (unless otherwise stated).

TASK 4.01 – POPULATION PROJECTIONS

Halff will develop population projections based on past population trends and review of existing forecasts from the County, MPO, ISDs, and regional water planning areas. The population projections will be confirmed by the City.

TASK 4.02 – GROWTH PATTERN ANALYSIS

Halff will examine the City's growth patterns and analyze changes since the adoption of the previous comprehensive plan with a focus on updates to Chapter 2.

Data analysis for Task 4.01 Population Projections and 4.02 Growth Pattern Analysis will include:

- Current population, past growth patterns;
- Future growth forecasts;
- Typical population profile, based on sex, age, ethnicity, income and education;
- Regional population characteristics;
- Key population needs based on demographics.

TASK 4.03 – GAP ANALYSIS

Halff will prepare a summary of challenges and gaps between the B3 Code and the relevant comprehensive plan update chapters (2 and 5) to identify opportunities to improve alignment. Halff will

analyze the consistency between this plan and the City's existing regulations.

TASK 4.04 – LAND USE OBJECTIVES & ALIGNMENT

Halff will work with the Technical Committee to set objectives for the Future Land Use Plan and associated growth plans in order to complete the draft maps. These objectives will also set the stage for Chapter 2 and Chapter 5 edits following the public and Council inputs.

Phase 4 Meeting Summary

- Technical Committee, P&Z meeting; and regular check in meetings, or as determined in the PEP.

Phase 4 Items Provided by City

- Provide comments, facilitate discussion with committees or stakeholders, as determined in the PEP.

Phase 4 Deliverables:

- Population projections and updated growth patterns, B3 Code gap analysis, primary targets for land use plan objectives and recommendations for plan alignments.

PHASE 5 – DRAFT RECOMMENDATIONS

The following elements will build off phases 3 and 4 to affirm direction and develop objectives to align plans and strategies. Halff will provide initial draft of Chapters 2 and 5 for City staff review and discussion.

TASK 5.01 – VISION AND GOALS

Halff will confirm the community vision and craft a set of overarching plan goals based on community engagement. This includes summarizing early public engagement efforts to help develop broad aspirational statements that serve as a fundamental baseline for more specific plan concepts and recommendations.

TASK 5.02 – FUTURE LAND USE PLAN

Halff will develop a future land use map and associated descriptions and create new land use recommendations. The updates will utilize the character framework to provide more guidance for specific areas of the community. The recommendations will align with community input, recent development trends, and industry trends, as well as, take into consideration current and future climate conditions relating to rainfall, flooding and extreme heat.

TASK 5.03 – DRAFT PLAN CHAPTERS 2 & 5

Halff shall provide a draft of Chapters 2 and 5 for staff and committee review and comment.

Phase 5 Meeting Summary

- 1 Technical Committee meeting; 1 P&Z Meeting; check in meetings, or as determined in the PEP.

Phase 5 Items Provided by City

- Review and edits, as appropriate. Quick solicitation of comments from other staff members to move forward to final resolution.

Phase 5 Deliverables:

- Vision and goals, future land use map, and draft Chapters 2 and 5.

PHASE 6 – FINAL PLAN

Activities to compile all Plan products into a report and present to the City for adoption or approval.

TASK 6.01 – IMPLEMENTATION PLAN

Halff will consolidate the recommendations for Chapter 2 and 5 into a work program, categorizing implementation actions based on types and responsible entities, including operational changes, capital investments, operational investments, regulations, and future studies. The actions will be organized into an implementation action plan that prioritizes actions in the near-, mid-, and long-term, specifying action types and responsible parties.

TASK 6.02 – FINAL PLAN CHAPTERS 2 & 5

Halff shall consolidate all staff and committee comments into a final draft of Chapters 2 and 5.

TASK 6.03 – PROJECT CLOSE-OUT AND TRANSMITTAL

Halff will provide electronic versions of all original files prepared by Halff related to preparation of the plan, including photo inventory, presentations, GIS shapefiles, and other graphic and document original files.

Phase 6 Meeting Summary

- 1 City Council Meeting; check in meetings, or as determined in the PEP.

Phase 6 Items Provided by City

- Review and edits, as appropriate.

Phase 6 Deliverables:

- Final Chapters 2 and 5, meeting presentations, and project close-out items.

PHASE 7 – ADDITIONAL SERVICES

Preparation, development and facilitation of two additional public meetings to support Phase 3.

Task 7.01 ADDITIONAL PUBLIC MEETINGS

Halff will prepare, develop and facilitate two (2) additional public meetings as a Community Open House during this Project. This will be conducted as a part of the initial community outreach (Phase 3) to encourage community participation in the planning process. These open houses will follow Council, P&Z, Stakeholder, Technical Committee inputs and exercises. The purpose of the open house is to explain the planning process and comprehensive plan update, re-affirm goals and visions, and gather feedback from citizens desires for future growth and development in Bastrop. The exact date and format will be determined in a revised Public Engagement Plan. Halff will prepare the necessary materials and activities, while the City will assist with securing a location, advertising, and staffing the open houses. The City will be responsible for meeting location, advertising the meeting(s) through various channels, such as social media, the website, and other media outreach tools.

ATTACHMENT B BASIS OF COMPENSATION

BASIC SERVICES – FEE SUMMARY.

Planning services as described in Exhibit A will be provided by Halff on a lump sum basis, with an authorized lump sum contract fee of \$158,520 for the Bastrop Comprehensive Plan Land Update. The lump sum fee includes compensation for document copying, printing, mileage and associated expenses necessary for the planning effort. Fees for services will be invoiced monthly, based on the percentage of work completed.

	FEES
Phase 1: Initiation and Administration	\$19,130.00
Phase 2: Existing Conditions	\$23,030.00
Phase 3: Community Engagement	\$41,010.00
Phase 4: Analysis	\$27,970.00
Phase 5 Draft Recommendations	\$20,220.00
Phase 6 Final Plan	\$17,710.00
Base Services	\$156,270.00
Supplies, materials	\$1,500.00
Travel	\$750.00
TOTAL SERVICES	\$158,520.00

ADDITIONAL SERVICES AND MEETINGS

During the course or at the conclusion of the Project, the City may deem it necessary to schedule more meetings, request further research, or otherwise engage Halff in additional work efforts or subsequent phases not anticipated at project initiation or as set out in Attachment A, Scope of Services. Any such additional services shall be specifically authorized by the City Council, as appropriate, and documented through a written amendment to the Professional Services Agreement and this Attachment A, Scope of Services, or set out as follow up additional phase services. This will include a corresponding modification to the maximum not-to-exceed amount set out in Attachment B, Basis of Compensation, and, if necessary, the time of performance as set out in Attachment D, Project Schedule. Additional printing or publication expenses will be charged in accordance with Attachment B, *Basis of Compensation*. Expenses incurred by the consultant team, such as mileage, materials, food, etc., are integrated into the Base Plan cost in the Scope of Services. Should the need arise for additional services, including meetings, Halff can provide such services on an hourly basis and/or agreed upon fee.

ATTACHMENT C CITY SUPPORT

The City will provide administrative and technical support to assist Halff in performing the Scope of Services described in Attachment A. The support to be provided by the City will include the following types of services and tasks:

- The City will appoint a contact person, “Project Administrator,” to work with Halff to act as an intermediary between staff, elected and appointed officials, committees, non-project consultants and other governmental jurisdictions and agencies as required. Halff will take direction from the City’s Project Administrator or City Manager only.
- It is the responsibility of the City’s Project Administrator to coordinate, compile, and forward in a consolidated manner all review comments, feedback, and/or requested/suggested revisions to such draft/interim deliverables.
- The City will provide information from all previous planning studies and master plans that may influence the outcome of this planning effort. This information will be provided in digital format when possible and available. If no digital information is available, the City will create a reproduction, wherever possible, that will not have to be returned at the conclusion of the Project. This information may include, but not be limited to, existing land-use plans and GIS data; existing transportation and street master plans; existing water or sanitary sewer planning documents; economic and demographic studies; park, trail, and open space plans; or other pertinent planning or policy documents. Prompt compilation and delivery of these documents to Halff is an essential prerequisite for the initiation of work and timely forward progress on individual tasks and deliverables. Documents identified include:
 - B3 Code;
 - Previous park master plan;
 - Previous trails master plan;
 - Previous comprehensive plan;
 - Master Drainage Plan
 - Water and Wastewater Master Plan;
 - Transportation Master Plan;
 - Current land development regulations;
 - Current city zoning and Future Land Use Plan;
 - Development trends and maps;
- The City will provide Halff with the most recently updated digital base map of the planning area with City limits and extraterritorial jurisdiction (ETJ) lines, school district lines, municipal utility district boundaries, roadway centerlines and rights-of-way (if available), water and sewer facilities; dry utilities; public facilities (including police, fire, hospital, library and other major public facilities); park and open space facilities; sidewalks and trails; rivers, lakes and floodplain information; and other GIS available that may be pertinent to this planning process. These files will be in the form of GIS shapefiles.
 - Because of the graphic nature of the planning deliverables, draft and final reports will be prepared in GIS and Adobe InDesign format (INDD). Base mapping, graphics, and report documents will be prepared in GIS, INDD, and PDF formats suitable for distribution electronically.
 - Any conceptual design/development ideas generated as part of the planning process are understood to be at a pre-concept development stage and will require further refinement via plans and specifications developed through separate design and construction processes.
 - Cost projections prepared as part of this effort, if applicable, are understood to be at a planning (order-of-magnitude) level and are prepared prior to any detailed design for individual projects.

- Such cost projections will vary as more detailed design occurs and as inflationary influences occur following plan adoption.
- It is the intent that multiple meetings will be scheduled on concurrent days and evenings for greater project efficiency.
- Any additional meetings beyond those shown in the Scope of Services will be considered an additional service and are not included in this Scope of Services.

ATTACHMENT D PROJECT SCHEDULE

Preparation and adoption of the Bastrop 5-year Land Use Update is projected to occur over a 9-month period. The Project will begin from date of contract execution and will follow a flow of project tasks and benchmarks represented in the schedule in this exhibit. The schedule of services shown below is advisory; a final project schedule will be agreed upon by the City and Halff during the execution of initial project tasks. All parties may agree to subsequent adjustments to the Project schedule.

Month	1	2	3	4	5	6	7	8	9	10
PHASE 1 Initiation /Administration										
PHASE 2 Existing Conditions										
PHASE 3 Community Engagement										
PHASE 4 Analysis										
PHASE 5 Draft Recommendation										
PHASE 6 Final Plan										

ATTACHMENT E
ADDITIONAL SERVICES

The additional planning services as described in Exhibit A, Phase 7 will be provided on a lump sum basis. The lump sum fee includes compensation for document copying, printing, mileage and associated expenses necessary for the planning effort. Fees for services will be invoiced monthly, based on the percentage of work completed. Below are the additional services and costs to be added to the original lump sum contract.

Additional Services	FEES
Phase 1: Initiation and Administration	\$3,520.00
Project management and administration	\$3,520.00
Phase 7: Additional Public Meetings	\$12,280.00
Meeting preparation and development (2 meetings)	\$7,368.00
Meeting facilitation (2 meetings)	\$3,684.00
Post meeting summaries and integration into plan	\$1,228.00
<i>Base subtotal</i>	<i>\$15,800.00</i>
Supplies, materials	\$300.00
Travel	\$225.00
TOTAL SERVICES	\$16,325.00



STAFF REPORT

MEETING DATE: January 14, 2025

TITLE:

Updates on the Bastrop County Master Gardener's Community Garden Memorandum of Understanding and proposed plans.

AGENDA ITEM SUBMITTED BY:

Submitted by: Terry Moore, Parks & Recreation Director

BACKGROUND/HISTORY:

In 2022, the City of Bastrop and the Bastrop County Master Gardener Association (BCMGA) entered into an agreement for the development of a community garden in Bob Bryant Park. The agreement included the use of the portion of the park to develop a garden to be used for teaching and educating the public. BCMGA is responsible for all costs associated with the garden including supplies and water as well as the planning and maintenance of the space.

The garden continues to grow and has added a beautiful amenity to the park entrance.

BCMGA has proposed the addition of a fence around the shed area to protect and camouflage supplies needed for the garden. This includes soil, compost bins, rock, and mulch.

BCMGA would like to gain control of the electric meter currently used for the fitness unit on site. They would contact Bluebonnet Electric to have the meter changed from the City of Bastrop to BCMGA. They would cover the cost of the meter and the electricity used by the fitness unit.

FISCAL IMPACT:

NA

RECOMMENDATION:

Support the continued partnership between the City of Bastrop Parks & Recreation Department and the Bastrop County Master Gardener Association at Bob Bryant Park.

ATTACHMENTS:

1. Exhibit A Proposed design addition



Project 2025

Cattle fence to hide mulch and compost for the on going garden beds



STAFF REPORT

MEETING DATE: January 14, 2025

TITLE:

Receive a presentation on the unaudited Monthly Financial Report for the period ending September 30, 2024.

AGENDA ITEM SUBMITTED BY:

Edi McIlwain, Chief Financial Officer

BACKGROUND/HISTORY:

The Chief Financial Officer, or appointed staff, provides the City Council a monthly financial report overview for all funds to include detailed analysis for General Fund, Development Services Fund, Water-Wastewater Fund, Bastrop Power & Light and the HOT Tax Fund.

This reporting requirement is set forth by the City of Bastrop Financial Management Policies, Chapter IV. Operating Budget, Section D. Reporting, as adopted by Resolution R-2023-123 on August 22, 2023.

ATTACHMENTS:

- September 30, 2024 Comprehensive Monthly Financial Report

CITY OF BASTROP

Comprehensive Monthly Financial Report
September 2024



Performance at a Glance as of September 30, 2024



	YEAR TO DATE	REFERENCE
ALL FUNDS SUMMARY		
ALL FUNDS SUMMARY	POSITIVE	Page 3-4
SALES TAXES	WARNING	Page 5
PROPERTY TAXES	POSITIVE	Page 6
GENERAL FUND EXPENSE BY DEPARTMENT	POSITIVE	Page 7
WATER/WASTEWATER REVENUES	WARNING	Page 8
WATER/WASTEWATER EXPENDITURES BY DIVISION	POSITIVE	Page 9
ELECTRIC REVENUES	POSITIVE	Page 10
HOTEL OCCUPANCY TAX REVENUES	POSITIVE	Page 11
HOTEL OCCUPANCY TAX EXPENDITURES BY DIVISION	POSITIVE	Page 12
DEVELOPMENT SERVICES REVENUE	POSITIVE	Page 13
PERFORMANCE INDICATORS		
POSITIVE	= Positive variance or negative variance < 1% compared to seasonal trends	
WARNING	= Negative variance of 1-5% compared to seasonal trends	
NEGATIVE	= Negative variance of > 5% compared to seasonal trends	

	<u>FY2024</u> <u>Approved Budget</u>	<u>FY2024</u> <u>Forecast YTD</u>	<u>FY2024</u> <u>Actual YTD</u>	<u>Variance</u>
<u>Revenues:</u>				
General	\$ 17,070,298	\$ 17,070,298	\$ 18,441,557	8.0%
Designated	110,110	110,110	163,154	48.2%
General Fund One-time	88,500	88,500	93,965	6.2%
Development Services	2,476,000	2,476,000	2,847,754	15.0%
Street Maintenance	2,203,153	2,203,153	2,587,936	17.5%
Debt Service	4,333,468	4,333,468	4,094,148	-5.5%
General Gov's Projects	4,792,000	4,792,000	456,307	-90.5%
Land Acquisition	-	-	74,635	0.0%
Water/Wastewater	8,922,540	8,922,540	8,715,229	-2.3%
Water/Wastewater Debt	5,826,460	5,826,460	5,846,057	0.3%
Water/Wastewater Capital Proj	742,000	742,000	778,753	5.0%
Impact Fees	4,848,640	4,848,640	2,109,906	-56.5%
Vehicle & Equipment Replacement	1,811,584	1,811,584	1,984,926	9.6%
Electric	8,872,870	8,872,870	9,119,950	2.8%
HOT Tax Fund	3,706,540	3,706,540	4,126,440	11.3%
Library Board	21,000	21,000	22,419	6.8%
Cemetery	203,600	238,600	273,903	14.8%
Capital Bond Projects	220,500	220,500	2,366,681	973.3%
Grant Fund	3,865,330	3,865,330	328,362	0.0%
Park/Trail Land Dedicaiton	1,865	1,865	2,036	9.1%
Hunter's Crossing PID	586,279	586,279	594,863	1.5%
Bastrop EDC	3,352,987	3,352,987	2,919,985	-12.9%
TOTAL REVENUES	\$ 74,055,724	\$ 74,090,724	\$ 67,948,966	-8.3%

POSITIVE
WARNING
NEGATIVE

= Positive variance or negative variance < 1% compared to forecast
 = Negative variance of 1-5% compared to forecast
 = Negative variance of >5% compared to forecast

COMPREHENSIVE MONTHLY FINANCIAL REPORT – September 2024

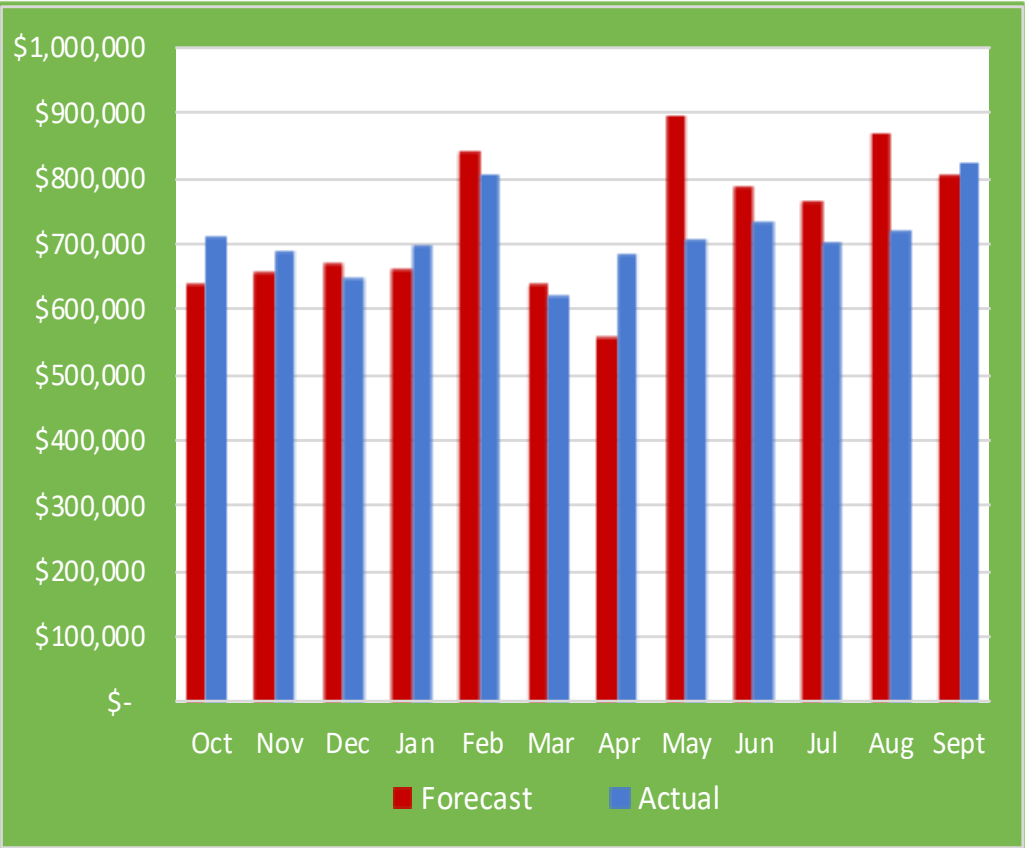
	<u>FY2024</u> <u>Approved Budget</u>	<u>FY2024</u> <u>Forecast YTD</u>	<u>FY2024</u> <u>Actual YTD</u>	<u>Variance</u>
<u>Expense:</u>				
General	\$ 17,688,349	\$ 17,688,349	\$ 17,309,032	-2.1%
Designated	430,200	430,200	104,645	-75.7%
General Fund One-time	300,500	300,500	115,338	-61.6%
Development Services	1,917,641	1,917,641	1,566,568	-18.3%
Street Maintenance	921,483	921,483	399,849	-56.6%
Debt Service	4,746,311	4,746,311	3,854,188	-18.8%
General Gov't Projects	5,265,240	5,265,240	740,920	-85.9%
Land Acquisition	-	1,246,762	1,246,761	0.0%
Water/Wastewater	9,573,234	9,573,234	8,572,052	-10.5%
Water/Wastewater Debt	7,070,185	7,070,185	4,789,776	-32.3%
Water/Wastewater Capital Proj.	877,000	877,000	145,961	-83.4%
Revenue Bond, Series 2020	156,919	156,919	1,059,413	575.1%
CO, Series 2021	385,567	385,567	2,190,735	468.2%
CO, Series 2023	18,300,000	18,300,000	28,369,077	55.0%
Impact Fees	6,125,501	6,125,501	3,279,756	-46.5%
Vehicle & Equipment Replacement	1,924,068	1,924,068	1,984,926	3.2%
Electric	8,945,474	8,945,474	7,639,873	-14.6%
HOT Tax Fund	4,266,286	4,266,286	3,606,692	-15.5%
Library Board	24,100	24,100	6,510	-73.0%
Cemetery	289,443	289,443	289,541	0.0%
Hunter's Crossing PID	564,019	564,019	571,964	1.4%
CO, Series 2018	470,801	470,801	270,733	-42.5%
Limited Tax Note, Series 2020	50,314	50,314	57,814	14.9%
America Rescue Plan	2,388,071	2,388,071	18,119	-99.2%
CO, Series 2022	2,079,371	2,079,371	3,050	-99.9%
CO, Series 2023	13,125,000	13,125,000	1,600,208	-87.8%
Grant Fund	3,865,330	3,865,330	215,375	-94.4%
Bastrop EDC	5,371,685	5,371,685	2,919,985	-45.6%
TOTAL EXPENSES	\$ 117,122,092	\$ 118,368,854	\$ 92,928,860	-21.5%

POSITIVE	= Positive variance or negative variance < 1% compared to forecast
WARNING	= Negative variance of 1-5% compared to forecast
NEGATIVE	= Negative variance of >5% compared to forecast

REVENUE ANALYSIS

SALES TAX REVENUE

Month	FY2024 Forecast	FY2024 Actual	Monthly Variance
Oct	\$ 637,316	\$ 707,134	\$ 69,818
Nov	655,140	686,329	\$ 31,189
Dec	665,095	642,539	\$ (22,556)
Jan	656,648	693,059	\$ 36,411
Feb	837,006	803,359	\$ (33,647)
Mar	637,297	617,179	\$ (20,118)
Apr	554,894	679,149	\$ 124,255
May	892,389	700,692	\$ (191,697)
Jun	784,038	728,941	\$ (55,097)
Jul	762,715	697,399	\$ (65,316)
Aug	863,161	714,662	\$ (148,499)
Sept	802,532	818,596	\$ 16,064
Total	\$ 8,748,231	\$ 8,489,038	\$ (259,193)
Cumulative Forecast	\$ 8,748,231		
Actual to Forecast	\$ (259,193)		-2.96%

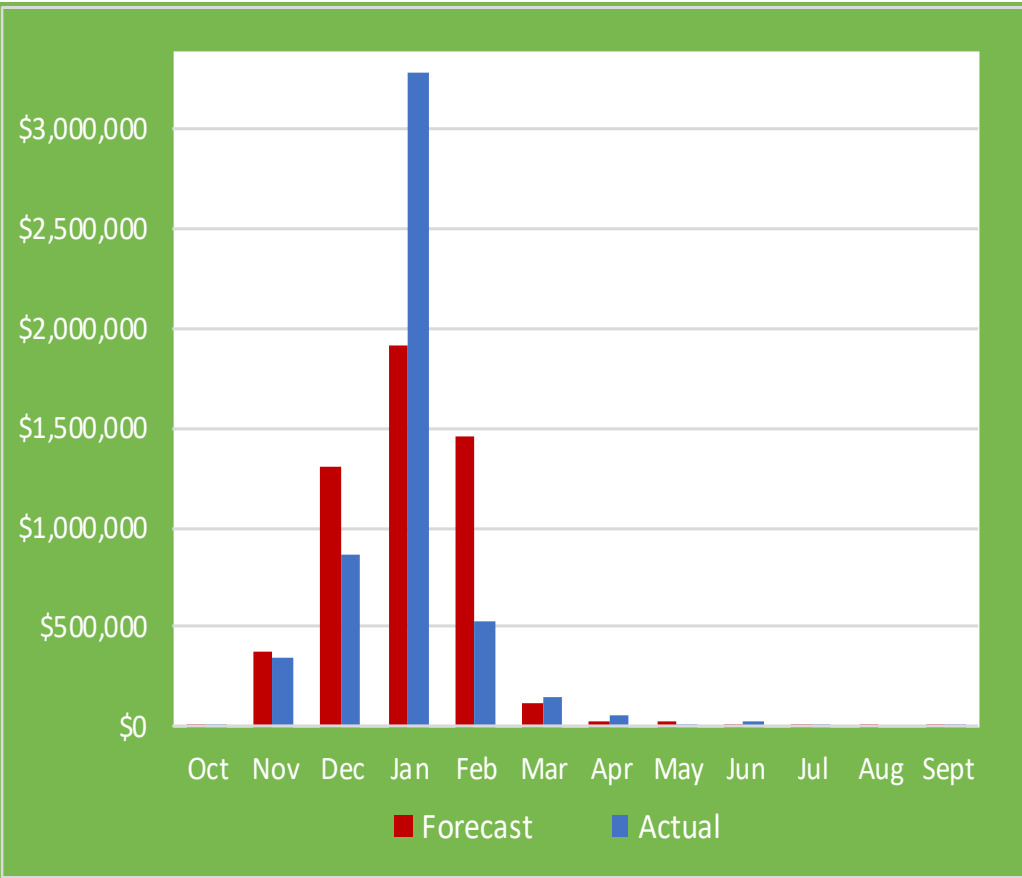


WARNING

Sales Tax is -2.96% of the total budgeted revenue for General Fund. The actual is within 3% of forecasted budget. Through September, the City collected \$338,000 more sales tax than prior year (4.1% increase over PY) .

PROPERTY TAX REVENUE

<u>Month</u>	<u>FY2024 Forecast</u>	<u>FY2024 Actual</u>	<u>Monthly Variance</u>
Oct	\$ 10,451	\$ 13,951	\$ 3,500
Nov	369,713	339,559	\$ (30,154)
Dec	1,306,795	859,155	\$ (447,640)
Jan	1,910,693	3,295,302	\$ 1,384,609
Feb	1,463,096	525,399	\$ (937,697)
Mar	119,704	149,021	\$ 29,317
Apr	26,116	59,066	\$ 32,950
May	26,116	14,870	\$ (11,246)
Jun	10,498	28,890	\$ 18,392
Jul	10,498	373	\$ (10,125)
Aug	10,498	-	\$ (10,498)
Sept	10,498	6,141	\$ (4,357)
Total	\$ 5,274,676	\$ 5,291,726	\$ 17,050
Cumulative Forecast	\$ 5,264,178		
Actual to Forecast	\$ 27,548	0.52%	

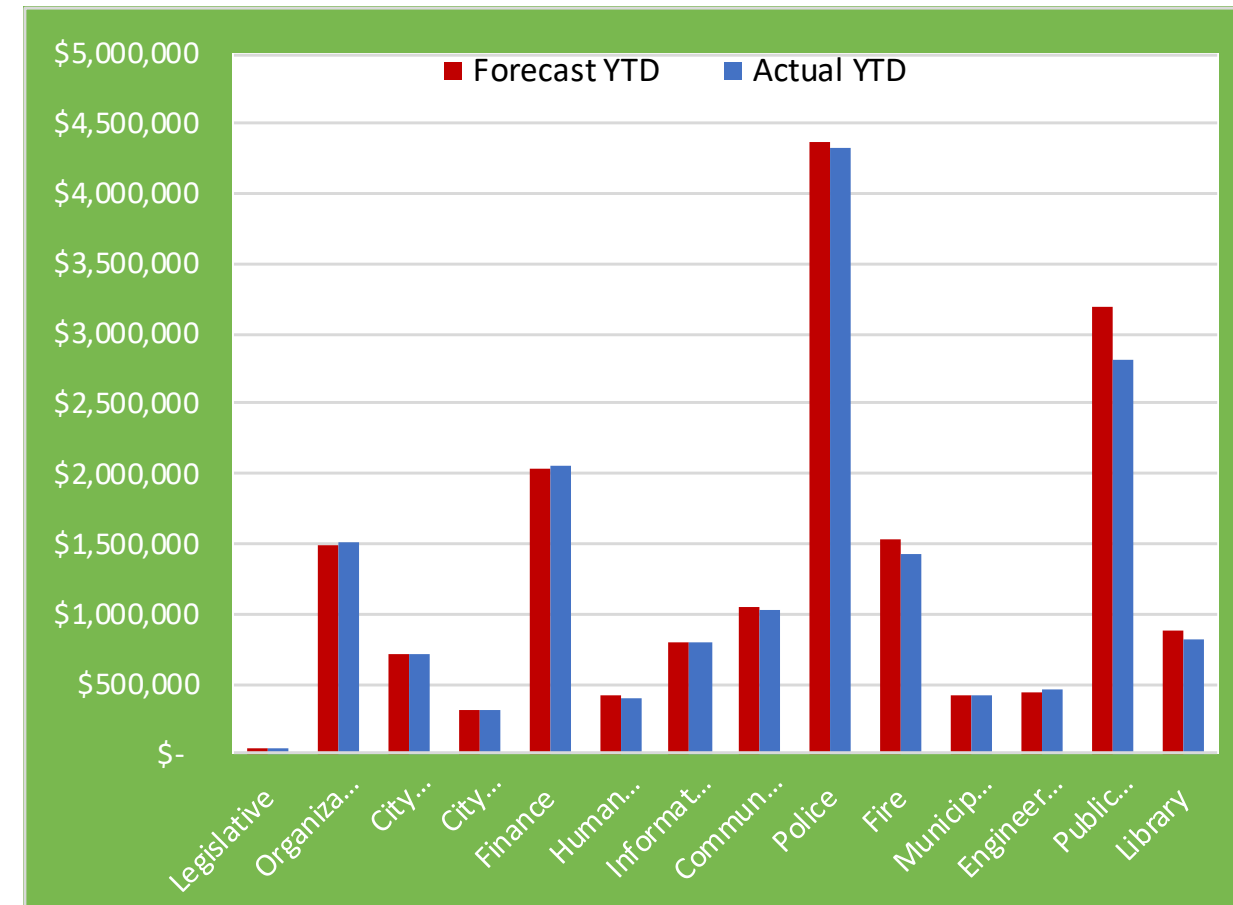


POSITIVE

Property tax represents 29% of the total General Fund revenue budget. As you can see from the forecast, the majority of taxes are generally collected from December to February. As of September, projections are less than 1% variance.

GENERAL FUND EXPENDITURES BY DEPT.

<u>Division</u>	<u>FY2024 Forecast YTD</u>	<u>FY2024 Actual YTD</u>	<u>Variance</u>
Legislative	\$ 46,803	\$ 47,526	\$ 723
Organizational	1,495,194	1,509,485	\$ 14,291
City Manager	716,966	709,566	\$ (7,400)
City Secretary	316,594	319,917	\$ 3,323
Finance	2,040,613	2,057,378	\$ 16,765
Human Resources	409,831	392,283	\$ (17,548)
Information Technology	792,041	790,833	\$ (1,208)
Community Engagement	1,046,437	1,023,917	\$ (22,519)
Police	4,364,296	4,321,190	\$ (43,106)
Fire	1,534,879	1,430,112	\$ (104,767)
Municipal Court	417,423	424,773	\$ 7,350
Engineering	435,131	463,537	\$ 28,406
Public Works	3,199,947	2,823,724	\$ (376,223)
Library	884,571	809,963	\$ (74,608)
Fleet & Facilities	181,458	184,283	\$ 2,825
Total	\$ 17,882,184	\$ 17,308,486	\$ (573,698)



Actual to Forecast

96.8%

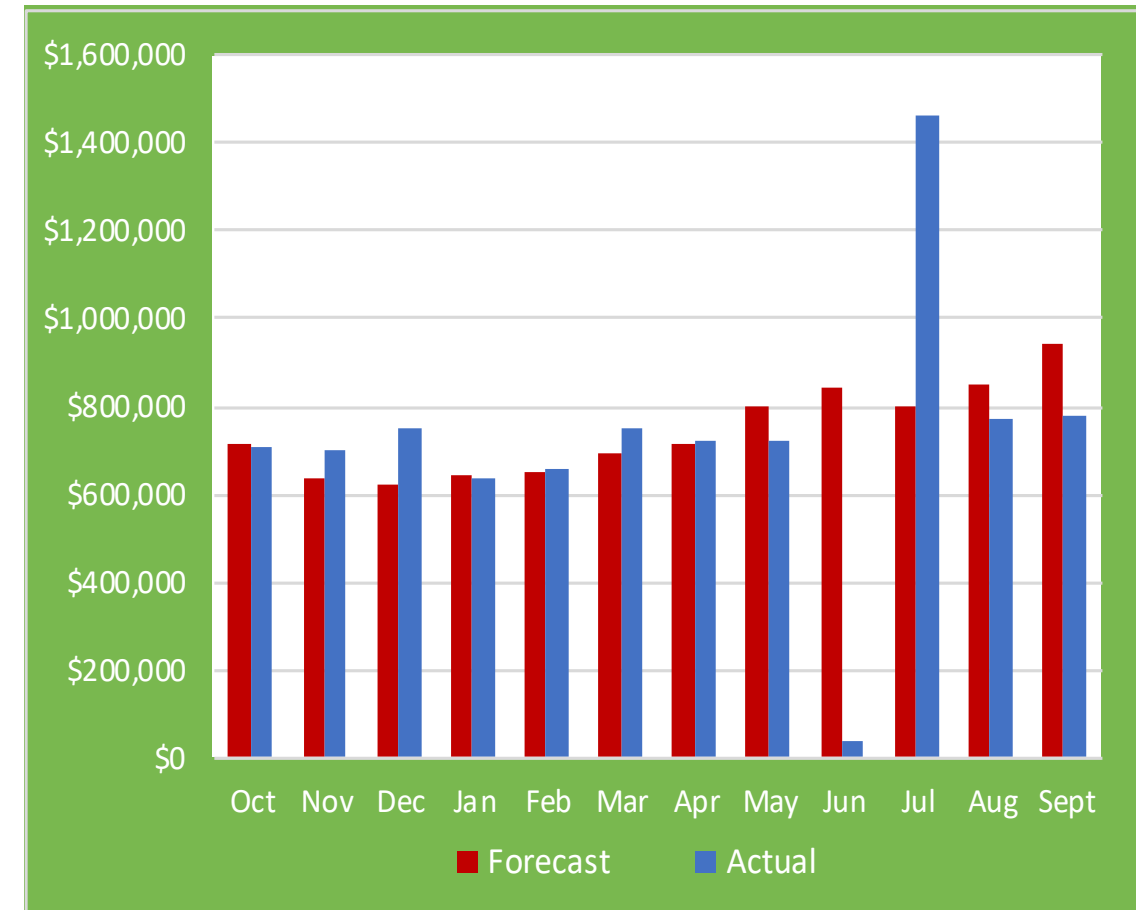
POSITIVE

This page compares forecast to actual by department within the General Fund. YTD compared to actual is 96.8% of forecast.

COMPREHENSIVE MONTHLY FINANCIAL REPORT – September 2024

WATER/WASTEWATER REVENUE

<u>Month</u>	<u>FY2024 Forecast</u>	<u>FY2024 Actual</u>	<u>Monthly Variance</u>
Oct	\$ 714,185	\$ 709,116	\$ (5,069)
Nov	637,698	700,275	\$ 62,577
Dec	625,252	748,149	\$ 122,897
Jan	646,845	637,282	\$ (9,563)
Feb	647,698	660,084	\$ 12,386
Mar	692,591	752,842	\$ 60,251
Apr	714,185	724,423	\$ 10,238
May	802,265	721,988	\$ (80,277)
Jun	846,305	40,385	\$ (805,920)
Jul	803,118	1,465,197	\$ 662,079
Aug	847,158	773,881	\$ (73,277)
Sept	945,239	781,621	\$ (163,618)
Total	\$ 8,922,539	\$ 8,715,243	\$ (207,296)
Cumulative Forecast	\$ 8,922,539		
Actual to Forecast	\$ (207,296)	-2.32%	



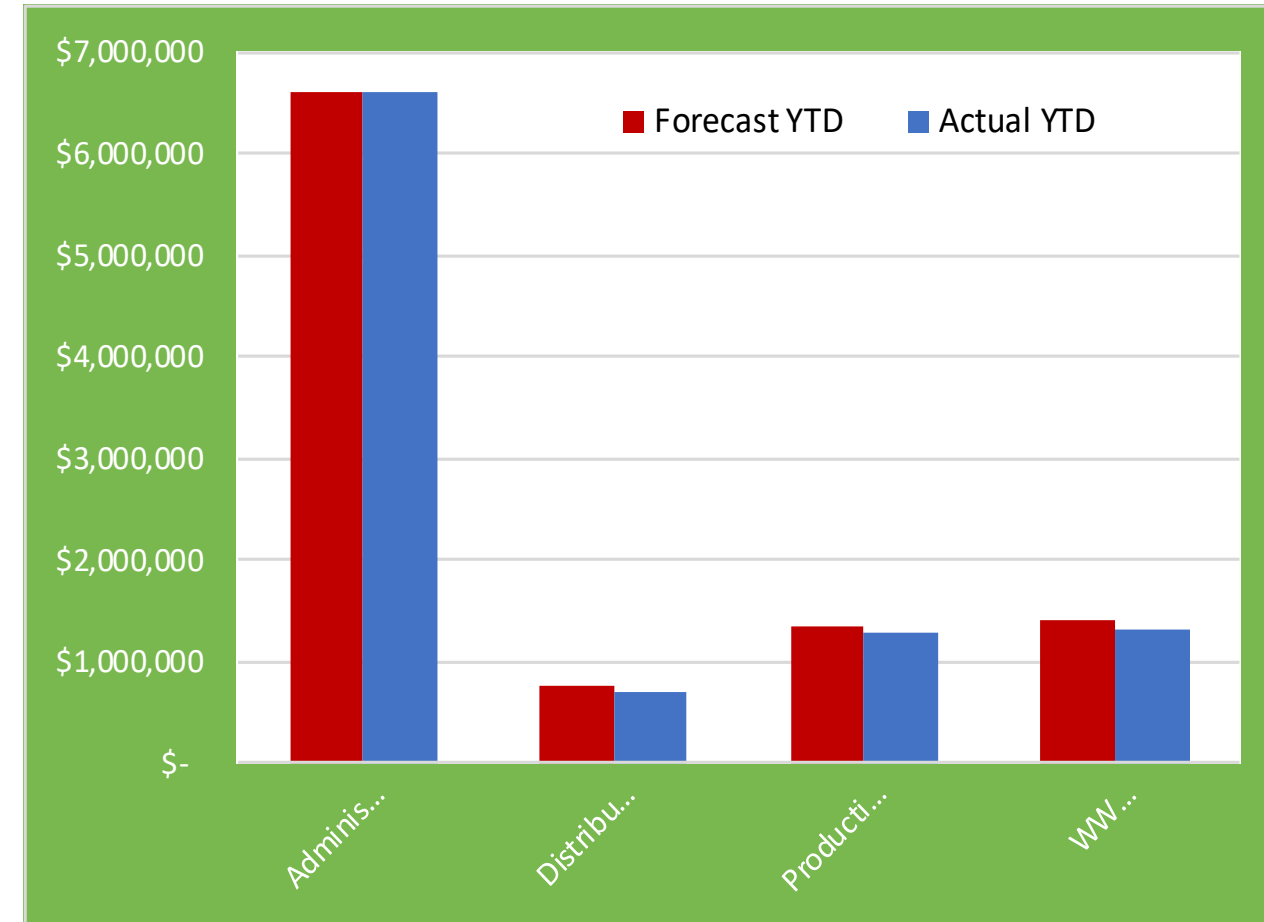
Positive

The water and wastewater actual revenue is below budgeted/forecasted revenue by 2.3% as of September. However, year to date revenue was more than prior year revenue by \$440,000 or 5.3%

EXPENSE ANALYSIS

WATER/WASTEWATER EXPENDITURES BY DIVISION

<u>Division</u>	FY2024 <u>Forecast YTD</u>	FY2024 <u>Actual YTD</u>	<u>Variance</u>
Administration	\$ 6,606,466	\$ 6,614,767	\$ 8,301
Distribution/Collection	775,016	698,803	\$ (76,213)
Production/Treatment	1,336,077	1,283,749	\$ (52,328)
WW Treatment Plant	<u>1,395,675</u>	<u>1,328,201</u>	<u>\$ (67,474)</u>
Total	<u>\$ 10,113,234</u>	<u>\$ 9,925,520</u>	<u>\$ (187,714)</u>
Actual to Forecast		98.1%	

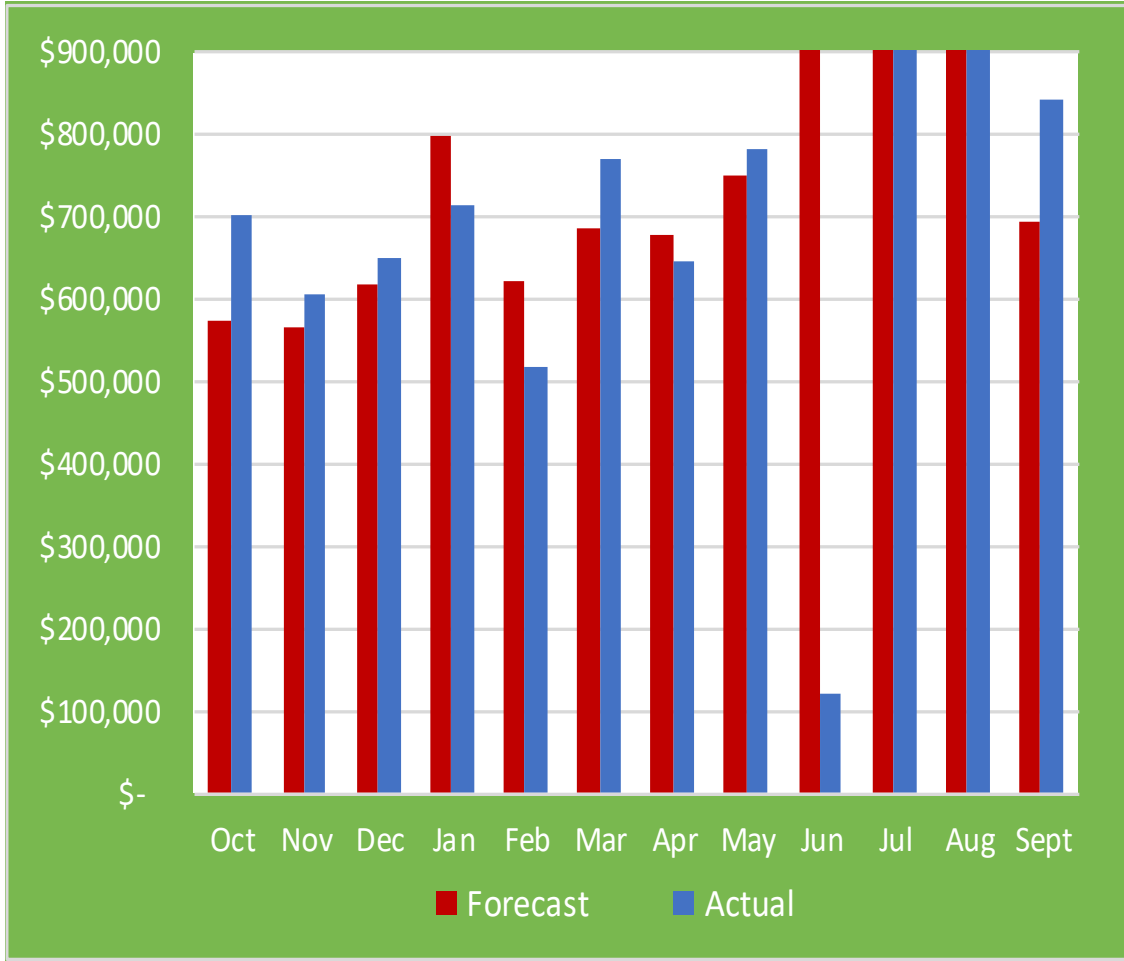


POSITIVE

This page compares actual to forecast by the divisions within the Water/Wastewater department. The actual is 98.1% compared to forecast.

ELECTRIC FUND REVENUE

<u>Month</u>	<u>FY2024 Forecast</u>	<u>FY2024 Actual</u>	<u>Monthly Variance</u>
Oct	\$ 575,326	\$ 703,860	\$ 128,534
Nov	566,839	607,454	\$ 40,615
Dec	618,711	650,008	\$ 31,297
Jan	797,829	715,118	\$ (82,711)
Feb	624,315	516,667	\$ (107,648)
Mar	685,769	769,977	\$ 84,208
Apr	679,865	645,517	\$ (34,348)
May	750,730	783,257	\$ 32,527
Jun	1,015,258	120,208	\$ (895,050)
Jul	932,041	1,709,158	\$ 777,117
Aug	931,616	1,056,500	\$ 124,884
Sept	694,848	842,057	\$ 147,209
Total	\$ 8,873,147	\$ 9,119,781	\$ 246,634
Cumulative Forecast	\$ 8,873,147		
Actual to Forecast	\$ 246,634	2.78%	

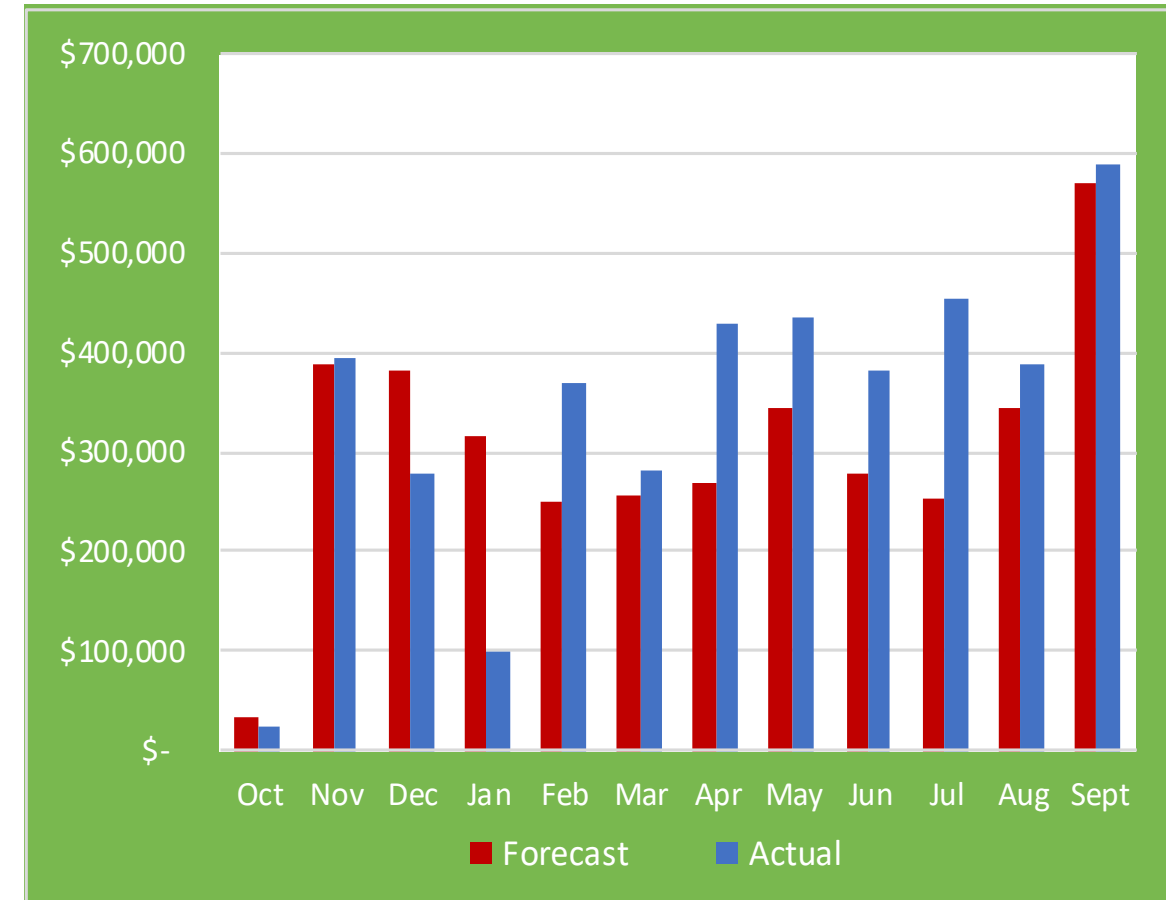


POSITIVE

The Electric utility revenue outperformed budgeted/forecasted revenue by 2.78% in fiscal year 2024.

HOTEL OCCUPANCY TAX REVENUE

<u>Month</u>	<u>FY2024 Forecast</u>	<u>FY2024 Actual</u>	<u>Monthly Variance</u>
Oct	\$ 34,920	\$ 24,179	\$ (10,741)
Nov	388,499	395,136	\$ 6,637
Dec	382,746	279,217	\$ (103,529)
Jan	315,943	100,081	\$ (215,862)
Feb	249,376	370,473	\$ 121,097
Mar	256,613	281,706	\$ 25,093
Apr	269,950	427,534	\$ 157,584
May	345,572	434,144	\$ 88,572
Jun	276,975	382,720	\$ 105,745
Jul	252,127	454,108	\$ 201,981
Aug	344,951	387,295	\$ 42,344
Sept	571,000	589,846	\$ 18,846
Total	\$ 3,688,672	\$ 4,126,439	\$ 437,767
Cumulative Forecast	\$ 3,688,672		
Actual to Forecast %	\$ 437,767	11.9%	



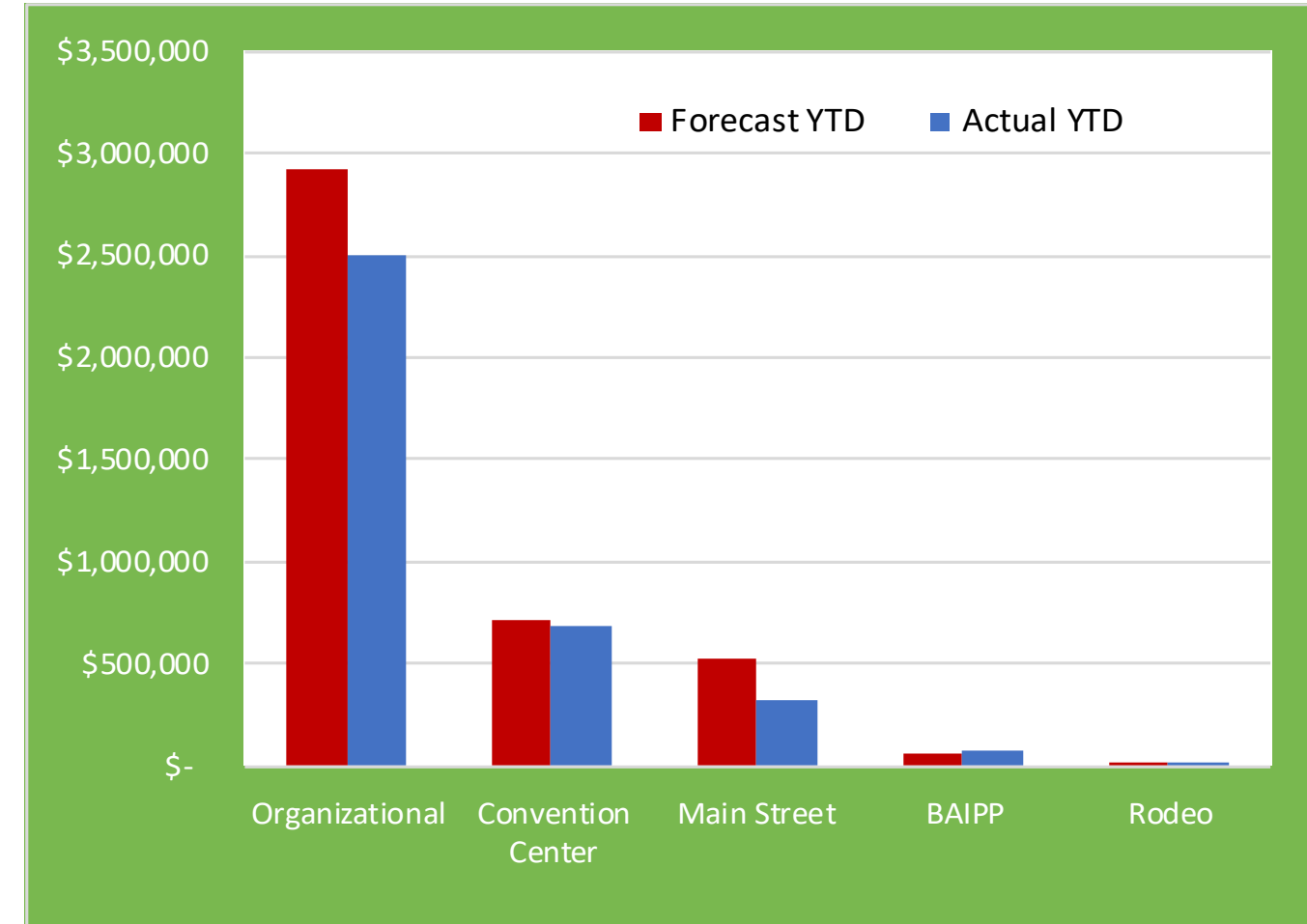
POSITIVE

This report is based on a cash method. The revenue is received by the City the month after collection. Actual is 11.9% more than forecast.

EXPENSE ANALYSIS

HOTEL OCCUPANCY TAX EXPENDITURES BY DIVISION

<u>Division</u>	<u>FY2024 Forecast YTD</u>	<u>FY2024 Actual YTD</u>	<u>Variance</u>
Organizational	\$ 2,928,074	\$ 2,508,221	\$ (419,853)
Convention Center	707,555	690,046	\$ (17,509)
Main Street	531,861	317,602	\$ (214,259)
BAIPP	55,500	81,739	\$ 26,239
Rodeo	<u>3,296</u>	<u>9,083</u>	\$ 5,787
Total	\$ 4,226,286	\$ 3,606,692	\$ (619,594)
Actual to Forecast		85.3%	

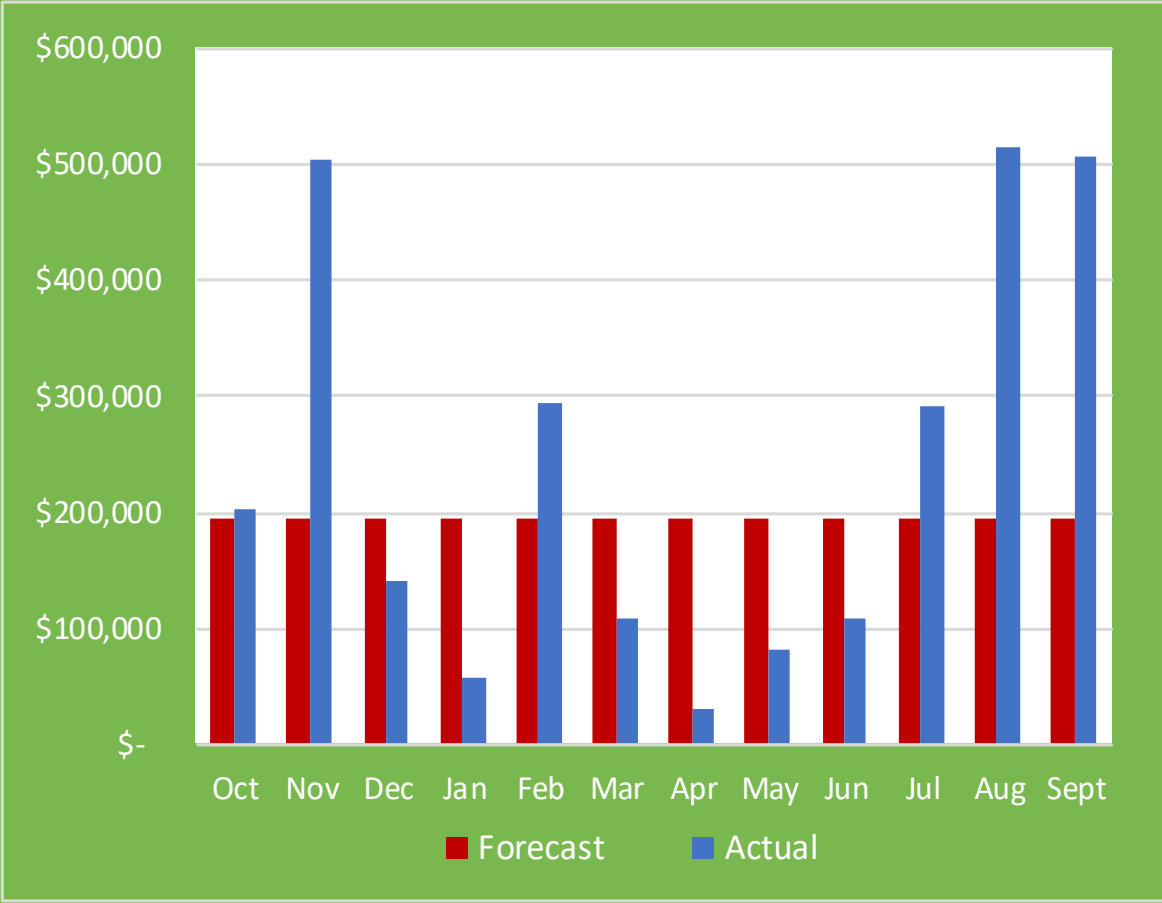


POSITIVE

This compares actual to forecast for each division located in the Hotel Occupancy Tax Fund. YTD is reporting actual at 85.3% of forecast.

DEVELOPMENT SERVICES REVENUE

<u>Month</u>	<u>FY2024 Forecast</u>	<u>FY2024 Actual</u>	<u>Monthly Variance</u>
Oct	\$ 195,667	\$ 203,573	\$ 7,906
Nov	195,667	503,765	\$ 308,098
Dec	195,667	142,026	\$ (53,641)
Jan	195,667	57,062	\$ (138,605)
Feb	195,667	294,576	\$ 98,909
Mar	195,667	109,952	\$ (85,715)
Apr	195,667	31,813	\$ (163,854)
May	195,667	82,461	\$ (113,206)
Jun	195,667	109,101	\$ (86,566)
Jul	195,667	292,089	\$ 96,422
Aug	195,667	514,286	\$ 318,619
Sept	195,667	507,051	\$ 311,384
Total	\$ 2,348,004	\$ 2,847,755	\$ 499,751
Cumulative Forecast	\$ 2,348,004		
Actual to Forecast %	\$ 499,751	21.3%	

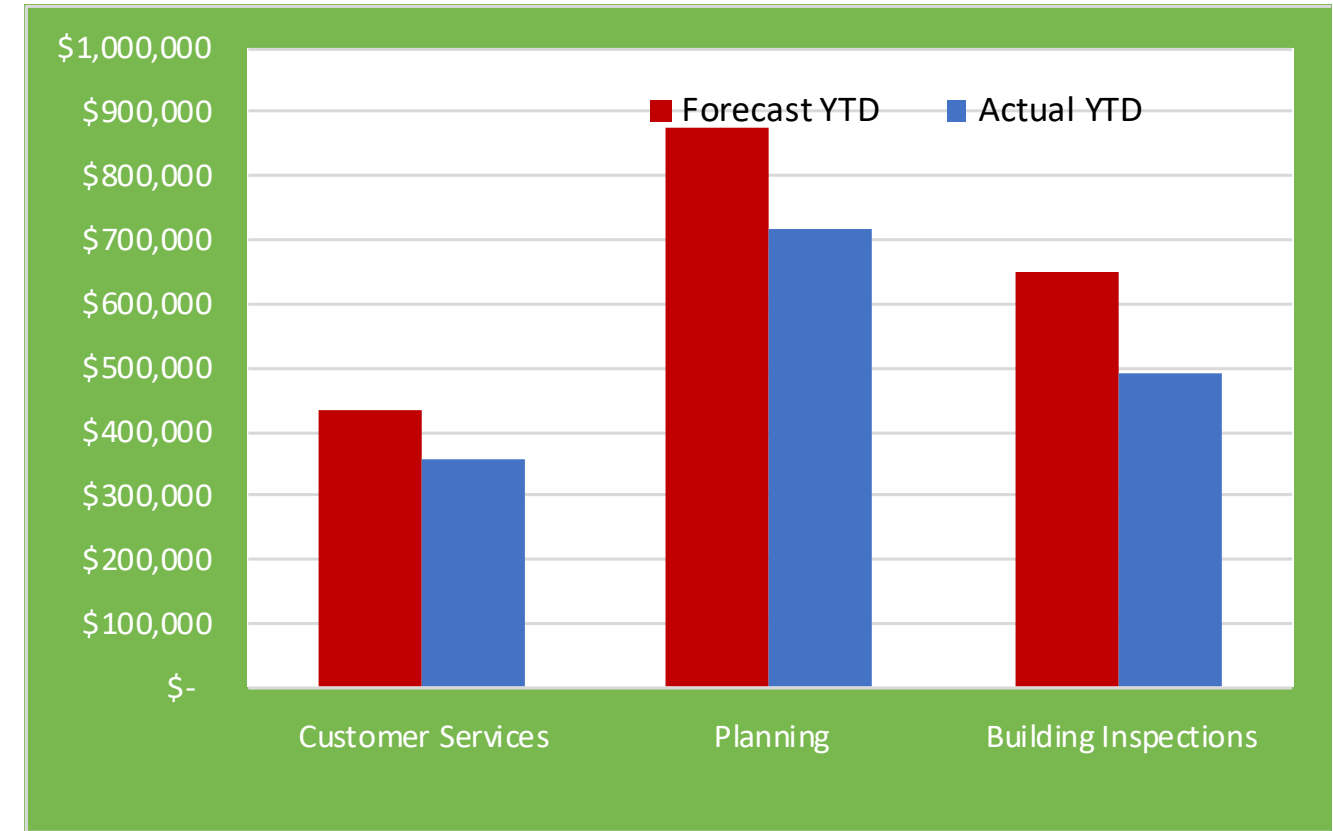


POSITIVE

FY2024 is the first year for reporting Development Services within their own fund. The revenue of actual compared to forecast is 21.3% over forecast. Development Services has been provided inspection services to other governmental agencies that caused an increase in revenue for August. And there was a spike in

DEVELOPMENT SERVICES EXPENDITURES BY DIVISION

<u>Division</u>	<u>FY2024 Forecast YTD</u>	<u>FY2024 Actual YTD</u>	<u>Variance</u>
Customer Services	\$ 436,160	\$ 358,201	\$ (77,959)
Planning	876,548	715,165	\$ (161,383)
Building Inspections	650,228	493,202	\$ (157,026)
Total	\$ 1,962,936	\$ 1,566,568	\$ (396,368)
Actual to Forecast	79.8%		



POSITIVE

FY2024 is the first year reporting Developme Services within their own fund. The expenditures of actual compared to forecast is 79.8%.

Legal fees by Attorney/Category

FIRM	CASE	FY21-22	FY22-23	FY23-24
BUNDREN				
	Pine Forest Interlocal	\$ 8,946	\$ -	\$ -
BOJORQUEZ				
	General Legal	\$ 275,339	\$ 251,876	\$ 289,794
	Real Estate/ROW Acquisitior	\$ -	\$ 56,615	\$ 47,910
	Bastrop 552	\$ 6,571	\$ 476	
	Crouch Suit	\$ 12,006	\$ -	\$ -
	Cox Suit	\$ 11,122	\$ -	\$ -
	Pine Forest Interlocal	\$ 3,710	\$ 5,734	\$ 6,743
	Prosecutor (Municipal Court)	\$ 21,783	\$ 21,195	\$ 16,237
	Water/WW	\$ 67,910	\$ 141,065	\$ 61,554
	Visit Bastrop/Nelson	\$ -	\$ -	\$ 98,077
	Valverde	\$ -	\$ 1,771	\$ -
HYDE KELLEY LLP				
	Hunter's Crossing PID	\$ 3,638	\$ 11,451	\$ 16,486
MULTIPLE FIRMS				
	W/WW Contract reviews	\$ 17,836	\$ 11,774	\$ 35,221
	Crouch Suit	\$ 11,896	\$ -	\$ -
	Cox Suit	\$ 11,994	\$ -	\$ -
TAYLOR, OLSON, ADKINS, SRALLA & ELAM				
	71 Bastrop & MC Bastrop 71	\$ 18,967	\$ 200	\$ -
		<u>\$ 471,716</u>	<u>\$ 502,157</u>	<u>\$ 572,021</u>

The Chapman Firm - w/ww contract reviews



STAFF REPORT

MEETING DATE: January 14, 2025

TITLE:

Consider and act to approve the following Bastrop City Council meeting minutes:

1. Tuesday, December 10, 2024 Regular Meeting; and
2. Tuesday, December 17, 2024 Special Meeting.

AGENDA ITEM SUBMITTED BY:

Victoria Psencik, Assistant City Secretary

BACKGROUND/HISTORY:

N/A

FISCAL IMPACT:

N/A

RECOMMENDATION:

Approve the Bastrop City Council meeting minutes for the Tuesday, December 10, 2024 Regular Meeting and the Tuesday, December 17, 2024 Special Meeting.

ATTACHMENTS:

- DRAFT Tuesday, December 10, 2024 Regular Meeting
- DRAFT Tuesday, December 17, 2024 Special Meeting



CITY OF BASTROP

BASTROP CITY COUNCIL REGULAR CITY COUNCIL MEETING MINUTES

Tuesday, December 10, 2024

The Bastrop City Council met in Regular Meeting on Tuesday, December 10, 2024, at 5:00 p.m. at the Bastrop City Hall Council Chambers, 1311 Chestnut Street, Bastrop, Texas, with the following action taken to wit:

Council Members Present

Mayor Lyle Nelson
Mayor Pro-Tempore John Kirkland
Council Member Cynthia Meyer
Council Member Cheryl Lee*¹
Council Member Kerry Fossler
Council Member Kevin Plunkett

Staff Present

City Manager Sylvia Carrillo-Trevino
Assistant City Manager Andres Rosales
City Attorney Alan Bojorquez
City Secretary Irma G. Parker
Assistant City Secretary Victoria Psencik
Chief Financial Officer Edi McIlwain
Development Services Director James Cowey
Police Chief Vicky Steffanic
Information Technology Director Jaime Saldivar
Community Engagement Director Kathy Danielson
Public Works Director John Eddleton
Parks & Recreation Director Terry Moore
Human Resources Director Tanya Cantrell
Assistant to City Manager Viviana Andres
Senior Planner Kennedy Higgins
Project Manager Hudson Mills
Project Manager Elizabeth Wick

Council Members Absent

None

1. CALL TO ORDER

With a quorum being present Mayor Nelson called the Regular City Council meeting to order at 5:00 p.m.

2. PLEDGE OF ALLEGIANCE –United States of America and Texas Flags

Rylee Romney and Lindsey McFarland representing the Bastrop High School Girls Soccer Team, led the Pledge of Allegiance.

3. INVOCATION

City of Bastrop Police Chaplain Ketrich Steger delivered the invocation.

4. EXECUTIVE SESSION

4A. **Section 551.071 to seek the advice of legal counsel and to deliberate regarding a request from the Valverde Development, to appeal the Impact Fee and fee structure as adopted by the Impact Fee Ordinance (2022-18).**

- 4B. Section 551.071 to seek the advice of legal counsel and to deliberate matters related to development fees associated with the transfer of the Certificate of Convenience and Necessities for the Valverde Development.
- 4C. Section 551.071 to seek the advice of legal counsel regarding proposed development agreement and utility agreement with WB Bastrop Land, LLC, for the Ironwood Development project.
- 4D. Section 551.071 and 551.074 to seek the advice of legal counsel regarding the appointment of an Interim City Attorney.
- 4E. Section 551.071 to seek the advice of legal counsel and to deliberate regarding a request from the PRC 01 Bastrop, LLC, (Sendero Development) to enter into an agreement regarding the development process as outlined in the 380 Agreement executed on June 11, 2024.

Mayor Nelson closed the Open Meeting to convene the City Council into Executive (Closed) Session at 5:04 p.m. pursuant to Texas Government Code, Chapter 551. as follows:

- 5. **TAKE ANY NECESSARY OR APPROPRIATE ACTION ON MATTERS POSTED FOR CONSIDERATION IN CLOSED/EXECUTIVE SESSION.**
 - 4A. Section 551.071 to seek the advice of legal counsel - Valverde Development
Citizen Comments: Brian Grace; Signed Speaker Card, but did not speak
 - 4B. Section 551.071 to seek the advice of legal counsel - transfer of the Certificate of Convenience and Necessities for the Valverde Development.
 - 4C. Section 551.071 to seek the advice of legal counsel - WB Bastrop Land, LLC, for the Ironwood Development project.
 - 4D. Section 551.071 and 551.074 to seek the advice of legal counsel - appointment of an Interim City Attorney.
 - 4E. Section 551.071 to seek the advice of legal counsel - PRC 01 Bastrop, LLC, (Sendero Development) 380 Agreement executed on June 11, 2024.

Mayor Nelson reconvened the City Council into Open Session at 6:40 p.m. Mayor Nelson called for any action as a result of Executive Session.

MOTION: Council Member Fossler moved to approve a Memorandum of Understanding with PRC 01 Bastrop, LLC, Item 4E regarding the Sendero Development. Mayor Pro-Tempore Kirkland seconded the motion. Motion carried unanimously.

6. PRESENTATIONS

- 6A. Mayor's Report

6B. Council Members' Report

7. STAFF AND BOARD REPORTS

7A. City Manager's Report

8. CITIZEN COMMENT(S)

No requests made to address the City Council on an item, not on the agenda

9. CONSENT AGENDA

9B. Consider and act on Resolution No. R-2024-168, accepting a donation from D. R. Horton in the amount of \$5,000.00 (Five Thousand Dollars) for the upcoming Bastrop Mardi Gras Event being held in Downtown Bastrop, TX, on Saturday February 1, 2025.

Submitted by: Kathy Danielson, Community Engagement Director

9C. Consider and act on the second reading of Ordinance No. 2024-36, amending the budget for the Fiscal Year 2024 in accordance with existing statutory requirements; appropriating the various amounts herein as attached in Exhibit A; repealing all prior ordinances and actions in conflict herewith; and establishing an effective date.

Submitted by: Edi McIlwain, CPA, Chief Financial Officer

9D. Consider and act on Resolution No. R-2024-166, approving an Interlocal Agreement between Bastrop County and the City of Bastrop with CloudGavel for Electronic Warrants Cloud-Based Services (Exhibit A); authorizing the City Manager to execute all necessary documents, providing for a repealing clause; and establishing an effective date.

Submitted by: Vicky Steffanic, Chief of Police

9E. Consider and act on the second reading of Ordinance No. 2024-42 approving the "Covered Applications and Prohibited Technology Policy" as required by Senate Bill 1893.

Submitted by: Tanya Cantrell, Human Resources Director & Jaime Saldivar, Information Technology Director

9F. Consider and act on the request to refund a Replat Application Fee in the amount of One Thousand, Nine Hundred Eighty-Six Dollars and Twenty-Nine Cents (\$1,986.29), and to refund the Board / Commission Appeal Application Fee in the amount of Three Thousand, Six Hundred Eighty-One and 00/100 Dollars (\$3,681.00) for the property located at 112 Post Oak Rim, Bastrop, Texas, within the city limits of Bastrop.

Submitted by: Sylvia Carrillo, ICMA-CM, CPM, City Manager

- 9H. **Consider and act on the second reading of Ordinance No. 2024-43, amending the FY 25 Operating Budget to fund the replacement of the Bob Bryant Park Playscape, Shade Structure Cloth, New Playground Surfacing and Swings Feature in the amount of \$100,000 from the General Fund Operating Fund Balance.**

Submitted by: Edi McIlwain, Finance Director & Terry Moore, Parks & Recreation Director

Mayor Nelson called for requests to remove any item from the Consent Agenda for separate discussion. Council Member Fossler requested Item 9A be removed from the Consent Agenda for separate discussion. City Manager Sylvia Carrillo-Trevino requested Item 9G be pulled from the Consent Agenda for separate discussion.

MOTION: Council Member Lee moved to approve the Consent Agenda 9B through 9F and 9H as presented. Council Member Plunkett seconded the motion. Motion carried unanimously.

* * * * *

- 9A. **Consider and act to approve the following Bastrop City Council meeting minutes:**

- 1. Tuesday, November 12, 2024, Regular Meeting;**
- 2. Thursday, November 21, 2024, Special Meeting; and**
- 3. Tuesday, December 3, 2024, Joint City Council and Bastrop Economic Development Corporation Board Meeting.**

Submitted by: Victoria Psencik, Assistant City Secretary

MOTION: Council Member Fossler moved to approve Item 9A.2 to add *Note For The Record* to clarify her vote in the November 21, 2024 Meeting Minutes and approve Items 9A.1 and 9A.3 as presented. Council Member Plunkett seconded the motion. Motion carried unanimously.

* * * * *

- 9G. **Consider and act on Resolution No. R-2024-180, accepting donations to the City of Bastrop for the Texas Municipal League (TML) Region 10 Holiday Quarterly Meeting, Hosted by the City of Bastrop, From Various Companies and Individuals in the Total Amount of Two Thousand *Three Hundred And Forty And 00/100 Dollars* (\$2,040.00 *\$2,340.00*); As Attached in Exhibit A; Authorizing the City Manager to Execute all Necessary Documents; Providing for a Repealing Clause; And Establishing an Effective Date**

Submitted by: Andres Rosales, Assistant City Manager

MOTION: Council Member Meyer moved to approve Resolution No. R-2024-180 with amendment submitted by City Manager Carrillo-Trevino to add \$300.00 donation from International Consulting Engineers (ICE) and updating the donation amount to \$2,340.00. Member Plunkett seconded the motion. Motion carried unanimously.

10. ITEMS FOR INDIVIDUAL CONSIDERATION – PUBLIC HEARINGS – DEVELOPMENT CODE AMENDMENTS

- 10A. **Conduct a public hearing, consider and act on the first reading of Ordinance No. 2024-44, of the City of Bastrop, Texas, approving the zoning change for 10.56 +/- acres out of Nancy Blakey Survey Abstract 98, located west of FM 969, within the City of Bastrop from P2 Rural to P5 Core as shown in Attachment 2; providing for findings of fact; providing for repealer; providing for severability; providing for enforcement; providing for proper notice and meeting; and establishing an effective date; and move to include on January 14, 2024, Consent Agenda for second reading.**

Submitted by: Kennedy Higgins, Senior Planner

Mayor Nelson opened the Public Hearing at 7:05 p.m.

Public Hearing: No citizen comments.

Mayor Nelson closed the Public Hearing at 7:06 p.m.

MOTION: Mayor Pro-Tempore Kirkland moved to postpone Item 10A until the January 14, 2025, City Council meeting. Council Member Meyer seconded the motion. Motion carried unanimously.

Editor’s Note: Section 10B, 10C, 10D and 10E – “ITEMS FOR INDIVIDUAL CONSIDERATION – PUBLIC HEARINGS – DEVELOPMENT CODE AMENDMENTS” presented together as they all pertained to Bastrop Building Block (B3) Code.

- 10B. **Conduct a public hearing, consider, and act on the first reading of Ordinance No. 2024- 46, of the City of Bastrop, Texas amending the Code of Ordinances, related to Chapter 14, The Bastrop Building Block (B3) Code, Article 6.3 General Lot Standards, Section 6.3.005 ALLEYS & DRIVEWAY LOCATIONS (a), (b) and (c) as attached in Exhibit A; and providing for findings of fact, repealer, severability, codification, effective date, proper notice, and meeting and move to include on the January 14, 2025 Consent Agenda for the second reading.**

Submitted by: Kennedy Higgins, Senior Planner

- 10C. **Conduct a public hearing, consider, and act on the first reading of Ordinance No. 2024- 47, of the City of Bastrop, Texas amending the Code of Ordinances, related to Chapter 14, The Bastrop Building Block (B3) Code, Article 6.3 General Lot Standards, Section 6.3.006 PARKING (b)(4)(5)(7) and (9) as attached in Exhibit A; and providing for findings of fact, repealer, severability, codification, effective date, proper notice, and meeting and move to include on the January 14, 2025 Consent Agenda for the second reading.**

Submitted by: Kennedy Higgins, Senior Planner

- 10D. **Conduct a public hearing, consider, and act on the first reading of Ordinance No. 2024- 48, of the City of Bastrop, Texas amending the Code of Ordinances, related to Chapter 14, The Bastrop Building Block (B3) Technical Manual, Article 2.1 General Standards And Requirements, section 2.1.006 Parking Areas (a)(1) as attached in Exhibit A; and providing for findings of fact, repealer, severability, codification, effective date, proper notice, and meeting and move to include on the January 14, 2025 Consent Agenda for the second reading.**

Submitted by: Kennedy Higgins, Senior Planner

- 10E. **Conduct a public hearing, consider, and act on the first reading of Ordinance No. 2024- 49, of the City of Bastrop, Texas amending the Code of Ordinances, related to Chapter 14, The Bastrop Building Block (B3) Code, Article 6.3 General Lot Standards, Section 6.3.003 Building Placement (a)(3)(A) as attached in Exhibit A; and providing for findings of fact, repealer, severability, codification, effective date, proper notice, and meeting and move to include on the January 14, 2025 Consent Agenda for the second reading.**

Submitted by: Kennedy Higgins, Senior Planner

Mayor Nelson opened the Public Hearing at 8:13 p.m.

Public Hearing: Pablo Serna. Mr. Serna was called to the podium to provide comments during the public hearing, he did not respond.

Mayor Nelson closed the Public Hearing at 8:13 pm for Bastrop Building Block (B3) Code Amendment listed in Item 10B, 10C, 10D, and 10E.

MOTION: Council Member Fossler moved to approve the first reading of the following Agenda Items as presented:

1. Item 10B - Ordinance No. 2024-46, Amending Chapter 14 – “The Bastrop Building Block (B3) Code”, Article 6.3 – “General Lot Standards”, Section 6.3.005 – “Alleys & Driveway Locations (a), (b) and (c);
2. Item 10D - Ordinance No. 2024-48, Amending Chapter 14 – “The Bastrop Building Block (B3) Technical Manual”, Article 2.1 – “General Standards And Requirements”, Section 2.1.006 - “Parking Areas (a)(1)”; and
3. Item 10E - Ordinance No. 2024-49, Amending Chapter 14 – “The Bastrop Building Block (B3) Code”, Article 6.3 – “General Lot Standards”, Section 6.3.003 – “Building Placement (a)(3)(A)”. as presented.

Council Member Lee seconded the motion. Motion carried unanimously.

MOTION: Mayor Pro-Tempore Kirkland moved to approve the first reading of Item 10C - Ordinance No. 2024-47 amending Chapter 6 – ‘Private Realm Development Standards’, Article 6.3 – “General Lot Standards of the Bastrop Building Block (B3) Code” Section 6.3.006(7) – “Parking” to read as follows – “Residential garage facades, if provided, shall begin in the second or third layer and on-site parking is allowed in the first layer”. Council Member Lee seconded the motion. Motion carried unanimously

10F. **Conduct a public hearing, consider, and act on the first reading of Ordinance No. 2024- 50, of the City of Bastrop, Texas amending the Code of Ordinances, related to Chapter 14, The Bastrop Building Block (B3) Code, Article 6.3 General Lot Standards, Section 6.3.006 PARKING (a) and (b)(1)(2) as attached in Exhibit A; and providing for findings of fact, repealer, severability, codification, effective date, proper notice, and meeting and move to include on the January 14, 2025 Consent Agenda for the second reading.**

Submitted by: Kennedy Higgins, Senior Planner

Mayor Nelson opened the Public Hearing at 8:29 pm for the Bastrop Building Block (B3) Code Amendment listed in Item 10F.

Public Hearing: No comments.

Mayor Nelson closed the Public Hearing at 8:29 pm for the Bastrop Building Block (B3) Code Amendment listed in Item 10F.

MOTION: Mayor Pro-Tempore Kirkland moved to the first reading of Ordinance No. 2024-50 with the following additions to Chapter 14 – “The Bastrop Building Block (B3) Code”, Article 6.3 – “General Lot Standards”, Section 6.3.006 – “Parking” – to:

1. Define a minimum parking space as measuring ten feet by twenty feet (10’ x 20’);
 2. Clearly state that the required minimum parking spaces must not obstruct sidewalks; and
 3. Change the requirement to a minimum of one (1) parking space for each bedroom.
- Council Member Meyer seconded the motion. Motion carried unanimously.

11. ITEMS FOR INDIVIDUAL CONSIDERATION

11A. **Consider and act on Resolution 2024-182, Accepting Notice of Withdrawal by the Bojorquez Law Firm, PC, from Representing the City and Resignation of City Attorney Alan Bojorquez Dated November 25, 2024; Direct City Manager to Coordinate Transition of Services; Providing for Repealing Clause; and Establish an Effective Date.**

Submitted by: Sylvia Carrillo-Trevino, ICMA-CM, CPM, City Manager

MOTION: Council Member Meyer moved to approve Resolution No. R-2024-182 accepting notice of withdrawal by the Bojorquez Law Firm, PC from representing the city and resignation of City Attorney Alan Bojorquez as presented. Council Member Plunkett seconded the motion. Motion carried unanimously.

- 11B. **Consider and act on Resolution No. R-2024-181, approving and authorizing an engagement letter with the Chapman Firm for legal services pertaining to the construction of public works projects, as attached in Exhibit A; authorizing the City Manager to execute all necessary documents; upon request and providing for findings of fact, repealer, severability, effective date, proper notice, and meeting.**

Submitted by: Andres Rosales, Assistant City Manager

MOTION: Council Member Plunkett moved to approve Resolution No. R-2024-181 approving and authorizing an engagement letter with the Chapman Firm for legal services for public works construction projects as presented. Council Member Meyer seconded the motion. Motion carried unanimously.

- 11C. **Consider and act on first reading of Ordinance No. 2024-51; An Ordinance Ordering a Special Election to be held on Saturday, May 3, 2025 for the Recall of Mayor Lyle Nelson According to the Bastrop Home Rule Charter; Designating Polling Places with the City; Establishing other Procedures for the Conduct of the Special Election, Including Providing that the Election is to be held as a Joint Election in Conjunction with Bastrop County; Providing a Severability Clause; and Providing an Effective Date.**

Submitted and Presented by: Irma G. Parker, City Secretary, TRMC, CMC

MOTION: Mayor Pro-Tempore Kirkland moved to POSTPONE Item 11C to the January 14, 2025, City Council Meeting. Council Member Plunkett seconded the motion. Motion carried unanimously.

- 11D. **Consider and act on Resolution No. R-2024-179, Supporting of Employees Andres Rosales, Irma G. Parker, Victoria Psencik, Vivianna Nicole Andres, Elisha Perkins, Doug Haggerty, Kathy Danielson, James E. Cowey, Laura Allen, John Eddleton, Curtis Hancock, Jaime Saldivar, Jimmie Campbell, and Tim Vande Vorde as Listed and Named by Council Member Cheryl Lee; Directing This Document With Associated Exhibits to be Prepared with a Certified Copy Delivered to Each Named Employee; Directing that this Document Be Provided to Human Resources For Inclusion In Each Employee Personnel File; Providing For A Repealing Clause; And Establishing An Effective Date.**

Submitted by: Mayor Pro-Tempore Kirkland and Council Member Meyer
Presented by: City Secretary Irma G. Parker

MOTION: Council Member Plunkett moved to approve Resolution No. R-2024-179 supporting the employees listed in Item 11D that were named in Council Member Cheryl Lee's Memo. Mayor Pro-Tempore Kirkland seconded the motion.

[Editor's Note: no vote taken at this time. Council Member Lee began to read her speech into the record]

MOTION: Council Member Meyers called for a Point of Order to address rule violation by Council Member Lee as her comments should relate to Item 11D - Resolution R-2024-179. Point of Order denied.

[Editor's Note: Points of order can interrupt the speaker, does not require a second, and cannot be debated or amended. When a Point of Order is called, the Mayor rules on its validity. Mayor Nelson did not validate. Council Member Lee began to comment on her report.]

MOTION: Council Member Meyer moved to Appeal Mayor Nelson's decision. Council Member Council Member Plunkett seconded the motion. Motion carried 3 to 2 with Council Member Lee and Council Member Fossler voting against.

[Editor's Note: Mayor Nelson returned to main motion.]

MOTION: Council Member Plunkett moved to approve Resolution No. R-2024-179 supporting the employees listed in Item 11D that were named in Council Member Cheryl Lee's Memo as presented. Mayor Pro-Tempore Kirkland seconded the motion. Motion carried unanimously

11E. **Consider and act on Resolution No. R-2024-176, Appointing Michael Burkhart to Place 4 of the Hunters Crossing Local Government Corporation Board for a Three-Year Term beginning December 2024 and Ending in September 2027; Receiving Confirmation by the City Council of the Appointment; And Providing for an Effective Date.**

Submitted by: Mayor Lyle Nelson

MOTION: Mayor Pro-Tempore Kirkland moved to approve Resolution No. R-2024-176 appointing Michael Burkhart to Place 4 of the Hunters Crossing Local Government Corporation Board. Council Member Lee seconded the motion. Motion carried unanimously.

11F. **Consider and act on the first reading of Ordinance No. 2024-45, of the City of Bastrop, Texas, amending Chapter 13, Article 13.02, Section 13.02.012 – Providing for Line Extension Agreements for the extension of certain water and/or wastewater lines; and providing for a findings of fact, repealer; severability, codification, effective date, proper notice and meeting, and move to include on January 14, 2024, Consent Agenda for second reading.**

Submitted by: Vivianna Nicole Andres, Assistant to the City Manager

MOTION: Council Member Plunkett moved to approve first reading of Ordinance No. 2024-45 amending Chapter 13, Article 13.02, Section approve 13.02.012 providing for line extension agreements for the extension of certain water and/or wastewater lines and to include on the January 14, 2025 Consent Agenda for the second reading. Council Member Fossler seconded the motion. Motion carried unanimously.

- 11G. **Consider and act on Resolution No. R-2024-170, approving and authorizing execution of the first amendment to the Viridian Development Agreement between the City of Bastrop and Continental Homes of Texas, L.P., regarding the Valverde Development; providing for severability; providing for repeal; and providing an effective date.**

Submitted and Presented by: Andres Rosales, Assistant City Manager

MOTION: Council Member Lee moved to approve Resolution No. R-2024-170 authorizing the execution of the first amendment to the Viridian Development Agreement. Council Member Fossler seconded the motion. Motion carried unanimously.

- 11H. **Consider and act on Resolution No. R-2024-175, Approving the 2025 City Council Meeting Schedule, attached as Exhibit A; and providing an effective date.**

Submitted by: Victoria Psencik, Assistant City Secretary

MOTION: Council Member Fossler moved to approve Resolution No. R-2024-175 approving the 2025 City Council Meeting Schedule. Mayor Pro-Tempore Kirkland seconded the motion. Motion carried unanimously.

- 11I. **Consider and act on Resolution No. R-2024-183, authorizing participation with the State of Texas, through the Office of the Attorney General, in the latest global opioid settlement with Kroger and approving settlement participation form attached as Exhibit A.**

Submitted by: Alan Bojorquez, City Attorney

MOTION: Mayor Pro-Tempore Kirkland moved to approve Resolution No. R-2024-183 authorizing participation with the State of Texas in the opioid settlement Kroger (grocery stores and pharmacies) by approving the settlement participation form. Council Member Plunkett seconded the motion. Motion carried unanimously.

- 11J. **Consider and act on Resolution No. R-2024-164 allowing the Mayor to promote and advocate for the City of Bastrop with Legislative and Administrative bodies leading up to and during the 89th Legislative Session, rescinding Section 1, Item 7 from Resolution No. R-2024-049 adopted April 29, 2024.**

Submitted by: Mayor Nelson and Council Member Lee

Citizen Comments: Linda Curtis was called to the podium to address the City Council. No comments made.

MOTION: Mayor Pro-Tempore Kirkland moved to TABLE until January 14, 2025 to address as a WORKSHOP ITEM. Council Member Meyer seconded the motion. Motion carried unanimously.

12. ITEMS FOR INDIVIDUAL CONSIDERATION – PURCHASING

12A. **Consider and act on Resolution No. R-2024-167, approving a construction contract with 304 Construction, LLC for a not-to-exceed amount of Four Hundred Ninety-Four Thousand, Two Hundred Sixty-Five Dollars and Zero Cents (\$494,265.00) for the construction of the Fairview Cemetery Columbaria Project; as attached in Exhibit A; authorizing the City Manager to execute all necessary documents; providing for a repealing clause; and establishing an effective date.**

Submitted by: Elizabeth Wick, CFM, Project Manager

MOTION: Council Member Plunkett moved to approve Resolution No. R-2024-167 awarding a construction contract with 304 Construction LLC for the Fairview Cemetery Columbaria Project. Council Member Meyer seconded the motion. Motion carried 4 to 0. Council Member Lee was off of the dais.

12B. **Consider and act on Resolution No. R-2024-173, Awarding a contract for the Maintenance, Mowing & Landscaping Services for Parks and Public Buildings to Brightview Landscape Services, Inc., in the amount of Ninety Thousand Seven Hundred Thirty-Six And 00/100 Dollars (\$90,736.00) as attached as Exhibit A; authorizing the City Manager to execute all necessary documents for the contract; providing for a repealing clause; and establishing an effective date.**

Submitted by: Terry Moore, Parks & Recreation Director

MOTION: Mayor Pro-Tempore Kirkland moved to approve Resolution No. R-2024-173 awarding a contract with Brightview Landscape Services Inc for Maintenance, Mowing, and Landscaping Services for Parks and Public Buildings. Council Member Lee seconded the motion. Motion carried unanimously.

12C. **Consider and act on Resolution No. R-2024-174, awarding a contract for the Maintenance, Mowing & Landscaping Services for Hunters Crossing to Community Lawn Care and Maintenance, LLC., in the amount of Fifty-Nine Thousand Eight Hundred And 00/100 Dollars (\$59,800.00) as attached as Exhibit A; authorizing the City Manager to execute all necessary documents for the contract; providing for a repealing clause; and establishing an effective date.**

Submitted by: Terry Moore, Parks & Recreation Director

MOTION: Council Member Plunkett moved to approve Resolution No. R-2024-174 awarding a contract with Community Lawn Care and Maintenance LLC for Maintenance, Mowing, and Landscaping Services for Hunters Crossing. Mayor Pro-Tempore Kirkland seconded the motion. Motion carried unanimously.

- 12D. **Consider and act on Resolution No. R-2024-172, awarding a contract for the Maintenance, Mowing & Landscaping Services for Public Right-of-Ways to Community Lawn Care and Maintenance, LLC, in the amount of One Hundred Twenty-Four Thousand Seven Hundred And 00/100 Dollars (\$124,700.00) as attached in Exhibit A; authorizing the City Manager to execute all necessary documents for the contract; providing for a repealing clause; and establishing an effective date.**

Submitted by: John Eddleton, Public Works Director

MOTION: Council Member Plunkett moved to approve Resolution No. R-2024-172 awarding a contract with Community Lawn Care and Maintenance LLC for Maintenance, Mowing, and Landscaping Services for Public Right-of-Ways. Council Member Fossler seconded the motion. Motion carried unanimously.

- 12E. **Consider and act on Resolution No. R-2024-171, approving Change Order #1 with BAR Constructors, Inc. in the amount of Two Hundred Seventy-Two Thousand, Two Hundred Nineteen Dollars and Forty-Nine Cents (\$272,219.49) for construction of the redesigned stormwater outfall structure as part of the Wastewater Treatment Plant #3 Project; as attached in Exhibit A; authorizing the execution of all necessary documents; upon request and providing for findings of fact, repealer, severability, effective date, proper notice, and meeting.**

Submitted by: Andres Rosales, Assistant City Manager

MOTION: Council Member Plunkett moved to approve Resolution No. R-2024-171 for Change Order #1 with BAR Constructors Inc for construction of the redesigned stormwater outfall structure as part of the Wastewater Treatment Plant #3 Project. Council Member Fossler seconded the motion. Motion carried unanimously.

- 12F. **Consider and act on Resolution No. R-2024-177, approving and authorizing the issuance of a Request for Proposals (RFP) for Banking Services, as attached in Exhibit "A"; providing for a repealing clause; and establishing an effective date.**

Submitted by: Edi McIlwain, CPA, Chief Financial Officer

MOTION: Council Member Plunkett moved to approve Resolution No. R-2024-177 authorizing the issuance of a Request for Proposal for Banking Services. Mayor Pro-Tempore Kirkland seconded the motion. Motion carried unanimously.

12G. **Consider and act on Resolution No. R-2024-178, approving to extend the term of the current Bank Depository Agreement with First National Bank of Bastrop, from December 31, 2024 until January 31, 2025, as attached in Exhibit A; authorizing the City Manager to execute all necessary documents; providing for a repealing clause; and establishing an effective date.**

Submitted by: Edi McIlwain, CPA, Chief Financial Officer

MOTION: Council Member Fossler moved to approve Resolution No. R-2024-178 to extend the term of the current Bank Depository Agreement with First National Bank of Bastrop from December 31, 2024 until January 31 2025. Council Member Lee seconded the motion. Motion carried unanimously.

13. ITEMS FOR INDIVIDUAL CONSIDERATION – CHARTER AMENDMENTS

13A. **Consider and act on the first reading of Ordinance No. 2024-41 to canvass returns and declare the results of the adoption or rejection of proposed amendments to the existing Home Rule Charter at the Special Election held on Tuesday, November 5, 2024; providing a severability clause; and providing an effective date.**

Submitted and Presented by: Irma G. Parker, City Secretary, TRMC, CMC

Citizen Comment(s): Linda Curtis

MOTION: Mayor Pro-Tempore Kirkland moved to approve the first reading of Ordinance No. 2024-41 canvassing returns and declare the results of the adoption or rejection of proposed amendments to the existing Home Rule Charter at the Special Election held on Tuesday, November 5, 2024, and move to include on the January 14, 2025, agenda. Council Member Plunkett seconded the motion. Motion carried 4 to 1. Council Member Fossler voting against.

13B. **Consider and act on first reading of Ordinance No. 2024-52, Amending the Code of Ordinances Chapter 1 “General Provisions”, Article 1.03 “Mayor & City Council”, Division 2 “Mayor”, Section. 1.03.032 – “Compensation” and Section. 1.03.033 “Expense Account”; Division 3 “City Council”, Section 1.03.061 “Composition; Meetings”, Section 1.03.062 “Compensation of Councilmembers” to Comply with the City of Bastrop Home Rule Charter; Providing for Findings of Fact, Adoption, Enforcement, Repealer, and Severability; Establishes an Effective Date; And Ensures Proper Notice and Meeting.**

Submitted by: Irma G. Parker, City Secretary, TRMC, CMC

MOTION: Mayor Pro-Tempore Kirkland moved to approve the first reading of Ordinance No. 2024-52 amending the Code of Ordinances Chapter 1 “General Provisions”, Article 1.03 “Mayor & City Council”, Division 2 “Mayor”, Section. 1.03.032 – “Compensation” and Section. 1.03.033 “Expense Account”; Division 3 “City Council”, Section 1.03.061 “Composition; Meetings”, Section 1.03.062 “Compensation of Councilmembers” to Comply with the City of Bastrop Home Rule Charter. Council Member Lee seconded the motion. Motion carried unanimously.

13C. **Consider and act on Resolution No. R-2024-184, To Ratify the Mayor and City Council Salary Increases as Approved at the November 5, 2024 Special Election With Approval of Proposition I; Authorizing and Directing the city secretary and human resources director to Execute all Necessary Documents for the Salary of Elected Officials; Providing for a Repealing Clause; And Establishing an Effective Date.**

Submitted by: Irma G. Parker, City Secretary, TRMC, CMC

MOTION: Council Member Lee moved to approve Resolution No. R-2024-184 ratifying the Mayor and City Council Salary Increases as approved at the November 5, 2024 Special Election with approval of Proposition I. Mayor Pro-Tempore Kirkland seconded the motion. Motion carried unanimously.

14. **ADJOURNMENT**

Upon receiving a motion duly made and seconded to adjourn, the December 10th Regular Meeting was adjourned at 9:31 p.m.

CITY OF BASTROP, TEXAS

Lyle Nelson, Mayor

ATTEST:

Irma G. Parker, City Secretary

ⁱ Council Member Lee left the dais at 9:01 p.m. and returned at 9:05 p.m.

CITY OF BASTROP

BASTROP CITY COUNCIL SPECIAL CITY COUNCIL MEETING MINUTES

Tuesday, December 17, 2024

The Bastrop City Council met in a Special Meeting on Tuesday, December 17, 2024, at 5:00 p.m. at the Bastrop City Hall Council Chambers, 1311 Chestnut Street, Bastrop, Texas, with the following action taken to wit:

Council Members Present

Mayor Lyle Nelson
Mayor Pro-Tempore John Kirkland
Council Member Cynthia Meyer
Council Member Cheryl Lee
Council Member Kerry Fossler
Council Member Kevin Plunkett

Staff Present

City Manager Sylvia Carrillo-Trevino
Assistant City Manager Andres Rosales
Assistant City Secretary Victoria Psencik
Police Chief Vicky Steffanic
Development Services Director James Cowey
Assistant to City Manager Vivianna Andres
Parks & Recreation Director Terry Moore
Water & Wastewater Director Curtis Hancock

Council Members Absent

None

1. CALL TO ORDER

With a quorum being present Mayor Nelson called the Special City Council meeting to order at 5:00 p.m.

2. EXECUTIVE SESSION

The City Council convened into closed session at 5:02 p.m. pursuant to the Texas Government Code, Chapter 551, et seq, to discuss the following:

2B. City Council shall convene into closed executive session pursuant to Texas Government Code Section 551.071 and Section 551.074 to seek the advice of legal counsel regarding the appointment of an Interim City Attorney.

Mayor Nelson recessed the Executive Session and reconvened the Open Session at 7:21 p.m.

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

2B. City Council shall convene into closed executive session pursuant to Texas Government Code Section 551.071 and Section 551.074 to seek the advice of legal counsel regarding the appointment of an Interim City Attorney.

MOTION: Council Member Meyer moved to hire the law firm of Denton Navarro as our Interim City Attorney effective today, December 17th, 2024. Council Member Fossler seconded the motion. Motion carried unanimously.

2. EXECUTIVE SESSION, continued

- 2C. City Council shall convene into closed executive session pursuant to Texas Government Code Section 551.071 and Section 551.072 to seek the advice of legal counsel regarding a land lease with Bastrop Little League, Inc.

***Editor's Note:** Citizen Comments for Item 2C were heard before the City Council convened into Executive Session for this item and Item 2A.*

Citizen Comment(s) on Item 2C:

Addressing the Council: Cade Staton, Jeff Prokop, Timothy Bailey, and Matthew Lassen
Did not wish to speak: Christopher Kosho

The City Council convened into closed session at 7:39 p.m. pursuant to the Texas Government Code, Chapter 551, et seq, to discuss the following:

- 2A. City Council shall convene into closed executive session pursuant to Texas Government Code Section 551.071 to seek the advice of legal counsel regarding a proposed development agreement and utility agreement with WB Bastrop Land, LLC, for the Ironwood Development project.
- 2C. City Council shall convene into closed executive session pursuant to Texas Government Code Section 551.071 and Section 551.072 to seek the advice of legal counsel regarding a land lease with Bastrop Little League, Inc.

Mayor Nelson recessed the Executive Session and reconvened the Open Session at 8:18 p.m.

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

- 2A. City Council shall convene into closed executive session pursuant to Texas Government Code Section 551.071 to seek the advice of legal counsel regarding a proposed development agreement and utility agreement with WB Bastrop Land, LLC, for the Ironwood Development project.

MOTION: Council Member Meyer moved to approve to bring back a resolution at the next City Council meeting to approve the development agreement with WB Bastrop Land, LLC. Council Member Plunkett seconded the motion. Motion carried unanimously.

- 2C. City Council shall convene into closed executive session pursuant to Texas Government Code Section 551.071 and Section 551.072 to seek the advice of legal counsel regarding a land lease with Bastrop Little League, Inc.

MOTION: Mayor Pro-Tempore Kirkland moved to exercise the thirty (30) day cancellation term of the field usage contract and direct the City Manager to sign a license agreement with any and all groups with field usage proportional to the number of kids that sign up by January 31st with each qualifying entity after legal review and approval. Council Member Plunkett seconded the motion. Motion carried unanimously.

4. CITIZEN COMMENT(S)

Bastrop citizen(s) addressing the City Council on an item, not on the agenda: Dax Havrilak.

5. WORK SESSIONS / BRIEFINGS

5A. Review and discuss a presentation by ReUse Engineering, Inc to discuss new methods for wastewater treatment.

Submitted by: Sylvia Carillo-Trevino, ICMA-CM, CPM, City Manager

Presented by: Representatives from ReUse Engineering, Inc and Trane Technologies

Citizen Comment(s) on Item 5A:

Ishmael Harris

6. ITEMS FOR INDIVIDUAL CONSIDERATION

6A. **Consider and act on Resolution R-2024-186, providing direction to the City Manager to combine the public hearing and 15-day notice for a single joint meeting with the Planning and Zoning Commission and City Council to be held on January 16, 2025, for the consent of Wildwood Municipal Utility District and Bastrop County Municipal Utility District No. 5 (Ironwood); providing for a repealing clause; and establishing an effective date.**

Submitted and Presented by: Andres Rosales, Assistant City Manager

MOTION: Council Member Meyer moved to approve Resolution No. R-2024-186 providing direction to the City Manager to combine the public hearing and 15-day notice for a single joint meeting with the Planning and Zoning Commission and City Council to be held on January 16, 2025, for the consent of Wildwood Municipal Utility District and Bastrop County Municipal Utility District No. 5 (Ironwood). Council Member Plunkett seconded the motion. Motion carried unanimously.

6B. **Consider and act on Resolution No. R-2024-187 regarding a request from Council Member Lee to authorize the City Manager to pay for travel in the amount of three hundred forty-eight dollars and 35/100 (\$348.35).**

Submitted and Presented by: Sylvia Carrillo-Trevino, ICMA-CM, CPM, City Manager

Citizen Comment(s) on Item 6B:

Linda Curtis

MOTION: Mayor Pro-Tempore Kirkland moved to approve the payment of the three hundred forty-eight dollars and 35/100 (\$348.35) or the remainder thereof and use any of the per diem monies that were set aside specifically for him for the TML Conference until exhausted. Council Member Plunkett seconded the motion. Motion carried unanimously.

7. ADJOURNMENT

Upon receiving a motion duly made and seconded to adjourn, the December 17th Special Meeting was adjourned at 10:00 p.m.

CITY OF BASTROP, TEXAS

Lyle Nelson, Mayor

ATTEST:

Victoria Psencik, Assistant City Secretary

DRAFT



STAFF REPORT

MEETING DATE: January 14, 2025

TITLE:

Consider and act to approve the second reading of Ordinance No. 2024-45, of the City of Bastrop, Texas, amending Chapter 13, Article 13.02, Section 13.02.012 – Providing for Line Extension Agreements for the extension of certain water and/or wastewater lines; and providing for findings of fact, repealer; severability, codification, effective date, proper notice, and meeting.

AGENDA ITEM SUBMITTED BY:

Vivianna Nicole Andres, Assistant to the City Manager

BACKGROUND/HISTORY:

City Manager, Sylvia Carrillo Trevino, ICMA-CM, CPM, requested Staff bring forward an ordinance that will create a process to allow the City to pass through certain development fees to the developer when applicable.

POLICY EXPLANATION:

As part of the toolbox available to the City to ensure the development occurring within the city's jurisdiction is fiscally sustainable, the City may adopt language into the Code of Ordinances that allows for the City to enter into a Line Extension Agreement with developers. Implementing this language into the Code of Ordinances will give the City the ability to pass-through some of the development costs that can be incurred when the City agrees to serve a particular development.

For example, this ordinance will allow the City to negotiate a pass-through fee for a development that is requesting to opt out of a CCN territory from a utility provider so that they may come into the City's CCN territory to be served water and wastewater. This ordinance will strengthen the City's fiscal solvency and allow for future development to occur in a way that does not burden the current taxpayers within the community.

RECOMMENDATION:

Take action on the second reading of Ordinance No. 2024-45, of the City of Bastrop, Texas, amending Chapter 13, Article 13.02, Section 13.02.012 – Providing for Line Extension Agreements for the extension of certain water and/or wastewater lines.

ATTACHMENTS:

- Ordinance No. 2024-45
- Exhibit A: Chapter 13, Article 13.02, Section 13.02.012 amended language

ORDINANCE NO. 2024-45

**LINE EXTENSION COST SHARING AGREEMENT FOR
EXTENSION OF UTILITY SERVICES**

AN ORDINANCE OF THE CITY OF BASTROP, TEXAS AMENDING THE BASTROP CODE OF ORDINANCES CHAPTER 13, ARTICLE 13.02, SECTION 13.02.012, PROVIDING FOR LINE EXTENSION AGREEMENTS FOR THE EXTENSION OF CERTAIN WATER AND/OR WASTEWATER LINES; AND PROVIDING FOR FINDINGS OF FACT, REPEALER, SEVERABILITY, CODIFICATION, EFFECTIVE DATE, PROPER NOTICE & MEETING.

WHEREAS, pursuant to Texas Local Government Code Sections 214.013, 552.001, and 552.017, the City Council of the City of Bastrop (City Council) has general authority to construct and operate water and wastewater systems; and

WHEREAS, pursuant to Texas Local Government Code Section 51.072, as a Home Rule City the City of Bastrop has the full power of local self-government; and

WHEREAS, pursuant to Section 2.01 of the Bastrop Home Rule Charter, the City has the power to enter into contracts; and

WHEREAS, the City Council finds that the ability to enter into certain agreements is in the best interest of the City; and

WHEREAS, the City Council finds the attached ordinance provisions to be reasonable and necessary.

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

Section 1. Findings of Fact: The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

Section 2. Amendment: Chapter 13, Article 13.02, Section 13.02.012 of the Bastrop Code of Ordinances is hereby amended and shall read in accordance with *Attachment "A"*, which is attached hereto and incorporated into this Ordinance for all intents and purposes.

Section 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.

Section 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.

Section 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 53.001 of the Texas Local Government Code.

Section 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.

Section 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 by the City Council of the City of Bastrop, Texas, on this, the **10th** day of **December** 2024.

PASSED & APPROVED on Second Reading by the City Council of the City of Bastrop, Texas, on this, the **14th** day of **January** 2025.

APPROVED:

Lyle Nelson, Mayor

ATTEST:

City Secretary

APPROVED AS TO FORM:

City Attorney

Sec. 13.02.012 Line Extension and/or Pro rata cost sharing agreements for extension of water and wastewater mains.

- (a) The city may enter into line extension and/or pro rata cost sharing agreements with owners and/or developers of property (developers) for the construction and/or extension of water and/or wastewater mains, and for any oversized mains developers are required to construct, both within and outside the city limits as set forth herein.
- (b) A developer shall make application for proposed water or wastewater line extension (line extension) and/or construction of oversized mains to the city engineer or designee~~director of public works~~ and shall supply all necessary information (e.g., maps, diagrams, engineering reports,.) concerning the site of the extension or of the construction of oversized mains, as may be required. The developer shall pay to the city an application fee as established in the city's fee schedule.
- (c) Upon compiling all necessary and required information, the city engineer or designee~~director of public works~~ shall submit to the city manager a preliminary plan and cost estimate for the line extension or construction of oversized mains, including any costs associated with city's acquisition of utility service rights needed to serve the property. The developer's proposed line extension or construction of oversized mains may be approved or disapproved by the city council. If approved, the city manager is authorized to execute a written contract with the property owner pursuant to terms and conditions agreed to by the city council and by this section.
- (d) The city will participate in the cost of any oversized main developers are required to construct, by purchasing the excess capacity in the main at the oversize cost of the main. The determination of the city engineer or designee~~director of public works~~ of the size of main necessary to adequately serve the subdivision, and the necessary degree of oversizing, shall be final. Oversize cost will be based upon the evaluated cost estimates provided by the city's engineers and will be paid after acceptance of the oversized main by the city.
- (e) A contract for line extension and/or pro rata cost sharing (which may include an agreement for water or wastewater main extension, the construction of oversized mains, or city's purchase of excess capacity in the main at the oversize cost of the main) shall be approved as to form by the city attorney and shall be made subject to all city policies and conditions, which may include but not be limited to the following:
- (1) All necessary mains, lines, fire hydrants, gate valves manholes, lift stations, acquisition of utility service rights and other fittings or ancillary components needed to provide the developer with service to water or wastewater (line extension improvements), and city's determination of the size of main necessary to serve the subdivision adequately, shall be furnished and installed at the cost of the developer. All work shall be under the direction of the city engineer and the director of public works, or as otherwise agreed;
 - (2) The pipe diameter of any main to be extended shall be determined by the city engineer or designee and the director of public works;
 - (3) No extension of any main or service line shall be laid except in a dedicated street, public road or approved easement. Each line extension improvement of a water main line shall terminate with a fireplug and each extension of a sewer main shall terminate at a manhole unless otherwise approved by the director of public works or city engineer.
 - (4) Such line extension improvements shall become the property of the city immediately upon their installations, and the city shall have full control, management and jurisdiction of such line extension improvements; and
 - (5) The city shall receive all revenues for water or wastewater service provided through such line extension.
- (f) The developer making such extension may be entitled to reimbursement of up to but not to exceed the costs of materials and installation of such extension main, from the point of connection to an existing main to the

developer's property, but not including any portion of such extension main across, along, or adjacent to the developer's property. Any such reimbursement shall be paid only out of funds received for such reimbursement as herein provided.

- (1) Upon completion of any such line extension, the developer shall furnish to the director of public works satisfactory evidence as to the actual cost of such extension. The amount of such costs as finally determined by the director of public works shall be conclusive for the purpose of reimbursement under this section. The costs may include administration, engineering and legal costs directly associated with the developer's application and contract.
 - (2) For each service connection made to any such line extension by an individual water or wastewater user for a single-unit family dwelling or for each single-unit business (as distinguished from a connection by an owner or developer of an addition or subdivision, an apartment project, multi-unit dwelling project or commercial user of any type), the individual user so connecting shall, upon application and in addition to the usual service connection charge, pay to the city the sum prescribed from time to time by separate ordinance, allowing for the developer's reimbursement.
 - (3) For each service connection made to such extension by an owner or developer of an addition or subdivision, an apartment project, multi-unit dwelling project or a commercial user of any type, the party making such connection shall, upon application and in addition to the usual service charge, pay to the city a connection fee based on one-half ($\frac{1}{2}$) of the cost per foot of such extension multiplied by the number of feet of such owner's or developer's property fronting on such extended main, or one-half ($\frac{1}{2}$) of the cost per foot of such extension multiplied by the length of one side of a square equal in area to such owner's or developer's property, whichever is greater.
 - (4) When any such taps as are provided for in subsections (2) and (3) above are completed during the reimbursement period, the payments therein provided for (exclusive of the regular service-connection charges) shall be refunded to the developer making such extension as a partial reimbursement of such party's costs as set out in the section. Such reimbursements shall be made annually and shall be limited to payments received by the city within ten (10) years from the date such water extension main is completed ("reimbursement period"). The completion date shall be determined by the director of public works, which date as so established shall be conclusive.
 - (5) Any developer making a line extension that is a lateral extension to another extension made as hereinabove set out (but not a tap on the extension), and which lateral extension is made to serve property not fronting or adjacent to the main to which such owner is connecting, shall be entitled to reimbursement on the same basis as the owner making such original extension, provided such owner shall also be obligated to pay to the city the reimbursement charges on the extended main to which such owner is connecting, on the same basis as is provided in subsections (b) and (c) above, whichever is applicable.
 - (6) Before any reimbursement is made, there shall be a written contract between the city and developer pursuant to and in accordance with this section.
- (g) Any resolution approving a developer's agreement that allows a pro rata reimbursement provision with a developer who has paid for installation of either a water or wastewater extension line, pursuant to this section, shall set forth the legal property description of each lot or tract affected by such agreement and the amount of costs to be reimbursed upon connection to the line by each property owner affected, and shall be recorded in the Official Public Records of Bastrop County, Texas. The ordinance shall, by its own terms, expire and be of no further effect upon the expiration of the seven-year contractual reimbursement period.
- (h) This section shall not prohibit the city council from assessing benefiting property owners a portion of the cost of any water or wastewater extension pursuant to state law or ordinances passed pursuant to the power granted to a home rule city, in lieu of a developer's agreement.

Exhibit A

- (i) A developer who disputes the determination of the pro rata share, may appeal to the city manager. If developer is not satisfied at the determination of the city manager, developer may appeal that determination to the city council in accordance with V.T.C.A., Local Government Code § 212.904.

Sec. 13.02.012 Line Extension and Pro rata cost sharing agreements for extension of water and wastewater mains.

- (a) The city may enter into line extension and/or pro rata cost sharing agreements with owners and/or developers of property (developers) for the construction and/or extension of water and/or wastewater mains, and for any oversized mains developers are required to construct, both within and outside the city limits as set forth herein.
- (b) A developer shall make application for proposed water or wastewater line extension (line extension) and/or construction of oversized mains to the city engineer or designee and shall supply all necessary information (e.g., maps, diagrams, engineering reports,.) concerning the site of the extension or of the construction of oversized mains, as may be required. The developer shall pay to the city an application fee as established in the city's fee schedule.
- (c) Upon compiling all necessary and required information, the city engineer or designee shall submit to the city manager a preliminary plan and cost estimate for the line extension or construction of oversized mains, including any costs associated with city's acquisition of utility service rights needed to serve the property. The developer's proposed line extension or construction of oversized mains may be approved or disapproved by the city council. If approved, the city manager is authorized to execute a written contract with the property owner pursuant to terms and conditions agreed to by the city council and by this section.
- (d) The city will participate in the cost of any oversized main developers are required to construct, by purchasing the excess capacity in the main at the oversize cost of the main. The determination of the city engineer or designee of the size of main necessary to adequately serve the subdivision, and the necessary degree of oversizing, shall be final. Oversize cost will be based upon the evaluated cost estimates provided by the city's engineers and will be paid after acceptance of the oversized main by the city.
- (e) A contract for line extension and/or pro rata cost sharing (which may include an agreement for water or wastewater main extension, the construction of oversized mains, or city's purchase of excess capacity in the main at the oversize cost of the main) shall be approved as to form by the city attorney and shall be made subject to all city policies and conditions, which may include but not be limited to the following:
 - (1) All necessary mains, lines, fire hydrants, gate valves manholes, lift stations, acquisition of utility service rights and other fittings or ancillary components needed to provide the developer with service to water or wastewater (line extension improvements), and city's determination of the size of main necessary to serve the subdivision adequately, shall be furnished and installed at the cost of the developer. All work shall be under the direction of the city engineer and the director of public works, or as otherwise agreed;
 - (2) The pipe diameter of any main to be extended shall be determined by the city engineer or designee and the director of public works;
 - (3) No extension of any main or service line shall be laid except in a dedicated street, public road or approved easement. Each line extension improvement of a water main line shall terminate with a fireplug and each extension of a sewer main shall terminate at a manhole unless otherwise approved by the director of public works or city engineer.
 - (4) Such line extension improvements shall become the property of the city immediately upon their installations, and the city shall have full control, management and jurisdiction of such line extension improvements; and
 - (5) The city shall receive all revenues for water or wastewater service provided through such line extension.
- (f) The developer making such extension may be entitled to reimbursement of up to but not to exceed the costs of materials and installation of such extension main, from the point of connection to an existing main to the developer's property, but not including any portion of such extension main across, along, or adjacent to the

developer's property. Any such reimbursement shall be paid only out of funds received for such reimbursement as herein provided.

- (1) Upon completion of any such line extension, the developer shall furnish to the director of public works satisfactory evidence as to the actual cost of such extension. The amount of such costs as finally determined by the director of public works shall be conclusive for the purpose of reimbursement under this section. The costs may include administration, engineering and legal costs directly associated with the developer's application and contract.
 - (2) For each service connection made to any such line extension by an individual water or wastewater user for a single-unit family dwelling or for each single-unit business (as distinguished from a connection by an owner or developer of an addition or subdivision, an apartment project, multi-unit dwelling project or commercial user of any type), the individual user so connecting shall, upon application and in addition to the usual service connection charge, pay to the city the sum prescribed from time to time by separate ordinance, allowing for the developer's reimbursement.
 - (3) For each service connection made to such extension by an owner or developer of an addition or subdivision, an apartment project, multi-unit dwelling project or a commercial user of any type, the party making such connection shall, upon application and in addition to the usual service charge, pay to the city a connection fee based on one-half ($\frac{1}{2}$) of the cost per foot of such extension multiplied by the number of feet of such owner's or developer's property fronting on such extended main, or one-half ($\frac{1}{2}$) of the cost per foot of such extension multiplied by the length of one side of a square equal in area to such owner's or developer's property, whichever is greater.
 - (4) When any such taps as are provided for in subsections (2) and (3) above are completed during the reimbursement period, the payments therein provided for (exclusive of the regular service-connection charges) shall be refunded to the developer making such extension as a partial reimbursement of such party's costs as set out in the section. Such reimbursements shall be made annually and shall be limited to payments received by the city within ten (10) years from the date such water extension main is completed ("reimbursement period"). The completion date shall be determined by the director of public works, which date as so established shall be conclusive.
 - (5) Any developer making a line extension that is a lateral extension to another extension made as hereinabove set out (but not a tap on the extension), and which lateral extension is made to serve property not fronting or adjacent to the main to which such owner is connecting, shall be entitled to reimbursement on the same basis as the owner making such original extension, provided such owner shall also be obligated to pay to the city the reimbursement charges on the extended main to which such owner is connecting, on the same basis as is provided in subsections (b) and (c) above, whichever is applicable.
 - (6) Before any reimbursement is made, there shall be a written contract between the city and developer pursuant to and in accordance with this section.
- (g) Any resolution approving a developer's agreement that allows a pro rata reimbursement provision with a developer who has paid for installation of either a water or wastewater extension line, pursuant to this section, shall set forth the legal property description of each lot or tract affected by such agreement and the amount of costs to be reimbursed upon connection to the line by each property owner affected, and shall be recorded in the Official Public Records of Bastrop County, Texas. The ordinance shall, by its own terms, expire and be of no further effect upon the expiration of the seven-year contractual reimbursement period.
- (h) This section shall not prohibit the city council from assessing benefiting property owners a portion of the cost of any water or wastewater extension pursuant to state law or ordinances passed pursuant to the power granted to a home rule city, in lieu of a developer's agreement.
- (i) A developer who disputes the determination of the pro rata share, may appeal to the city manager. If developer is not satisfied at the determination of the city manager, developer may appeal that determination to the city council in accordance with V.T.C.A., Local Government Code § 212.904.



STAFF REPORT

MEETING DATE: January 14, 2025

TITLE:

Consider and act on the second reading of Ordinance No. 2024-46, of the City of Bastrop, Texas amending the Code of Ordinances, related to Chapter 14, The Bastrop Building Block (B3) Code, Article 6.3 General Lot Standards, Section 6.3.005 ALLEYS & DRIVEWAY LOCATIONS (a), (b) and (c) as attached in Exhibit A; and providing for findings of fact, repealer, severability, codification, effective date, proper notice, and meeting..

AGENDA ITEM SUBMITTED BY:

Submitted by: Kennedy Higgins, Senior Planner, Development Services

BACKGROUND/HISTORY:

This amendment seeks to (a) clarify the intent of the code, (b) allow residents the flexibility to create or construct parking in the area between the street and the front façade of their home and gives an option to developments who do not want to create alley entrances; and (c) remove text reference to the perceived benefits of alleys.

On October 30th, 2024, the Planning and Zoning Commission held a workshop that introduced some code amendments. On November 21st, 2024, the Planning and Zoning Commission held a public hearing on the same amendments from the previous meeting. The public hearing was held, members of the community spoke their questions and concerns, and the Planning and Zoning Commission recommended approval with a vote of 8-0.

POLICY EXPLANATION:

Bastrop Building Block (B3) Code Technical Manual

Per the technical manual table 1.4.001A Development Application Approval Process, a public hearing and recommendation from Planning and Zoning, and then another public hearing and decision from City Council is required for any text amendments.

RECOMMENDATION:

Consider and act on the second reading of Ordinance No. 2024-46, of the City of Bastrop, Texas amending the Code of Ordinances, related to Chapter 14, The Bastrop Building Block (B3) Code, Article 6.3 General Lot Standards, Section 6.3.005 ALLEYS & DRIVEWAY LOCATIONS (a), (b) and (c) as attached in Exhibit A; and providing for findings of fact, repealer, severability, codification, effective date, proper notice, and meeting.

ATTACHMENTS:

- Attachment 1: Ordinance No. 2024-46
 - Exhibit A- Redlined Changes
- Attachment 2: Memo Staff Report from P&Z

ORDINANCE NO. 2024-46

AN ORDINANCE OF THE CITY OF BASTROP, TEXAS, AMENDING THE BASTROP CODE OF ORDINANCES CHAPTER 14, THE BASTROP BUILDING BLOCK (B3) CODE, ARTICLE 6.3 GENERAL LOT STANDARDS, SECTION 6.3.005 ALLEYS & DRIVEWAY LOCATIONS (A), (B) AND (C) AS ATTACHED IN EXHIBIT A; AND PROVIDING FOR FINDINGS OF FACT, REPEALER, SEVERABILITY, CODIFICATION, EFFECTIVE DATE, PROPER NOTICE, AND MEETING.

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the City Council of the City of Bastrop has general authority to amend an ordinance that is for the good government, peace, or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

WHEREAS, pursuant to Texas Local Government Code Chapters 211, 212, 214, and 217 the City Council of the City of Bastrop has general authority to regulate planning, zoning, subdivisions, and the construction of buildings; and

WHEREAS, these amendments will help clarify the intent of the code, allow residents the flexibility to create parking in the area between the street and the front façade of their home; and

WHEREAS, the City Council find that certain amendments to the aforementioned ordinances are necessary and reasonable to meet changing conditions and are in the best interest of the City.

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

Section 1. Finding of Fact: The facts and recitations set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. Amendment To Bastrop Building Block Code (B3), Section 6.3.005 of the Bastrop Building Code is hereby amended and shall read in accordance with Exhibit “A”, which is attached hereto and incorporated into this Ordinance for all intents and purposes. Any struck-through text shall be deleted from the Code, as shown in each of the attachments.

Section 3. Severability. If any clause or provision of this Ordinance shall be deemed to be unenforceable for any reason, such unenforceable clause or provision shall be severed from the remaining portion of the Ordinance, which shall continue to have full force and effect.

Section 4. Repeal. This Ordinance shall be and is hereby cumulative of all other ordinances of the City of Bastrop, Texas, and this Ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this Ordinance, in which event such conflicting provisions, if any, in such other Ordinances, are hereby repealed.

Section 5. Effective Date. This Ordinance shall take effect immediately after its final passage and any publication in accordance with the requirements of the City of Bastrop and the laws of the State of Texas.

READ & ACKNOWLEDGED on First Reading on this the **10th** day of **December** 2024.

READ & ADOPTED on Second Reading on this the **14th** day of **January** 2025.

APPROVED:

by: _____
Lyle Nelson, Mayor

ATTEST:

City Secretary

APPROVED AS TO FORM:

City Attorney

Exhibit A

SEC. 6.3.003 BUILDING PLACEMENT

(a) Principal buildings shall be positioned on a Lot in accordance with Section 6.5.003 Building Standards per Place Type.

(1) The First Layer is the area of land between the Frontage Line and the Build-to-Line. The First Layer is measured from the Frontage Line.

(2) The required Build-to-Line is the minimum percentage of the front Building Facade that must be located within the First Layer, measured based on the width of the Building divided by the width of the Lot.

(3) A Building Facade must be placed within the First Layer for the first 30 feet along the Street extending from any Block corner.

A. All Structures and encroachments customarily allowed on the Lot are permitted in the First Layer, ~~with the exception of parking.~~

SEC. 6.3.005 BUILDING SEPARATION

(a) Fences and screening walls may extend into the IBC Building separation line and Alley Setback.

(b) Side and rear Building separation will be determined by the IBC as adopted by the City.

SEC. 6.3.005 ALLEYS & DRIVEWAY LOCATIONS

~~(a) Intent: Building walkable cities means that while vehicles are part of modern life, they should have minimal disruption to the Public Realm.~~ The Standards of the Code intend to ensure all modes of Transportation are respected and create safe means of transportation along all transportation types, including walk, bike, car, and other.

~~(b) The preferred means of vehicular access to lots is through the use of Alleys. Alleys provide a location to hide unsightly functions of our communities such as garages, garbage cans, transformers, electric meters, and telephone equipment~~

~~(c) Other benefits of Alleys include:~~

~~(1) Alleys make it possible for rear accessed lots to be created, preserving the public frontages from interruptions of driveways and Curb-cuts.~~

~~(2) Safety as sidewalks and pedestrians become separated from the access requirements of vehicles.~~

~~(3) They create a more casual neighborhood space adjacent to backyard activity centers leaving the front of the House as a more formal community space.~~

(d) Driveways:

(1) Where Alleys are present, all vehicular access shall be provided from the Alley.

(2) Where a Lot does not have access to an Alley, driveways are allowed in accordance with this section.

(3) For corner lots, all driveways shall be located at the Secondary Frontage.

(4) Driveways shall be located as far from the adjacent public Street intersection as practical to achieve maximum

available corner clearance, with consideration of property limits, adjacent Curb cuts, topography, and existing Drainage facilities. Non-Alley loaded driveways may intersect a Street no closer than twenty (20) feet from the intersection of 2 Street rights-of-way in P1, P2, and P3, and forty (40) feet in P4 and P5.

(5) Mid-Block lots greater than 40' in width at the Frontage are allowed one Driveway with a maximum width of 24' for two-way and 12' for one-way driveways.

(6) In P4 and P5, driveways accessing up to 80 feet wide of Street right-of-way must be spaced 200 feet apart centerline to centerline, and driveways accessing more than an 80 feet wide Street right-of-way must be spaced 300 feet apart centerline to centerline.

(7) Nothing in this section shall prevent all Site access to any property.

SEC. 6.3.006 PARKING

(a) Intent: Parking shall not be the driver of Site planning. ~~The Standards in the Code support this notion through limited and eliminating parking. The intent of building a walkable, bikeable, and an easily navigable City means all mode of transportation are available to reduce the reliance on the car.~~



To: Sylvia Carrillo, City Manager

From: Kennedy Higgins, Senior Planner- Development Services

Date: November 21, 2024

Subject: B3 Text Amendments

=====

BACKGROUND/HISTORY:

The B3 code was adopted in November of 2019, and subsequently amended in April of 2022. From 2016 to 2023, Bastrop’s population grew by approximately 34.3%. With the increased growth from Austin to the west, the availability of large land parcels, the availability of water, and abundant natural resources, the growth shows no signs of slowing.

“The intent of the Code is to establish the Standards that enable, encourage, and ensure the community achieves:

- ✓ ***Fiscal Sustainability***
- ✓ ***Geographically Sensitive Developments***
- ✓ ***Perpetuation of Authentic Bastrop” pg. 11 – B3 Code***

While the aspirational ideas envisioned in the preamble of the B3 code (as noted above) to provide for fiscal sustainability, geographically sensitive developments, and perpetuation of Authentic Bastrop, several segments of the code accomplished just the opposite.

The B3 code removed several key factors to orderly growth in favor of a community that envisions no vehicles in the future.

“Create a framework of transit, Pedestrian, and bicycle systems that provide alternatives to the automobile.” Pg 12 -The B3 Code

While that may be a lofty aspirational goal, without a mass transit ability, the densification of the neighborhoods allowed in the B3 creates an urban catastrophe in a suburban/rural area.

The proposed amendments for Sections 6.3.005 Alleys & Driveway Locations, Section 6.3.006 Parking, Section 2.1.006 Parking Areas (B3 Technical Manual), are proposed to rectify the original intent of the B3 code which removed the ability for a homeowner to park in the front of their home (in the first layer), instead opting to require alley entrances, and NO parking minimums.

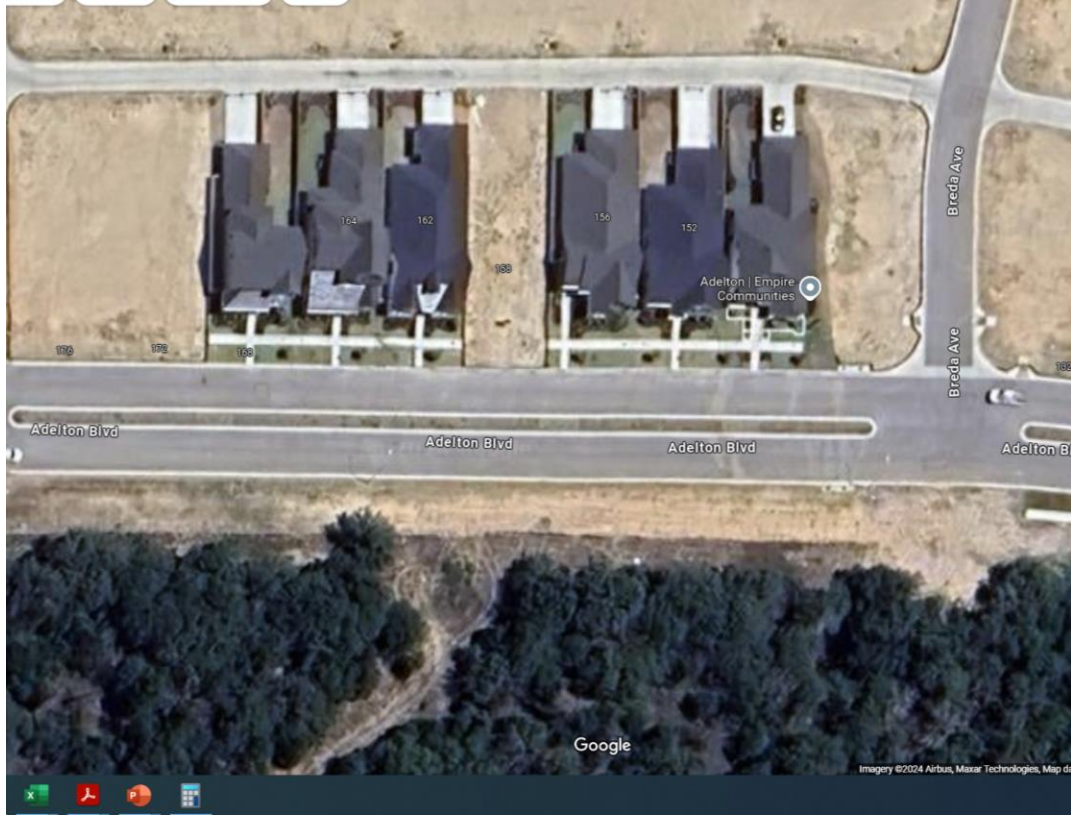
It went from allowing this:

ATTACHMENT 2

Item 10C.



To requiring this but only IF parking is going to be provided per unit:



To be clear, this code amendment did not impact existing homes such as Pecan Park and Riverside Grove, UNLESS a 50% or more construction limit was reached. In which case, a home in a previously developed subdivision would need to come into compliance, as was the case of a home on Barbara Way in the Riverside Grove subdivision.





The home shown above was damaged and had to create parking at the rear of the home; this requirement forced the home to go from a 3/2 to a 2/2 home.

To compound the parking situation, the B3 Code eliminated lot size minimums, and incorporated rather high impervious cover ratios. What does this mean? You can put more homes in an area with more concrete and less greenspace, but have ZERO parking requirements, forcing those cars onto the streets. This type of development pattern does have a place in American society; however, it must be inclusive of mass transit ability.

Bastrop is a semi-rural city which lacks adequate mass transit ability without major taxation. The new urbanist approach has a place in many cities across the country, and could have a place in Bastrop, however, not at the expense of existing residents whose authenticity lies in the open spaces of Bastrop's rich natural beauty.

A master sidewalk plan has been discussed at a Planning and Zoning workshop that will be incorporated into the Master Transportation plan is much safer and comprehensive way to address pedestrian friendly and multimodal access. This is currently underway.

Onsite Parking

The existing code removed all facets of onsite parking (parking on your lot) and moved it to the street with the elimination of minimum parking ratios (MPRs)

After public input and commission input, staff is proposing a minimum of 2 parking spaces for every dwelling unit located on the lot. The commercial ratio has no proposal at this time as staff continues to weigh the impact of overparking in commercial areas as well. The code does a decent job of requiring shared parking when it does not create undue hardship, a competing car dealership for example.

The proposed amendment to the parking regulations allows residents enjoy their neighborhood without over densification, as well as create a relief to street congestion.

Lastly, it should be noted that if a developer chooses to submit a development concept scheme that allows for alley access, reduced front yards, wider sidewalks, and other similar amenities, it is allowed under the Planned Unit Development (PUD) section of the ordinance which provides Planning and Zoning Commission as well as the City Council an opportunity to have a greater say in the overall development of the community in order to reduce the negative impact of any surrounding existing neighborhoods.

Shared Access and Cross Connections

This amendment applies to the Employment Center (EC) zone. Shared access and cross connections are valuable. This amendment seeks to provide staff some latitude in the code without requiring a variance. An example is a car dealership off of Hwy 71. This type of business normally has a do not compete clause with neighboring dealerships; to require cross connection in this circumstance is not viable. The alternative is to send all of these types of decisions to the Zoning Board of Adjustment or Planning Commission for these types of decisions.

FISCAL IMPACT:

None

RECOMMENDATION:

Recommend the amendments as proposed by staff.

ATTACHMENTS:

B3 Code Proposed Amend



STAFF REPORT

MEETING DATE: January 14, 2025

TITLE:

Consider and act on the second reading of Ordinance No. 2024-47, of the City of Bastrop, Texas amending the Code of Ordinances, related to Chapter 14, The Bastrop Building Block (B3) Code, Article 6.3 General Lot Standards, Section 6.3.006 PARKING (b)(4)(5)(7) and (9) as attached in Exhibit A; and providing for findings of fact, repealer, severability, codification, effective date, proper notice, and meeting.

AGENDA ITEM SUBMITTED BY:

Submitted by: Kennedy Higgins, Senior Planner, Development Services

BACKGROUND/HISTORY:

This amendment seeks to allow residents or developments to park in the area between the house and the street. Parking in the first layer is currently not allowed in the B3 code.

On October 30th, 2024, the Planning and Zoning Commission held a workshop that introduced some code amendments. On November 21st, 2024, the Planning and Zoning Commission held a public hearing on the same amendments from the previous meeting. The public hearing was held, members of the community expressed their questions and concerns, and the Planning and Zoning Commission recommended approval with an amendment. Motion was made to approve with an amendment to read remove parking maximums to allow residential garage facades in the second layer and allow parking in the first layer with a vote of 8-0.

At the 12/10/2024 City Council meeting the motion was made to approve with changes, those changes being for the text to say "Residential garage facades, if provided, shall begin in the second or third layer and on-site parking is allowed in the first layer."

POLICY EXPLANATION:

Bastrop Building Block (B3) Code

Per the technical manual table 1.4.001A Development Application Approval Process, a public hearing and recommendation from Planning and Zoning, and then another public hearing and decision from City Council is required for any text amendments.

RECOMMENDATION:

Consider and act on the second reading of Ordinance No. 2024-47, of the City of Bastrop, Texas amending the Code of Ordinances, related to Chapter 14, The Bastrop Building Block (B3) Code, Article 6.3 General Lot Standards, Section 6.3.006 PARKING (b)(4)(5)(7) and (9) as attached in Exhibit A; and providing for findings of fact, repealer, severability, codification, effective date, proper notice, and meeting.

ATTACHMENTS:

- Attachment 1: Ordinance No. 2024-47
 - Exhibit A- Redlined Changes
- Attachment 2: Memo Staff Report from P&Z



ORDINANCE NO. 2024-47

AN ORDINANCE OF THE CITY OF BASTROP, TEXAS, AMENDING THE BASTROP CODE OF ORDINANCES CHAPTER 14, THE BASTROP BUILDING BLOCK (B3) CODE, ARTICLE 6.3 GENERAL LOT STANDARDS, SECTION 6.3.006 PARKING AS ATTACHED IN EXHIBIT A; AND PROVIDING FOR FINDINGS OF FACT, REPEALER, SEVERABILITY, CODIFICATION, EFFECTIVE DATE, PROPER NOTICE, AND MEETING.

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the City Council of the City of Bastrop has general authority to amend an ordinance that is for the good government, peace, or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

WHEREAS, pursuant to Texas Local Government Code Chapters 211, 212, 214, and 217 the City Council of the City of Bastrop has general authority to regulate planning, zoning, subdivisions, and the construction of buildings; and

WHEREAS, these amendments will help clarify the intent of the code, allow residents the flexibility to create parking in the area between the street and the front façade of their home; and

WHEREAS, the City Council find that certain amendments to the aforementioned ordinances are necessary and reasonable to meet changing conditions and are in the best interest of the City.

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

Section 1. Finding of Fact: The facts and recitations set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. Amendment To Bastrop Building Block Code (B3), Section 6.3.006 of the Bastrop Building Code is hereby amended and shall read in accordance with Exhibit “A”, which is attached hereto and incorporated into this Ordinance for all intents and purposes. Any struck-through text shall be deleted from the Code, as shown in each of the attachments.

Section 3. Severability. If any clause or provision of this Ordinance shall be deemed to be unenforceable for any reason, such unenforceable clause or provision shall be severed from the remaining portion of the Ordinance, which shall continue to have full force and effect.

Section 4. Repeal. This Ordinance shall be and is hereby cumulative of all other ordinances of the City of Bastrop, Texas, and this Ordinance shall not operate to repeal or affect

any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this Ordinance, in which event such conflicting provisions, if any, in such other Ordinances, are hereby repealed.

Section 5. Effective Date. This Ordinance shall take effect immediately after its final passage and any publication in accordance with the requirements of the City of Bastrop and the laws of the State of Texas.

READ & ACKNOWLEDGED on First Reading on this the **10th** day of **December** 2024.

READ & ADOPTED on Second Reading on this the **14th** day of **January** 2025.

APPROVED:

by: _____
Lyle Nelson, Mayor

ATTEST:

City Secretary

APPROVED AS TO FORM:

City Attorney

Exhibit A

(b) The location of the parking shall be established and shown on the Neighborhood Regulating Plan, Zoning Concept Scheme, and/or Site Plan:

(1) Shared parking is available and determined with the Site Plan in P2, P4, and P5, where it does not cause undue hardship to the existing built environment or neighborhood. Lot coverage shall not exceed the Place Type Standards.

(2) Parking requirements ~~in P3 will be market driven~~ shall require one (1) parking space per bedroom. Lot coverage shall not exceed the Place Type Standards.

a) Minimum parking space as measuring ten feet by twenty feet (10' x 20').

b) The required minimum parking spaces must not obstruct sidewalks.

(3) Parking in EC shall be recommended by the DRC and part of the submittal package submitted for approval and handled through a public consultation process.

~~(4) P5 shall establish parking maximums based on the market demands per use as determined~~

~~by the DRC at the time of Application.~~

~~(5) On-site surface parking must be located in the Second Layer or Third Layer of each Lot as defined by the Place Types Standards.~~

(6) Residential garage access is permitted from the public Street or from an Alley. Access may be taken from the Street or corner lots, in which case the garage doors may face the side street.

~~(7) Residential garage front facades must begin in the Third Layer. Residential garage facades, if provided, shall begin in the second or third layer and on-site parking is allowed in the first layer.~~

(8) Open parking areas shall be masked from the Frontage by building or Street screening and will be regulated in size by Lot cover requirements of the Place Type.

~~(9) Parking spaces provided internal to a Lot shall be located entirely behind the minimum rear Setback as specified by Building Type and Place Type.~~

SSEC. 6.3.007 CROSS ACCESS CONNECTIONS

(a) Cross-access easements and connections to adjoining properties shall be required to connect driveways and parking lots where no Alley is present. In the event these



To: Sylvia Carrillo, City Manager

From: Kennedy Higgins, Senior Planner- Planning & Development

Date: November 21, 2024

Subject: B3 Text Amendments

=====

BACKGROUND/HISTORY:

The B3 code was adopted in November of 2019, and subsequently amended in April of 2022. From 2016 to 2023, Bastrop’s population grew by approximately 34.3%. With the increased growth from Austin to the west, the availability of large land parcels, the availability of water, and abundant natural resources, the growth shows no signs of slowing.

“The intent of the Code is to establish the Standards that enable, encourage, and ensure the community achieves:

- ✓ ***Fiscal Sustainability***
- ✓ ***Geographically Sensitive Developments***
- ✓ ***Perpetuation of Authentic Bastrop” pg. 11 – B3 Code***

While the aspirational ideas envisioned in the preamble of the B3 code (as noted above) to provide for fiscal sustainability, geographically sensitive developments, and perpetuation of Authentic Bastrop, several segments of the code accomplished just the opposite.

The B3 code removed several key factors to orderly growth in favor of a community that envisions no vehicles in the future.

“Create a framework of transit, Pedestrian, and bicycle systems that provide alternatives to the automobile.” Pg 12 -The B3 Code

While that may be a lofty aspirational goal, without a mass transit ability, the densification of the neighborhoods allowed in the B3 creates an urban catastrophe in a suburban/rural area.

The proposed amendments for Sections 6.3.005 Alleys & Driveway Locations, Section 6.3.006 Parking, Section 2.1.006 Parking Areas (B3 Technical Manual), are proposed to rectify the original intent of the B3 code which removed the ability for a homeowner to park in the front of their home (in the first layer), instead opting to require alley entrances, and NO parking minimums.

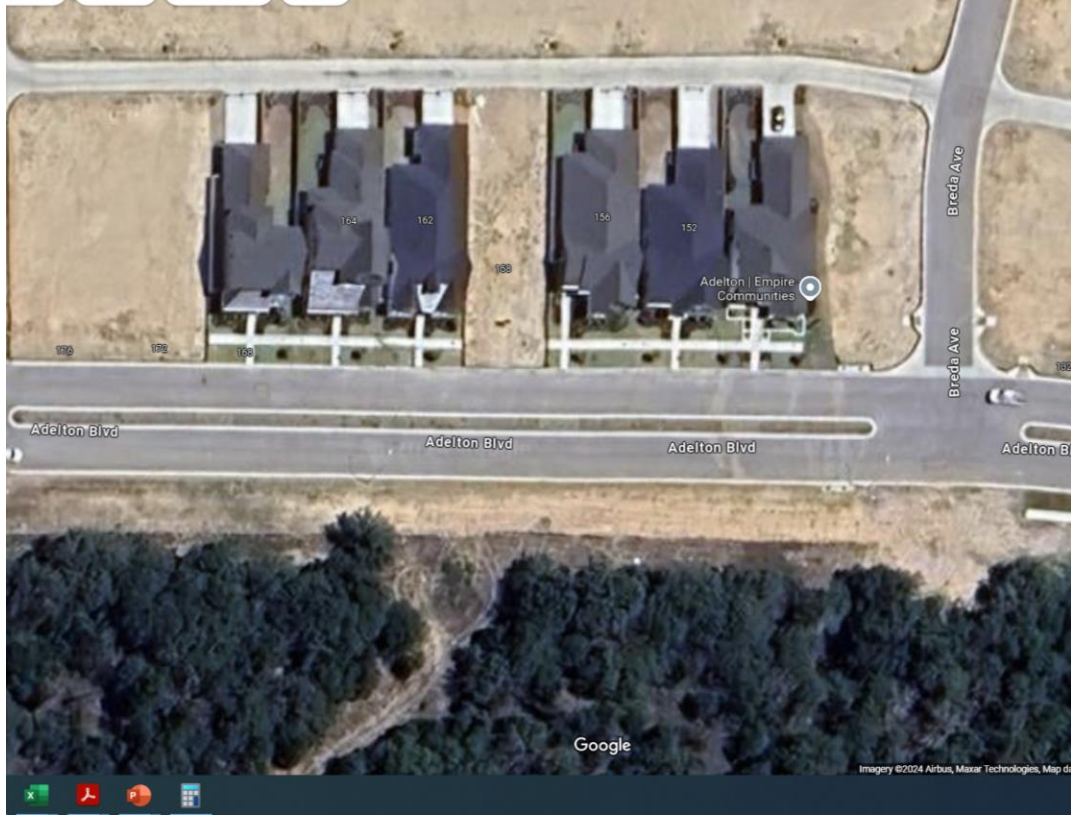
It went from allowing this:

ATTACHMENT 2

Item 10D.



To requiring this but only IF parking is going to be provided per unit:



To be clear, this code amendment did not impact existing homes such as Pecan Park and Riverside Grove, UNLESS a 50% or more construction limit was reached. In which case, a home in a previously developed subdivision would need to come into compliance, as was the case of a home on Barbara Way in the Riverside Grove subdivision.





The home shown above was damaged and had to create parking at the rear of the home; this requirement forced the home to go from a 3/2 to a 2/2 home.

To compound the parking situation, the B3 Code eliminated lot size minimums, and incorporated rather high impervious cover ratios. What does this mean? You can put more homes in an area with more concrete and less greenspace, but have ZERO parking requirements, forcing those cars onto the streets. This type of development pattern does have a place in American society; however, it must be inclusive of mass transit ability.

Bastrop is a semi-rural city which lacks adequate mass transit ability without major taxation. The new urbanist approach has a place in many cities across the country, and could have a place in Bastrop, however, not at the expense of existing residents whose authenticity lies in the open spaces of Bastrop's rich natural beauty.

A master sidewalk plan has been discussed at a Planning and Zoning workshop that will be incorporated into the Master Transportation plan is much safer and comprehensive way to address pedestrian friendly and multimodal access. This is currently underway.

Onsite Parking

The existing code removed all facets of onsite parking (parking on your lot) and moved it to the street with the elimination of minimum parking ratios (MPRs)

After public input and commission input, staff is proposing a minimum of 2 parking spaces for every dwelling unit located on the lot. The commercial ratio has no proposal at this time as staff continues to weigh the impact of overparking in commercial areas as well. The code does a decent job of requiring shared parking when it does not create undue hardship, a competing car dealership for example.

The proposed amendment to the parking regulations allows residents enjoy their neighborhood without over densification, as well as create a relief to street congestion.

Lastly, it should be noted that if a developer chooses to submit a development concept scheme that allows for alley access, reduced front yards, wider sidewalks, and other similar amenities, it is allowed under the Planned Unit Development (PUD) section of the ordinance which provides Planning and Zoning Commission as well as the City Council an opportunity to have a greater say in the overall development of the community in order to reduce the negative impact of any surrounding existing neighborhoods.

Shared Access and Cross Connections

This amendment applies to the Employment Center (EC) zone. Shared access and cross connections are valuable. This amendment seeks to provide staff some latitude in the code without requiring a variance. An example is a car dealership off of Hwy 71. This type of business normally has a do not compete clause with neighboring dealerships; to require cross connection in this circumstance is not viable. The alternative is to send all of these types of decisions to the Zoning Board of Adjustment or Planning Commission for these types of decisions.

FISCAL IMPACT:

None

RECOMMENDATION:

Recommend the amendments as proposed by staff.

ATTACHMENTS:

B3 Code Proposed Amend



STAFF REPORT

MEETING DATE: January 14, 2025

TITLE:

Consider and act on the second reading of Ordinance No. 2024-48, of the City of Bastrop, Texas amending the Code of Ordinances, related to Chapter 14, The Bastrop Building Block (B3) Technical Manual, Article 2.1 General Standards And Requirements, section 2.1.006 Parking Areas (a)(1) as attached in Exhibit A; and providing for findings of fact, repealer, severability, codification, effective date, proper notice, and meeting.

AGENDA ITEM SUBMITTED BY:

Submitted by: Kennedy Higgins, Senior Planner, Development Services

BACKGROUND/HISTORY:

This amendment seeks to allow residents or developments, to park in the area between the house and the street. Parking in the first layer is currently not allowed in the B3 code.

On October 30th, 2024, the Planning and Zoning Commission held a workshop that introduced some code amendments. On November 21st, 2024, the Planning and Zoning Commission held a public hearing on the same amendments from the previous meeting. The public hearing was held, members of the community spoke their questions and concerns, and the Planning and Zoning Commission recommended approval with a vote of 8-0.

POLICY EXPLANATION:

Bastrop Building Block (B3) Code Technical Manual

Per the technical manual table 1.4.001A Development Application Approval Process, a public hearing and recommendation from Planning and Zoning, and then another public hearing and decision from City Council is required for any text amendments.

RECOMMENDATION:

Consider and act on the second reading of Ordinance No. 2024-48, of the City of Bastrop, Texas amending the Code of Ordinances, related to Chapter 14, The Bastrop Building Block (B3) Technical Manual, Article 2.1 General Standards And Requirements, section 2.1.006 Parking Areas (a)(1) as attached in Exhibit A; and providing for findings of fact, repealer, severability, codification, effective date, proper notice, and meeting.

ATTACHMENTS:

- Attachment 1: Ordinance No. 2024-48
 - Exhibit A- Redlined Changes
- Attachment 2: Memo Staff Report from P&Z

ORDINANCE NO. 2024-48

AN ORDINANCE OF THE CITY OF BASTROP, TEXAS, AMENDING THE BASTROP CODE OF ORDINANCES CHAPTER 14, THE BASTROP BUILDING BLOCK (B3) TECHNICAL MANUAL, ARTICLE 2.1 GENERAL STANDARDS AND REQUIREMENTS, SECTION 2.1.006 PARKING AREAS (A)(1) AS ATTACHED IN EXHIBIT A; AND PROVIDING FOR FINDINGS OF FACT, REPEALER, SEVERABILITY, CODIFICATION, EFFECTIVE DATE, PROPER NOTICE, AND MEETING.

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the City Council of the City of Bastrop has general authority to amend an ordinance that is for the good government, peace, or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

WHEREAS, pursuant to Texas Local Government Code Chapters 211, 212, 214, and 217 the City Council of the City of Bastrop has general authority to regulate planning, zoning, subdivisions, and the construction of buildings; and

WHEREAS, these amendments will help clarify the intent of the code by allowing residents the flexibility to create parking in the area between the street and the front façade of their home; and

WHEREAS, the City Council find that certain amendments to the aforementioned ordinances are necessary and reasonable to meet changing conditions and are in the best interest of the City.

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

Section 1. Finding of Fact: The facts and recitations set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. Bastrop Building Block (B3) Technical Manual, Article 2.1 General Standards And Requirements, section 2.1.006 Parking Areas is hereby amended and shall read in accordance with Exhibit “A”, which is attached hereto and incorporated into this Ordinance for all intents and purposes. Any struck-through text shall be deleted from the Code, as shown in each of the attachments.

Section 3. Severability. If any clause or provision of this Ordinance shall be deemed to be unenforceable for any reason, such unenforceable clause or provision shall be severed from the remaining portion of the Ordinance, which shall continue to have full force and effect.

Section 4. Repeal. This Ordinance shall be and is hereby cumulative of all other ordinances of the City of Bastrop, Texas, and this Ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this Ordinance, in which event such conflicting provisions, if any, in such other Ordinances, are hereby repealed.

Section 5. Effective Date. This Ordinance shall take effect immediately after its final passage and any publication in accordance with the requirements of the City of Bastrop and the laws of the State of Texas.

READ & ACKNOWLEDGED on First Reading on this the **10th** day of **December** 2024.

READ & ADOPTED on Second Reading on this the **14th** day of **January** 2025.

APPROVED:

by: _____
Lyle Nelson, Mayor

ATTEST:

City Secretary

APPROVED AS TO FORM:

City Attorney

Exhibit A

EXHIBIT A

SEC. 2.1.004 EMERGENCY ACCESS AND FIRE LANES

(a) Emergency Access Provisions:

The DRC will review all proposed developments for safe and appropriate access, parking lanes, private streets, driveway access points, and other emergency access items.

(b) Fire Lanes shall meet the standards of the IFC as adopted by the City.

SEC. 2.1.005 DRIVE-THROUGH FACILITIES

(a) Drive-throughs are required to be located in the 2nd or 3rd layer of the lot or located from an alley.

(b) Where allowed, locate and design drive-through facilities shall follow the following criteria:

(1) Do not locate drive-through facilities to adjacent residential uses.

(2) Screen vehicular storage areas for drive-through facilities placed on the street side of a building, or any other location that is directly visible from adjacent properties with screen walls, mounding, and/or dense

landscaping at least 3 feet in height at the time of planting.

A. Provide a minimum vertical clearance of 8 feet for drive-through facilities. Provide a minimum vertical clearance of 10 feet for drive-through facilities that include a passenger-loading zone.

SEC. 2.1.006 PARKING AREAS

(a) Parking Spaces:

(1) Designed parking spaces and drive aisles locations shall be placed in the 1st, 2nd or 3rd layer of the lot, in accordance with the B³ Code.

(b) Accessible (Handicapped) Parking Spaces:

(1) Adequate designed accessible parking spaces shall be provided as required by the IBC and designed in accordance with the parking area landscaping.

(c) Parking Landscaping:

(1) Incorporate parking lot landscaped areas and median in accordance with Section 2.1.002 - Landscape Design in the Private Realm.



To: Sylvia Carrillo, City Manager

From: Kennedy Higgins, Senior Planner- Planning & Development

Date: November 21, 2024

Subject: Technical Manuel Update

=====

BACKGROUND/HISTORY:

The B3 code was adopted in November of 2019, and subsequently amended in April of 2022. From 2016 to 2023, Bastrop’s population grew by approximately 34.3%. With the increased growth from Austin to the west, the availability of large land parcels, the availability of water, and abundant natural resources, the growth shows no signs of slowing.

“The intent of the Code is to establish the Standards that enable, encourage, and ensure the community achieves:

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The proposed amendments for Sections 6.3.005 Alleys & Driveway Locations, Section 6.3.006 Parking, Section 2.1.006 Parking Areas (B3 Technical Manual), are proposed to rectify the original intent of the B3 code which removed the ability for a homeowner to park in the front of their home (in the first layer), instead opting to require alley entrances, and NO parking minimums.

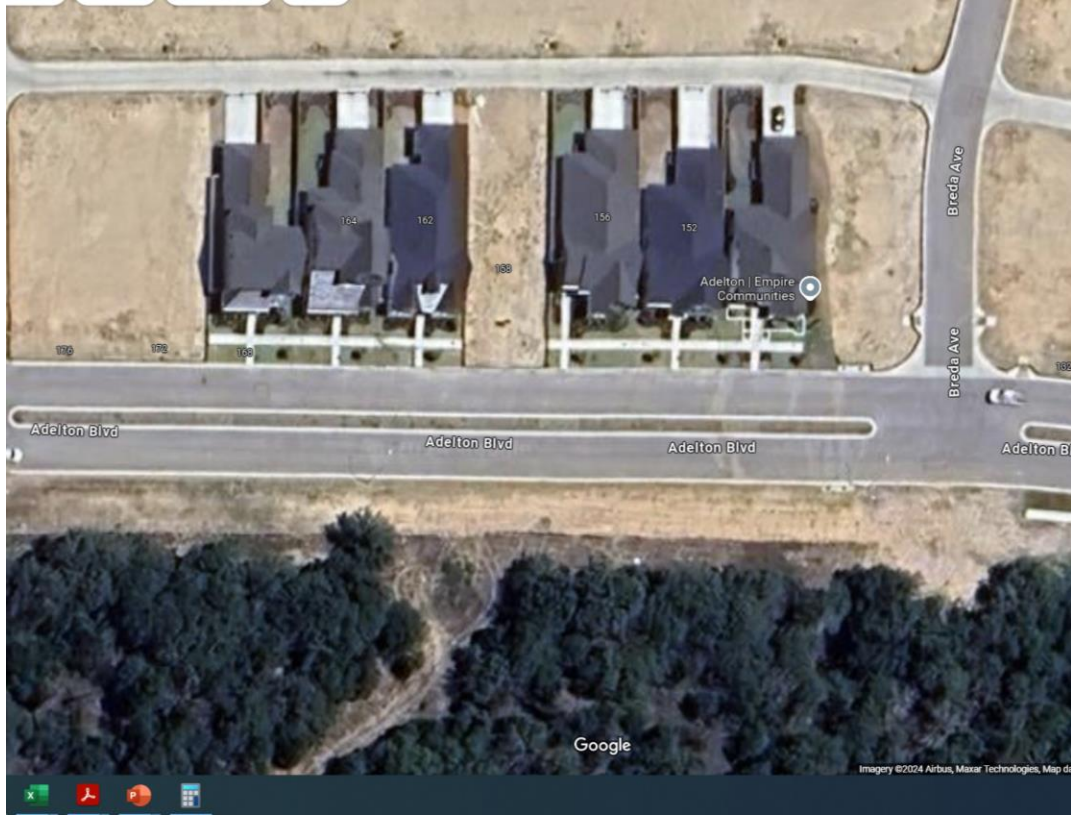
It went from allowing this:

ATTACHMENT 2

Item 10E.



To requiring this but only IF parking is going to be provided per unit:



To be clear, this code amendment did not impact existing homes such as Pecan Park and Riverside Grove, UNLESS a 50% or more construction limit was reached. In which case, a home in a previously developed subdivision would need to come into compliance, as was the case of a home on Barbara Way in the Riverside Grove subdivision.





The home shown above was damaged and had to create parking at the rear of the home; this requirement forced the home to go from a 3/2 to a 2/2 home.

To compound the parking situation, the B3 Code eliminated lot size minimums, and incorporated rather high impervious cover ratios. What does this mean? You can put more homes in an area with more concrete and less greenspace, but have ZERO parking requirements, forcing those cars onto the streets. This type of development pattern does have a place in American society; however, it must be inclusive of mass transit ability.

Bastrop is a semi-rural city which lacks adequate mass transit ability without major taxation. The new urbanist approach has a place in many cities across the country, and could have a place in Bastrop, however, not at the expense of existing residents whose authenticity lies in the open spaces of Bastrop's rich natural beauty.

A master sidewalk plan has been discussed at a Planning and Zoning workshop that will be incorporated into the Master Transportation plan is much safer and comprehensive way to address pedestrian friendly and multimodal access. This is currently underway.

Onsite Parking

The existing code removed all facets of onsite parking (parking on your lot) and moved it to the street with the elimination of minimum parking ratios (MPRs)

After public input and commission input, staff is proposing a minimum of 2 parking spaces for every dwelling unit located on the lot. The commercial ratio has no proposal at this time as staff continues to weigh the impact of overparking in commercial areas as well. The code does a decent job of requiring shared parking when it does not create undue hardship, a competing car dealership for example.

The proposed amendment to the parking regulations allows residents enjoy their neighborhood without over densification, as well as create a relief to street congestion.

Lastly, it should be noted that if a developer chooses to submit a development concept scheme that allows for alley access, reduced front yards, wider sidewalks, and other similar amenities, it is allowed under the Planned Unit Development (PUD) section of the ordinance which provides Planning and Zoning Commission as well as the City Council an opportunity to have a greater say in the overall development of the community in order to reduce the negative impact of any surrounding existing neighborhoods.

Shared Access and Cross Connections

This amendment applies to the Employment Center (EC) zone. Shared access and cross connections are valuable. This amendment seeks to provide staff some latitude in the code without requiring a variance. An example is a car dealership off of Hwy 71. This type of business normally has a do not compete clause with neighboring dealerships; to require cross connection in this circumstance is not viable. The alternative is to send all of these types of decisions to the Zoning Board of Adjustment or Planning Commission for these types of decisions.

FISCAL IMPACT:

None

RECOMMENDATION:

Recommend the amendments as proposed by staff.

ATTACHMENTS:

B3 Code Proposed Amend



STAFF REPORT

MEETING DATE: January 14, 2025

TITLE:

Consider and act on the second reading of Ordinance No. 2024-49, of the City of Bastrop, Texas amending the Code of Ordinances, related to Chapter 14, The Bastrop Building Block (B3) Code, Article 6.3 General Lot Standards, Section 6.3.003 Building Placement (a)(3)(A) as attached in Exhibit A; and providing for findings of fact, repealer, severability, codification, effective date, proper notice, and meeting.

AGENDA ITEM SUBMITTED BY:

Submitted by: Kennedy Higgins, Senior Planner, Development Services

BACKGROUND/HISTORY:

This amendment seeks to allow residents or developments, to park in the area between the house and the street. Parking in the first layer is currently not allowed in the B3 code.

On October 30th, 2024, the Planning and Zoning Commission held a workshop that introduced some code amendments. On November 21st, 2024, the Planning and Zoning Commission held a public hearing on the same amendments from the previous meeting. The public hearing was held, members of the community spoke their questions and concerns, and the Planning and Zoning Commission recommended approval with a vote of 8-0.

POLICY EXPLANATION:

Bastrop Building Block (B3) Code Technical Manual

Per the technical manual table 1.4.001A Development Application Approval Process, a public hearing and recommendation from Planning and Zoning, and then another public hearing and decision from City Council is required for any text amendments.

RECOMMENDATION:

Consider and act on the second reading of Ordinance No. 2024-49, of the City of Bastrop, Texas amending the Code of Ordinances, related to Chapter 14, The Bastrop Building Block (B3) Code, Article 6.3 General Lot Standards, Section 6.3.003 Building Placement (a)(3)(A) as attached in Exhibit A; and providing for findings of fact, repealer, severability, codification, effective date, proper notice, and meeting.

ATTACHMENTS:

- Attachment 1: Ordinance No. 2024-49
 - Exhibit A- Redlined Changes
- Attachment 2: Memo Staff Report from P&Z

ORDINANCE NO. 2024-49

AN ORDINANCE OF THE CITY OF BASTROP, TEXAS, AMENDING THE BASTROP CODE OF ORDINANCES CHAPTER 14, THE BASTROP BUILDING BLOCK (B3) CODE, ARTICLE 6.3 GENERAL LOT STANDARDS, SECTION 6.3.003 BUILDING PLACEMENT (A)(3)(A) AS ATTACHED IN EXHIBIT A; AND PROVIDING FOR FINDINGS OF FACT, REPEALER, SEVERABILITY, CODIFICATION, EFFECTIVE DATE, PROPER NOTICE, AND MEETING.

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the City Council of the City of Bastrop has general authority to amend an ordinance that is for the good government, peace, or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

WHEREAS, pursuant to Texas Local Government Code Chapters 211, 212, 214, and 217 the City Council of the City of Bastrop has general authority to regulate planning, zoning, subdivisions, and the construction of buildings; and

WHEREAS, This amendment seeks to allow residents or developments, to park in the area between the house and the street. Parking in the first layer is currently not allowed in the B3 code; and

WHEREAS, the City Council find that certain amendments to the aforementioned ordinances are necessary and reasonable to meet changing conditions and are in the best interest of the City.

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

Section 1. **Finding of Fact:** The facts and recitations set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. **Amendment To Bastrop Building Block Code (B3),** Section 6.3.003 of the Bastrop Building Code is hereby amended and shall read in accordance with Exhibit “A”, which is attached hereto and incorporated into this Ordinance for all intents and purposes. Any struck-through text shall be deleted from the Code, as shown in each of the attachments.

Section 3. Severability. If any clause or provision of this Ordinance shall be deemed to be unenforceable for any reason, such unenforceable clause or provision shall be severed from the remaining portion of the Ordinance, which shall continue to have full force and effect.

Section 4. Repeal. This Ordinance shall be and is hereby cumulative of all other ordinances of the City of Bastrop, Texas, and this Ordinance shall not operate to repeal or affect

any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this Ordinance, in which event such conflicting provisions, if any, in such other Ordinances, are hereby repealed.

Section 5. Effective Date. This Ordinance shall take effect immediately after its final passage and any publication in accordance with the requirements of the City of Bastrop and the laws of the State of Texas.

READ & ACKNOWLEDGED on First Reading on this the **10th** day of **December** 2024.

READ & ADOPTED on Second Reading on this the **14th** day of **January** 2025.

APPROVED:

by: _____
Lyle Nelson, Mayor

ATTEST:

City Secretary

APPROVED AS TO FORM:

City Attorney

Exhibit A

SEC. 6.3.003 BUILDING PLACEMENT

- (a) Principal buildings shall be positioned on a Lot in accordance with Section 6.5.003 Building Standards per Place Type.
- (1) The First Layer is the area of land between the Frontage Line and the Build-to-Line. The First Layer is measured from the Frontage Line.
 - (2) The required Build-to-Line is the minimum percentage of the front Building Facade that must be located within the First Layer, measured based on the width of the Building divided by the width of the Lot.
 - (3) A Building Facade must be placed within the First Layer for the first 30 feet along the Street extending from any Block corner.
 - A. All Structures and encroachments customarily allowed on the Lot are permitted in the First Layer, ~~with the exception of parking.~~

SEC. 6.3.005 BUILDING SEPARATION

- (a) Fences and screening walls may extend into the IBC Building separation line and Alley Setback.
- (b) Side and rear Building separation will be determined by the IBC as adopted by the City.

SEC. 6.3.005 ALLEYS & DRIVEWAY LOCATIONS

- (a) ~~Intent: Building walkable cities means that while vehicles are part of modern life, they should have minimal disruption to the Public Realm.~~ The Standards of the Code intend to ensure all modes of Transportation are respected and create safe means of transportation along all transportation types, including walk, bike, car, and other.
- (b) ~~The preferred means of vehicular access to lots is through the use of Alleys. Alleys provide a location to hide unsightly functions of our communities such as garages, garbage cans, transformers, electric meters, and telephone equipment~~
- (c) ~~Other benefits of Alleys include:~~



To: Sylvia Carrillo, City Manager

From: Kennedy Higgins, Senior Planner- Planning & Development

Date: November 21, 2024

Subject: B3 Text Amendments

=====

BACKGROUND/HISTORY:

The B3 code was adopted in November of 2019, and subsequently amended in April of 2022. From 2016 to 2023, Bastrop’s population grew by approximately 34.3%. With the increased growth from Austin to the west, the availability of large land parcels, the availability of water, and abundant natural resources, the growth shows no signs of slowing.

“The intent of the Code is to establish the Standards that enable, encourage, and ensure the community achieves:

- ✓ ***Fiscal Sustainability***
- ✓ ***Geographically Sensitive Developments***
- ✓ ***Perpetuation of Authentic Bastrop” pg. 11 – B3 Code***

While the aspirational ideas envisioned in the preamble of the B3 code (as noted above) to provide for fiscal sustainability, geographically sensitive developments, and perpetuation of Authentic Bastrop, several segments of the code accomplished just the opposite.

The B3 code removed several key factors to orderly growth in favor of a community that envisions no vehicles in the future.

“Create a framework of transit, Pedestrian, and bicycle systems that provide alternatives to the automobile.” Pg 12 -The B3 Code

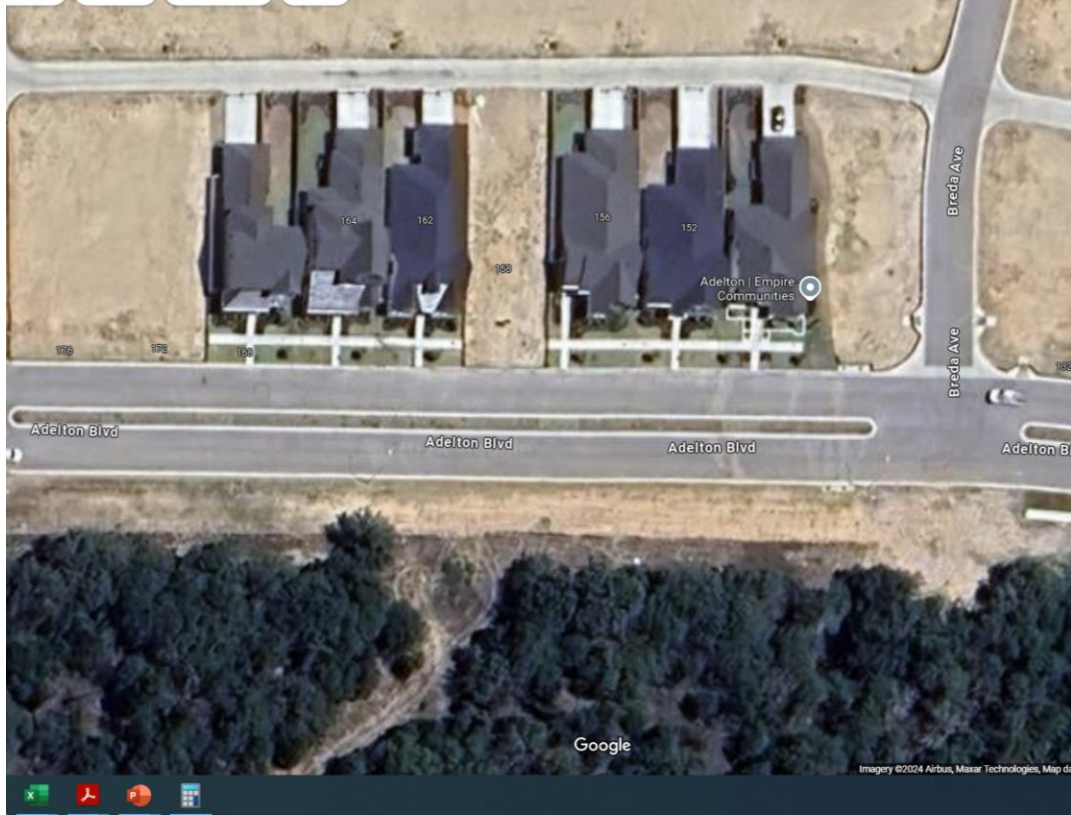
While that may be a lofty aspirational goal, without a mass transit ability, the densification of the neighborhoods allowed in the B3 creates an urban catastrophe in a suburban/rural area.

The proposed amendments for Sections 6.3.005 Alleys & Driveway Locations, Section 6.3.006 Parking, Section 2.1.006 Parking Areas (B3 Technical Manual), are proposed to rectify the original intent of the B3 code which removed the ability for a homeowner to park in the front of their home (in the first layer), instead opting to require alley entrances, and NO parking minimums.

It went from allowing this:



To requiring this but only IF parking is going to be provided per unit:



To be clear, this code amendment did not impact existing homes such as Pecan Park and Riverside Grove, UNLESS a 50% or more construction limit was reached. In which case, a home in a previously developed subdivision would need to come into compliance, as was the case of a home on Barbara Way in the Riverside Grove subdivision.





The home shown above was damaged and had to create parking at the rear of the home; this requirement forced the home to go from a 3/2 to a 2/2 home.

To compound the parking situation, the B3 Code eliminated lot size minimums, and incorporated rather high impervious cover ratios. What does this mean? You can put more homes in an area with more concrete and less greenspace, but have ZERO parking requirements, forcing those cars onto the streets. This type of development pattern does have a place in American society; however, it must be inclusive of mass transit ability.

Bastrop is a semi-rural city which lacks adequate mass transit ability without major taxation. The new urbanist approach has a place in many cities across the country, and could have a place in Bastrop, however, not at the expense of existing residents whose authenticity lies in the open spaces of Bastrop's rich natural beauty.

A master sidewalk plan has been discussed at a Planning and Zoning workshop that will be incorporated into the Master Transportation plan is much safer and comprehensive way to address pedestrian friendly and multimodal access. This is currently underway.

Onsite Parking

The existing code removed all facets of onsite parking (parking on your lot) and moved it to the street with the elimination of minimum parking ratios (MPRs)

After public input and commission input, staff is proposing a minimum of 2 parking spaces for every dwelling unit located on the lot. The commercial ratio has no proposal at this time as staff continues to weigh the impact of overparking in commercial areas as well. The code does a decent job of requiring shared parking when it does not create undue hardship, a competing car dealership for example.

The proposed amendment to the parking regulations allows residents enjoy their neighborhood without over densification, as well as create a relief to street congestion.

Lastly, it should be noted that if a developer chooses to submit a development concept scheme that allows for alley access, reduced front yards, wider sidewalks, and other similar amenities, it is allowed under the Planned Unit Development (PUD) section of the ordinance which provides Planning and Zoning Commission as well as the City Council an opportunity to have a greater say in the overall development of the community in order to reduce the negative impact of any surrounding existing neighborhoods.

Shared Access and Cross Connections

This amendment applies to the Employment Center (EC) zone. Shared access and cross connections are valuable. This amendment seeks to provide staff some latitude in the code without requiring a variance. An example is a car dealership off of Hwy 71. This type of business normally has a do not compete clause with neighboring dealerships; to require cross connection in this circumstance is not viable. The alternative is to send all of these types of decisions to the Zoning Board of Adjustment or Planning Commission for these types of decisions.

FISCAL IMPACT:

None

RECOMMENDATION:

Recommend the amendments as proposed by staff.

ATTACHMENTS:

B3 Code Proposed Amend



STAFF REPORT

MEETING DATE: January 14, 2025

TITLE:

Consider and act on the second reading of Ordinance No. 2024-50, of the City of Bastrop, Texas amending the Code of Ordinances, related to Chapter 14, The Bastrop Building Block (B3) Code, Article 6.3 General Lot Standards, Section 6.3.006 PARKING (a) and (b)(1)(2) as attached in Exhibit A; and providing for findings of fact, repealer, severability, codification, effective date, proper notice, and meeting.

AGENDA ITEM SUBMITTED BY:

Submitted by: Kennedy Higgins, Senior Planner, Development Services

BACKGROUND/HISTORY:

This amendment seeks to clarify the intent of the parking regulations, clarify where shared parking is allowed; as opposed to placing all parking on the street causing street congestion and making it difficult for first responders to navigate congested streets.

On October 30th, 2024, the Planning and Zoning Commission held a workshop that introduced some code amendments. On November 21st, 2024, the Planning and Zoning Commission held a public hearing on the same amendments from the previous meeting. The public hearing was held, members of the community expressed their questions and concerns, and the Planning and Zoning Commission recommended approval with an amendment. Motion was made to approve with an amendment to read require two (2) parking spaces per primary residential dwelling. One (1) parking space is required per ADU, with a vote of 8-0.

At the 12/10/2024 City Council meeting the motion was made to approve with changes, those changes being 1. Define a minimum parking space as measuring ten feet by twenty feet (10' x 20'); 2. Clearly state that the required minimum parking spaces must not obstruct sidewalks; and 3. Change the requirement to a minimum of one (1) parking space for each bedroom.

POLICY EXPLANATION:

Bastrop Building Block (B3) Code

Per the technical manual table 1.4.001A Development Application Approval Process, a public hearing and recommendation from Planning and Zoning, and then another public hearing and decision from City Council is required for any text amendments.

RECOMMENDATION:

Consider and act on the second reading of Ordinance No. 2024-50, of the City of Bastrop, Texas amending the Code of Ordinances, related to Chapter 14, The Bastrop Building Block (B3) Code, Article 6.3 General Lot Standards, Section 6.3.006 PARKING (a) and (b)(1)(2) as attached in Exhibit A; and providing for findings of fact, repealer, severability, codification, effective date, proper notice, and meeting.

ATTACHMENTS:

- Attachment 1: Ordinance No. 2024-50
 - Exhibit A- Redlined Changes
- Attachment 2: Memo Staff Report from P&Z



ORDINANCE NO. 2024-50

AN ORDINANCE OF THE CITY OF BASTROP, TEXAS, AMENDING THE BASTROP CODE OF ORDINANCES CHAPTER 14, THE BASTROP BUILDING BLOCK (B3) CODE, ARTICLE 6.3 GENERAL LOT STANDARDS, SECTION 6.3.006 PARKING, (A), (B)(1), AND (B)(2) AS ATTACHED IN EXHIBIT A; AND PROVIDING FOR FINDINGS OF FACT, REPEALER, SEVERABILITY, CODIFICATION, EFFECTIVE DATE, PROPER NOTICE, AND MEETING.

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the City Council of the City of Bastrop has general authority to amend an ordinance that is for the good government, peace, or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

WHEREAS, pursuant to Texas Local Government Code Chapters 211, 212, 214, and 217 the City Council of the City of Bastrop has general authority to regulate planning, zoning, subdivisions, and the construction of buildings; and

WHEREAS, this amendment seeks to clarify the intent of the parking regulations, clarify where shared parking is allowed; as opposed to placing all parking on the street causing street congestion and making it difficult for first responders to navigate congested streets and

WHEREAS, the City Council find that certain amendments to the aforementioned ordinances are necessary and reasonable to meet changing conditions and are in the best interest of the City.

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

Section 1. Finding of Fact: The facts and recitations set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. Amendment To Bastrop Building Block Code (B3), Section 6.3.006 of the Bastrop Building Code is hereby amended and shall read in accordance with Exhibit “A”, which is attached hereto and incorporated into this Ordinance for all intents and purposes. Any struck-through text shall be deleted from the Code, as shown in each of the attachments.

Section 3. Severability. If any clause or provision of this Ordinance shall be deemed to be unenforceable for any reason, such unenforceable clause or provision shall be severed from the remaining portion of the Ordinance, which shall continue to have full force and effect.

Section 4. Repeal. This Ordinance shall be and is hereby cumulative of all other ordinances of the City of Bastrop, Texas, and this Ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this Ordinance, in which event such conflicting provisions, if any, in such other Ordinances, are hereby repealed.

Section 5. Effective Date. This Ordinance shall take effect immediately after its final passage and any publication in accordance with the requirements of the City of Bastrop and the laws of the State of Texas.

READ & ACKNOWLEDGED on First Reading on this the **10th** day of **December** 2024.

READ & ADOPTED on Second Reading on this the **14th** day of **January** 2025.

APPROVED:

by: _____
Lyle Nelson, Mayor

ATTEST:

City Secretary

APPROVED AS TO FORM:

City Attorney

Exhibit A

~~(1) Alleys make it possible for rear accessed lots to be created, preserving the public frontages from interruptions of driveways and Curb-cuts.~~

~~(2) Safety as sidewalks and pedestrians become separated from the access requirements of vehicles.~~

~~(3) They create a more casual neighborhood space adjacent to backyard activity centers leaving the front of the House as a more formal community space.~~

(d) Driveways:

(1) Where Alleys are present, all vehicular access shall be provided from the Alley.

(2) Where a Lot does not have access to an Alley, driveways are allowed in accordance with this section.

(3) For corner lots, all driveways shall be located at the Secondary Frontage.

(4) Driveways shall be located as far from the adjacent public Street intersection as practical to achieve maximum

available corner clearance, with consideration of property limits, adjacent Curb cuts, topography, and existing Drainage facilities. Non-Alley loaded driveways may intersect a Street no closer than twenty (20) feet from the intersection of 2 Street rights-of-way in P1, P2, and P3, and forty (40) feet in P4 and P5.

(5) Mid-Block lots greater than 40' in width at the Frontage are allowed one Driveway with a maximum width of 24' for two-way and 12' for one-way driveways.

(6) In P4 and P5, driveways accessing up to 80 feet wide of Street right-of-way must be spaced 200 feet apart centerline to centerline, and driveways accessing more than an 80 feet wide Street right-of-way must be spaced 300 feet apart centerline to centerline.

(7) Nothing in this section shall prevent all Site access to any property.

SEC. 6.3.006 PARKING

(a) Intent: Parking shall not be the driver of Site planning. ~~The Standards in the Code support this notion through limited and eliminating parking. The intent of building a walkable, bikeable, and an easily navigable City means all mode of transportation are available to reduce the reliance on the car.~~

(b) The location of the parking shall be established and shown on the Neighborhood Regulating Plan, Zoning Concept Scheme, and/or Site Plan:

(1) Shared parking is available and determined with the Site Plan in P2, P4, and P5, where it does not cause undue hardship to the existing built environment or neighborhood. Lot coverage shall not exceed the Place Type Standards.

(2) Parking requirements ~~in P3 will be market driven~~ shall require one (1) parking space per bedroom. Lot coverage shall not exceed the Place Type Standards.

a) Minimum parking space as measuring ten feet by twenty feet (10' x 20').

b) The required minimum parking spaces must not obstruct sidewalks.

(3) Parking in EC shall be recommended by the DRC and part of the submittal package submitted for approval and handled through a public consultation process.

~~(4) P5 shall establish parking maximums based on the market demands per use as determined~~

~~by the DRC at the time of Application.~~

~~(5) On-site surface parking must be located in the Second Layer or Third Layer of each Lot as defined by the Place Types Standards.~~

(6) Residential garage access is permitted from the public Street or from an Alley. Access may be taken from the Street or corner lots, in which case the garage doors may face the side street.

~~(7) Residential garage front facades must begin in the Third Layer. Residential garage facades, if provided, shall begin in the second or third layer and on-site parking is allowed in the first layer.~~

(8) Open parking areas shall be masked from the Frontage by building or Street screening and will be regulated in size by Lot cover requirements of the Place Type.

~~(9) Parking spaces provided internal to a Lot shall be located entirely behind the minimum rear Setback as specified by Building Type and Place Type.~~

SSEC. 6.3.007 CROSS ACCESS CONNECTIONS

(a) Cross-access easements and connections to adjoining properties shall be required to connect driveways and parking lots where no Alley is present. In the event these



To: Sylvia Carrillo, City Manager

From: Kennedy Higgins, Senior Planner- Development Services

Date: November 21, 2024

Subject: B3 Code Text Amendments

=====

BACKGROUND/HISTORY:

The B3 code was adopted in November of 2019, and subsequently amended in April of 2022. From 2016 to 2023, Bastrop’s population grew by approximately 34.3%. With the increased growth from Austin to the west, the availability of large land parcels, the availability of water, and abundant natural resources, the growth shows no signs of slowing.

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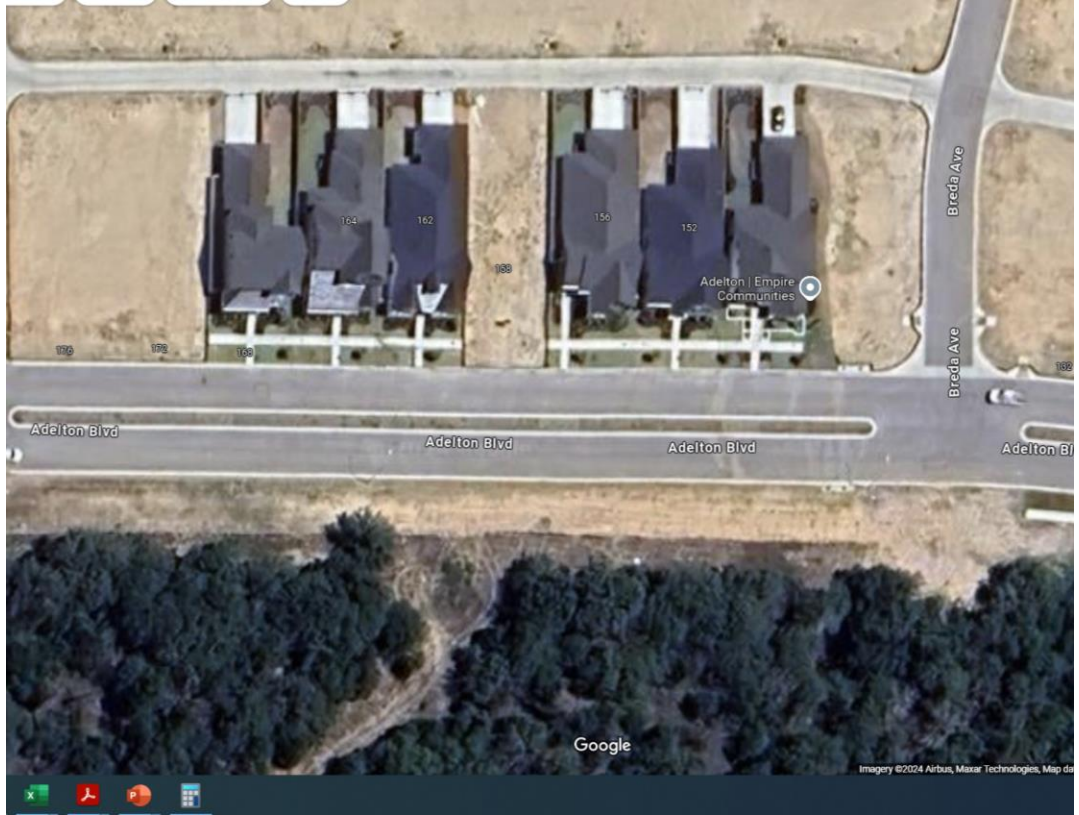
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ATTACHMENT 2

Item 10G.



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FISCAL IMPACT:

None

RECOMMENDATION:

Recommend the amendments as proposed by staff.

ATTACHMENTS:

B3 Code Proposed Amend



STAFF REPORT

MEETING DATE: January 14, 2025

TITLE:

Consider and act on the second reading of Ordinance No. 2024-52, Amending the Code of Ordinances Chapter 1 “General Provisions”, Article 1.03 “Mayor & City Council”, Division 2 “Mayor”, Section. 1.03.032 – “Compensation” and Section. 1.03.033 “Expense Account”; Division 3 “City Council”, Section 1.03.061 “Composition; Meetings”, Section 1.03.062 “Compensation of Councilmembers” to Comply with the City of Bastrop Home Rule Charter; Providing for Findings of Fact, Adoption, Enforcement, Repealer, and Severability; Establishes an Effective Date; And Ensures Proper Notice and Meeting.

AGENDA ITEM SUBMITTED BY:

Submitted by: Irma G. Parker, City Secretary, TRMC, CMC

BACKGROUND/HISTORY:

After the Charter Election Staff reviewed both the Home Rule Charter and Code for compliance regarding the salary increase. We discovered the Code of Ordinances Chapter 1 which related to mayor and council salary as noted above have not been updated since 1995 and terribly outdated. This ordinance will correct all outdated information.

FISCAL IMPACT:

Staff will propose an amendment to account for the salary increase.

RECOMMENDATION:

Administration requests approval of proposed Ordinance

ATTACHMENTS:

1. Ordinance No. 2024-52

ORDINANCE NO. 2024-52

AN ORDINANCE OF THE CITY OF BASTROP, TEXAS, AMENDING CODE OF ORDINANCES CHAPTER 1 “GENERAL PROVISIONS”, ARTICLE 1.03 “MAYOR & CITY COUNCIL”, DIVISION 2 “MAYOR”, SECTION. 1.03.032 – “COMPENSATION” AND SECTION. 1.03.033 “EXPENSE ACCOUNT”; DIVISION 3 “CITY COUNCIL”, SECTION 1.03.061 “COMPOSITION; MEETINGS”, SECTION 1.03.062 “COMPENSATION OF COUNCILMEMBERS” TO UPDATE CODE OF ORDINANCES TO COMPLY WITH THE CITY OF BASTROP HOME RULE CHARTER; PROVIDING FOR FINDINGS OF FACT, ADOPTION, ENFORCEMENT, REPEALER, AND SEVERABILITY; ESTABLISH AN EFFECTIVE DATE; AND ENSURES PROPER NOTICE AND MEETING.

WHEREAS, a Home Rule Charter amendment election was duly called and held on November 5, 2024; and

WHEREAS, a canvass of the election results was provided to the City Council at the November 12, 2024 City Council Meeting with an updated Ordinance presented for first reading on December 12, 2024; and

WHEREAS, upon review and comparison of the Home Rule Charter with the Code of Ordinances, several sections were not in compliance and had not been updated since 1994; and

WHEREAS, to avoid confusion, staff has recommended and prepared an ordinance to include the same wording in both the Home Rule Charter and the Code of Ordinances.

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

SECTION 1. Finding of Fact: The facts and recitations set forth in the preamble of this Ordinance are hereby found to be true and correct.

SECTION 2. Amendment:

That the City of Bastrop Code of Ordinances Chapter 1 “General Provisions”, Article 1.03 “Mayor & City Council”, Division 2 “Mayor” shall be amended as follows:

* * * * *

Section. 1.03.032 - Compensation.

The mayor shall receive a monthly salary of \$100 per month as outlined in the Home Rule Charter.

Section. 1.03.033 - Expense account.

As outlined in the Home Rule Charter, ~~W~~ while on official business trips for the city, the mayor shall be reimbursed for actual expenses, advanced expenses and/or provided a daily per diem rate as established by the City Council adopted Rules and Procedures.

* * * * *

SECTION 3. Amendment:

That the City of Bastrop Code of Ordinances Chapter 1 “General Provisions”, Article 1.03 “Mayor & City Council”, Division 3 “City Council” shall be amended as follows:

Section 1.03.061 - Composition; meetings.

- (a) In compliance with Home Rule Charter, ~~the~~ the City Council shall be composed of a mayor and five (5) Councilmembers and shall meet regularly and at least once each month hold two (2) regular monthly meetings each month. The Council may hold as many additional, special meetings during the month as may be necessary for the transaction of the business of the City. Such special meetings may be called as necessary upon written notice to the City Secretary by the Mayor or by any three of the other members of the Council.
- (b) All meetings, regular or special, shall be held at the City Hall, except if another location is designated by the Council, pursuant to public notification, as required by the Charter and by state law.
- (c) The City Council by Resolution or adopted rules and procedures shall set the number, date, hour, and location of the regular meetings. ~~The first meeting shall be held on the second Tuesday of the month and the second meeting shall be held on the fourth Tuesday of the month in the Council chamber at such hour as the Council by resolution may direct.~~ Called meetings shall be held at such times as the interests of the city may require.

Section 1.03.062 - Compensation of Councilmembers.

Every Councilmember shall receive monthly compensation ~~in the amount of \$30 per month as outlined in the Home Rule Charter.~~

* * * * *

Section. 1.03.065 - Expense account.

As outlined in the Home Rule Charter, while on official business trips for the city, the city council shall be reimbursed for actual expenses, advanced expenses and/or provided a daily per diem rate as established by the City Council adopted Rules and Procedures.

Secs. 1.03.065 1.03.066 —1.03.090 – Reserved for future use

SECTION 4. Severability: If any clause or provision of this Ordinance shall be deemed to be unenforceable for any reason, such unenforceable clause or provision shall be severed from the remaining portion of the Ordinance, which shall continue to have full force and effect.

SECTION 5. Repeal. This Ordinance shall be and is hereby cumulative of all other ordinances of the City of Bastrop, Texas, and this Ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this Ordinance, in which event such conflicting provisions, if any, in such other Ordinances, are hereby repealed.

SECTION 6. Effective Date. This Ordinance shall take effect immediately after its final passage and publication in accordance with the requirements of the City of Bastrop and the laws of the State of Texas.

READ & ACKNOWLEDGED on first reading by the City Council of the City of Bastrop, on this, the 10th day of DECEMBER 2024.

APPROVED AND ADOPTED on second and final reading by the City Council of the City of Bastrop, on this, the 14th day of JANUARY 2025.

CITY OF BASTROP, TEXAS

Lyle Nelson, Mayor

ATTEST:

APPROVED AS TO FORM:

City Secretary

City Attorney



STAFF REPORT

MEETING DATE: January 14, 2025

TITLE:

Consider and act on Resolution No. 2025-07, Canvassing Returns and Declaring the Results of the Adoption or Rejection of Proposed Amendments to the Existing Home Rule Charter at the Special Election Held on Tuesday, November 5, 2024; Providing a Severability Clause; And Providing an Effective Date.

AGENDA ITEM SUBMITTED BY:

Submitted by: Irma G. Parker, City Secretary, TRMC, CMC

BACKGROUND/HISTORY:

The City Council on August 19, 2024, ordered a Special Election to amend the Home Rule Charter at the November 5, 2024 Uniform Election date to submit to the resident-qualified electors of the City of Bastrop the propositions as submitted by the Home Rule Charter Committee.

On December 10, 2024 the City Secretary presented Ordinance No. 2024-41 to canvass the results from the Special Election on first reading. The Ordinance was read and approved at the first reading, along with amendments. After review by our legal team, a recommendation was made to present the Canvass results only as a resolution. Resolutions and ordinances have the same effect; however, a resolution requires only one (1) reading.

FISCAL IMPACT:

There is no financial impact by adopting a resolution versus an ordinance.

RECOMMENDATION:

Administration recommends approval

ATTACHMENTS:

1. Resolution No. R-2025-07

RESOLUTION NO. R-2025-07

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, CANVASSING RETURNS AND DECLARING THE RESULTS OF THE ADOPTION OR REJECTION OF PROPOSED AMENDMENTS TO THE EXISTING HOME RULE CHARTER AT THE SPECIAL ELECTION HELD ON TUESDAY, NOVEMBER 5, 2024; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Bastrop, Texas, on August 19, 2024, ordered that a Special Election to amend the Home Rule Charter be held within the City of Bastrop on November 5, 2024, to submit to the resident-qualified electors of the City of Bastrop the propositions as submitted by the Home Rule Charter Committee is hereinafter set forth; and

WHEREAS, Notice of Special Election and proposed Amendments were duly published in the *Austin American Statesman* on Friday, September 27, 2024, and Friday, October 4, 2024, and posted on the bulletin board at City Hall; and

WHEREAS, the City Council has investigated all matters about the Election, including Ordinance No. 2024-25 and Ordinance No. 2024-26 calling the Special Election, giving notice, appointing officers, holding and making returns of the Election; the election officers who held the Election have duly made the returns of the results thereof; and said returns have been duly delivered to the City Council to conduct the official canvass of the returns thereof; and

WHEREAS, upon the consideration of the returns of the Election, it is hereby found and determined that the election was held by the authorizing proceedings and was in all respects legally held after due notice had been given, and the returns duly and legally made, along with other instruments with the adoption of Propositions A, B, C, D, E, F, G, H, I, J, K, L, and M.

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

SECTION 1. The findings set forth above are incorporated into the body of this Resolution as if fully set forth herein and are adopted by the City Council as part of its legislative findings.

SECTION 2. CANVASS

Section 2.03 (Proposition A) of the City of Bastrop Home Rule Charter is hereby amended as follows:

Section 2.03 - Annexation.

The Council shall have the power by ordinance to fix the boundary limits of the City to provide for the alteration and the extension of said boundary limits, and the annexation of additional territory lying adjacent to the City, with ~~or without~~ the consent of the territory and inhabitants annexed.

* * * * *

SECTION 3. AMENDMENT

Section 3.06(6) (Proposition B) of the City of Bastrop Home Rule Charter is hereby amended as follows:

Section 3.06 - Vacancies, Forfeiture of Office and Filling of Vacancies.

The office of a Council Member shall become vacant upon the member's death, resignation, removal from or forfeiture of that office. A Council Member shall forfeit that office if the Council Member:

* * * * *

- (6) announces his/her candidacy, or shall in fact become a candidate, in any General, Special or Primary Election, for any office of profit or trust under the laws of the State of Texas or the United States other than the office then held, at any time when the unexpired term of the Council Member then held shall exceed one (1) year **and thirty days**, such announcement or such candidacy shall constitute an automatic resignation of the Council position then held, as set forth in Article XVI, Sec. 65(b) of the Texas Constitution.

* * * * *

SECTION 4. AMENDMENT

Section 3.16 (Proposition C) of the City of Bastrop Home Rule Charter is hereby amended as follows:

PROPOSITION C: Shall Section 3.16 of the Charter be amended to reflect the fact that codes of technical regulations are available to the public digitally and free of charge?

C	TOTAL	Absentee	EV	ED
For	4,132	176	3,276	680
Against	303	9	253	41
TOTAL	4,435	185	3,529	721
Overvotes	0	0	0	0
Undervotes	652	30	494	128
Contest TTL	5,087	215	4,023	849

PROPOSITION D: Shall Section 3.17(b) of the Charter be amended to reflect the fact that ordinances are available to the public digitally and free of charge?

D	TOTAL	Absentee	EV	ED
For	4,160	179	3,303	678
Against	294	8	249	37
TOTAL	4,454	187	3,552	715
Overvotes	0	0	0	0
Undervotes	633	28	471	134
Contest TTL	5,087	215	4,023	849

PROPOSITION E: Shall Section 5.02 of the Charter be amended to conform with state law by

stating that the term of office of municipal court judges shall be provided for by ordinance?

E	TOTAL	Absentee	EV	ED
For	3,658	157	2,901	600
Against	509	14	422	73
TOTAL	4,167	171	3,323	673
Overvotes	0	0	0	0
Undervotes	920	44	700	176
Contest TTL	5,087	215	4,023	849

PROPOSITION F: Shall Sections 14.03 and 14.04 of the Charter be repealed in their entirety as outdated, transitional provisions that are now irrelevant?

F	TOTAL	Absentee	EV	ED
For	3,112	135	2,495	482
Against	851	28	689	134
TOTAL	3,963	163	3,184	616
Overvotes	0	0	0	0
Undervotes	1,121	52	836	233
Contest TTL	5,084	215	4,020	849

PROPOSITION G: Shall the Charter be amended throughout to replace gender-specific language with gender-neutral terminology?

G	TOTAL	Absentee	EV	ED
For	1,907	103	1,539	265
Against	2,559	75	2,013	471
TOTAL	4,466	178	3,552	736
Overvotes	0	0	0	0
Undervotes	621	37	471	113
Contest TTL	5,087	215	4,023	849

PROPOSITION H: Shall Section 3.01 of the Charter be amended to clarify that the Mayor appoints candidates to serve on boards (committees, commissions, task forces, etc.) and the Council considers confirmation of the appointment?

H	TOTAL	Absentee	EV	ED
For	3,204	142	2,555	507
Against	1,044	35	830	179
TOTAL	4,248	177	3,385	686
Overvotes	1	0	1	0
Undervotes	838	38	637	163
Contest TTL	5,087	215	4,023	849

PROPOSITION I: Shall Section 3.07 of the Charter be amended to compensate the Mayor at a rate of \$400 per month and Council Members at \$250 per month? Sitting Mayor and Council Members at the time of a compensation increase shall be ineligible to receive the additional funds until re-elected.

I	TOTAL	Absentee	EV	ED
For	2,543	127	2,026	390
Against	1,767	51	1,407	309
TOTAL	4,310	178	3,433	699
Overvotes	1	1	0	0
Undervotes	776	36	590	150
Contest TTL	5,087	215	4,023	849

PROPOSITION J: Shall Section 3.09 of the Charter be amended to mandate that the City Council must appoint a Charter Review Commission every six years?

J	TOTAL	Absentee	EV	ED
For	3,759	156	2,988	615
Against	516	19	418	79
TOTAL	4,275	175	3,406	694
Overvotes	0	0	0	0
Undervotes	812	40	617	155
Contest TTL	5,087	215	4,023	849

PROPOSITION K: Shall Section 3.13 of the Charter be amended to specify that four members of the Council shall constitute a quorum to do business, but three members of the Council shall constitute a quorum for all other purposes of compliance with the Texas Open Meetings Act?

K	TOTAL	Absentee	EV	ED
For	3,072	119	2,439	514
Against	1,107	56	894	157
TOTAL	4,179	175	3,333	671
Overvotes	0	0	0	0
Undervotes	908	40	690	178
Contest TTL	5,087	215	4,023	849

PROPOSITION L: Shall Section 4.01 of the Charter be amended to remove the requirement that the City Manager must reside within the City Limits?

L	TOTAL	Absentee	EV	ED
For	1,665	71	1,305	289
Against	2,772	111	2,225	436
TOTAL	4,437	182	3,530	725
Overvotes	1	0	1	0
Undervotes	649	33	492	124
Contest TTL	5,087	215	4,023	849

PROPOSITION M: Shall an Article be added to the Charter as Article XV and titled “Bastrop Freedom Act” providing for the limited enforcement of marijuana offenses and establishing a policy to reform marijuana enforcement by City personnel with objectives of carefully allocating city resources, declaring misdemeanor marijuana offenses as the City’s lowest enforcement priority, and reducing the risk of discriminatory enforcement practices through the enactment of provisions addressing police enforcement of marijuana offenses?

M	TOTAL	Absentee	EV	ED
For	3,204	115	2,526	563
Against	1,387	63	1,120	204
TOTAL	4,591	178	3,646	767
Overvotes	2	0	2	0
Undervotes	494	37	375	82
Contest TTL	5,087	215	4,023	849

SECTION 3. The City Secretary shall record in the Office of the City Secretary the Charter amendments adopted by the voters of the City of Bastrop. The City Secretary, with the assistance

of the City Attorney, shall prepare an ordinance amending the Home Rule Charter indicating the approval of the qualified voters of the City of Bastrop of said amendments for future action by the City Council.

SECTION 4. The City Secretary shall record in the Office of the Texas Secretary of State the 2024 City of Bastrop, Texas Home Rule Charter as Amended.

SECTION 5. This Resolution shall become effective from and after its adoption.

READ AND APPROVED by the Bastrop City Council on first reading on this the 12th day of **NOVEMBER 2024.**

RETURNED TO FIRST READING, READ AND ADOPTED by the Bastrop City Council on first reading on this the 10th day of **DECEMBER 2024.**

RETURNED TO FIRST READING, READ AND ADOPTED by the Bastrop City Council on first reading on this the 14th day of **JANUARY 2024.**

CITY OF BASTROP, TEXAS

Lyle Nelson, Mayor

ATTEST:

APPROVED AS TO FORM:

City Secretary

City Attorney



STAFF REPORT

MEETING DATE: January 14, 2025

TITLE:

Consider and act on Resolution No. R-2025-04, regarding an Interlocal Agreement with Bastrop County for the Bastrop County Household Hazardous Waste Facility operation and maintenance obligations between the City of Bastrop and Bastrop County, as attached in Exhibit A; authorizing the City Manager to execute all necessary documents; and providing for findings of fact; repealer; severability; effective date; proper notice and meeting.

AGENDA ITEM SUBMITTED BY:

Submitted by: Vivianna Nicole Andres, Assistant to the City Manager

BACKGROUND/HISTORY:

The County will conduct three (3) collections. This facility is located at 911 South MLK, Smithville, Texas 78957.

At this time, annual commitments are:

- Bastrop County - \$10,000 per year
- City of Bastrop - \$5,000 per year

The County has also committed to providing the personnel and HAZWOPPER training necessary to conduct the collections. The monetary commitments are intended to cover disposal costs of the collections.

This Interlocal Agreement shall have a three (3) year term, beginning on the date last signed below. Ninety (90) days prior to the termination date all participants will be encouraged to extend the term for an additional three (3) years.

FISCAL IMPACT:

Funding for this program was included in the FY 2025 Budget.

RECOMMENDATION:

Take action on Resolution No. R-2025-04, regarding an Interlocal Agreement with Bastrop County for the Bastrop County Household Hazardous Waste Facility operation and maintenance obligations between the City of Bastrop and Bastrop County, as attached in Exhibit A.

ATTACHMENTS:

- Resolution No. R-2025-04
- Exhibit A: Interlocal Agreement with Bastrop County

RESOLUTION NO. R-2025-04

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, APPROVING AN INTERLOCAL AGREEMENT WITH BASTROP COUNTY FOR THE BASTROP COUNTY HOUSEHOLD HAZARDOUS WASTE FACILITY OPERATION AND MAINTENANCE OBLIGATIONS BETWEEN THE CITY OF BASTROP AND BASTROP COUNTY, AS ATTACHED IN EXHIBIT A; AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY DOCUMENTS; AND PROVIDING FOR FINDINGS OF FACT; REPEALER; SEVERABILITY; EFFECTIVE DATE; PROPER NOTICE AND MEETING.

WHEREAS, The City Council has appointed the City Manager as the Chief Administrative Officer of the City; and

WHEREAS, The City Manager is responsible for the proper administration of all affairs of the City; and

WHEREAS, The City of Bastrop has an interest in participating in the Bastrop County Household Hazardous Waste Facility; and

WHEREAS, pursuant to Chapter 791, Texas Government Code, and the general and special laws of the State of Texas, the City of Bastrop is authorized to enter into this Agreement providing for the undertaking, administration, and implementation of the Agreement.

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

Section 1. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Bastrop, Texas, and are hereby approved and incorporated into the body of this Resolution as if copied in their entirety..

Section 2. The City Manager is hereby authorized to execute an Interlocal Agreement for Operation and Maintenance of Bastrop County Household Hazardous Waste Facility between the City of Bastrop and Bastrop County, as attached as Exhibit A.

Section 3. Repealer: To the extent reasonably possible, resolutions are to be read together in harmony. However, all resolutions, or parts thereof, that are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters regulated.

Section 4. Severability: Should any of the clauses, sentences, paragraphs, sections, or parts of this Resolution 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 Resolution.

Section 5. Effective Date: This Resolution 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, its Code of Ordinances, and the laws of the State of Texas.

Section 6. Proper Notice & Meeting: It is hereby officially found and determined that the meeting at which this Resolution 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.

DULY RESOLVED & ADOPTED by the City Council of the City of Bastrop, TX, on this, the 14th day of January, 2025.

[Signature Page Follows]

THE CITY OF BASTROP, TEXAS:

Lyle Nelson, Mayor

ATTEST:

City Secretary

APPROVED AS TO FORM:

City Attorney

INTERLOCAL AGREEMENT FOR OPERATION AND MAINTENANCE OF
BASTROP COUNTY HOUSEHOLD HAZARDOUS WASTE FACILITY
BETWEEN **THE CITY OF BASTROP** AND BASTROP COUNTY

This Operation and Maintenance Agreement for the Bastrop County Household Hazardous Waste Facility (“*BCHHWF*”) is entered into by and between Bastrop County (“*Bastrop County*”) and **the City of Bastrop** (“*Bastrop*”)

RECITALS

WHEREAS, Bastrop County, a local political subdivision of the State of Texas and **the City of Bastrop** a local political subdivision of the State of Texas, hereby enter into this Interlocal Agreement (“*Agreement*”) for the purpose to cooperate, operate and maintain the facility in Bastrop County for the purpose of managing, storing, and disposing household hazardous waste; and

WHEREAS, the *BCHHWF* will serve and benefit the residents of **the City of Bastrop**; and

WHEREAS, Lee County (“*Lee County*”) will also enter into their own Interlocal Agreement with Bastrop County for the use of *BCHHWF*, together Bastrop County, Lee County, and the City of Bastrop will collectively be known as the “Participants” of the Agreement; and

WHEREAS, the City of Smithville (“*Smithville*”) will also enter into their own Interlocal Agreement with Bastrop County for the use of *BCHHWF*, together Bastrop County, Lee County, and the City of Smithville will collectively be known as the “Participants” of the Agreement; and

WHEREAS, pursuant to Chapter 791, Texas Government Code, and the general and special laws of the State of Texas, the City of Bastrop is authorized to enter into this Agreement providing for the undertaking, administration and implementation of the Agreement; and

WHEREAS, **the City of Bastrop** desires to enter into this Agreement to provide the terms and conditions under which the *BCHHWF* will be operated.

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual promises and other good and valuable consideration, the sufficiency of which is hereby acknowledged, **the City of Bastrop** agrees as follows:

1. **Facility.** For purposes of this Agreement, the term “Facility” means and includes real property, buildings, equipment and other property located at 911 South MLK, Smithville, Texas 78957.
2. **Allocation of Operation and Maintenance Costs.** Each Participant under this ILA confirms and agrees that they shall contribute money for the cost of operating and maintaining the *BCHHWF* annually for the term of this Agreement:

Bastrop County contribution: \$10,000 per year
the City of Bastrop contribution: **\$5,000** per year

3. Establishment of Funds. Bastrop County agrees to establish a “*Facility Fund*” (defined herein) as provided in this Section:
 - a. The Facility Fund shall hold and reserve funds to pay for the operation and maintenance of the Facility (“*Facility Costs*”). The Facility Fund shall be administered by Bastrop County through the general fund.
 - b. The Facility Administrator is the Bastrop County Auditor. The Facility Administrator shall create a code for the Facility Fund and administer funds and pay bills. The depository at which the Facility Fund is held and the signatories on such Fund may be changed from time to time by the Administrator of that account; provided, however, that notice of such changes are reported to the Oversight Committee (defined herein) created under Section 7 of this Agreement.
 - c. All sums on deposit in the Facility Fund shall at all times either be insured by the Federal Deposit Insurance Corporation or collateralized in the manner required by Chapter 2257, Texas Government Code.

4. Facility Administrator.
 - d. **the City of Bastrop** agrees that a Bastrop County representative shall be the initial administrator of the Facility Fund (“*Facility Administrator*”).
 - e. The Facility Administrator shall have the responsibility and authority to establish the Fund as provided in Section 3, above, and to disburse funds from such Fund in the manner and for the purposes set forth in this Agreement. The Facility Administrator will have the duty to deposit all sums received from the Participants under this Agreement into the Facility Fund and to maintain proper books and records of that Fund. The Facility Administrator will secure and maintain insurance coverage. The cost of such insurance will constitute an expense of the Facility.

5. Budget. An annual budget for operation and maintenance (O&M) including any equipment needed shall be prepared and approved by the participants. **Within thirty (30) days of the start of each fiscal year, the participants shall deposit their allocated share with the Facility Administrator.**

If **the City of Bastrop** fails to timely deliver a Facility Fund Payment as required by this Section, then the Facility Administrator shall notify the other Participants as soon as practicable. A failure of the City of Bastrop to timely deliver the Facility Fund Payment shall constitute a default under this Agreement.

6. Accounting. The Facility Administrator shall maintain complete books and records showing all deposits into and expenditures of any nature from the Facility Fund, which books and records shall be deemed complete if kept in accordance with generally

acceptable accounting principles as applied to governmental entities in Texas. Such books and records shall be available for examination at the offices of the Facility Administrator by the duly authorized officers or agents of **the City of Bastrop** during normal business hours upon request made not less than five (5) business days prior to the date of such examination. The Facility Administrator shall maintain such books and records until at least four (4) years after completion of the Facility. If the Facility Administrator is changed by the Participants, all books and records relating to the Facility Fund shall be promptly turned over to the new Facility Administrator.

7. Oversight Committee.

- a. Committee Representatives. There is hereby established a standing advisory committee (the “*Oversight Committee*”) consisting of one (1) representative of each Participant. The initial members of the Oversight Committee are:

Representative, Bastrop County
 Representative, Lee County
 Representative, City of Smithville
 Representative, City of Bastrop

The participants may change its designated representative on the Oversight Committee by providing written notice to the other Participants in accordance with this Agreement.

- b. Meetings. Any member of the Oversight Committee may also request a meeting to consider issues related to this Agreement or to address other situations that need attention. The meetings shall be held at a time and place reasonably convenient for the Oversight Committee members.
- c. Purpose. The purpose of the Oversight Committee is to review, consider, and make recommendations to *BCHHWF* on all matters pertaining to the Facility, including, but not limited to, the Annual O&M Budget, expenditures of money from the Facility Fund and O&M Fund, scopes of work, actual costs compared to budgeted estimates, and any other matters relating to the Facility. Meeting minutes or a brief report summarizing each Oversight Committee meeting will be prepared and delivered to each member of the oversight committee by the Facility Administrator, or designee.
- d. Voting. Any recommendation or action of the Oversight Committee will require the affirmative vote of a majority of the Oversight Committee members at a meeting. Members may also vote by email, video-conference, or phone.
- e. Recommendations. All recommendations or actions of the Oversight Committee will be memorialized in writing and the Facility Administrator or designee shall provide a copy of such written recommendation to all of the members.

8. Operations. Bastrop County shall also designate an Operations Manager (OM). The OM shall be responsible for developing the operation guidelines, schedules, waste handling, safety, spill prevention, security, and emergency response plans. The OM shall also be responsible for maintenance of the site and equipment.

The Facility shall be manned with properly trained personnel. Each participant shall have at least two (2) persons trained and available to staff the site when required on a part-time basis. Volunteers will also be used as needed.

9. Maintenance. The Operations Manager shall notify the Oversight Committee when maintenance or repair is required for the site or equipment and recommend action to be taken. The Oversight Committee will evaluate the options and approve any actions and expenditures above \$100.00.

10. Event of Default. Subject to the Force Majeure provisions of this Agreement, the following events, if not cured by the defaulting Participant within thirty (30) days of receipt of written notice from a non-defaulting Participant (the “*Cure Period*”), shall be considered a breach of this Agreement (each an “*Event of Default*”):
- a. Failure to make payments or deposits in the amount or in the time period set forth in this Agreement; or
 - b. Failure to comply with any other conditions or terms of this Agreement or to take any actions required by this Agreement.

If an Event of Default is not cured within the applicable Cure Period, then the dispute resolution provisions in Section 11 shall apply.

11. Dispute Resolution. The Participants agree to negotiate in good faith and attempt to resolve any dispute between them arising under this Agreement. If the Participants are unable to resolve the dispute or to agree on a course of action within thirty (30) calendar days after the end of the Cure Period, then they agree to submit the dispute to mediation. The cost of mediation will be divided equally among all the Participants. The burden of proof as to whether a Force Majeure Event has occurred or as to whether the Force Majeure Event has prevented performance is upon the defaulting Participant. The burden of proof as to whether an Event of Default has occurred or regarding a failure to cure is on the non-defaulting Participant. If the dispute is resolved by mediation, the relief obtained as a result of mediation is the exclusive remedy available to the Participants related to the Event of Default. If the dispute is not resolved within ninety (90) calendar days after submission of the dispute to a mediator, each Participant will have all rights and remedies which may be available under law and equity, including without limitation the right to specifically enforce any term or provision of this Agreement and/or the right to institute an action for damages or mandamus.

12. Force Majeure.
- a. Definition. Except as otherwise provided below, the term “*Force Majeure Event*” means any act or event, whether foreseen or unforeseen, that meets all three (3) of the following tests:

- i. The act or event prevents a Participant (the “*Nonperforming Participant*”), in whole or in part, from (i) performing its obligations under this Agreement; or (ii) satisfying any conditions precedent to the obligations of the other Participant or Participants (the “*Performing Participants*”, whether one or more) under this Agreement; and
- ii. The act or event is beyond the reasonable control of and not the fault of the Nonperforming Participant; and
- iii. The Nonperforming Participant has been unable to avoid or overcome the act or event by the exercise of due diligence.

Despite the generality of the preceding definition of a Force Majeure Event, a Force Majeure Event excludes economic hardship, changes in market conditions, or insufficiency of funds and a Force Majeure Event does not excuse any obligation by either a Performing Participant or a Nonperforming Participant to make any payment or deposit required under this Agreement.

- c. Actions on Occurrence of Force Majeure Event. No later than five (5) business days after becoming aware of the occurrence of a Force Majeure Event, the Nonperforming Participant will furnish the Performing Participant with written notice describing the particulars of the occurrence, including an estimate of its expected duration and probable impact on the performance of the Nonperforming Participant’s obligations under this Agreement. During the continuation of the Force Majeure Event, the Nonperforming Participant will furnish timely, regular written notices updating the information contained in the initial notice, and providing any other information that the Performing Participant reasonably requests. In addition, during the continuation of the Force Majeure Event, the Nonperforming Participant will exercise commercially reasonable efforts to overcome, mitigate or limit damages to the Performing Participant, continue to perform its other obligations under this Agreement (to the extent it is able), and cause the suspension of performance to be of no greater scope and no longer duration than the Force Majeure Event requires. When the Nonperforming Participant is able to resume performance of its obligations under this Agreement, it will immediately give the Performing Participant written notice to that effect and will resume performance under this Agreement no later than five (5) business days after the notice is delivered.

13. Term. This Interlocal Agreement shall have a **three (3) year term**, beginning on the date last signed below. Ninety (90) days prior to the termination date all participants will be encouraged to extend the term for an additional three (3) years.

14. Miscellaneous

- a. Actions Performable; Venue. All actions to be performed under this Agreement are performable solely in Bastrop County, Texas. Venue for any action arising under this Agreement will be in Bastrop County, Texas.

- b. Governing Law. The Participants agree that this Agreement has been made under the laws of the State of Texas in effect on the Effective Date, and that any interpretation of this Agreement at a future date will be made under the laws of the State of Texas.
- c. Severability/No Waiver. If a provision of this Agreement is finally declared void illegal, or unenforceable by any court or administrative agency having jurisdiction; the remaining provisions will not be affected, but will continue in effect as nearly as possible in accordance with the original intent of the Participants. Any failure by a Participant to insist upon strict performance by another Participant of any material provision of this Agreement will not be deemed a waiver thereof or of any other provision, and such Participant may at any time thereafter insist upon strict performance of any and all of the provisions of this Agreement.
- d. Complete Agreement/Amendment. This Agreement, including the attached exhibits, represents the complete agreement of the Participants and supersedes all prior written and oral agreements or understandings related to the subject matter of this Agreement. This Agreement may be canceled, changed, modified or amended, in whole or in part, only by written agreement of all of the Participants.
- e. Exhibits; Headings, Construction and Counterparts. All schedules and exhibits, if any, referred to in or attached to this Agreement are incorporated into and made a part of this Agreement for all purposes. The paragraph headings contained in this Agreement are for convenience only and do not enlarge or limit the scope or meaning of the paragraphs. Wherever appropriate, words of the masculine gender include the feminine or neuter, and the singular includes the plural, and vice-versa. The Participants acknowledge that each of them have been actively and equally involved in the negotiation and drafting of this Agreement. Accordingly, the rule of construction that any ambiguities are to be resolved against the drafting Participant will not be employed in interpreting this Agreement or any exhibits hereto. This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original, and all of which will together constitute the same instrument.
- f. Notice. All notices under this Agreement must be in writing. Any notice given under this Agreement must be given: (i) by depositing it in the United States mail, certified, with return receipt requested, addressed to the Participant to be notified and with all charges prepaid; or (ii) by depositing it with Federal Express or another service guaranteeing “next day delivery,” addressed to the Participant to be notified and with all charges prepaid; (iii) by personally delivering it to the Participant, or any agent of the Participant listed in this Agreement; or (iv) by facsimile or (v) by email, and if by email, a confirming copy must also sent by first class United States Mail.

For purposes of notice, the addresses of the Participants will, until changed as provided below, be as follows:

Bastrop County:

Name: County Judge
Address: 804 Pecan Street, Bastrop, TX 78602
Phone: 512-332-7201
Fax: 512-581-7103
Email: purchasing@co.bastrop.tx.us

Lee County:

Name: County Judge
Address: 200 S Main St., STE 107, Giddings, TX 78942
Phone: 979-542-3178
Fax: 979-542-2988
Email: frank.malinak@co.lee.tx.us

City of Smithville:

Name: City Manager
Address: 317 Main St., P.O. Box 449, Smithville, TX 78957
Phone: 512-237-3282
Fax:
Email: citymanager@ci.smithville.tx.us

City of Bastrop:

Name: City Manager
Address: 1311 Chestnut Street, Bastrop Texas 78602
Phone: 512-332-8800
Fax: 512-332-8819
Email: scarrillo@cityofbastrop.org

Each Participant may change its respective contact and address to any other address within the United States of America by giving at least five (5) calendar days' written notice to the other Participants.

- g. Assignment. This Agreement is not assignable by any Participant without the prior written consent of all other Participants. The foregoing will not be deemed to prohibit a Participant's Percentage Share being transferred by operation of law to a successor of a Participant upon dissolution of that

Participant under the Texas Water Code, and this Agreement will be binding upon and inure to the benefit of any such successor.

- h. Authority. Each Participant represents and warrants that it has the full right, power, and authority to execute this Agreement and all related documents. Each person executing this instrument on behalf of a Participant represents that he or she is an authorized representative of and has the authority to sign this document on behalf of the respective Participant.
- i. Time. In computing the number of days for purposes of this Agreement, all days will be counted, including Saturdays, Sundays and legal holidays; however, if the final day of any time period falls on a Saturday, Sunday or legal holiday, then the final day will be extended to the next day that is not a Saturday, Sunday or legal holiday.
- j. Counterparts. This Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. The Participants may execute this Agreement and all other agreements, certificates, instruments and other documents contemplated by this Agreement and exchange the counterparts of such documents by means of facsimile transmission, and the Participants agree that the receipt of such executed counterparts shall be binding on such Parties and shall be construed as originals. Thereafter, the Participants shall promptly exchange original versions of this Agreement and all other agreements, certificates, instruments and other documents contemplated by this Agreement that were executed and exchanged by facsimile transmission.
- k. Third Party Beneficiaries. Except as expressly provided in this Agreement, nothing in this Agreement is intended or shall be construed to confer upon, or to give to, any legal person other than the Participants, any right, remedy, or Claim under or by reason of this Agreement; or any covenants, terms, conditions, and provisions in this Agreement by and on behalf of the Participants shall be for the sole and exclusive benefit of the Participants. Nothing in this Agreement is intended to interfere with any agreements of any Participant with any third party.

The Bastrop County and **the City of Bastrop** have executed this Agreement as of the date(s) indicated below.

Signatures:

Bastrop County

By: Gregory Klaus
Name: Gregory Klaus
Title: Bastrop County Judge

Date: August 26, 2024

City of Bastrop

By: _____
Name: **Sylvia Carrillo**
Title: **City Manager**

Date: _____, 2024



STAFF REPORT

MEETING DATE: January 14, 2025

TITLE:

Consider and act on Resolution No. R-2025-01, regarding the amended and restated Tri-party Agreement for Future Connections in the Colony Project to Off-Site Roadways, as attached in Exhibit A; authorizing the City Manager to execute all necessary documents; and providing for findings of fact; repealer; severability; effective date; proper notice and meeting.

STAFF REPRESENTATIVE:

Vivianna Nicole Andres, Assistant to the City Manager

BACKGROUND/HISTORY:

The Colony Municipal Utility District No. 1 and Successor Districts was established through the Consent Agreement on February 23, 2004. With the 3rd Amendment to the Agreement on November 12, 2019, the City and the developer agreed to a Master Plan that included connections to off-site developments through future connections in each section. Subsequently, the City approved a Tri-Party Agreement February 9, 2021 which established the timing, mechanics, and other matters related to future platting, dedication, and construction of Future Connections.

The agreement has since been amended and restated to further clarify that the developer of The Colony MUD will not be required to construct Future Connections that are outside of the project boundary, and further define what streets the County will be responsible for maintaining within the development.

POLICY EXPLANATION:

The Local Government Code allows municipalities to authorize Municipal Utility Districts within extraterritorial jurisdictions. This agreement provides additional clarity on which parts of the Future Connections the developer will be required to construct and which streets will be maintained by Bastrop County within the development.

RECOMMENDATION:

Take action on Resolution No. R-2025-01, regarding the amended and restated Tri-party Agreement for Future Connections in the Colony Project to Off-Site Roadways, as attached in Exhibit A.

ATTACHMENTS:

- Resolution
- Exhibit A – Amended and Restated Tri-party Agreement regarding Future Connections in the Colony Project to Off-Site Roadways

RESOLUTION NO. R-2025-01

AMENDED AND RESTATED TRI-PARTY AGREEMENT REGARDING FUTURE CONNECTIONS

A RESOLUTION OF THE CITY OF BASTROP, TEXAS, APPROVING AN AMENDED AND RESTATED TRI-PARTY AGREEMENT FOR FUTURE CONNECTIONS IN THE COLONY PROJECT TO OFF-SITE ROADWAYS, AS ATTACHED IN EXHIBIT A; AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY DOCUMENTS; AND PROVIDING FOR FINDINGS OF FACT; REPEALER; SEVERABILITY; EFFECTIVE DATE; PROPER NOTICE AND MEETING.

WHEREAS, the City of Bastrop previously entered into a “Consent for The Colony Municipal Utility District No. 1 and Successor Districts to be Created by the Division of the Colony Municipal Utility District No. 1: on February 23, 2004; and

WHEREAS, the City of Bastrop City entered into a “First Amendment to Consent Agreement for The Colony Municipal Utility District No. 1 and Successor Districts to be Created by the Division of the Colony Municipal District No. 1” on June 14, 2016; and

WHEREAS, the City of Bastrop entered into a “Second Amendment to Consent Agreement for The Colony Municipal Utility District No. 1 and Successor Districts to be Created by the Division of the Colony Municipal District No. 1” on November 7, 2017; and

WHEREAS, the City of Bastrop entered into a “Third Amendment to Consent Agreement for The Colony Municipal Utility District No. 1 and Successor Districts to be Created by the Division of the Colony Municipal District No. 1” on November 12, 2019; and

WHEREAS, the City of Bastrop entered into a “Fourth Amendment to Consent Agreement for The Colony Municipal Utility District No. 1” on November 10, 2020; and

WHEREAS, the developer and the County are seeking to clarify the construction requirements for the Future Connections outside of the project boundary; and

WHEREAS, the developer and the County are seeking to clarify which roadways within the development will be maintained as public county roads.

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

- Section 1:** All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Bastrop, Texas, and are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.

- Section 2:** The City Council approves and authorizes the execution of the Amended and Restated Agreement, attached hereto as **Exhibit "A"**, on behalf of the City.

- Section 3. Repealer:** To the extent reasonably possible, resolutions are to be read together in harmony. However, all resolutions, or parts thereof, that are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters regulated.

- Section 4. Severability:** Should any of the clauses, sentences, paragraphs, sections, or parts of this Resolution 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 Resolution.

- Section 5. Effective Date:** This Resolution 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, its Code of Ordinances, and the laws of the State of Texas.

- Section 6. Proper Notice & Meeting:** It is hereby officially found and determined that the meeting at which this Resolution 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.

DULY RESOLVED & ADOPTED by the City Council of the City of Bastrop, Texas,
on this, the 14th day of January 2025.

APPROVED:

Lyle Nelson, Mayor

ATTEST:

City Secretary

APPROVED AS TO FORM:

City Attorney

AMENDED AND RESTATED TRI-PARTY AGREEMENT REGARDING FUTURE CONNECTIONS IN THE COLONY PROJECT TO OFF-SITE ROADWAYS

This **AMENDED AND RESTATED TRI-PARTY AGREEMENT REGARDING FUTURE CONNECTIONS IN THE COLONY PROJECT TO OFF-SITE ROADWAYS** (this "*Agreement*") is entered into among the **CITY OF BASTROP, TEXAS**, a Texas municipal corporation located in Bastrop County (the "*City*"); the **COUNTY OF BASTROP, TEXAS**, a political subdivision of the State of Texas (the "*County*"); and **HUNT COMMUNITIES BASTROP, LLC**, a Delaware limited liability company ("*Developer*"). The City, the County, and the Developer are sometimes referred to herein collectively as the "*Parties*" and individually as a "*Party*".

RECITALS

WHEREAS, the City and Sabine Investment Company, a Delaware corporation ("*Sabine*"), previously entered into a Consent Agreement for The Colony Municipal Utility District No. 1 and Successor Districts to be Created by the Division of The Colony Municipal Utility District No. 1 dated effective as of February 23, 2004 (the "*Original Consent Agreement*"), which, among other things, provided for the creation of The Colony Municipal Utility District No. 1 (the "*Original District*") and a regulatory process for the development of The Colony master-planned project ("*Project*");

WHEREAS, the Original District was created by House Bill 3636, Acts of the 78th Legislature, Regular Session, CH. 778, Texas Session Law Service 2003 (the "*Creation Legislation*") and, as required by the Original Consent Agreement, the Original District joined in and consented to the Original Consent Agreement;

WHEREAS, as permitted by the Creation Legislation and the Original Consent Agreement, the Original District, pursuant to an election held by the Original District on February 5, 2005, subsequently divided in to The Colony Municipal Utility District No. 1A, The Colony Municipal Utility District No. 1B, The Colony Municipal Utility District No. 1C, The Colony Municipal Utility District No. 1D, The Colony Municipal Utility District No. 1E, The Colony Municipal Utility District No. 1F, and The Colony Municipal Utility District No. 1G (individually, a "*Successor District*" and collectively, the "*Successor Districts*"), and, as required by the Original Consent Agreement, the Successor Districts all joined in and consented to the Original Consent Agreement;

WHEREAS, effective December 30, 2006, Sabine merged with and into Forestar (USA) Real Estate Group Inc., a Delaware corporation ("*Forestar*"), at which time Forestar succeeded, by operation of law, to Sabine's interest in and to the Original Consent Agreement; and, in order to memorialize the merger, Forestar also joined in and consented to the Original Consent Agreement;

WHEREAS, the City, Forestar, and the Successor Districts later entered into a First Amendment to Consent Agreement for the Colony Municipal Utility District No. 1 and Successor Districts to be Created by Division of the Colony Municipal Utility District No. 1 dated effective as of June 14, 2016;

WHEREAS, Forestar, with the consent of the City and the Successor Districts, subsequently assigned all of its right, title, and interest in, to, and under the Consent Agreement to the Developer pursuant to an Assignment of Consent Agreement for The Colony Municipal Utility District No. 1 and Successor Districts to be Created by the Division of The Colony Municipal Utility District No. 1 and Consent dated effective December 30, 2016;

WHEREAS, the City, the Developer, and the Successor Districts later entered into a Second Amendment to Consent Agreement for the Colony Municipal Utility District No. 1 and Successor Districts to be Created by Division of the Colony Municipal Utility District No. 1 dated effective as of November 7, 2017, a Third Amendment to Consent Agreement for the Colony Municipal Utility District No. 1 and Successor Districts to be Created by Division of the Colony Municipal Utility District No. 1 dated effective as of March 4, 2020, and a Fourth Amendment to Consent Agreement for the Colony Municipal Utility District No. 1 and Successor Districts to be Created by Division of the Colony Municipal Utility District No. 1 dated effective as of November 23, 2020 (the Original Consent Agreement, as joined in, assigned, and amended, being referred to herein collectively as the “Consent Agreement”);

WHEREAS, among other things, the Consent Agreement provides that the Project will be developed generally in accordance with the “Project Master Plan” attached as **Exhibit “A”** (and herein so defined) that identifies 11 future connection points, located at the boundaries of the Project Master Plan, which connect to off-site roadways (each labeled on the Project Master Plan and defined herein as a “Future Connection Point”)¹;

WHEREAS, the Parties previously entered into a Tri-Party Agreement Regarding Future Connections in The Colony Project to Off-Site Roadways dated effective as of February 9, 2021 (the “Original Agreement”), which established the timing, mechanics, and other matters related to the future platting, dedication, and construction of the Future Connections (defined below);

WHEREAS, the County subsequently modified its policies with respect to roadway construction and acceptance of roadways for operation and maintenance and, accordingly, no longer desires to accept the roadways within the Project (the “Project Roadways”) as contemplated in the Original Agreement, with the exception of the roadways described and depicted in **Exhibit “B”** (the “County Roadways”); and

WHEREAS, due to the County’s modified policies, the Parties now desire to amend and restate the Original Agreement to (i) modify the timing, mechanics, and other matters related to the future platting, dedication, and construction of the Future Connections; and (ii) modify the Parties’ obligations with respect to the ownership, operation, and maintenance of the Project Roadways.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. Platting, Dedication, and Construction of Future Connections. At the time when each area within the Project Master Plan that includes a Future Connection Point is final platted, the Developer will designate the right-of-way for a roadway connecting the Project’s internal roadways to the applicable Future Connection Point (a “Future Connection”) as a “ROW Reserve” on the final plat. Upon approval of the final plat, the Developer will separately dedicate to the public a right-of-way easement for such platted ROW Reserve, and reference the easement on the plat via document number. The Parties acknowledge and agree that the City and/or the County, as applicable, may require a developer of land outside of the Project Master

¹ The Project Master Plan identifies a total of 12 Future Connection Points; however, the connection on Sam Houston Drive between The Colony MUD No. 1E and the original non-MUD portion of The Colony project is currently existing and will not be considered a Future Connection Point for purposes of this Agreement.

Plan and adjacent to a Future Connection Point to construct and maintain such Future Connection, which will connect the Project's internal roadways to the Future Connection Point and, therefore, the adjacent development. Therefore, notwithstanding anything herein to the contrary, the Developer will not be required to construct the Future Connections, nor will it be required to accept, operate, or maintain the Future Connections or cause a POA (defined below) to do so. However, the Developer will be required to construct all other Project Roadways within the Project, as it is developed.

2. Operation and Maintenance of Project Roadways. The Third Amendment to the Consent Agreement provides that the Project Roadways will be dedicated to the County or a property owners' association ("POA") for operation and maintenance, and that local streets off main collector roadways may be gated. Accordingly, the Parties hereby acknowledge and agree (i) that the County Roadways are public roadways; (ii) that the County has previously accepted certain County Roadways for operation and maintenance; and (iii) that the County will accept the previously unaccepted County Roadways for operation and maintenance within 60 days following the Effective Date of this Agreement. The County will operate and maintain the County Roadways as public roadways. The Developer will cause all Project Roadways, other than the County Roadways and the Future Connections, to be operated and maintained by a POA as private roadways.

3. School Access; Safety Apparatus; Gates. Notwithstanding any provision herein to the contrary, the Parties agree that access to Colony Oaks Elementary School by Sam Houston Drive via FM 969 will remain open to the public. The County will coordinate with Bastrop Independent School District to install safety apparatus along Sam Houston Drive near Colony Oaks Elementary School, including crosswalks, school zone signs, and speedbumps, as considered appropriate by Bastrop Independent School District. Gates across any fire apparatus road (public or private) must be approved by the applicable fire code official; must have an approved means of emergency operation; and must be maintained in operational condition.

4. Original Agreement. Upon the Effective Date, this Agreement will supersede and replace the Original Agreement in its entirety, and the Original Agreement will be of no further force or effect.

5. Notices. All notices allowed or required to be given hereunder must be in writing and must be personally delivered or dispatched by United States certified mail, postage prepaid, return receipt requested, to the addresses shown on the counterpart signature pages to this Agreement. Either Party may change its address by giving notice in writing to the other Parties of such change. Any time limitation provided for in this Agreement will commence with the date that the Party actually receives such written notice, and the date of postmark of any return receipt indicating the date of delivery of such notice to the addressee will be conclusive evidence of such receipt.

6. Miscellaneous. This Agreement comprises the entire agreement among the Parties, and supersedes any prior understandings or written or oral agreements concerning, regarding the subject matter hereof. This Agreement will be binding upon the Parties and their successors and permitted assigns. The provisions of this Agreement may be modified or altered only by mutual agreement of the Parties. This Agreement will be construed under and in accordance with the laws of the State of Texas. All of the obligations contained in this Agreement are performable in Bastrop County, Texas. No consent or waiver, expressed or implied, to or of any default of any covenant or provision hereof by any Party will be construed as a consent or waiver to or any other default of the same or any other covenant or provision. If any provision of this Agreement is illegal, invalid, or unenforceable under present or future laws, it is the intention of the Parties that the remainder of this Agreement not be affected thereby,

and it is also the intention of the Parties that, in lieu of each provision of this Agreement that is illegal, invalid, or unenforceable, there be added as a Part of this Agreement a provision as similar in terms to the illegal, invalid, or unenforceable provision as is possible, and is legal, valid, and enforceable. Any Party to this Agreement who is the prevailing party in any legal proceeding against any other Party brought under or in connection with this Agreement or the subject matter hereof will be additionally entitled to recover court costs and reasonable attorney's fees, and all other litigation expenses, including deposition costs, travel, and expert witness fees, from the non-prevailing Party. Each Party represents and warrants that it has the full right, power, and authority to execute this Agreement and all related documents. Each person executing this instrument on behalf of a Party represents that he or she is an authorized representative of and has the authority to sign this document on behalf the respective Party.

7. Counterparts. To facilitate execution, (a) this Agreement may be executed in any number of counterparts; (b) the signature pages taken from separate individually executed counterparts of this instrument may be combined to form multiple fully executed counterparts; and (c) an electronic signature, or a signature delivered by facsimile or in another electronic format (e.g., .PDF via email), will be deemed to be an original signature for all purposes. All executed counterparts of this instrument will be deemed to be originals, and all such counterparts, when taken together, will constitute one and the same agreement.

8. Annexation. Since the Project Roadways have and will be constructed to the required City standards, in the event all or a portion of the Project is annexed by the City, the City will accept the annexed Project Roadways for operation and maintenance.

9. Acceptance Deadline. The execution of this Agreement by the Developer will constitute an offer by the Developer to enter into this Agreement on the terms and conditions provided herein. In order for the City and the County to effectively accept the Developer's offer, the City and the County must each, within 60 days following the Developer's execution (the "Acceptance Deadline"): (a) properly and fully execute this Agreement without any modifications or changes; and (b) deliver at least one counterpart of such fully executed and unmodified version of this Agreement to the Developer. If either the City or the County does not comply with the foregoing requirements prior to the Acceptance Deadline, then Developer will have the right at any time after the Acceptance Deadline to rescind its offer by delivering written notice to the City and the County.

* * *

IN WITNESS WHEREOF, the Parties have executed this Agreement to be effective as of the date that the last Party signs below (the "Effective Date").

[counterpart signature pages follow]

COUNTERPART SIGNATURE PAGE TO:

AMENDED AND RESTATED TRI-PARTY AGREEMENT REGARDING FUTURE CONNECTIONS IN THE COLONY PROJECT TO OFF-SITE ROADWAYS

CITY:

CITY OF BASTROP, TEXAS

By: _____
Sylvia Carrillo, City Manager

Address:

**THE STATE OF TEXAS §
 §
COUNTY OF BASTROP §**

This instrument was acknowledged before me on the _____ day of _____, 2024, by Sylvia Carrillo, City Manager of the City of Bastrop, a Texas municipal corporation, on behalf of said city.

NOTARY PUBLIC, State of Texas

COUNTERPART SIGNATURE PAGE TO:

AMENDED AND RESTATED TRI-PARTY AGREEMENT REGARDING FUTURE CONNECTIONS IN THE COLONY PROJECT TO OFF-SITE ROADWAYS

COUNTY:

COUNTY OF BASTROP, TEXAS

By: Gregory Klaus
Gregory Klaus, County Judge

Address:

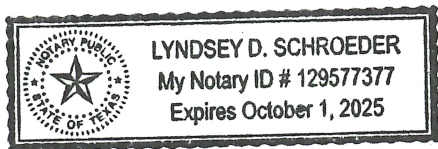
804 Pecan St
Bastrop TX 78602

**THE STATE OF TEXAS §
§
COUNTY OF BASTROP §**

This instrument was acknowledged before me on the 9th day of December, 2024, by Gregory Klaus, County Judge of the County of Bastrop, a political subdivision of the State of Texas, on behalf of said county.

Lyndsey D. Schroeder

NOTARY PUBLIC, State of Texas



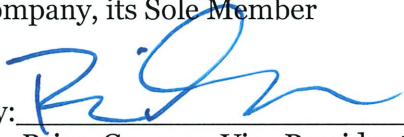
COUNTERPART SIGNATURE PAGE TO:

AMENDED AND RESTATED TRI-PARTY AGREEMENT REGARDING FUTURE CONNECTIONS IN THE COLONY PROJECT TO OFF-SITE ROADWAYS

DEVELOPER:

HUNT COMMUNITIES BASTROP, LLC, a Delaware limited liability company

By: Hunt Communities Development Co., LLC, a Texas limited liability company, its Sole Member


By: 
Brion Georges, Vice President

Address:

Hunt Communities Bastrop, LLC
Attn: Rick Neff
601 N. Mesa, Suite 1900
El Paso, Texas 79901

THE STATE OF TEXAS §
§
COUNTY OF EL PASO §

This instrument was acknowledged before me on the 3rd day of December, 2024, by Brion Georges, Vice President of Hunt Communities Development Co., LLC, a Texas limited liability company, Sole Member of Hunt Communities Bastrop, LLC, a Delaware limited liability company, on behalf of said limited liability companies.


NOTARY PUBLIC, State of Texas

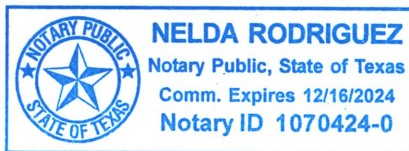
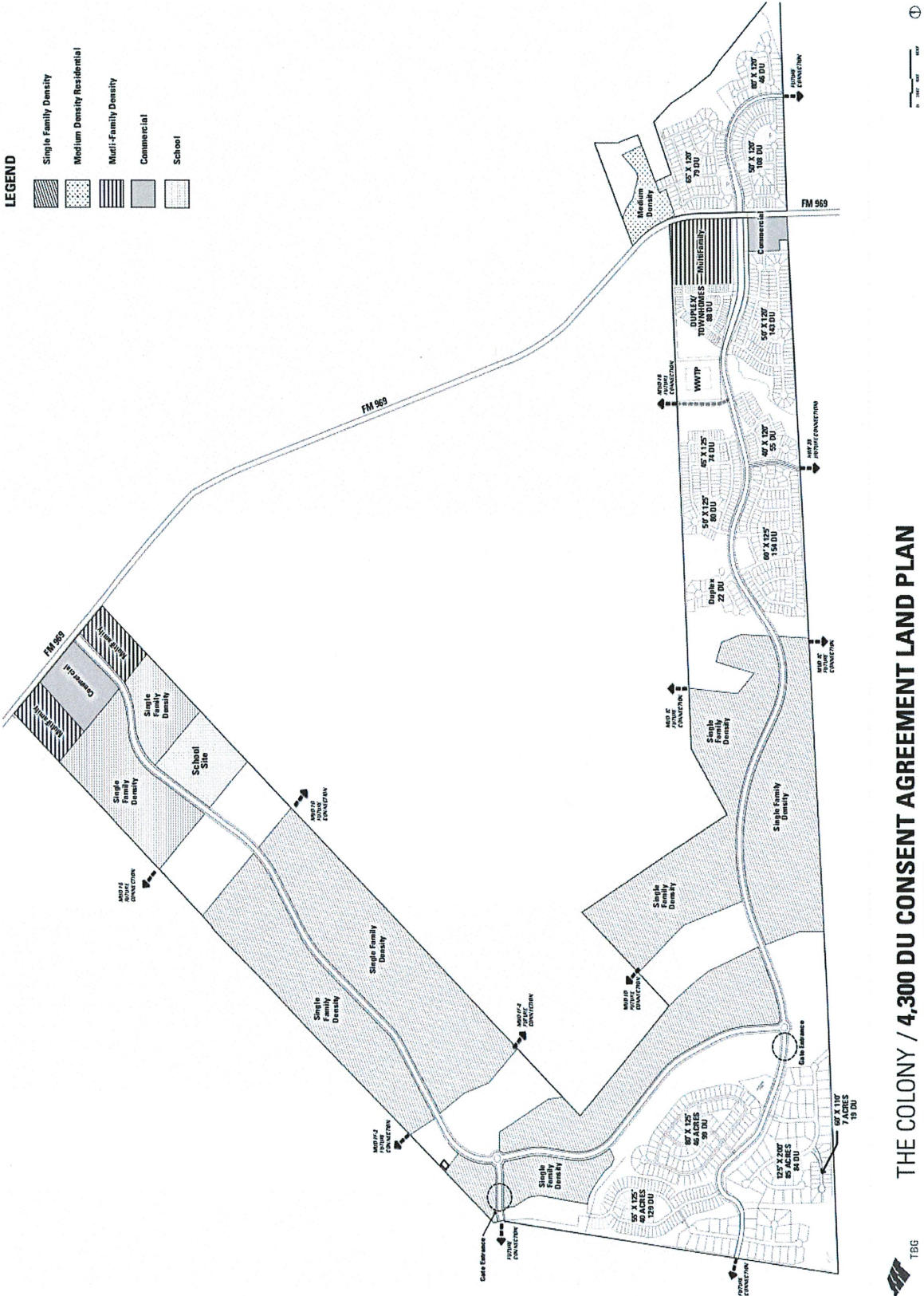


EXHIBIT "A" PROJECT MASTER PLAN



THE COLONY / 4,300 DU CONSENT AGREEMENT LAND PLAN



Bastrop, TX 02 August 2019



EXHIBIT "B"
COUNTY ROADWAYS

ROADS TO BE MAINTAINED BY BASTROP COUNTY		
Road Name	From	To
Sam Houston Dr	George Neggan Ln	PID 47759
Andross Ln	George Neggan Ln	George Kimble Cv
Esparza Dr	George Neggan Ln	Terminus
George Kimble Cv	Terminus	Terminus
Claiborne Wright Way	Esparza Dr	Isaac Millsaps Trl
George Neggan Ln	PID 8720280	PID 8712381
Isaac Millsaps Trl	Claiborne Wright Way	Terminus
Badillo Way	George Neggan Ln	Andross Ln
Samuel Blair Pass	PID 8704399	Thurston Dr
Patrick Herndon Dr	Lemuel Crawford Trl	Edwin Mitchell Trl
Thurston Dr	Lemuel Crawford Trl	Terminus

Lemuel Crawford Trl	Patrick Herndon Dr	Thurston Dr
Trammel Cv	Samuel Blair Pass	Terminus
Isaac White Dr	PID 36720	Sam Houston Dr
James Rose Ln	Joseph Hawkins Ln	Isaac White Dr
Joseph Hawkins Ln	James Rose Ln	Asa Walker Dr
Asa Walker Dr	Joseph Hawkins Ln	Samuel Blair Pass
Edwin Mitchell Trl	Sam Houston Dr	Terminus
Robert Brown Cv	Terminus	Terminus
Andrew Duvall Cv	Sam Houston Dr	Terminus
Charles Zanco Dr	Samuel Blair Pass	Isaac White Dr
Freeman Day Dr	James Rose Ln	Isaac White Dr

AMENDED AND RESTATED TRI-PARTY AGREEMENT REGARDING FUTURE CONNECTIONS IN THE COLONY PROJECT TO OFF-SITE ROADWAYS

This **AMENDED AND RESTATED TRI-PARTY AGREEMENT REGARDING FUTURE CONNECTIONS IN THE COLONY PROJECT TO OFF-SITE ROADWAYS** (this “*Agreement*”) is entered into among the **CITY OF BASTROP, TEXAS**, a Texas municipal corporation located in Bastrop County (the “*City*”); the **COUNTY OF BASTROP, TEXAS**, a political subdivision of the State of Texas (the “*County*”); and **HUNT COMMUNITIES BASTROP, LLC**, a Delaware limited liability company (“*Developer*”). The City, the County, and the Developer are sometimes referred to herein collectively as the “*Parties*” and individually as a “*Party*”.

RECITALS

WHEREAS, the City and Sabine Investment Company, a Delaware corporation (“*Sabine*”), previously entered into a Consent Agreement for The Colony Municipal Utility District No. 1 and Successor Districts to be Created by the Division of The Colony Municipal Utility District No. 1 dated effective as of February 23, 2004 (the “*Original Consent Agreement*”), which, among other things, provided for the creation of The Colony Municipal Utility District No. 1 (the “*Original District*”) and a regulatory process for the development of The Colony master-planned project (“*Project*”);

WHEREAS, the Original District was created by House Bill 3636, Acts of the 78th Legislature, Regular Session, CH. 778, Texas Session Law Service 2003 (the “*Creation Legislation*”) and, as required by the Original Consent Agreement, the Original District joined in and consented to the Original Consent Agreement;

WHEREAS, as permitted by the Creation Legislation and the Original Consent Agreement, the Original District, pursuant to an election held by the Original District on February 5, 2005, subsequently divided in to The Colony Municipal Utility District No. 1A, The Colony Municipal Utility District No. 1B, The Colony Municipal Utility District No. 1C, The Colony Municipal Utility District No. 1D, The Colony Municipal Utility District No. 1E, The Colony Municipal Utility District No. 1F, and The Colony Municipal Utility District No. 1G (individually, a “*Successor District*” and collectively, the “*Successor Districts*”), and, as required by the Original Consent Agreement, the Successor Districts all joined in and consented to the Original Consent Agreement;

WHEREAS, effective December 30, 2006, Sabine merged with and into Forestar (USA) Real Estate Group Inc., a Delaware corporation (“*Forestar*”), at which time Forestar succeeded, by operation of law, to Sabine’s interest in and to the Original Consent Agreement; and, in order to memorialize the merger, Forestar also joined in and consented to the Original Consent Agreement;

WHEREAS, the City, Forestar, and the Successor Districts later entered into a First Amendment to Consent Agreement for the Colony Municipal Utility District No. 1 and Successor Districts to be Created by Division of the Colony Municipal Utility District No. 1 dated effective as of June 14, 2016;

WHEREAS, Forestar, with the consent of the City and the Successor Districts, subsequently assigned all of its right, title, and interest in, to, and under the Consent Agreement to the Developer pursuant to an Assignment of Consent Agreement for The Colony Municipal Utility District No. 1 and Successor Districts to be Created by the Division of The Colony

Municipal Utility District No. 1 and Consent dated effective December 30, 2016;

WHEREAS, the City, the Developer, and the Successor Districts later entered into a Second Amendment to Consent Agreement for the Colony Municipal Utility District No. 1 and Successor Districts to be Created by Division of the Colony Municipal Utility District No. 1 dated effective as of November 7, 2017, a Third Amendment to Consent Agreement for the Colony Municipal Utility District No. 1 and Successor Districts to be Created by Division of the Colony Municipal Utility District No. 1 dated effective as of March 4, 2020, and a Fourth Amendment to Consent Agreement for the Colony Municipal Utility District No. 1 and Successor Districts to be Created by Division of the Colony Municipal Utility District No. 1 dated effective as of November 23, 2020 (the Original Consent Agreement, as joined in, assigned, and amended, being referred to herein collectively as the “Consent Agreement”);

WHEREAS, among other things, the Consent Agreement provides that the Project will be developed generally in accordance with the “Project Master Plan” attached as **Exhibit “A”** (and herein so defined) that identifies 11 future connection points ~~within~~, located at the boundaries of the Project Master Plan, which connect to off-site roadways (each labeled on the Project Master Plan and defined herein as a “Future Connection Point”);¹

WHEREAS, the Parties previously entered into a Tri-Party Agreement Regarding Future Connections in The Colony Project to Off-Site Roadways dated effective as of February 9, 2021 (the “Original Agreement”), which established the timing, mechanics, and other matters related to the future platting, dedication, and construction of the Future Connections (defined below);

WHEREAS, the County subsequently modified its policies with respect to roadway construction and acceptance of roadways for operation and maintenance and, accordingly, no longer desires to accept the roadways within the Project (the “Project Roadways”) as contemplated in the Original Agreement, with the exception of the roadways described and depicted in **Exhibit “B”** (the “County Roadways”); ~~and~~

WHEREAS, due to the County’s modified policies, the Parties now desire to amend and restate the Original Agreement to (i) modify the timing, mechanics, and other matters related to the future platting, dedication, and construction of the Future Connections; and (ii) modify the Parties’ obligations with respect to the ownership, operation, and maintenance of the Project Roadways.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. Platting, Dedication, and Construction of Future Connections. At the time when each area within the Project Master Plan that includes a Future Connection Point is final platted, the Developer will designate the right-of-way for ~~such a roadway connecting the Project’s internal roadways to the applicable~~ Future Connection Point (a “Future Connection”) as a “ROW Reserve” on the final plat. Upon ~~the recordation approval~~ of the final plat ~~in the~~

¹ The Project Master Plan identifies a total of 12 Future ~~Connections~~ Connection Points; however, the connection on Sam Houston Drive between The Colony MUD No. 1E and the original non-MUD portion of The Colony project is currently existing and will not be considered a Future Connection Point for purposes of this Agreement.

~~County records~~, the Developer will separately dedicate to the public a right-of-way easement for such platted ROW Reserve, and reference the easement on the plat via document number. The Parties acknowledge and agree that the City and/or the County, as applicable, may require ~~the~~ developer of land outside of the Project Master Plan and adjacent to a Future Connection Point to construct ~~such and maintain such Future Connection, which will connect the Project's internal~~ roadways ~~that tie into~~ to the Future Connection Point and, therefore, the adjacent development. Therefore, notwithstanding anything herein to the contrary, the Developer will not be required to construct the ~~roadways outside of the Project that ties to the Future Connection Points~~ Future Connections, nor will it be required to accept, operate, or maintain the ~~roadways outside of the Project that ties to the Future Connection Points~~ Future Connections or cause a POA (defined below) to do so. However, the Developer will be required to construct all other Project Roadways within the Project ~~area, including those roadways within the Project area that will stop at the Future Connection Points, as it is developed~~.

2. Operation and Maintenance of Project Roadways. The Third Amendment to the Consent Agreement provides that the Project Roadways will be dedicated to the County or a property owners' association ("POA") for operation and maintenance, and that local streets off main collector roadways may be gated. Accordingly, the Parties hereby acknowledge and agree (i) that the County Roadways are public roadways; (ii) that the County has previously accepted certain County Roadways for operation and maintenance; and (iii) that the County will accept the previously unaccepted County Roadways for operation and maintenance within 60 days following the Effective Date of this Agreement. The County will operate and maintain the County Roadways as public roadways. The Developer will cause all Project Roadways, other than the County Roadways and the Future Connections, to be operated and maintained by a POA as private roadways.

3. School Access; Safety Apparatus; Gates. Notwithstanding any provision herein to the contrary, the Parties agree that access to Colony Oaks Elementary School by Sam Houston Drive via FM 969 will remain open to the public. The County will coordinate with Bastrop Independent School District to install safety apparatus along Sam Houston Drive near Colony Oaks Elementary School, including crosswalks, school zone signs, and speedbumps, as considered appropriate by Bastrop Independent School District. Gates across any fire apparatus road (public or private) must be approved by the applicable fire code official; must have an approved means of emergency operation; and must be maintained in operational condition.

4. Original Agreement. Upon the Effective Date, this Agreement will supersede and replace the Original Agreement in its entirety, and the Original Agreement will be of no further force or effect.

5. Notices. All notices allowed or required to be given hereunder must be in writing and must be personally delivered or dispatched by United States certified mail, postage prepaid, return receipt requested, to the addresses shown on the counterpart signature pages to this Agreement. Either Party may change its address by giving notice in writing to the other Parties of such change. Any time limitation provided for in this Agreement will commence with the date that the Party actually receives such written notice, and the date of postmark of any return receipt indicating the date of delivery of such notice to the addressee will be conclusive evidence of such receipt.

6. Miscellaneous. This Agreement comprises the entire agreement among the Parties, and supersedes any prior understandings or written or oral agreements concerning, regarding the subject matter hereof. This Agreement will be binding upon the Parties and their

successors and permitted assigns. The provisions of this Agreement may be modified or altered only by mutual agreement of the Parties. This Agreement will be construed under and in accordance with the laws of the State of Texas. All of the obligations contained in this Agreement are performable in Bastrop County, Texas. No consent or waiver, expressed or implied, to or of any default of any covenant or provision hereof by any Party will be construed as a consent or waiver to or any other default of the same or any other covenant or provision. If any provision of this Agreement is illegal, invalid, or unenforceable under present or future laws, it is the intention of the Parties that the remainder of this Agreement not be affected thereby, and it is also the intention of the Parties that, in lieu of each provision of this Agreement that is illegal, invalid, or unenforceable, there be added as a Part of this Agreement a provision as similar in terms to the illegal, invalid, or unenforceable provision as is possible, and is legal, valid, and enforceable. Any Party to this Agreement who is the prevailing party in any legal proceeding against any other Party brought under or in connection with this Agreement or the subject matter hereof will be additionally entitled to recover court costs and reasonable attorney’s fees, and all other litigation expenses, including deposition costs, travel, and expert witness fees, from the non-prevailing Party. Each Party represents and warrants that it has the full right, power, and authority to execute this Agreement and all related documents. Each person executing this instrument on behalf of a Party represents that he or she is an authorized representative of and has the authority to sign this document on behalf the respective Party.

7. Counterparts. To facilitate execution, (a) this Agreement may be executed in any number of counterparts; (b) the signature pages taken from separate individually executed counterparts of this instrument may be combined to form multiple fully executed counterparts; and (c) an electronic signature, or a signature delivered by facsimile or in another electronic format (e.g., .PDF via email), will be deemed to be an original signature for all purposes. All executed counterparts of this instrument will be deemed to be originals, and all such counterparts, when taken together, will constitute one and the same agreement.

8. Annexation. Since the Project Roadways have and will be constructed to the required City standards, in the event all or a portion of the Project is annexed by the City, the City will accept the annexed Project Roadways for operation and maintenance.

9. Acceptance Deadline. The execution of this Agreement by the Developer will constitute an offer by the Developer to enter into this Agreement on the terms and conditions provided herein. In order for the City and the County to effectively accept the Developer’s offer, the City and the County must each, within 60 days following the Developer’s execution (the “Acceptance Deadline”): (a) properly and fully execute this Agreement without any modifications or changes; and (b) deliver at least one counterpart of such fully executed and unmodified version of this Agreement to the Developer. If either the City or the County does not comply with the foregoing requirements prior to the Acceptance Deadline, then Developer will have the right at any time after the Acceptance Deadline to rescind its offer by delivering written notice to the City and the County.

* * *

IN WITNESS WHEREOF, the Parties have executed this Agreement to be effective as of the date that the last Party signs below (the “Effective Date”).

[counterpart signature pages follow]

COUNTERPART SIGNATURE PAGE TO:

AMENDED AND RESTATED TRI-PARTY AGREEMENT REGARDING FUTURE CONNECTIONS IN THE COLONY PROJECT TO OFF-SITE ROADWAYS

DEVELOPER:

HUNT COMMUNITIES BASTROP, LLC, a Delaware limited liability company

By: Hunt Communities Development Co., LLC, a Texas limited liability company, its Sole Member

By: _____
Rick Neff, Senior Vice President

Address:

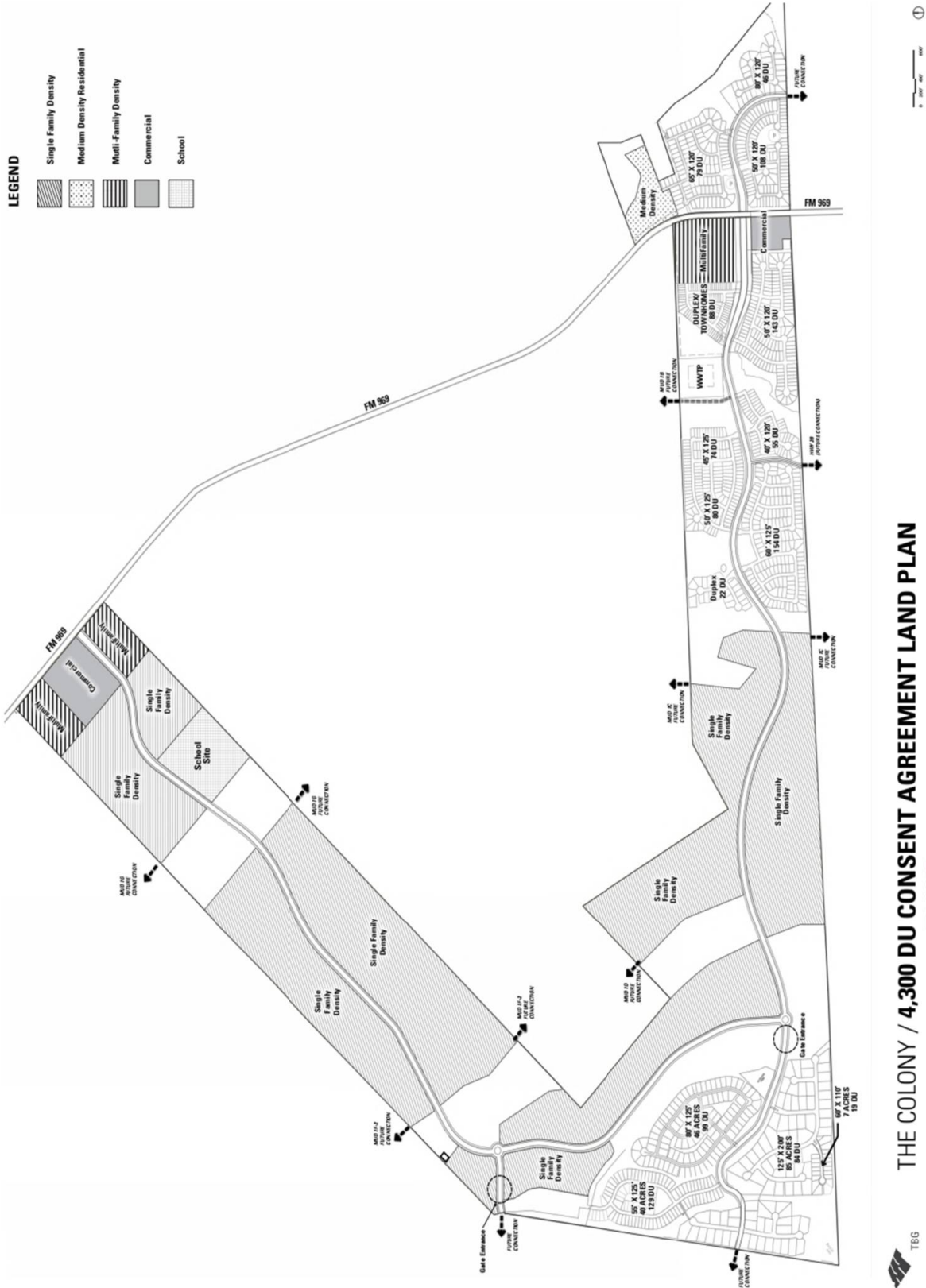
Hunt Communities Bastrop, LLC
Attn: Rick Neff
601 N. Mesa, Suite 1900
El Paso, Texas 79901

THE STATE OF TEXAS §
§
COUNTY OF TRAVIS §

This instrument was acknowledged before me on the _____ day of _____, 2024, by Rick Neff, Senior Vice President of Hunt Communities Development Co., LLC, a Texas limited liability company, Sole Member of Hunt Communities Bastrop, LLC, a Delaware limited liability company, on behalf of said limited liability companies.

NOTARY PUBLIC, State of Texas

EXHIBIT "A" PROJECT MASTER PLAN



THE COLONY / 4,300 DU CONSENT AGREEMENT LAND PLAN
 Bastrop, TX 02 August 2019
HUNT

EXHIBIT "B"
COUNTY ROADWAYS

ROADS TO BE MAINTAINED BY BASTROP COUNTY		
Road Name	From	To
Sam Houston Dr	George Neggan Ln	PID 47759
Andross Ln	George Neggan Ln	George Kimble Cv
Esparza Dr	George Neggan Ln	Terminus
George Kimble Cv	Terminus	Terminus
Claiborne Wright Way	Esparza Dr	Isaac Millsaps Trl
George Neggan Ln	PID 8720280	PID 8712381
Isaac Millsaps Trl	Claiborne Wright Way	Terminus
Badillo Way	George Neggan Ln	Andross Ln
Samuel Blair Pass	PID 8704399	Thurston Dr
Patrick Herndon Dr	Lemuel Crawford Trl	Edwin Mitchell Trl
Thurston Dr	Lemuel Crawford Trl	Terminus

Lemuel Crawford Trl	Patrick Herndon Dr	Thurston Dr
Trammel Cv	Samuel Blair Pass	Terminus
Isaac White Dr	PID 36720	Sam Houston Dr
James Rose Ln	Joseph Hawkins Ln	Isaac White Dr
Joseph Hawkins Ln	James Rose Ln	Asa Walker Dr
Asa Walker Dr	Joseph Hawkins Ln	Samuel Blair Pass
Edwin Mitchell Trl	Sam Houston Dr	Terminus
Robert Brown Cv	Terminus	Terminus
Andrew Duvall Cv	Sam Houston Dr	Terminus
Charles Zanco Dr	Samuel Blair Pass	Isaac White Dr
Freeman Day Dr	James Rose Ln	Isaac White Dr

Summary report:	
Litera Compare for Word 11.5.0.74 Document comparison done on 11/22/2024 10:56:36 AM	
Style name: AB Austin	
Intelligent Table Comparison: Active	
Original DMS: nd://4886-7062-8539/4/Amended and Restated Tri-Party Agreement Regarding Future Connections in The Colony Project to Off-Site Roadways.docx	
Description: Amended and Restated Tri-Party Agreement Regarding Future Connections in The Colony Project to Off-Site Roadways	
Modified DMS: nd://4886-7062-8539/5/Amended and Restated Tri-Party Agreement Regarding Future Connections in The Colony Project to Off-Site Roadways.docx	
Description: Amended and Restated Tri-Party Agreement Regarding Future Connections in The Colony Project to Off-Site Roadways	
Changes:	
Add	28
Delete	17
Move From	4
Move To	4
Table Insert	0
Table Delete	0
Table moves to	0
Table moves from	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	53



STAFF REPORT

MEETING DATE: January 14, 2025

TITLE:

Consider and act on Resolution No. R-2025-03, approving a request to refund a Replat Application Fee in the amount of One Thousand, Nine Hundred Eighty-Six Dollars and Twenty-Nine Cents (\$1,986.29), and to refund the Board / Commission Appeal Application Fee in the amount of Three Thousand, Six Hundred Eighty-One and 00/100 Dollars (\$3,681.00) for the property located at 112 Post Oak Rim, Bastrop, Texas, within the city limits of Bastrop, as attached in Exhibit A; authorizing the City Manager to execute all necessary documents; and providing for findings of fact; repealer; severability; effective date; proper notice and meeting.

AGENDA ITEM SUBMITTED BY:

Submitted by: Vivianna Nicole Andres, Assistant to the City Manager

BACKGROUND/HISTORY:

The City Manager received a request from Marty Miles, resident of 112 Post Oak Rim, formally requesting a refund of the Replat Application fee in the amount of \$1,986.29 and a refund for the Board / Commission Appeal Application fee in the amount of \$3,681.00. The basis for the justification for a refund has been included in the letter furnished by the requestor, Marty Miles.

The City Manager has agreed to present this request to the Council to see if a refund of both the application fee and appeal fee may be granted to the resident at this time.

At the December 10, 2024, City Council Meeting, the Council moved to approve the refund for the request submitted by Marty Miles. Staff is bringing forward a resolution at this time to ratify the previous approval, no funds have been disseminated at this time.

POLICY EXPLANATION:

The request to receive a refund for an application that was reviewed by Staff and an appeal that was heard by a Board or Commission requires Council approval.

RECOMMENDATION:

Take action on Resolution No. R-2025-03, approving a request to refund a Replat Application Fee in the amount of One Thousand, Nine Hundred Eighty-Six Dollars and Twenty-Nine Cents (\$1,986.29), and to refund the Board / Commission Appeal Application Fee in the amount of Three Thousand, Six Hundred Eighty-One and 00/100 Dollars (\$3,681.00) for the property located at 112 Post Oak Rim, Bastrop, Texas, within the city limits of Bastrop, as attached in Exhibit A.

ATTACHMENTS:

- Resolution No. R-2025-03
- Exhibit A: Formal refund request from Marty Miles, resident of 112 Post Oak Rim

RESOLUTION NO. R-2025-03

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, APPROVING A REQUEST TO REFUND A REPLAT APPLICATION FEE IN THE AMOUNT OF ONE THOUSAND, NINE HUNDRED EIGHTY-SIX DOLLARS AND TWENTY-NINE CENTS (\$1,986.29), AND TO REFUND THE BOARD / COMMISSION APPEAL APPLICATION FEE IN THE AMOUNT OF THREE THOUSAND, SIX HUNDRED EIGHTY-ONE AND 00/100 DOLLARS (\$3,681.00) FOR THE PROPERTY LOCATED AT 112 POST OAK RIM, BASTROP, TEXAS, WITHIN THE CITY LIMITS OF BASTROP, AS ATTACHED IN EXHIBIT A; AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY DOCUMENTS; AND PROVIDING FOR FINDINGS OF FACT; REPEALER; SEVERABILITY; EFFECTIVE DATE; PROPER NOTICE AND MEETING.

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the City of Bastrop (“City”) has general authority to adopt an ordinance, resolution, or police regulation that is for the good government, peace, or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

WHEREAS, to reduce the financial burden a private citizen, Marty Miles, experienced due to the inability to further develop their property due to the constraints from the development code and various geographical considerations for that area, the private citizen, Marty Miles, has requested that the City refund certain permitting fees related to the project Replat Application (\$1,986.29) and Board Appeal Application (\$3,681.00); and

WHEREAS, the City Council finds there to be unique, unusual, and compelling circumstances creating a justification for a limited refund of certain fees for the private citizen, Marty Miles, in this situation, in order to serve the City’s interests in the public health, safety, and welfare of its residents.

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

Section 1. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Bastrop, Texas, and are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.

Section 2. The City Council approves Marty Miles’s request for the refund of certain fees totaling the amount of \$5,667.29, as detailed in **Exhibit A** attached hereto. This refund of fees is not assignable and shall only be applicable to the refund request for the property located at 112 Post Oak Rim,

Bastrop, Texas. The City Council authorizes the City Manager to provide direction to staff and to execute any necessary documents granting the refund of the fees.

Section 3. Repealer: To the extent reasonably possible, resolutions are to be read together in harmony. However, all resolutions, or parts thereof, that are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters regulated.

Section 4. Severability: Should any of the clauses, sentences, paragraphs, sections, or parts of this Resolution 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 Resolution.

Section 5. Effective Date: This Resolution 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, its Code of Ordinances, and the laws of the State of Texas.

Section 6. Proper Notice & Meeting: It is hereby officially found and determined that the meeting at which this Resolution 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.

DULY RESOLVED & ADOPTED by the City Council of the City of Bastrop, TX, on this, the 14th day of January, 2025.

[Signature Page Follows]

THE CITY OF BASTROP, TEXAS:

Lyle Nelson, Mayor

ATTEST:

City Secretary

APPROVED AS TO FORM:

City Attorney

December 2, 2024

City of Bastrop
1311 Chestnut Street
Bastrop, TX 78602



Dear Sir and Madam:

I moved to Bastrop 4 years ago, following the death of my husband. I bought a lot here, and paid taxes on that lot every year, with the hope that I would eventually build a home there. I tried, at least from January 17, 2022, to ask the City to allow my 1.83 acre lot at 112 Post Oak Rim in Piney Ridge Subdivision to be sub-divided, in order that I might sell approximately half of that lot.

Towards this effort, I paid the City of Bastrop \$1,986.29 on 1/17/22 (copy att); then with the optimistic hope that my request would be granted, I paid the City the additional huge sum of \$3681.00 (receipt att). Moreover, I attended more than one City Council Meeting, the first on July 28, 2022. I sat patiently through the entire meeting, although my name and issue was never addressed. I later learned from Paul Hofmann that my name was not even on the agenda! I waited a month, and attended the next City Council Meeting on August 25, 2022 to reiterate my request verbally. My builder, Donald Barron, also spoke.

My request was denied because there is only one entrance/exit to Post Oak Rim. This street is a Cul-de-Sac! Notwithstanding, the City refused to waiver.

The \$5,667.29 that I have paid the City of Bastrop, all to no purpose, is a tremendous amount of money – to anyone, especially a 78-year old widow like me, who moved to Bastrop in the hope of building a retirement home and watching my only grandchild grow up.

Therefore, I am now requesting a refund of the monies that I paid, in good faith, even though there was only one entrance/exit on Post Oak Rim at the time. The City should have told me, BEFORE I wrote these checks, that a request to subdivide would not be considered until at such time the City provided another entrance/exit to Post Oak Rim. I feel that there has been a terrible injustice and I that am the victim.

Thank you for your consideration.

Martha A. Miles

127 N. Kaupo Dr., Unit A
Bastrop, TX 78602
email: milesnew23@outlook.com
(713) 819-7123

PAYMENT RECEIPT

Receipt ID 22-002001



RECEIVED FROM

Martha Miles
127 N. Kaupo Dr.
Unit A
Bastrop, TX 78602

RECEIVED BY

City of Bastrop, TX
Planning Department
1311 Chestnut Street
Bastrop, TX 78602

FEE NAME	INVOICE ID	ACCOUNT NO.	AMOUNT	Paid Date	Payment Method
Subdivision Variance Review Fee	22-002972	101-00-00-4022	\$ 3,681.00	August 09, 2022	Check # 745
Project Name: Piney Ridge, Section One, Replat, Replat of Lot 11, Block A Project ID: 22-000018 Department: Planning Department Project Address: 112 Post Oak Rim, Bastrop, TX, 78602			\$ 3,681.00		
TOTAL PAID			\$ 3,681.00		

2/19/22, 10:44 AM

A+ Federal Credit Union

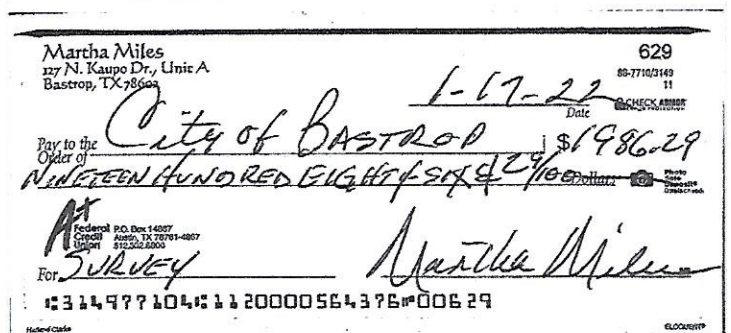
Date:

1/20/2022

Type:

Debit - Check 629

*8 acke
Survey*



Started: 01/17/2022 at 1:07 PM

Elapsed time: 1 year 1 month 24 days 22 hours 33 mins

Archived: 03/08/2023

Expires: 01/17/2023

Remaining: Passed Expiration Date

Create New Project

#22-000018 - Piney Ridge, Section One, Replat, Replat of Lot 11, ..

Project Type: Replat (C) Department: Planning Department Applicant: JAMES GARON Project Manager: Jennifer Bills

Overview Reviews Inspections Payments Documents Updates Con

ADDRESS

112 Post Oak Rim, Bastrop, TX USA
78602
Prop ID: 39494

DESCRIPTION

Replat of Lot 11, Block A, currently 1.838 acres into a 1.065 acre & 0.773 acre lot for residential use.

This Project has been archived with the status "Permit Denied" on March 08, 2023.

Project Steps Information Fields Fees Credentials 0 Correction Items 7

Fee:	Quantity:	Unit Price:	Total:	Invoiced:	Amount Pa
Completeness Check - Platting Fee	1.00	\$250.00	\$250.00	\$250.00	\$250.00
Replat Fee <i>Per FY22 adopted Master Fee Schedule</i>	1	\$1,510.75	\$1,510.75	\$1,510.75	\$1,510.75
Document Recordation City Fee <i>Per FY22 adopted Master Fee Schedule</i>	1	\$150.00	\$150.00	\$150.00	\$150.00
Administration Fee - Platting Replat <i>Per FY22 adopted Master Fee Schedule</i>	1	\$75.54	\$75.54	\$75.54	\$75.54
Subdivision Variance Review Fee <i>Per FY22 adopted Master Fee Schedule</i>	1	\$3,681.00	\$3,681.00	\$3,681.00	\$3,681.00
			\$5,667.29	\$5,667.29	\$5,667.2

- ▶ HOME
- ▼ PROJECTS
 - All 11181
 - Active 463
 - Requested 16
 - Expired 7
 - Expiring 22
 - Payments 15
 - Pending Docs 2
 - Pending Archive 4
 - Archived 10678
 - Suspended 0
 - On Hold 17
 - Manager Load
- ▶ REVIEWS
- ▶ INSPECTIONS
- ▶ INVOICES
- ▶ TOOLS



STAFF REPORT

MEETING DATE: January 14, 2025

TITLE:

Consider and act on Resolution No. R-2025-02, approving an Interlocal Agreement for road improvements with Bastrop County Water Control and Improvement District No. 2 (BCWCID 2); as attached in Exhibit A; authorizing the execution of all necessary documents; providing for repeal; and providing for an effective date.

AGENDA ITEM SUBMITTED BY:

Submitted by: Andres Rosales, Assistant City Manager

BACKGROUND/HISTORY:

The City of Bastrop and the Bastrop County Water Control and Improvement District No. 2 are authorized under the Interlocal Cooperation Act, Chapter 791, Texas Government Code, as amended, to enter interlocal contracts for the provision of governmental functions, including the construction, installation, maintenance and improvement of public roads. Staff recommends to City Council the desire to enter into the Interlocal Agreement for Road Improvements with BCWCID No. 2. The Interlocal Agreement which sets for the terms and conditions pursuant to which BCWCID No. 2 will complete certain road improvements and the City will reimburse BCWCID No. 2 for certain costs of such road improvements.

The roads for this project are Nani Lane, N. Oahu Court, and S. Oahu Court. This roads will be improved and accepted by the City.

FISCAL IMPACT:

Bastrop County WCID No. 2 will perform the work with established crews. The cost of materials for the identified streets will be approved by the City Manager each year. The list of streets and costs will be identified and included in the street maintenance budget.

RECOMMENDATION:

Authorize the City Manager to execute an Interlocal Agreement with the Bastrop County Water Control and Improvement District No. 2 for the maintenance and improvement of certain streets, as in attached Exhibit A of the Interlocal Agreement.

ATTACHMENTS:

1. Resolution No. R-2025-02
2. Interlocal Agreement to be executed

RESOLUTION NO. R-2025-02

RESOLUTION APPROVING INTERLOCAL AGREEMENT WITH BCWCID NO. 2

A RESOLUTION OF THE CITY OF BASTROP, TEXAS, APPROVING AN INTERLOCAL AGREEMENT FOR ROAD IMPROVEMENTS WITH THE BASTROP COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 2; AUTHORIZING THE EXECUTION OF THE INTERLOCAL AGREEMENT; PROVIDING FOR REPEALING CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Bastrop (“City”) and the Bastrop County Water Control and Improvement District No. 2 (“BCWCID No. 2”) are authorized under the Interlocal Cooperation Act, Chapter 791, Texas Government Code, as amended, to enter interlocal contracts for the provision of governmental functions, including the construction, installation, maintenance and improvement of public roads; and

WHEREAS, the City Council desires to enter into the Interlocal Agreement for Road Improvements with BCWCID No. 2 (“Interlocal Agreement”), as attached as Exhibit “A,” which sets for the terms and conditions pursuant to which BCWCID No. 2 will complete certain road improvements and the City will reimburse BCWCID No. 2 for certain costs of such road improvements.

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

Section 1: The City Council authorizes the execution of the Interlocal Agreement (attached and incorporated herein as Exhibit “A”).

Section 2: All orders, ordinances, and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

Section 3: The meeting at which this Resolution 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 Texas Open Meetings Act.

Section 4: This Resolution shall take effect immediately upon its passage.

DULY RESOLVED & ADOPTED by the City Council of the City of Bastrop, Texas,
on this, the 14th day of January 2025.

APPROVED:

Lyle Nelson, Mayor

ATTEST:

City Secretary

APPROVED AS TO FORM:

City Attorney

INTERLOCAL AGREEMENT FOR ROAD IMPROVEMENTS

(2024-2025)

STATE OF TEXAS	§	BASTROP COUNTY WCID2
COUNTY OF	§	AND
BASTROP	§	THE CITY OF BASTROP, TEXAS

THE BASTROP COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT #2 (“BCWCID2”), a political subdivision of the State of Texas, and the CITY OF BASTROP, TEXAS, (“City”), a Texas Home-Rule Municipality, hereby enter into this Interlocal Agreement for Road Improvements (“Agreement”). BCWCID2 and the City are individually referred to herein as a “Party” and collectively referred to herein as the “Parties.”

Recitals

WHEREAS, BCWCID2 has an interest in protecting the health and safety of its citizens within Bastrop County, and the City has an interest in protecting the health and safety of citizens of the City of Bastrop; and

WHEREAS, consistent with its authority under Texas Special District Local Laws Code Chapter 11001, and Texas Transportation Code Chapter 251 and 253, BCWCID2 also has an interest in improving and maintaining the roads in BCWCID2’s jurisdiction, including any such roads located within the unincorporated sections of Bastrop County, within the City’s extraterritorial jurisdiction (“ETJ”) or within the city limits; and

WHEREAS, consistent with its authority under Texas Transportation Code Chapter 311, the City also has an interest in improving and maintaining the streets within the city limits, and roads located in the City’s ETJ, and roads within the unincorporated sections of Bastrop County that are an integral part of or form a connecting link with city streets; and

WHEREAS, Texas Government Code Section 791.032 authorizes a local government such as BCWCID2 to enter into an interlocal contract with the City to finance the construction, improvement, maintenance, or repair of streets or alleys in the City, including portions of the municipality's streets or alleys that are not an integral part of or a connecting link to other roads or highways; and

WHEREAS, a number of the roads previously constructed within BCWCID2 that are now located within either the ETJ or city limits of the City are in poor condition, create potential hazards to public safety, and are in need of repairs and improvements; and

WHEREAS, both BCWCID2 and the City have previously adopted master plans for road

and/or street improvements within their respective jurisdictions and desire to coordinate efforts under this Agreement for improvements to the public roads identified in **Exhibit “A”** attached hereto (the “Project”); and

WHEREAS, the Parties desire to enter into this Agreement in order to set forth the terms and conditions pursuant to which: (i) BCWCID2 will endeavor to complete the Project roads prior to September 30, 2025; (ii) the City will reimburse certain costs incurred by BCWCID2 in connection therewith; and (iii) the City will accept the roads located in the City limits upon completion of construction of the improvements.

NOW THEREFORE, the Parties, for and in consideration of the covenants and agreements herein set forth, to be kept and performed by them respectively, have agreed to and do hereby agree together as follows:

AGREEMENT

1. Purpose

Pursuant to Chapter 791 of the Texas Government Code, BCWCID2 and the City are local governments and desire to enter into this Agreement for the purpose of providing governmental functions in which the Parties are mutually interested and with each Party performing functions they would be authorized to perform individually; specifically: financing, project management, design, construction installation and maintenance of the Project, and will promote the public health, safety and welfare.

2. General Agreement

- A. BCWCID2 and the City hereby agree to cooperate in good faith and as further set forth in this Agreement for purposes of undertaking and using good faith efforts to complete the Project prior to September 30, 2025. The Parties mutually acknowledge and agree that the completion of the Project improvements by this deadline by BCWCID2 will be subject to the availability of funding, personnel, equipment, resources, weather, prior road improvement commitments and other matters, and the completion of the Project cannot be guaranteed by either Party. Failure by BCWCID2 to complete any of the Project improvements by this date will not be deemed a breach of this Agreement.
- B. Pursuant to Texas Government Code Section 791.014 (to the extent applicable to BCWCID2), before beginning a project to construct, improve, or repair a road under this Agreement, BCWCID2 Board of Directors shall consider and give specific written approval for the project in a separate document, other than this Agreement, that describes the type of project to be undertaken and identifies the project’s location. Until BCWCID2 has provided documentation of such approval, the City shall not be obligated to make any payments or perform any

obligations towards that road project under this Agreement.

- C. For purposes of Texas Transportation Code Section 251.012 (to the extent applicable to BCWCID2), the City gives approval for BCWCID2 to spend BCWCID2 money to finance the construction, improvement, maintenance, or repair of those public roads identified in Exhibit A, if any, that are located in the city limits, and BCWCID2 finds that BCWCID2 will receive benefits as a result of the work on such public roads.
- D. For purposes of Texas Transportation Code Section 253.012 (to the extent applicable to BCWCID2), the City and BCWCID2 agree that BCWCID2 may improve those roads identified in Exhibit A, if any, that are in a subdivision or an access road to a subdivision located in the city limits. For such roads, BCWCID2 finds that the improvement of the road serves a district purpose. Consistent with Texas Transportation Code Section 253.012, the Parties agree that such improved roads are a County road, or a City road, as designated in Exhibit A, for the purposes of improvements under this Agreement.

3. City Responsibilities

- A. City authorizes BCWCID2 to construct the Project roads, and to perform compaction testing as needed to County specifications.
- B. City will reimburse BCWCID2 for all materials. Attached as **Exhibit "B"** is the current estimate of material costs for the Project. Prices are subject to change based on market conditions. In the event that prices for materials change, BCWCID2 shall notify City of the updated price estimates for materials for the Project no later than ten (10) days prior to purchasing the material and to submitting to City an invoice for materials reflecting the changed price.
- C. City will reimburse BCWCID2 for the cost of all surveys undertaken on behalf of BCWCID2 for the Project road improvements.
- D. City will reimburse BCWCID2 for the costs of any of BCWCID2's consultations with any consulting engineer relating to the Project road improvements.
- E. Upon completion of each Project road improvement, City shall contact BCWCID2 and schedule a joint inspection of the completed Project road improvements.
- F. BCWCID2 shall remain responsible for repair and maintenance of the Project road improvements for a one year warranty period after initial completion of construction. Provided the road improvement has been constructed in accordance with the requirements of this Agreement and all matters identified at the joint inspection have been corrected, the City shall accept all Project roads

identified as City roads in Exhibit "A" at or prior to expiration of the one year warranty period.

4. BCWCID2 Responsibilities

- A. BCWCID2 will use good faith efforts to complete the Project road improvements identified in Exhibit A, using BCWCID2-provided personnel and equipment.
- B. BCWCID2 will purchase all materials for the Project (subject to reimbursement from City).
- C. BCWCID2 will consult with the City's drainage plan. If needed, BCWCID2 will consult with City's consulting engineer, at City's expense, regarding the impact of the Project on City's drainage plan.

5. Other Agreements Relating to the Project

- A. The Parties shall use commercially reasonable efforts to complete all projects within BCWCID2 Fiscal Year 2024-2025 (October 1, 2024 - September 30, 2025) unless otherwise agreed by the Parties in writing.
- B. Payment to BCWCID2 by the City shall be made within 30 days of receiving an invoice from BCWCID2.
- C. Each Party agrees to conform to its own applicable purchasing laws, regulations, policies, and procedures with respect to the portion of the work under this Agreement performed by each party.
- D. BCWCID2 and City will coordinate work schedules in order to provide for minimal disruption of traffic and operation of the roads described herein.
- E. This Agreement may be renewed every fiscal year upon written request from City to BCWCID2 and written acceptance by BCWCID2 of said request. The request must include an updated **Exhibit A & B attachments**.

6. Miscellaneous

- A. Notice and Addresses. All notices required hereunder must be given by certified mail or registered mail, addressed to the proper Party, at the following addresses:

To BCWCID2:

BCWCID2
 Attn: Paul Hightower
 General Manager
 112 Corporate Drive

Initial: BCWCID2 ____ City _____

Bastrop, Texas 78602

To City:

City of Bastrop
Attn: Sylvia Carrillo-Trevino
City Manager
1311 Chestnut Street
Bastrop, TX 78602

Either Party may change the address to which notices are to be sent by giving the other Party notice of the new address in the manner provided in this section. Notices shall be deemed to have been received three (3) days after deposit in the mail.

For ease of administration of this contract, a main contact person has been designated for the Parties as follows:

For BCWCID2:

BASTROP COUNTY WCID2
Attn: Tyler Walsh
Project Manager
112 Corporate Drive
Bastrop, Texas 78602

For City:

City of Bastrop
Attn: John Eddleton
Public Works Director for
Streets, Drainage and Cemetery
1311 Chestnut Street
Bastrop, TX 78602

- B. Parties Bound. This Agreement shall be binding upon, and inure to the benefit of, the Parties to this Agreement and their respective heirs, executors, administrators, legal representatives, successors, and assigns.
- C. Prior Agreement Superseded. This Agreement constitutes the sole and only agreement of the Parties regarding their responsibilities to each other concerning the work noted herein on the Project and supersedes any prior understandings or written or oral agreements between the Parties respecting the Project. This

Agreement in no way modifies or supersedes any document executed by the Parties prior to this Agreement which does not involve the Project.

- D. Amendment. No amendment, modification, or alteration of the terms of this Agreement shall be binding unless it is in writing, dated subsequent to the date of this Agreement, and duly executed by the Parties to this Agreement.
- E. General Waiver by the Parties. The Parties hereby waive and release each other from all claims for loss or damage caused by any act or omission by the other, their respective employees, or agents, in the performance of this Agreement, except for gross negligence and/or willful misconduct, and except as otherwise provided by the Texas law. To the extent authorized by Texas law, BCWCID2 and City agree that each entity is responsible for its own proportionate share of any liability for personal injury or death or property damage arising out of or connected to its own negligent acts or omissions in connection with this Agreement as determined by a court of competent law.
- F. Violation of Law. The Parties shall not violate any federal, state or local laws, regulations or ordinances in the performance of this Agreement.
- G. Enforceability. If any provision of this Agreement proves unlawful or unenforceable by a court having jurisdiction over the Parties or the subject matter, such provision shall be severable from the other provisions of this Agreement, and all remaining provisions shall be fully enforceable.
- H. Governing Law and Place for Performance. This Agreement shall be governed by the laws of Texas, which state shall also be deemed the place where this Agreement was entered into and the place of performance and transaction of business and Parties. In the event of litigation pertaining to the Agreement, the exclusive forum, venue, and place of jurisdiction shall also be the BASTROP COUNTY and the State of Texas unless otherwise agreed in writing by the Parties. The Parties acknowledge that each has had the unfettered opportunity to review, revise and negotiate the terms of this Agreement, and that if in the future there is a dispute as to the meaning of any provision herein, then no such provision shall be construed against the drafter of the Agreement.
- I. Signature Warranty Clause. The signatories to this Agreement represent that they have the authority to execute this agreement on behalf of City and BCWCID2, respectively.
- J. No Waiver of Immunities. Nothing in the Agreement shall be construed to waive any immunity from suit or liability enjoyed by City, BCWCID2, their past or present officers, employees, or agents.

- K. Approval of Governing Bodies. This Agreement has been approved by the governing bodies of BCWCID2 and City.
- L. Assignment. Neither Party may assign their interests in this Agreement except upon receiving the written consent of the other Party.
- M. Termination. This agreement may be terminated by either Party, with or without cause, upon 30 calendar days written notice to the other Party.
- N. Governmental Purpose. Each Party hereto is entering into this Agreement for the purpose of providing for governmental services or functions and will pay for such services out of current revenues available to the paying party as herein provided.
- O. Commitment of Current Revenues Only. In the event that, during any term hereof, the governing body of any Party does not appropriate sufficient funds to meet the obligations of such party under this Agreement, then either Party may terminate this Agreement upon thirty (30) days written notice to the other Party. Each of the Parties hereto agrees, however, to use its best efforts to secure funds necessary for the continued performance of this Agreement. The Parties intend this provision to be a continuing right to terminate this Agreement at the expiration of each budget period of each Party hereto pursuant to the provisions of Texas Local Government Code Section 271.903.

[Signature page follows.]

EXECUTED TO BE EFFECTIVE this ____ day of _____, 20__.

CITY OF BASTROP

By: _____
Name: _____
Title: _____

ATTEST:

By: _____
Name: _____
Title: _____

**BASTROP COUNTY WATER CONTROL AND
IMPROVEMENT DISTRICT NO. 2**

By: _____
Name: _____
Title: _____

ATTEST:

By: _____
Name: _____
Title: _____

Exhibit "A"
Identification of 2024-2025 Project Roads

ROAD/ROAD SEGMENT	ANTICIPATED CONSTRUCTION TIME FRAME	DESIGNATION AS COUNTY, OR CITY ROAD
Nani Lane		City Road (within city limits)
N. & S. Oahu Ct.		City Road (within city limits)

Exhibit "B"
Current Estimate of Materials for the Project*

Road/Road Segment	Length (feet)	Cost
Nani Ln.	330 Ft.	\$ _____
N. & S. Oahu Ct.	1,420 Ft.	\$ _____

* Note: Costs of fuel shall not be reimbursable under this Agreement.



STAFF REPORT

MEETING DATE: January 14, 2025

TITLE:

Consider and act on Resolution No. R-2025-09, Ordering a General Election to be Held on Saturday, May 3, 2025 for Council Member Place 1 and Place 5 according to the Bastrop Home Rule Charter; Designating Polling Places Within the City; Establishing Other Procedures for the Conduct of the General Election and Runoff Election, If Necessary, Including Providing that the Election is to be Held as a Joint Election in Conjunction with Bastrop County; Providing a Severability Clause; And Providing an Effective Date.

AGENDA ITEM SUBMITTED BY:

Submitted by: Irma G. Parker, City Secretary, TRMC, CMC

BACKGROUND/HISTORY:

The attached Resolution provides all the information to conduct the General Election.

- Filing Dates is Wednesday, January 15, 2025, at 8:00 a.m., with the last day for filing to be Friday, February 14, 2025 at 5:00 p.m.
- Drawing for place on ballot will be conducted on - Thursday, February 20, 2025 at 10:30 a.m.
- Early voting by personal appearance, 8:00 a.m. and 5:00 p.m. beginning Tuesday, April 22, 2025 (first business day after San Jacinto Day) and ending on Tuesday, April 29, 2025.
- The canvass is tentatively scheduled for Tuesday, May 13, 2025, at 6:30 p.m.
- Runoff Election (if needed) is scheduled for Saturday, June 7, 2025. The drawing to set the order on ballot is Friday, May 16, 2025 at 10:30 a.m.
- Runoff Election early voting - between the hours of 8:00 a.m. and 5:00 p.m. beginning Tuesday, May 27, 2025 and ending on Tuesday, June 3, 2025.
- Canvass and Oath of Office will be on Tuesday, June 10, 2025.

FISCAL IMPACT:

The estimated cost for May 3, 2025 election(s) is \$16,500. The cost will be the same whether it is the general election only or the general election held jointly with a special election. Please note, this cost could change depending on the other contracting entities. The estimated cost for each additional election would be \$23,000. This cost would be for each election date, regardless of what is on the ballot.

RECOMMENDATION:

Administration requests approval.

ATTACHMENTS:

1. Resolution No. R-2025-09

RESOLUTION NO. R - 2025-09

A RESOLUTION OF THE CITY OF BASTROP, TEXAS CITY COUNCIL ORDERING A GENERAL ELECTION TO BE HELD ON SATURDAY, MAY 3, 2025 FOR COUNCIL MEMBER PLACE 1 AND PLACE 5 ACCORDING TO THE BASTROP HOME RULE CHARTER; DESIGNATING POLLING PLACES WITHIN THE TOWN; ESTABLISHING OTHER PROCEDURES FOR THE CONDUCT OF THE GENERAL ELECTION AND RUNOFF ELECTION, IF NECESSARY, INCLUDING PROVIDING THAT THE ELECTION IS TO BE HELD AS A JOINT ELECTION IN CONJUNCTION WITH BASTROP COUNTY; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1: In accordance with the general laws and Constitution of the State of Texas, and the Charter of the City, a General Election is hereby called and ordered for Saturday, May 3, 2025. All residents and qualified voters of the City of Bastrop shall be permitted to vote, in said election for the purpose of electing two Council Members in Place 1 and Place 5 for a term of three (3) years ending in May 2028.

SECTION 2: The present existing boundaries and territory of the Bastrop County election precincts that are wholly or partly within the corporate limits of the City shall constitute the election precincts for the election. The precinct numbers for the same shall be the corresponding Bastrop County precinct numbers. The polling places for the general election shall be as outlined in the Joint Election Agreement (as defined in Section 3, below).

SECTION 3: The election shall be held as a joint election with Bastrop County and other municipalities and school districts according to a Joint Election Agreement for the conduct of a joint election to be held on May 3, 2025 and the County shall be responsible for appointing all election judges and clerks and shall be responsible for their compensation. Election judges and clerks shall have the qualifications required by law and notice of appointment shall be given to such judges and clerks by the Administrator in accordance with law.

SECTION 4: Applications to have the name of the candidate placed on the ballot may not be filed earlier than thirty (30) days before the deadline prescribed by the Election Code for filing applications with the City Secretary, and the earliest date for a candidate to file same will be Wednesday, January 15, 2025, at 8:00 am., with the last day for filing to be Friday, February 14, 2025 at 5:00 p.m. in accordance with Election Code Sect. 143.006 and 143.007.

SECTION 5: The order in which the names of the candidate(s) are to be printed on the ballot for council members on said Bastrop City Council shall be determined by a drawing conducted by the City Secretary, as provided by Section 52.094 of the Texas Election Code,

on Thursday, February 20, 2025 at 10:30 a.m. in the Council Chamber at Bastrop City Hall, 1311 Chestnut Street, Bastrop, Texas 78602.

SECTION 6: Kristen Miles, Bastrop County Elections Administrator, is hereby appointed as Early Voting Clerk. The period for early voting by personal appearance, as established by provisions of the Texas Election Code, is between the hours of 8:00 a.m. and 5:00 p.m. beginning Tuesday, April 22, 2025 (first business day after San Jacinto Day) and ending on Tuesday, April 29, 2025. Early Voting by personal appearance will be conducted in the Office of the Elections Department, 804 Pecan Street, Bastrop, Texas 78602 and at other locations so designated by the Bastrop County Elections Administrator.

SECTION 7: The Early Voting Clerk shall process all applications for early voting by mail. Applications for ballot by mail shall be mailed to: Bastrop County Elections Department, 804 Pecan Street, Bastrop, Texas 78602. The last day for unregistered applicants to submit a federal postcard application and be eligible to vote a full ballot is the close of business on Thursday, April 3, 2025.

SECTION 8: Notice of this election shall be given in accordance with the provisions of the Texas Election Code and returns of such notice shall be made as provided for in said Code. The Mayor or Mayor Pro-Tempore shall issue all necessary orders and writs for such election. Returns of such election shall be made to the City Secretary immediately after the closing of the polls. In addition, the election materials as outlined in Section 272.005, Texas Election Code, shall be printed in both English and Spanish for use at the polling places and for each voting for said election.

SECTION 9: The City Secretary will provide the Statement of Elected Officers to the candidate(s) who received the majority of votes cast on Thursday, May 8, 2025. The canvass has been tentatively scheduled for Tuesday, May 13, 2025, at 6:30 p.m. in the Council Chambers at Bastrop City Hall, located at 1311 Chestnut Street, Bastrop, Texas. The official Oath of Office will be administered after the official canvass is conducted. The City Secretary is instructed to record the results in the Election Register as soon as practical following the canvass.

SECTION 10. According to Chapter 9, Section 9.07 of the Home Rule Charter regarding "Elections," if no candidate receives a majority of the votes cast for an office during an election, the Council will call for a Runoff Election as soon as the official results are announced. The two (2) candidates who received, in the preceding main election, the highest number of votes for each office to which no one was elected shall be voted on again, and the candidate who receives the majority of the votes cast for each such office in the runoff election shall be elected to such office.

SECTION 11. The Runoff Election is scheduled for Saturday, June 7, 2025. The order in which the names of the candidates are to be printed on the ballot for council members on said Bastrop City Council shall be determined by a drawing conducted by the City Secretary, as provided by Section 52.094 of the Texas Election Code, on Friday, May 16, 2025 at 10:30 a.m. in the Council Chamber at Bastrop City Hall, 1311 Chestnut Street, Bastrop, Texas 78602.

SECTION 12. The period for early voting for the Runoff Election by personal appearance, as established by provisions of the Texas Election Code, is between the hours of 8:00 a.m. and 5:00 p.m. beginning Tuesday, May 27, 2025 and ending on Tuesday, June 3, 2025. Early Voting by personal appearance will be conducted in the Office of the Elections Department, 804 Pecan Street, Bastrop, Texas 78602 and at other locations so designated by the Bastrop County Elections Administrator.

SECTION 13. The City Secretary will provide the Statement of Elected Officers to the candidate(s) who receive the highest number of votes cast on Tuesday, June 10, 2025. This will take place at the tentatively scheduled canvass on the same day at 6:30 p.m. in the Council Chambers at Bastrop City Hall, located at 1311 Chestnut Street, Bastrop, Texas. The official Oath of Office will be administered after the canvass is completed. The City Secretary is instructed to record the results in the Election Register as soon as is practical after the canvass.

SECTION 14: Should any part, section, subsection, paragraph, sentence, clause or phrase contained in this resolution is held to be unconstitutional or of no force and effect, such holding shall not affect the validity of the remaining portion of this ordinance, but in all respects said remaining portion shall be and remain in full force and effect.

SECTION 15: It is hereby officially found and determined that the meeting at which this Resolution is passed is open to the public as required by law, and that public notice of the time, place and purpose of said meeting was given as required.

SECTION 16. That this Resolution shall become effective from and after its passage as may be required by law or by the City Charter or ordinance.

DULY RESOLVED by the Bastrop City Council on this 14th day of JANUARY 2025.

CITY OF BASTROP, TEXAS

Lyle Nelson, Mayor

ATTEST:

APPROVED AS TO FORM:

City Secretary

City Attorney

RESOLUCIÓN NRO. 2025-09

UNA RESOLUCIÓN DEL CONSEJO MUNICIPAL DE LA CIUDAD DE BASTROP, TEXAS, PARA ORDENAR UNA ELECCIÓN GENERAL QUE SE CELEBRARÁ EL SÁBADO 3 DE MAYO DE 2025 PARA VOTAR POR UN CONCEJAL PARA EL LUGAR 1 Y UN CONCEJAL PARA EL LUGAR 5 SEGÚN LA CARTA ORGÁNICA DE GOBIERNO AUTÓNOMO DE BASTROP; DESIGNAR LOS LUGARES DE VOTACIÓN DENTRO DE LA CIUDAD; ESTABLECER OTROS PROCEDIMIENTOS PARA LA CELEBRACIÓN DE LA ELECCIÓN GENERAL Y UNA ELECCIÓN DE SEGUNDA VUELTA, SI FUESE NECESARIA, INCLUSO DISPONER QUE LA ELECCIÓN SE CELEBRARÁ COMO UNA ELECCIÓN CONJUNTA JUNTO CON EL CONDADO DE BASTROP; DISPONER UNA CLÁUSULA DE DIVISIBILIDAD; Y DISPONER UNA FECHA DE ENTRADA EN VIGENCIA.

AHORA, POR LO TANTO, QUE SEA RESUELTO POR EL AYUNTAMIENTO DE LA CIUDAD DE BASTROP:

SECCIÓN 1: De acuerdo con las leyes generales y la Constitución del Estado de Texas, y la Carta Orgánica de la Ciudad, por la presente, se convoca y ordena una Elección General para el sábado 3 de mayo de 2025. Todos los votantes habilitados y residentes del Ciudad de Bastrop tendrán permitido votar en dicha elección para el propósito de elegir dos (2) miembros del Consejo, uno para el Lugar 1 y uno para el Lugar 5, por un término de tres (3) años que finaliza en mayo de 2028.

SECCIÓN 2: Los límites y el territorio existentes actualmente de los precintos electorales del Condado de Bastrop que se encuentran parcial o totalmente dentro de los límites corporativos de la Ciudad constituirán los precintos electorales para la elección. Los números de precinto de los precintos electorales serán los números de precinto correspondientes del Condado de Bastrop. Los lugares de votación para la elección general serán los indicados en el Acuerdo de Elección Conjunta (como se define en la Sección 3, más adelante).

SECCIÓN 3: La elección será celebrada como una elección conjunta con el Condado de Bastrop y otras municipalidades y distritos escolares conforme a un Acuerdo de Elección Conjunta para la celebración de una elección conjunta a celebrarse el 3 de mayo de 2025, y el Condado será responsable de la designación de todos los jueces y funcionarios electorales y será responsable de su remuneración. Los jueces y funcionarios electorales cumplirán con los requisitos indicados por ley y el Administrador dará aviso de la designación a los jueces y funcionarios de ese tipo de acuerdo con la ley.

SECCIÓN 4: Las solicitudes para que se coloque el nombre de un candidato en la boleta de votación no pueden ser presentadas antes de treinta (30) días anteriores al plazo prescrito por el Código Electoral para presentar solicitudes ante la Secretaria de la Ciudad, y la primera fecha para que un candidato presente una solicitud de este tipo será el miércoles 15 de enero de 2025 a las 8:00 a. m., y el último día para la presentación será el viernes 14 de febrero de 2025 a las 5:00 p. m. de acuerdo con las secciones 143.006 y 143.007 del Código Electoral.

SECCIÓN 5: El orden en que los nombres de los candidatos se imprimirán en la boleta para miembros del consejo de dicho Consejo Municipal de Bastrop será determinado mediante un sorteo que realizará la Secretaria de la Ciudad, según lo dispuesto por la Sección 52.094 del Código Electoral de Texas, el jueves 20 de febrero de 2025 a las 10:30 a. m. en la Cámara del Consejo en la Alcaldía de Bastrop situada en 1311 Chestnut Street, Bastrop, Texas 78602.

SECCIÓN 6: Por la presente, se designa a Kristen Miles, Administradora de Elecciones del Condado de Bastrop, como Oficial de Votación Anticipada. El periodo para la votación anticipada en persona, como lo indican las disposiciones del Código Electoral de Texas, es en el horario de 8:00 a. m. a 5:00 p. m. a partir del martes 22 de abril de 2025 (primer día laborable después del Día de San Jacinto) y hasta el martes 29 de abril de 2025. La votación anticipada en persona se realizará en la Oficina del Departamento de Elecciones ubicada en 804 Pecan Street, Bastrop, Texas 78602 y en otros lugares que la Administradora de Elecciones del Condado de Bastrop designe para ese fin.

SECCIÓN 7: La Oficial de Votación Anticipada procesará todas las solicitudes de votación anticipada por correo. Las solicitudes de boletas de voto postal deberán ser enviadas por correo a: Bastrop County Elections Department, 804 Pecan Street, Bastrop, Texas 78602. El último día para que los solicitantes no registrados envíen una solicitud de postal federal y sean elegibles para votar una boleta completa es al cierre del horario de atención del jueves 3 de abril de 2025.

SECCIÓN 8: Se dará aviso de esta elección de acuerdo con las disposiciones del Código Electoral de Texas y los resultados de dicho aviso se realizarán según lo dispone el mencionado Código. El Alcalde o el Alcalde *Pro Tempore* emitirá todas las órdenes y los escritos necesarios para dicha elección. Los resultados de dicha elección serán entregados a la Secretaria de la Ciudad inmediatamente después del cierre de los lugares de votación. Además, los materiales electorales enumerados en la Sección 272.005 del Código Electoral de Texas serán impresos en inglés y en español para que sean utilizados en los lugares de votación y en cada votación de dicha elección.

SECCIÓN 9: El jueves 8 de mayo de 2025 la Secretaria de la Ciudad entregará la Declaración de funcionarios electos al o a los candidatos que reciben la mayoría de los votos emitidos. Se ha programado el escrutinio tentativamente para el martes 13 de mayo de 2025 a las 6:30 p. m. en las Cámaras de Consejo en la Alcaldía de Bastrop situada en 1311 Chestnut Street, Bastrop, Texas. El Juramento del cargo oficial se administrará después de que se efectúe el escrutinio oficial. Se instruye a la Secretaria de la Ciudad a que registre los resultados en el Registro de la Elección tan pronto como sea práctico después del escrutinio.

SECCIÓN 10: Según la Sección 9.07 del Capítulo 9 de la Carta Orgánica de Gobierno Autónomo sobre las "Elecciones", si ningún candidato recibiere una mayoría de los votos emitidos para un cargo durante una elección, el Consejo convocará una Elección de Segunda Vuelta en cuanto se anuncien los resultados oficiales. Se votará nuevamente por los dos (2) candidatos que recibieron en la elección principal precedente el número más alto de votos para cada cargo para el que nadie resultó electo, y el candidato que reciba la mayoría de los votos emitidos para cada uno de esos cargos en la elección de segunda vuelta será electo para ocupar ese cargo.

SECCIÓN 11: La Elección de Segunda Vuelta está programada para el sábado 7 de junio de 2025. El orden en que los nombres de los candidatos se imprimirán en la boleta para miembros del consejo de dicho Consejo Municipal de Bastrop será determinado mediante un sorteo que realizará la Secretaria de la Ciudad, según lo dispuesto por la Sección 52.094 del Código Electoral de Texas, el viernes 16 de mayo de 2025 a las 10:30 a. m. en la Cámara del Consejo en la Alcaldía de Bastrop situada en 1311 Chestnut Street, Bastrop, Texas 78602.

SECCIÓN 12: El periodo para la votación anticipada en persona, como lo indican las disposiciones del Código Electoral de Texas, es en el horario de 8:00 a.m. a 5:00 p.m. a partir del martes 27 de mayo de 2025 y hasta el martes 3 de junio de 2025. La votación anticipada en persona se realizará en la Oficina del Departamento de Elecciones ubicada en 804 Pecan Street, Bastrop, Texas 78602 y en otros lugares que la Administradora de Elecciones del Condado de Bastrop designe para ese fin.

SECCIÓN 13: El martes 10 de junio de 2025 la Secretaria de la Ciudad entregará la Declaración de funcionarios electos al o a los candidatos que reciben el número más alto de los votos emitidos. Esto se realizará durante el escrutinio con fecha tentativa para el mismo día a las 6:30 p. m. en las Cámaras de Consejo en la Alcaldía de Bastrop situada en 1311 Chestnut Street, Bastrop, Texas. El Juramento del cargo oficial se administrará después de que se complete el escrutinio. Se instruye a la Secretaria de la Ciudad a que registre los resultados en el Registro de la Elección tan pronto como sea práctico después del escrutinio.

SECCIÓN 14: Si alguna parte, sección, subsección, párrafo, oración, cláusula o frase contenido en esta resolución fuese determinado inconstitucional o sin validez y vigencia, tal determinación no afectará la validez del resto de esta ordenanza, sino que en todos sus aspectos dichas porciones restantes mantendrán su plena validez y vigencia.

SECCIÓN 15: Por la presente, se halla y se determina oficialmente que la asamblea en la que esta resolución es adoptada está abierta al público, como es requerido por ley, y que se dio aviso público de la hora, el lugar y el propósito de dicha asamblea según lo exigido.

SECCIÓN 16: Que esta Resolución entrará en vigencia a partir de su adopción según pueda exigir la ley o la Carta Orgánica de la Ciudad o una ordenanza.

DEBIDAMENTE ADOPTADO Y RESUELTO DEBIDAMENTE ADOPTADO Y RESUELTO por el Ayuntamiento de la Ciudad de Bastrop a los **14** días de **enero de 2025**.

CIUDAD DE BASTROP, TEXAS

Lyle Nelson, Alcalde

ATESTIGUA:

APROBADO EN CUANTO A LA FORMA

Secretaria de la Ciudad

Abogado de la Ciudad



STAFF REPORT

MEETING DATE: January 14, 2025

TITLE:

Consider and act on Resolution No. R-2025-11; Approving the Contract with the Bastrop County Election Administrator to Participate in a Joint Election for the May General Election Called And Ordered For Saturday, May 3, 2025; Authorize the City Manager to sign said Contract Agreement; Providing For A Repealing Clause, Severability, and Effective Date.

AGENDA ITEM SUBMITTED BY:

Submitted by: Irma G. Parker, City Secretary, TRMC, CMC

BACKGROUND/HISTORY:

The City has historically held Joint Elections with Bastrop County. In earlier action this evening the City Council has called for a General Election. This Resolution authorizes contract agreement and memorializes the responsibility of the City and Bastrop County.

FISCAL IMPACT:

The estimated cost for the May 3, 2025 election(s) is \$16,500. The cost could change depending on the other contracting entities. The estimated cost for each additional election would be \$23,000.

RECOMMENDATION:

Administration recommends approval.

ATTACHMENTS:

1. Resolution No. 2025-11
2. Contract Agreement

RESOLUTION NO. R-2025-11

A RESOLUTION OF THE BASTROP CITY COUNCIL APPROVING THE CONTRACT WITH THE BASTROP COUNTY ELECTION ADMINISTRATOR, ATTACHED AS EXHIBIT A, TO PARTICIPATE IN A JOINT ELECTION FOR THE MAY GENERAL ELECTION CALLED AND ORDERED FOR SATURDAY, MAY 3, 2025; AUTHORIZE THE CITY MANAGER TO SIGN SAID CONTRACT AGREEMENT; PROVIDING FOR A REPEALING CLAUSE, SEVERABILITY, AND EFFECTIVE DATE.

WHEREAS: following the general laws and Constitution of the State of Texas, and the Charter of the City, a General Election was called and ordered for Saturday, May 3, 2025. All residents and qualified voters of the City of Bastrop shall be permitted to vote, in said election to elect two Council Members, in Place 1 and Place 5, for a term of three (3) years ending in May 2028; and

WHEREAS: the City Council wishes to enter into a contract agreement with Bastrop County and other municipalities and school districts and enter into a Joint Election Agreement for the conduct of the City’s May 3, 2025 General Election.

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

SECTION 1. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Bastrop, Texas, and are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.

SECTION 2: The City Council approves and authorizes the execution of the First Amendment, attached hereto as **Attachment “A”** and authorizes the City Manager to sign said contract.

SECTION 3. Repealer: To the extent reasonably possible, resolutions are to be read together in harmony. However, all resolutions, or parts thereof, that are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters regulated.

SECTION 4. Severability: Should any of the clauses, sentences, paragraphs, sections, or parts of this Resolution 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 Resolution.

SECTION 5. Effective Date: This Resolution shall take effect upon the date of final passage.

SECTION 6. Proper Notice & Meeting: It is hereby officially found and determined that the meeting at which this Resolution 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.

DULY RESOLVED by the Bastrop City Council on this 14th day of JANUARY 2025.

CITY OF BASTROP, TEXAS

Lyle Nelson, Mayor

ATTEST:

City Secretary

APPROVED AS TO FORM:

City Attorney

CONTRACT FOR ELECTION SERVICES
BETWEEN
THE ELECTIONS ADMINISTRATOR OF BASTROP COUNTY
AND
THE CITY OF BASTROP
FOR THE MAY 3, 2025 ELECTION

THIS CONTRACT is made and entered into by and between Kristin Miles, the Elections Administrator of Bastrop County, Texas, hereinafter referred to as “Contracting Officer,” and the City of Bastrop, hereinafter referred to as the “CITY,” pursuant to the authority under Section 31.092(a) of the Texas Election Code and Chapter 791 of the Texas Government Code. In consideration of the mutual covenants and promises hereinafter set forth, the parties agree to this interlocal agreement with regard to the coordination, supervision, and running of the CITY’s May 3, 2025 Election, hereinafter referred to as “the election”. The purpose of this agreement is to maintain consistency and accessibility in voting practices, polling places and election procedures to assist the voters of the CITY.

I. RESPONSIBILITIES OF CONTRACTING OFFICER. The Contracting Officer shall be responsible for performing the following services and furnishing the following materials and equipment in connection with the election:

A. *Notification to Presiding and Alternate Judges; Appointment of Clerks.*

1. The Contracting Officer shall notify each presiding judge and alternate judge of his or her appointment. The notification will also include the assigned polling location, the date of the election school(s), the eligibility requirements that pertain to them and to the selection of election day clerks, the date and time of the election, the rate of compensation, the number of election clerks the presiding judge may appoint, and the name of the presiding or alternate judge, as appropriate.

2. The Contracting Officer shall ensure that the presiding judges make the appropriate election clerk appointments and notify the clerks of their appointments. The recommendations of the CITY will be the accepted guidelines for the number of clerks secured to work in each polling place. The presiding election judge of each polling place, however, will use his/her discretion to determine when additional manpower is needed during peak voting hours. Election judges shall be secured by the Contracting Officer with the approval of the CITY.

3. The Contracting Officer shall notify the CITY of the list of election judges and alternate judges for election day, so that the CITY may approve by written order.

4. Notification to the election judges and alternates shall be made no later than April 21, 2025.

B. Contracting with Third Parties. In accordance with Section 31.098 of the Texas Election Code, the Contracting Officer is authorized to contract with third persons for election services and supplies. The cost of such third-person services and supplies will be paid by the Contracting Officer and reimbursed by the CITY as agreed upon on Exhibit “C” or Exhibit “C-1”, whichever is applicable.

C. Election School(s). The Contracting Officer shall be responsible for conducting one or more, at her discretion, election schools to train the presiding judges, alternate judges, election clerks, and early voting clerks, and Early Voting Ballot Board members in the conduct of elections, including qualifying voters, provisional voting, and the counting of ballots. The Contracting Officer shall determine the date, time, and place for such school(s) and notify the presiding judges, alternate judges, and election clerks of such. The Contracting Officer may hold the election school(s) on a Saturday in order to increase its availability to election workers who are employed during the regular work week. If at all possible, such election schools shall be conducted within the CITY territory.

D. Election Supplies. The Contracting Officer shall procure, prepare, and distribute to the presiding judges for use at the polling locations on Election Day and the Early Voting Ballot Board (and to the Deputy Early Voting Clerks during Early Voting) the following election supplies: election kits from third-party vendors (including the appropriate envelopes, sample ballots, lists, forms, name tags, posters, and signage described in Chapters 51, 61, and 62, and Subchapter B of Chapter 66 of the Texas Election Code); pens; pencils; tape; markers; paper clips; ballot box seals; sample ballots; tacks, and all consumable-type office supplies necessary to hold an election.

E. Registered Voter List. The Contracting Officer shall provide all lists of registered voters required for use on Election Day and for the early voting period required by law. The Election Day list of registered voters shall be arranged in alphabetical order by each precinct.

F. Ballots. The Contracting Officer shall be responsible for the programming of the direct recording electronic voting devices (referred to as DRE’s) and the printing of ballots requested by mail or used for early voting or election day. The Contracting Officer shall be responsible for distributing the DRE’s along with the election supplies.

G. Early Voting. In accordance with Section 31.094, of the Texas Election Code, the Contracting Officer will serve as Early Voting Clerk for the election, subject to Sections 31.096 and 31.097(b).

1. As Early Voting clerk, the Contracting Officer shall receive applications for early voting ballots to be voted by mail in accordance with Chapters 31 and 86 of the Texas Election Code. The Contracting Officer shall work with the CITY in securing personnel to serve as Early Voting Deputies.

The Contracting Officer shall, upon request, provide the CITY a copy of the early voting report on a daily basis and a cumulative final early voting report following the election.

2. Early Voting by personal appearance for the election shall be conducted during the hours and time period and at the locations listed in Exhibit “A,” attached hereto and made a part of this contract.

3. The Contracting Officer shall receive mail ballot applications on behalf of the CITY. All applications for mail ballots shall be processed in accordance with Title 7 of the Texas Election Code by the Contracting Officer or her deputies at 804 Pecan Street, Bastrop, Texas 78602. Any requests for

early voting ballots to be voted by mail received by the CITY shall be forwarded immediately to the Contracting Officer for processing.

4. All Early Voting ballots (those cast by mail and those cast by personal appearance) shall be secured and maintained by the Contracting Officer and delivered by her or her deputy for counting in accordance with Chapter 87 of the Texas Election Code to the Early Voting Ballot Board at the Bastrop County Courthouse on Election Day, May 3, 2025.

H. Election Day Polling Locations. The Election Day polling locations are those listed in Exhibit “B,” attached hereto and made a part of this contract. The Contracting Officer shall arrange for the use of all Election Day polling places and shall arrange for the setting up of all polling locations for Election Day, including ensuring that each polling location has the necessary tables, chairs, and voting booths.

I. Central Counting Station. The Contracting Officer shall be responsible for establishing and operating the Central Counting Station to receive and tally the voted ballots in accordance with Section 127.001 of the Election Code and of this agreement. Counting Station Manager and Central Count Judge shall be Kristin Miles. The Tabulation Supervisor shall be Kristin Miles. The tabulation supervisor shall handle ballot tabulation in accordance with statutory requirements and county policies, under the auspices of the Contracting Officer.

Election night reports will be available to the CITY at the Central Counting Station on election night and will provide individual polling location totals.

J. Manual Counting. The Contracting Officer shall conduct a manual count as prescribed by Section 127.201 of the Texas Election Code and submit a written report to the CITY in a timely manner. The Secretary of State may waive this requirement. If applicable, a written report shall be submitted to the Secretary of State as required by Section 127.201(E) of the aforementioned code.

K. Election Reports. The Contracting Officer shall prepare the unofficial tabulation of precinct results under Section 66.056(a) of the Texas Election Code and shall provide a copy of the tabulation to the CITY as soon as possible after the Contracting Officer has received the precinct returns on Election Day night. Provisional ballots will be tabulated after election night in accordance with state laws.

L. Custodian of Voted Ballots. The Contracting Officer is hereby appointed the custodian of voted ballots and shall preserve them in accordance with Chapter 66 of the Texas Election Code and other applicable law.

II. RESPONSIBILITIES OF THE CITY. The CITY shall assume the following responsibilities:

A. Election School(s). At the request of the Contracting Officer, and at no cost to the Contracting Officer, the CITY will make available space in an CITY building to hold the election school(s), if applicable.

B. Polling Locations. The CITY shall pay the respective cost of all employee services required to provide access, security, or custodial services for the polling locations.

C. **Applications for Mail Ballots.** The CITY shall date stamp and then immediately hand d the Contracting Officer all original mail ballot applications for mail ballots that it receives.

D. **Election Orders, Election Notices, Canvass.** The CITY shall prepare the election order, resolutions, notices, official canvass, and other pertinent documents for adoption by the CITY’s governing body. The CITY shall be responsible for having the required election notice under Section 4.003(a)(1) of the Texas Election Code published in the newspaper as required by State law. The CITY shall also be responsible for posting the notice required under Section 4.003(b) of the Texas Election Code as required by law. Promptly after approval of election order, resolutions, notices, official canvass, and other pertinent documents by the CITY’s governing body and within such time so as not to impede the orderly conduct of the election, the CITY shall return said documents to the Contracting Officer for proper recordkeeping. The CITY assumes the responsibility of promoting the schedules for Early Voting and Election Day.

The CITY will provide for the appointment of the Contracting Officer as the early voting clerk for the election in the orders calling the election. The orders will also include approval of election day polling places; times, dates and places for early voting; and appointment of precinct judges.

E. **Paper Ballots.** In advance of the March 19, 2025 date on which the Texas Secretary of State’s Office encourages the mailing out of ballots for early voting by mail, the Contracting Officer shall arrange with a third party to prepare the necessary optical paper ballots for the election. The ballots shall be in English with the Spanish translation included.

The CITY shall furnish the Contracting Officer a list of candidates and/or propositions showing the order and the exact manner in which their names or proposition(s) are to appear on the official ballot (including bilingual titles and text). This list shall be delivered to the Contracting Officer as soon as possible after ballot positions have been determined. The CITY shall perform the duties required for drawing for place on the ballot by candidates. The CITY shall be responsible for proofreading and approving the ballot insofar as it pertains to the authority’s candidates and/or propositions.

F. **Jurisdictional Boundaries.** The CITY is solely responsible for the integrity and correctness of its boundary utilized by the Contracting Officer with respect to the May 3, 2025 election. The CITY shall ensure the Contracting Officer possesses an accurate boundary of its territory within Bastrop County, Texas. Before the coding and programming of the ballot begins, the CITY shall review and confirm, in a method provided by the Contracting Officer, its jurisdictional area as spatially accurate or submit its correct boundary information. If changes are necessary after programming has begun, the Political Subdivision responsible will incur the cost of re-programming for all entities involved.

III. SPECIAL PROVISIONS RELATING TO ELECTION WORKERS

A. **Compensation.** The parties agree that presiding judges and alternate judges will be compensated at a rate of \$12.00/hr., and election clerks will be compensated at a rate of \$10.00/hr. They will be compensated for all hours actually worked, including the time to set up the polling location and the time to complete the counting and to wrap up the paper work, but not to exceed two hours before and two hours after the polling location is open for voting. The presiding judge, or the election worker at the polling location that he or she designates, who picks up the election supplies on May 3, 2025 from the

Contracting Officer and who returns the remaining supplies, ballot boxes, and all other election from the polling location to the Contracting Officer will be compensated with a delivery fee of \$25 at the same time that payment is made for the hours worked. The Contracting Officer will pay the election workers directly and be reimbursed for such by the CITY.

B. *Number of Election Workers.* The parties agree that at all polling locations there will be a minimum of three election workers, consisting of the presiding judge, alternate judge, and one clerk.

IV. JOINT EXPENSES AND PAYMENT

A. *Expenses Incurred and Billing.* The participating authorities agree to share actual costs incurred to the extent that the costs and expenses are incurred in connection with a polling location used by more than one local political subdivision, such as (without limitation) the cost of renting polling locations and voting equipment, programming the voting equipment, supplies needed for the polling place, wages and salaries of election workers. Election expenses shall be pro-rated equally among the participants.

The parties agree, for those polling locations used solely by the CITY and not shared by any other participating authority, that the CITY will pay the wages, salaries, and other applicable election costs and expenses directly related to such polling location.

It is understood that to the extent space is available, other districts and political subdivisions may wish to participate in the use of Bastrop County's election equipment and voting places, and it is agreed that the Elections Administrator may contract with such other districts or political subdivisions for such purposes and that in such event there may be an adjustment of the pro-rata share to be paid to Bastrop County by the participating authorities.

B. *Billing.* As soon as reasonably possible after Election Day, the Contracting Officer will submit an itemized invoice to the CITY for (1) actual expenses directly attributable to the coordination, supervision, and running of the election and incurred on behalf of the CITY by the Contracting Officer, including expenses for supplies in connection with the election school(s), publication and printing of election notices, election supplies, wages paid to the Contracting Officer's employees for services under this contract performed outside of normal business hours, election workers, and any other expenses reasonably and directly related to the election, including, without limitation, rental and programming of DREs and audio ballots, and (2) the Contracting Officer's fee under Section 31.100(d) of the Texas Election Code and as provided in Section IV.E below. Expenses related to wages shall be supported by compensation sheets. Other expenses shall be supported by invoices or receipts, except that the price of items coming out of the Contracting Officer's stock of election supplies shall be supported by the Contracting Officer's certificate about the number of items used and the unit cost therefore according to the vendor's standard price list.

C. *Payment.* The CITY shall pay the Contracting Officer's invoice within 30 days from the date of receipt to: **Bastrop County, Attn: Kristin Miles, Elections Administrator, 804 Pecan Street, Bastrop, TX 78602.** If the CITY disputes any portion of the invoice, the CITY shall pay the

undisputed portion of the invoice, and the parties will discuss in good faith a resolution of the portion. All payments shall be made from current revenues available to the CITY.

D. Expense Item Larger than \$500. If a single election expense exceeds \$500, the Contracting Officer reserves the right to invoice the CITY for such expense at the time it is incurred, supported by an invoice or receipt, rather than waiting until after Election Day. The CITY shall pay such invoice within 30 days from the date of receipt.

E. Estimated Cost of Services. A cost estimate for election expenses is attached hereto and made a part of this contract as Exhibit "C" or Exhibit "C-1", whichever is applicable. The parties agree that these are an estimate only and that the CITY is obligated to pay their respective portion of the actual expenses of the election (and runoff election, if applicable) as set forth herein. The Contracting Officer agrees to advise the CITY if it appears that the actual expenses incurred by the Contracting Officer will exceed by 20% or more the estimated expenses to be paid initially by the Contracting Officer and reimbursed jointly by the CITY.

F. Administrative Fee. The CITY shall pay the Contracting Officer an administrative fee that is ten percent(10%) of this Contract, pursuant to the Texas Election Code, Section 31.100.

V. GENERAL PROVISIONS

A. Nontransferable Functions. In accordance with Section 31.096 of the Texas Election Code, nothing in this contract shall be construed as changing

1. the authority with whom applications of candidates for a place on the ballot are filed; or
2. the authority with whom documents relating to political funds and campaigns under Title 15 of the Texas Election Code are filed;

B. Joint Election. The parties acknowledge that the Contracting Officer may contract with other entities holding elections at the same time as the CITY on May 3, 2025. If another election occurs in territory of the CITY, Bastrop County will notify the CITY of the existence of the situation and provide a joint election agreement.

C. Cancellation of Election. If the CITY cancels its election pursuant to Section 2.053 of the Texas Election Code, the Contracting Officer shall only be entitled to receive the actual expenses incurred before the date of cancellation in connection with the election and an administrative fee of \$75. The Contracting Officer shall submit an invoice for such expenses (properly supported as described in **IV. PAYMENT** above) as soon as reasonably possible after the cancellation and the CITY shall make payment therefore in a manner similar to that set forth in **IV. PAYMENT** above. The Contracting Officer agrees to use reasonable diligence not to incur major costs in connection with election preparations until it is known that the election will be held, unless the CITY authorizes such major costs in writing. An entity canceling an election will not be liable for any further costs incurred by the Contracting Officer in conducting the May 3, 2025 Joint Election.

D. Contract Copies to Treasurer and Auditor. In accordance with Section 31.099 of the Texas Election Code, the Contracting Officer agrees to file copies of this contract with the County Treasurer of Bastrop County, Texas and the County Auditor of Bastrop County, Texas.

E. Representatives. For purposes of implementing this contract and coordinating activities hereunder, the CITY and the Contracting Officer designate the following individuals, and whenever the contract requires submission of information or documents or notice to the CITY or the Contracting Officer, respectively, submission or notice shall be to these individuals:

For the CITY:

Irma Parker
City Secretary
City of Bastrop
1311 Chestnut Street
Bastrop, TX 78602
Tel: (512) 332-8800
Fax: (512) 332-8819
Email: iparker@cityofbastrop.org

For the Contracting Officer:

Kristin Miles
Elections Administrator
Bastrop County
804 Pecan Street
Bastrop, TX 78602
Tel: (512) 581-7160
Fax: (512) 581-4260
Email: elections@co.bastrop.tx.us

F. Recount. A recount may be obtained as provided by Title 13 of the Texas Election Code. By signing this contract, CITY agrees that any recount shall take place at the offices of the Contracting Officer, and that the CITY shall serve as the Recount Supervisor, and the CITY official or employee who performs the duties of a secretary under the Texas Election Code shall serve as Recount Coordinator. The Contracting Officer agrees to provide advisory services to the CITY as necessary to conduct a proper recount.

G. Runoff Elections. The CITY shall have the option of extending the terms of this contract through its runoff election, if applicable. In the event of such runoff election, the terms of this contract shall automatically extend unless the CITY notifies the Contracting Officer in writing within three (3) business days of the original election. The CITY shall reserve the right to reduce the number of early voting locations and/or Election Day voting locations in a runoff election. The CITY agrees to order any runoff election(s) at its meeting for canvassing the votes from the May 3, 2025 election and to conduct its drawing for ballot positions at or immediately following such meeting in order to expedite preparations for its runoff election. The CITY agrees that the date of the runoff election, if necessary, shall be June 7, 2025, with early voting being held in accordance with the Election Code. Early Voting by personal appearance for the runoff election shall be conducted during the hours and time period and at the locations listed in Exhibit "A-1," attached hereto and made a part of this contract. The Election Day polling locations for the runoff election are those listed in Exhibit "B-1," attached hereto and made a part of this contract.

H. Amendment/Modification. Except as otherwise provided, this Agreement may not be amended, modified, or changed in any respect whatsoever, except by a further Agreement in writing, duly executed by the parties hereto. No official, representative, agent, or employee of Bastrop County has any authority to modify this Agreement except pursuant to such expressed authorization as may be granted by the Commissioners Court of Bastrop County, Texas. No official, representative, agent, or

employee of the CITY has any authority to modify this Agreement except pursuant to such e authorization as may be granted by the governing body of the CITY. Both the Contracting Officer and the CITY may propose necessary amendments or modifications to this Agreement in writing in order to conduct the Election smoothly and efficiently.

I. Entire Agreement. This Agreement contains the entire agreement of the parties relating to the rights herein granted and the obligations herein assumed and supersedes all prior agreements, including prior election services contracts and prior agreements to conduct joint elections. Any prior agreements, promises, negotiations, or representations not expressly contained in this Agreement are of no force and effect. Any oral representations or modifications concerning this Agreement shall be of no force or effect, excepting a subsequent modification in writing as provided herein.

J. Severability. If any provision of this Agreement is found to be invalid, illegal or unenforceable by a court of competent jurisdiction, such invalidity, illegality or unenforceability shall not affect the remaining provisions of this Agreement; and, parties to this Agreement shall perform their obligations under this Agreement in accordance with the intent of the parties to this Agreement as expressed in the terms and provisions of this Agreement.

K. Third Party Beneficiaries. Except as otherwise provided herein, nothing in this Agreement, expressed or implied, is intended to confer upon any person, other than the parties hereto, any benefits, rights or remedies under or by reason of this Agreement.

L. Mediation. Any controversy, claim or dispute arising out of or relating to this contract, shall be settled through mediation by the parties. The parties agree to use a mutually agreed upon mediator, or a person appointed by a court of competent jurisdiction, for mediation as described in Section 154.023 of the Texas Civil Practice and Remedies Code. Unless both parties are satisfied with the result of mediation, the mediation will not constitute a final and binding resolution of the dispute. All communications within the scope of the mediation shall remain confidential as described in Section 154.023 of the Texas Civil Practice and Remedies Code unless both parties agree, in writing, to waive

the confidentiality. Notwithstanding the foregoing, the parties intend to fully comply with the Texas Open Meetings Act and the Texas Public Information Act whenever applicable. The term “confidential” as used in this Agreement has the same meaning as defined and construed under the Texas Public Information Act and the Texas Open Meetings Act.

WITNESS BY MY HAND THIS THE _____ DAY OF _____, 2025 .

CITY OF BASTROP, TEXAS

Sylvia Carrillo-Trevino, City Manager

WITNESS BY MY HAND THIS THE _____ DAY OF _____, 2025.

Item 100.

Gregory Klaus
County Judge
Bastrop County, Texas

WITNESS BY MY HAND THIS THE _____ DAY OF _____, 2025.

Item 100.

Kristin Miles
Elections Administrator
Bastrop County, Texas

EARLY VOTING DATES, TIMES, AND LOCATIONS

Time Period:

Monday, April 21, 2025 through Tuesday, April 29, 2025.

Main Location:

Bastrop County Courthouse Annex, Lower Level Conference Room, 804 Pecan St., Bastrop, Texas 78602.

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
21 8:00 am – 5:00 pm	22 8:00 am – 5:00 pm	23 8:00 am – 5:00 pm	24 8:00 am – 5:00 pm	25 8:00 am – 5:00 pm
28 7:00 am – 7:00 pm	29 7:00 am – 7:00 pm			

Branch Locations:

Smithville Rec Center, 106 Royston St., Smithville
 Cedar Creek Tax Office Annex, 5785 FM 535, Cedar Creek
 North Bastrop County Community Annex, 704 Bull Run, Elgin

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
21 8:00 am – 5:00 pm	22 8:00 am – 5:00 pm	23 8:00 am – 5:00 pm	24 8:00 am – 5:00 pm	25 8:00 am – 5:00 pm
28 7:00 am – 7:00 pm	29 7:00 am – 7:00 pm			

Voting by Mail:

Kristin Miles, Bastrop County Elections Administrator, 804 Pecan Street, Bastrop, TX 78602

EARLY VOTING DATES, TIMES, AND LOCATIONS RUNOFF ELECTION

Time Period:

Tuesday, May 27, 2025 through Tuesday, June 3, 2025.

Main Location:

Bastrop County Courthouse Annex, Lower Level Conference Room, 804 Pecan St., Bastrop, Texas 78602.

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
26 HOLIDAY NO VOTING	27 8:00 am – 5:00 pm	28 8:00 am – 5:00 pm	29 8:00 am – 5:00 pm	30 8:00 am – 5:00 pm
2 7:00 am – 7:00 pm	3 7:00 am – 7:00 pm			

Voting by Mail:

Kristin Miles, Bastrop County Elections Administrator, 804 Pecan Street, Bastrop, TX 78602

ELECTION DAY POLLING LOCATIONS ELECTION

- Aqua Water Supply, 415 Old Austin Hwy., Bastrop**
- River Valley Christian Fellowship, 1224 W. Hwy 71, Bastrop**
- Bastrop County Courthouse Annex, Lower Level Conference Room, 804 Pecan St., Bastrop**
- Paige Community Center, 107 S. Main St., Paige**
- Bastrop County Community Center, 15 American Legion Dr., Bastrop**
- Smithville Rec Center, 106 Royston St., Smithville**
- Rosanky Community Center, 135 Main St., Rosanky**
- Bastrop County Cedar Creek Annex, 5785 FM 535, Cedar Creek**
- Red Rock Community Center, 114 Red Rock Rd., Red Rock**
- North Bastrop County Community Annex, 704 Bull Run, Elgin**
- Faith Lutheran Church, 230 Waco St., McDade**
- Family Worship Center, 2425 FM 1704, Elgin**
- Bastrop County ESD#2 Station 4, 1432 N. Hwy 95, Bastrop**

Locations Subject to Change Depending on Entities Participating in the Joint Election

ELECTION DAY POLLING LOCATIONS RUNOFF ELECTION

Bastrop County Courthouse Annex, Lower Level Conference Room, 804 Pecan St., Bastrop

Locations Subject to Change Depending on Entities Participating in the Joint Election

EXHIBIT "C"

ESTIMATED COST OF ELECTION

CITY OF BASTROP

Optical Ballots and Programming Expenses	\$14,743.19
Rental Fee for ExpressVote and Vote Tabulator (voting equipment)	
Staff Time and Mileage, Early Voting Clerks, Election Judges & Clerks, and Ballot Board	
Election Kits & other precinct supplies	\$ 200.00
SUBTOTAL	\$14,943.19
10% ADMINISTRATIVE FEE	<u>\$ 1,494.32</u>
TOTAL	<u>\$16,437.51</u>

EXHIBIT "C-1"

ESTIMATED COST OF RUNOFF ELECTION

CITY OF BASTROP

Optical Ballots and Programming Expenses	\$ 20,500.85
Rental Fee for ExpressVote and Vote Tabulator (voting equipment)	
Staff Time and Mileage, Early Voting Clerks, Election Judges & Clerks, and Ballot Board	
Election Kits & other precinct supplies	\$ 200.00
SUBTOTAL	\$ 20,700.85
10% ADMINISTRATIVE FEE	<u>\$ 2,070.09</u>
TOTAL	<u>\$ 22,770.94</u>



STAFF REPORT

MEETING DATE: January 14, 2025

TITLE:

Consider and act to approve Resolution No. R-2025-12, A Resolution Updating Resolution No. R-2024-180, Accepting Donations for the Texas Municipal League (TML) Region 10 Quarterly Meeting, Hosted by the City of Bastrop; Ratifying a New Grand Total in the Amount of Two Thousand Four Hundred Forty And 00/100 Dollars (\$2,440.00); Authorizing Staff To Provide All Donors With An Official Donation Receipt Acceptable to the International Revenue Service to Claim a Charitable Donation; Providing for a Repealing Clause; And Establishing an Effective Date.

AGENDA ITEM SUBMITTED BY:

Submitted by: Andres Rosales, Assistant City Manager

BACKGROUND/HISTORY:

The City hosted the Texas Municipal League (TML) Region 10 Holiday Quarterly Meeting. TML Region 10 includes communities in the San Saba, Lampasas, Mason, Llano, Burnet, Williamson, Milam, Brazos, Travis, Lee, Burleson, Washington, Hays, Bastrop, Caldwell and Fayette Counties. On 12/10 City Manager Carrillo-Trevino reported donations in the amount of \$2,340.00 via Resolution No. R-2024-180. However, at the TML meeting, additional funds were donated, making the new total \$2,440.00. The Resolution contains a full listing of donors and value of their donations. Staff will provide all Donors with an official donation receipt acceptable to the International Revenue Service to claim a charitable donation.

FISCAL IMPACT:

Donation of \$2,440.80

RECOMMENDATION:

Administration requests approval of Resolution No. R-2025-12

ATTACHMENTS:

1. Resolution No. R-2025-12
2. Resolution No. R-2024-180

RESOLUTION NO. R-2025-12

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS UPDATING RESOLUTION NO. R-2024-180, ACCEPTING DONATIONS FOR THE TEXAS MUNICIPAL LEAGUE (TML) REGION 10 QUARTERLY MEETING, HOSTED BY THE CITY OF BASTROP; RATIFYING A NEW GRAND TOTAL IN THE AMOUNT OF TWO THOUSAND FOUR HUNDRED FORTY AND 00/100 DOLLARS (\$2,440.00); AUTHORIZING STAFF TO PROVIDE ALL DONORS WITH AN OFFICIAL DONATION RECEIPT ACCEPTABLE TO THE INTERNATIONAL REVENUE SERVICE TO CLAIM A CHARITABLE DONATION; PROVIDING FOR A REPEALING CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Council has appointed the City Manager as the Chief Administrative officer of the City; and

WHEREAS, the City Manager is responsible for the proper administration of all affairs of the City; and

WHEREAS, the City of Bastrop has hosted the Texas Municipal League Region 10 Holiday Quarterly Meeting for the second year; and

WHEREAS, Texas Municipal League (TML) Region 10 includes communities in the San Saba, Lampasas, Mason, Llano, Burnet, Williamson, Miliam, Brazos, Travis, Lee, Burleson, Washington, Hays, Bastrop, Caldwell and Fayette Counties; and

WHEREAS, City Manager Carrillo-Trevino reported donations in the amount of \$2,340.00 at the December 10th City Council Meeting via Resolution No. R-2024-180. However, at the TML meeting, additional funds were donated, making the new total \$2,440.00.

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

SECTION 1: All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Bastrop, Texas, and are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.

SECTION 2: The new grand total of donations and donors list is summarized as follows:

COMPANY/BUSINESS	ITEM	VALUE
Artist Jeffery Stayton	Scarf, Holiday Home Tours Book, Framed Art Piece	\$75.00
Artist Marlene Outlaw	Hand Painted Spoon Rest	\$20.00
Bastrop Chamber of Commerce	Bastropoly Game with Chamber Hat and Koozies	\$50.00
C&S Cigar Lounge	10 Cigars in a wooden case	\$150.00
CAFF Coffee & Kitchen	Gift Card	\$25.00
Film Alley Bastrop	2 Movie Theatre Tickets	\$25.00
Film Alley Bastrop	2 Comedy Show Tickets	\$30.00

Film Alley Bastrop	1hr Bowling for 6 with Shoe Rental with Arcade Cards	\$90.00
Gracie's Lunch & Diner - Grace Millers	Gift Card	\$50.00
Half Associates, Inc. – VP Stephen Crawford	3 \$100 Gift Cards	\$300.00
Half Associates, Inc. – VP Stephen Crawford	Gift Basket including a Yeti Cooler	\$100.00
Huitt-Zollars, Inc. – Guillermo Salcedo	Yeti Cooler	\$350.00
In the Sticks	Gift Card	\$25.00
KC Outfitter	Gift Card	\$25.00
Neighbor's Kitchen & Yard	Gift Card	\$25.00
Old Town Restaurant & Bar	Gift Card	\$50.00
Piney Creek Chop House	Gift Card	\$100.00
Roscoe Bank - Bastrop Branch	Stanley Cooler Bag	\$100.00
Texas Disposal Systems – Ja-mar Price	2 \$100 Gift Cards	\$200.00
The Goodman Corporation – Jake Gitekunst	Gift Card to Perry's Steakhouse	\$250.00
	Sub-Total presented at 12/10/2024 Meeting	\$2,040.00
International Consulting Engineers, (I.C.E.)	2 each \$100.00 gift cards	\$300.00
	Resolution No. R-2024-180 Amended TOTAL	\$2,340.00
Colliers Engineering & Design	Book Lovers Gift Basket Barnes & Noble - Received at TML Quarterly Meeting	\$100.00
	GRAND TOTAL	\$2,440.00

SECTION 3: Authorizing Staff to provide all Donors with an official donation receipt acceptable to the International Revenue Service to claim a charitable donation.

SECTION 4: All orders, ordinances, and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

SECTION 5: That this Resolution shall take effect immediately upon its passage, and it is so resolved.

DULY RESOLVED AND ADOPTED by the City Council of the City of Bastrop on this the 14th day of JANUARY 2025.

CITY OF BASTROP, TEXAS

Lyle Nelson, Mayor

ATTEST:

Irma G. Parker, City Secretary

RESOLUTION NO. R-2024-180

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS ACCEPTING DONATIONS TO THE CITY OF BASTROP FOR THE TEXAS MUNICIPAL LEAGUE REGION 10 HOLIDAY QUARTERLY MEETING, HOSTED BY THE CITY OF BASTROP, FROM VARIOUS COMPANIES AND INDIVIDUALS IN THE TOTAL AMOUNT OF TWO THOUSAND THREE HUNDRED AND FORTY AND 00/100 DOLLARS (~~\$2,040.00~~ \$2,340.00); AS ATTACHED IN EXHIBIT A; AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY DOCUMENTS; PROVIDING FOR A REPEALING CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City Council has appointed the City Manager as the Chief Administrative Officer of the City; and

WHEREAS, the City Manager is responsible for the proper administration of all affairs of the City; and

WHEREAS, the City of Bastrop has hosted the Texas Municipal League Region 10 Holiday Quarterly Meeting for the second year; and

WHEREAS, the TML Region 10 is made up of local neighboring cities that range from Pflugerville to Lockhart to Buda and Kerrville; and

WHEREAS, accepting donations to the City of Bastrop for the TML Region 10 Holiday Quarterly Meeting in the total amount of Two Thousand Three Hundred and Forty and 00/100 Dollars (~~\$2,040.00~~ \$2,340.00) from various companies and individuals as attached in Exhibit “A”; and

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

SECTION 1: That the City Manager is hereby authorized to execute all necessary documents, authorizing accepting the donations from the companies and individuals on behalf of the City of Bastrop.

SECTION 2: All orders, ordinances, and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

SECTION 3: That this Resolution shall take effect immediately upon its passage, and it is so resolved.

DULY RESOLVED AND ADOPTED by the City Council of the City of Bastrop on this the 10th day of DECEMBER 2024 as amended by adding Donor: International Consulting Engineers for \$300.00.

CITY OF BASTROP, TEXAS

Lyle Nelson, Mayor

ATTEST:

Irma G. Parker, City Secretary

Exhibit A
List of Donations

Company Donating	Item	Value
C&S Cigar Lounge	10 Cigars in a wooden case	\$150
In the Sticks	Gift Card	\$25
CAFF	Gift Card	\$25
Old Town Restaurant	Gift Card	\$50
Gracie's	Gift Card	\$50
Piney Creek Chop House	Gift Card	\$100
KC Outfitters	Gift Card	\$25
Roscoe Bank	Stanley Cooler Bag	\$100
Film Alley Movie Theatre	2 Movie Theatre Tickets	\$25
Film Alley Movie Theatre	2 Comedy Show Tickets	\$30
Film Alley Movie Theatre	1 hr Bowling for 6 with Shoe Rental with Arcade Cards	\$90
Neighbor's Kitchen	Gift Card	\$25
Huitt-Zollars, Inc. – Guillermo Salcedo	Yeti Cooler	\$350
Bastrop Chamber of Commerce	Bastropoly Game with Chamber Hat and Koozies	\$50
Texas Disposal Services – Ja-mar Price	2 \$100 Gift Cards	\$200
Halff and Associates – VP Stephen Crawford	3 \$100 Gift Cards	\$300
Halff and Associates – VP Stephen Crawford	Gift Basket including a Yeti Cooler	\$100
The Goodman Corporation – Jake Gitekunst	Gift Card to Perry's Steakhouse	\$250
Artist Jeffery Stayton	Scarf, Holiday Home Tours Book, Framed Art Piece	\$75
Artist Marlene Outlaw	Hand Painted Spoon Rest	\$20
International Consulting Engineers		\$300.00

Total Value Amount: ~~\$2,040.00~~ \$2,340.00



STAFF REPORT

MEETING DATE: January 14, 2025

TITLE:

Conduct a public hearing, consider, and act on the first reading of Ordinance No. 2025-04 of the City Council of the City of Bastrop, Texas amending the Code of Ordinances, related to Chapter 14, The Bastrop Building Block (B3) Code, Article 6.5 Building Types, Section 6.5.003 BUILDING STANDARDS PER PLACE TYPE A – LOT OCCUPATION (table) and Section 6.3.008 LOT OCCUPATION (a) and (b) as attached in Exhibit A; and providing for findings of fact, repealer, severability, codification, effective date, proper notice, and meeting and move to include on the January 28, 2025 Consent Agenda for the second reading.

AGENDA ITEM SUBMITTED BY:

Submitted by: Kennedy Higgins, Senior Planner, Development Services

BACKGROUND/HISTORY:

These amendments are to allow by right, one (1) additional ADU per lot; two (2) ADUs can be administratively allowed if all of the infrastructure components such as parking, drainage, water, and wastewater can be met.

On October 30th, 2024, the Planning and Zoning Commission held a workshop that introduced some code amendments. On December 19st, 2024, the Planning and Zoning Commission held a public hearing on the same amendments from the previous meeting. The public hearing was held, members of the community spoke their questions and concerns, and the Planning and Zoning Commission recommended approval with a vote of 8-0.

POLICY EXPLANATION:

Bastrop Building Block (B3) Code Technical Manual

Per the technical manual table 1.4.001A Development Application Approval Process, a public hearing and recommendation from Planning and Zoning, and then another public hearing and decision from City Council is required for any text amendments.

RECOMMENDATION:

Conduct a public hearing, consider, and act on the first reading of Ordinance No. 2025-04 of the City Council of the City of Bastrop, Texas amending the Code of Ordinances, related to Chapter 14, The Bastrop Building Block (B3) Code, Article 6.5 Building Types, Section 6.5.003 BUILDING STANDARDS PER PLACE TYPE A – LOT OCCUPATION (table) and Section 6.3.008 LOT OCCUPATION (a) and (b) as attached in Exhibit A; and providing for findings of fact, repealer, severability, codification, effective date, proper notice, and meeting and move to include on the January 28, 2025 Consent Agenda for the second reading.

ATTACHMENTS:

- Attachment 1: Ordinance No. 2025-04
 - Exhibit A- Redlined Changes
- Attachment 2: Memo Staff Report from P&Z

ORDINANCE NO. 2025-04

AN ORDINANCE OF THE CITY OF BASTROP, TEXAS, AMENDING THE BASTROP CODE OF ORDINANCES CHAPTER 14, THE BASTROP BUILDING BLOCK (B3) CODE, ARTICLE 6.5 BUILDING TYPES, SECTION 6.5.003 BUILDING STANDARDS PER PLACE TYPE A – LOT OCCUPATION (TABLE) AND SECTION 6.3.008 LOT OCCUPATION (A) AND (B) AS ATTACHED IN EXHIBIT A; AND PROVIDING FOR FINDINGS OF FACT, REPEALER, SEVERABILITY, CODIFICATION, EFFECTIVE DATE, PROPER NOTICE, AND MEETING.

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the City Council of the City of Bastrop has general authority to amend an ordinance that is for the good government, peace, or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

WHEREAS, pursuant to Texas Local Government Code Chapters 211, 212, 214, and 217 the City Council of the City of Bastrop has general authority to regulate planning, zoning, subdivisions, and the construction of buildings; and

WHEREAS, These amendments are to allow by right, one (1) additional ADU per lot; two (2) ADUs can be administratively allowed if all of the infrastructure components such as parking, drainage, water, and wastewater can be met.

WHEREAS, the City Council find that certain amendments to the aforementioned ordinances are necessary and reasonable to meet changing conditions and are in the best interest of the City.

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

Section 1. Finding of Fact: The facts and recitations set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. Amendment To Bastrop Building Block Code (B3), Section 6.5.003 and Section 6.3.008 of the Bastrop Building Code is hereby amended and shall read in accordance with Exhibit “A”, which is attached hereto and incorporated into this Ordinance for all intents and purposes. Any struck-through text shall be deleted from the Code, as shown in each of the attachments.

Section 3. Severability. If any clause or provision of this Ordinance shall be deemed to be unenforceable for any reason, such unenforceable clause or provision shall be severed from the remaining portion of the Ordinance, which shall continue to have full force and effect.

Section 4. Repeal. This Ordinance shall be and is hereby cumulative of all other ordinances of the City of Bastrop, Texas, and this Ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this Ordinance, in which event such conflicting provisions, if any, in such other Ordinances, are hereby repealed.

Section 5. Effective Date. This Ordinance shall take effect immediately after its final passage and any publication in accordance with the requirements of the City of Bastrop and the laws of the State of Texas.

READ & ACKNOWLEDGED on First Reading on this the **14th** day of **January** 2025.

READ & ADOPTED on Second Reading on this the **28th** day of **January** 2025.

APPROVED:

by: _____
Lyle Nelson, Mayor

ATTEST:

City Secretary

APPROVED AS TO FORM:

City Attorney

Exhibit A

SEC. 6.5.003 BUILDING STANDARDS PER PLACE TYPE

Place Types	P1	P2	P3	P4	P5
A. LOT OCCUPATION					
Lot Coverage		40% max	50 60% max	60 70% max	65 80% max
Facade Buildout at Build-to-Line		40% min	40% min	60% min	80% min
Build-to-Line		10 ft - no max	10 ft - 25 ft*	5 ft - 15 ft	2 ft - 15 ft
Additional Dwelling Unit		1 2	1 2	1 2	

*Lots exceeding 1/2 acre may extend the 1 layer of the Lot up to 60 ft from the Frontage Line.

To: Sylvia Carrillo, City Manager

From: Kennedy Higgins, Senior Planner- Development Services

Date: December 19, 2024

Subject: B3 Text Amendments



BACKGROUND/HISTORY:

Based on public input at the October 30th meeting, the communication needed to be clarified that two (2) ADUs can be allowed on a lot, if parking drainage and other infrastructure requirements can be met,

The B3 code was adopted in November of 2019, and subsequently amended in April of 2022. From 2016 to 2023, Bastrop's population grew by approximately 34.3%. With the increased growth from Austin to the west, the availability of large land parcels, the availability of water, and abundant natural resources, the growth shows no signs of slowing.

“The intent of the Code is to establish the Standards that enable, encourage, and ensure the community achieves:

- ✓ ***Fiscal Sustainability***
- ✓ ***Geographically Sensitive Developments***
- ✓ ***Perpetuation of Authentic Bastrop” pg. 11 – B3 Code***

While the aspirational ideas envisioned in the preamble of the B3 code (as noted above) to provide for fiscal sustainability, geographically sensitive developments, and perpetuation of Authentic Bastrop, several segments of the code accomplished just the opposite.

In 2023, Council was presented with a draft Drainage Master Plan that cost more than 120M dollars.¹

The “fiscal sustainability” aspect of the code means a greater tax base for the City, not fiscal sustainability for the resident.

The existing B3 code allows for two (2) additional dwelling units per lot. It allows an additional accessory unit for a total of four (4) buildings per lot with the primary structure included.

However, the code does not require onsite parking; all parking shifts from the lot to the street and the neighborhood is left a congested mess.

Further, the elimination of lot size minimums creates a mathematical problem that may be too

expensive for the city to maintain.

Example: An existing parcel of land containing 3.7 acres, of which the existing surrounding environment lot size is ½ acre lots is planned for subdivision. The proposal is for more than 30+ units in the same footprint previous planners planned for 7-8 units. Now add 2 additional dwelling units as well as no parking number required. The previous 8 units has become a potential 10X increase in the number of dwellings.

This increased density is an increase in water demand, wastewater demand, electrical demand, and stormwater runoff increase which is only partially paid by the development community and the rest is paid via utility rates, etc of existing consumers and residents.

The proposal is to allow by right, one (1) additional ADU per lot; two (2) ADUs can be administratively allowed if all of the infrastructure components such as parking, drainage, water, and wastewater can be met.

INSERTED

Place Types	P1	P2	P3	P4	P5
A. LOT OCCUPATION					
Lot Coverage		40% max	50 60% max	60 70% max	65 80% max
Facade Buildout at Build-to-Line		40% min	40% min	60% min	80% min
Build-to-Line		10 ft – no max	10 ft – 25 ft*	5 ft – 15 ft	2 ft – 15 ft
Additional Dwelling Unit		1 2	1 2	1 2	

*Lots exceeding ½ acre may extend the 1 layer of the Lot up to 60 ft from the Frontage Line.

SEC. 6.3.008 LOT OCCUPATION

~~In P2-P4, three two buildings may be built on each Lot, one Principal Building and two one Accessory Units or and one Accessory Dwelling Units as generally illustrated on Article 6.4 Lot Structure Description & Diagram.~~ The number of Accessory Dwelling Units (ADUs) allowed by right shall be one, and two (ADUs) shall be allowed subject to meeting the established impervious cover standards as well as the onsite parking requirements set forth in 6.003.006(b)(2) as amended.

- (a) More than two (2) Additional structures may be approved if the impervious cover requirements and other infrastructure demands can be met.

FISCAL IMPACT:

None

RECOMMENDATION:

Recommend the amendments as proposed by staff.

ATTACHMENTS:

1. None – Redlines shown above
2. <https://www.cityofbastrop.org/upload/page/0569/docs/City%20of%20Bastrop%20Drainage%20Master%20Plan.pdf>



STAFF REPORT

MEETING DATE: January 14, 2025

TITLE:

Conduct a public hearing, consider, and act on the first reading of Ordinance No. 2025-03 of the City Council of the City of Bastrop, Texas amending the Code of Ordinances, related to Chapter 14, The Bastrop Building Block (B3) Code, Article 6.3 General Lot Standards, Section 6.3.007 CROSS ACCESS CONNECTIONS (a) as attached in Exhibit A; and providing for findings of fact, repealer, severability, codification, effective date, proper notice, and meeting and move to include on the January 28, 2025 Consent Agenda for the second reading.

AGENDA ITEM SUBMITTED BY:

Submitted by: Kennedy Higgins, Senior Planner, Development Services

BACKGROUND/HISTORY:

Shared access and cross connections are valuable. This amendment seeks to provide staff some latitude in the code without requiring a variance. An example is a car dealership off of Hwy 71. This type of business normally has a do not compete clause with neighboring dealerships; to require cross connection in this circumstance is not viable. The alternative is to send all of these types of decisions to the Zoning Board of Adjustment or Planning Commission for these types of decisions.

On October 30th, 2024, the Planning and Zoning Commission held a workshop that introduced some code amendments. On December 19st, 2024, the Planning and Zoning Commission held a public hearing on the same amendments from the previous meeting. The public hearing was held, members of the community spoke their questions and concerns, and the Planning and Zoning Commission recommended approval with a vote of 8-0.

POLICY EXPLANATION:

Bastrop Building Block (B3) Code Technical Manual

Per the technical manual table 1.4.001A Development Application Approval Process, a public hearing and recommendation from Planning and Zoning, and then another public hearing and decision from City Council is required for any text amendments.

RECOMMENDATION:

Conduct a public hearing, consider, and act on the first reading of Ordinance No. 2025-03 of the City Council of the City of Bastrop, Texas amending the Code of Ordinances, related to Chapter 14, The Bastrop Building Block (B3) Code, Article 6.3 General Lot Standards, Section 6.3.007 CROSS ACCESS CONNECTIONS (a) as attached in Exhibit A; and providing for findings of fact, repealer, severability, codification, effective date, proper notice, and meeting and move to include on the January 28, 2025 Consent Agenda for the second reading.

ATTACHMENTS:

- Attachment 1: Ordinance No. 2025-03
 - Exhibit A- Redlined Changes
- Attachment 2: Memo Staff Report from P&Z

ORDINANCE NO. 2025-03

AN ORDINANCE OF THE CITY OF BASTROP, TEXAS, AMENDING THE BASTROP CODE OF ORDINANCES CHAPTER 14, THE BASTROP BUILDING BLOCK (B3) CODE, ARTICLE 6.3 GENERAL LOT STANDARDS, SECTION 6.3.007 CROSS ACCESS CONNECTIONS (A) AS ATTACHED IN EXHIBIT A; AND PROVIDING FOR FINDINGS OF FACT, REPEALER, SEVERABILITY, CODIFICATION, EFFECTIVE DATE, PROPER NOTICE, AND MEETING.

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the City Council of the City of Bastrop has general authority to amend an ordinance that is for the good government, peace, or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

WHEREAS, pursuant to Texas Local Government Code Chapters 211, 212, 214, and 217 the City Council of the City of Bastrop has general authority to regulate planning, zoning, subdivisions, and the construction of buildings; and

WHEREAS, Shared access and cross connections are valuable. This amendment seeks to provide staff some latitude in the code without requiring a variance; and

WHEREAS, the City Council find that certain amendments to the aforementioned ordinances are necessary and reasonable to meet changing conditions and are in the best interest of the City.

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

Section 1. Finding of Fact: The facts and recitations set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. Amendment To Bastrop Building Block Code (B3), Section 6.3.007 of the Bastrop Building Code is hereby amended and shall read in accordance with Exhibit “A”, which is attached hereto and incorporated into this Ordinance for all intents and purposes. Any struck-through text shall be deleted from the Code, as shown in each of the attachments.

Section 3. Severability. If any clause or provision of this Ordinance shall be deemed to be unenforceable for any reason, such unenforceable clause or provision shall be severed from the remaining portion of the Ordinance, which shall continue to have full force and effect.

Section 4. Repeal. This Ordinance shall be and is hereby cumulative of all other

ordinances of the City of Bastrop, Texas, and this Ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this Ordinance, in which event such conflicting provisions, if any, in such other Ordinances, are hereby repealed.

Section 5. Effective Date. This Ordinance shall take effect immediately after its final passage and any publication in accordance with the requirements of the City of Bastrop and the laws of the State of Texas.

READ & ACKNOWLEDGED on First Reading on this the 14th day of January 2025.

READ & ADOPTED on Second Reading on this the 28th day of January 2025.

APPROVED:

by: _____
Lyle Nelson, Mayor

ATTEST:

City Secretary

APPROVED AS TO FORM:

City Attorney

Exhibit A

(b) The location of the parking shall be established and shown on the Neighborhood Regulating Plan, Zoning Concept Scheme, and/or Site Plan:

(1) Shared parking is available and determined with the Site Plan in P2, P4, and P5, where it does not cause undue hardship to the existing built environment or neighborhood. Lot coverage shall not exceed the Place Type Standards.

(2) Parking requirements ~~in P3 will be market driven~~ shall require two (2) parking spaces per primary residential dwelling. One (1) parking space is required per ADU. Lot coverage shall not exceed the Place Type Standards.

(3) Parking in EC shall be recommended by the DRC and part of the submittal package submitted for approval and handled through a public consultation process.

~~(4) P5 shall establish parking maximums based on the market demands per use as determined by the DRC at the time of Application.~~

~~(5) On-site surface parking must be located in the Second Layer or Third Layer of each Lot as~~

~~defined by the Place Types Standards.~~

(6) Residential garage access is permitted from the public Street or from an Alley. Access may be taken from the Street or corner lots, in which case the garage doors may face the side street.

~~(7) Residential garage front facades must begin in the Third Layer. Residential garage facades may begin in the second layer and onsite parking is allowed in the first layer~~

(8) Open parking areas shall be masked from the Frontage by building or Street screening and will be regulated in size by Lot cover requirements of the Place Type.

~~(9) Parking spaces provided internal to a Lot shall be located entirely behind the minimum rear Setback as specified by Building Type and Place Type.~~

SSEC. 6.3.007 CROSS ACCESS CONNECTIONS

(a) Cross-access easements and connections to adjoining properties shall be required to connect driveways and parking lots where no Alley is present. In the event these conditions cannot be met without undue hardship or if such connections would create undesirable traffic flow, the DRC may waive the connection requirement

To: Sylvia Carrillo, City Manager

From: Kennedy Higgins, Senior Planner- Development Services

Date: December 19, 2024

Subject: B3 Text Amendments



BACKGROUND/HISTORY:

The B3 code was adopted in November of 2019, and subsequently amended in April of 2022. From 2016 to 2023, Bastrop’s population grew by approximately 34.3%. With the increased growth from Austin to the west, the availability of large land parcels, the availability of water, and abundant natural resources, the growth shows no signs of slowing.

“The intent of the Code is to establish the Standards that enable, encourage, and ensure the community achieves:

- ✓ ***Fiscal Sustainability***
- ✓ ***Geographically Sensitive Developments***
- ✓ ***Perpetuation of Authentic Bastrop” pg. 11 – B3 Code***

While the aspirational ideas envisioned in the preamble of the B3 code (as noted above) to provide for fiscal sustainability, geographically sensitive developments, and perpetuation of Authentic Bastrop, several segments of the code accomplished just the opposite.

The B3 code removed several key factors to orderly growth in favor of a community that envisions no vehicles in the future.

“Create a framework of transit, Pedestrian, and bicycle systems that provide alternatives to the automobile.” Pg 12 -The B3 Code

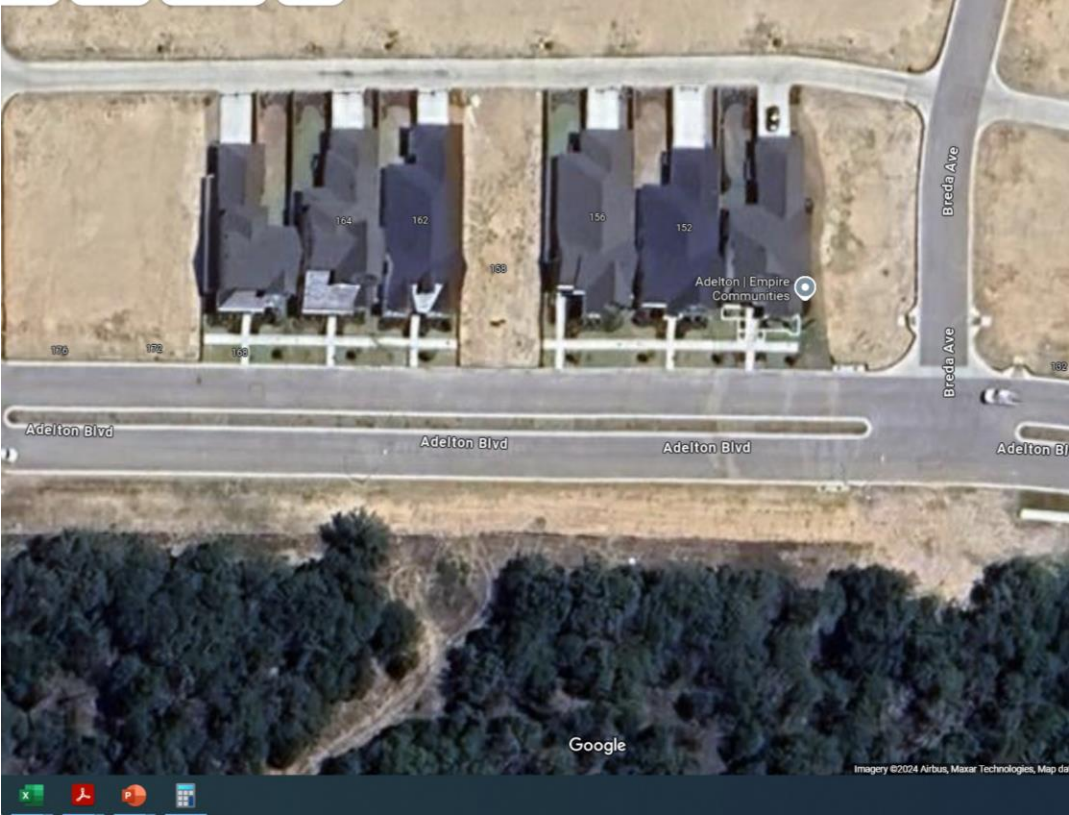
While that may be a lofty aspirational goal, without a mass transit ability, the densification of the neighborhoods allowed in the B3 creates an urban catastrophe in a suburban/rural area.

The proposed amendments for Sections 6.3.005 Alleys & Driveway Locations, Section 6.3.006 Parking, Section 2.1.006 Parking Areas (B3 Technical Manual), are proposed to rectify the original intent of the B3 code which removed the ability for a homeowner to park in the front of their home (in the first layer), instead opting to require alley entrances, and NO parking minimums.

It went from allowing this:



To requiring this but only IF parking is going to be provided per unit:



To be clear, this code amendment did not impact existing homes such as Pecan Park and Riverside Grove, UNLESS a 50% or more construction limit was reached. In which case, a home in a previously developed subdivision would need to come into compliance, as was the case of a home on Barbara Way in the Riverside Grove subdivision.





The home shown above was damaged and had to create parking at the rear of the home; this requirement forced the home to go from a 3/2 to a 2/2 home.

To compound the parking situation, the B3 Code eliminated lot size minimums, and incorporated rather high impervious cover ratios. What does this mean? You can put more homes in an area with more concrete and less greenspace, but have ZERO parking requirements, forcing those cars onto the streets. This type of development pattern does have a place in American society; however, it must be inclusive of mass transit ability.

Bastrop is a semi-rural city which lacks adequate mass transit ability without major taxation. The new urbanist approach has a place in many cities across the country, and could have a place in Bastrop, however, not at the expense of existing residents whose authenticity lies in the open spaces of Bastrop's rich natural beauty.

A master sidewalk plan has been discussed at a Planning and Zoning workshop that will be incorporated into the Master Transportation plan is much safer and comprehensive way to address pedestrian friendly and multimodal access. This is currently underway.

Onsite Parking

The existing code removed all facets of onsite parking (parking on your lot) and moved it to the street with the elimination of minimum parking ratios (MPRs)

After public input and commission input, staff is proposing a minimum of 2 parking spaces for every dwelling unit located on the lot. The commercial ratio has no proposal at this time as staff continues to weigh the impact of overparking in commercial areas as well. The code does a decent job of requiring shared parking when it does not create undue hardship, a competing car dealership for example.

The proposed amendment to the parking regulations allows residents enjoy their neighborhood without over densification, as well as create a relief to street congestion.

Lastly, it should be noted that if a developer chooses to submit a development concept scheme that allows for alley access, reduced front yards, wider sidewalks, and other similar amenities, it is allowed under the Planned Unit Development (PUD) section of the ordinance which provides Planning and Zoning Commission as well as the City Council an opportunity to have a greater say in the overall development of the community in order to reduce the negative impact of any surrounding existing neighborhoods.

Shared Access and Cross Connections

This amendment applies to the Employment Center (EC) zone. Shared access and cross connections are valuable. This amendment seeks to provide staff some latitude in the code without requiring a variance. An example is a car dealership off of Hwy 71. This type of business normally has a do not compete clause with neighboring dealerships; to require cross connection in this circumstance is not viable. The alternative is to send all of these types of decisions to the Zoning Board of Adjustment or Planning Commission for these types of decisions.

FISCAL IMPACT:

None

RECOMMENDATION:

Recommend the amendments as proposed by staff.

ATTACHMENTS:

- 1. B3 Code Proposed Amendment in redline



STAFF REPORT

MEETING DATE: January 14, 2025

TITLE:

Conduct a public hearing, consider, and act on the first reading of Ordinance No. 2025-02 of the City Council of the City of Bastrop, Texas amending the Code of Ordinances, related to Chapter 14, The Bastrop Building Block (B3) Code, Article 6.5 Building Types, Section 6.5.003 BUILDING STANDARDS PER PLACE TYPE A. Lot Occupation as attached in Exhibit A; and providing for findings of fact, repealer, severability, codification, effective date, proper notice, and meeting and move to include on the January 28, 2025 Consent Agenda for the second reading.

AGENDA ITEM SUBMITTED BY:

Submitted by: Kennedy Higgins, Senior Planner, Development Services

BACKGROUND/HISTORY:

This amendment seeks to reduce the impervious cover ratio in the P3 to 50% max, P4 60% max, and P5 to 65% max, and places the needs of residents above the desire for denser development. On October 30th, 2024, the Planning and Zoning Commission held a workshop that introduced some code amendments. On December 19st, 2024, the Planning and Zoning Commission held a public hearing on the same amendments from the previous meeting. The public hearing was held, members of the community spoke their questions and concerns, and the Planning and Zoning Commission recommended approval with a vote of 8-0.

POLICY EXPLANATION:

Bastrop Building Block (B3) Code Technical Manual

Per the technical manual table 1.4.001A Development Application Approval Process, a public hearing and recommendation from Planning and Zoning, and then another public hearing and decision from City Council is required for any text amendments.

RECOMMENDATION:

Conduct a public hearing, consider, and act on the first reading of Ordinance No. 2025-02 of the City Council of the City of Bastrop, Texas amending the Code of Ordinances, related to Chapter 14, The Bastrop Building Block (B3) Code, Article 6.5 Building Types, Section 6.5.003 BUILDING STANDARDS PER PLACE TYPE A. Lot Occupation as attached in Exhibit A; and providing for findings of fact, repealer, severability, codification, effective date, proper notice, and meeting and move to include on the January 28, 2025 Consent Agenda for the second reading.

ATTACHMENTS:

- Attachment 1: Ordinance No. 2025-02
 - Exhibit A- Redlined Changes
- Attachment 2: Memo Staff Report from P&Z

ORDINANCE NO. 2025-02

AN ORDINANCE OF THE CITY OF BASTROP, TEXAS, AMENDING THE BASTROP CODE OF ORDINANCES CHAPTER 14, THE BASTROP BUILDING BLOCK (B3) CODE, ARTICLE 6.5 BUILDING TYPES, SECTION 6.5.003 BUILDING STANDARDS PER PLACE TYPE A. LOT OCCUPATION AS ATTACHED IN EXHIBIT A; AND PROVIDING FOR FINDINGS OF FACT, REPEALER, SEVERABILITY, CODIFICATION, EFFECTIVE DATE, PROPER NOTICE, AND MEETING.

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the City Council of the City of Bastrop has general authority to amend an ordinance that is for the good government, peace, or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

WHEREAS, pursuant to Texas Local Government Code Chapters 211, 212, 214, and 217 the City Council of the City of Bastrop has general authority to regulate planning, zoning, subdivisions, and the construction of buildings; and

WHEREAS, This amendment seeks to reduce the impervious cover ratio in the P3 to 50% max, P4 60% max, and P5 to 65% max, and places the needs of residents above the desire for denser development; and

WHEREAS, the City Council find that certain amendments to the aforementioned ordinances are necessary and reasonable to meet changing conditions and are in the best interest of the City.

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

Section 1. Finding of Fact: The facts and recitations set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. Amendment To Bastrop Building Block Code (B3), Section 6.5.003 of the Bastrop Building Code is hereby amended and shall read in accordance with Exhibit “A”, which is attached hereto and incorporated into this Ordinance for all intents and purposes. Any struck-through text shall be deleted from the Code, as shown in each of the attachments.

Section 3. Severability. If any clause or provision of this Ordinance shall be deemed to be unenforceable for any reason, such unenforceable clause or provision shall be severed from the remaining portion of the Ordinance, which shall continue to have full force and effect.

Section 4. Repeal. This Ordinance shall be and is hereby cumulative of all other ordinances of the City of Bastrop, Texas, and this Ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this Ordinance, in which event such conflicting provisions, if any, in such other Ordinances, are hereby repealed.

Section 5. Effective Date. This Ordinance shall take effect immediately after its final passage and any publication in accordance with the requirements of the City of Bastrop and the laws of the State of Texas.

READ & ACKNOWLEDGED on First Reading on this the 14th day of January 2025.

READ & ADOPTED on Second Reading on this the 28th day of January 2025.

APPROVED:

by: _____
Lyle Nelson, Mayor

ATTEST:

City Secretary

APPROVED AS TO FORM:

City Attorney

Exhibit A

SEC. 6.5.003 BUILDING STANDARDS PER PLACE TYPE

Place Types	P1	P2	P3	P4	P5
A. LOT OCCUPATION					
Lot Coverage		40% max	50 60% max	60 70% max	65 80% max
Facade Buildout at Build-to-Line		40% min	40% min	60% min	80% min
Build-to-Line		10 ft—no max	10 ft—25 ft*	5 ft—15 ft	2 ft—15 ft
Additional Dwelling Unit		1 2	1 2	1 2	

*Lots exceeding 1/2 acre may extend the 1 layer of the Lot up to 60 ft from the Frontage Line.

To: Sylvia Carrillo, City Manager

From: Kennedy Higgins, Senior Planner- Development Services

Date: December 19, 2024

Subject: B3 Text Amendments



BACKGROUND/HISTORY:

The B3 code was adopted in November of 2019, and subsequently amended in April of 2022. From 2016 to 2023, Bastrop’s population grew by approximately 34.3%. With the increased growth from Austin to the west, the availability of large land parcels, the availability of water, and abundant natural resources, the growth shows no signs of slowing.

“The intent of the Code is to establish the Standards that enable, encourage, and ensure the community achieves:

- ✓ ***Fiscal Sustainability***
- ✓ ***Geographically Sensitive Developments***
- ✓ ***Perpetuation of Authentic Bastrop” pg. 11 – B3 Code***

While the aspirational ideas envisioned in the preamble of the B3 code (as noted above) to provide for fiscal sustainability, geographically sensitive developments, and perpetuation of Authentic Bastrop, several segments of the code accomplished just the opposite.

The B3 code removed several key factors to orderly growth under the guise of “affordability” and “fiscal sustainability” by perpetuating the belief that denser neighborhoods create a larger tax base, and that denser development means the reduction of infrastructure costs, or that the cost can be spread among more people.

Further, the Code was written during a development moratorium meant to address flooding in the community; instead of lowering the impervious cover ratios which would have decreased runoff that would decrease flooding; the code decreased lot sizes by removing lot size minimums, increase impervious cover ratios, and called for onsite detention of runoff water on private development.

In the publication, “Creating Great Neighborhoods: Density in Your Community”¹, written in coordination with the National Association of Realtors, the Local Government Commission, and the Environmental Protection Agency, the publication cites many of the same arguments heard in Bastrop:

- 1) *Density helps create walkable neighborhoods*
- 2) *Density supports housing choice and affordability*
- 3) *Density helps expand housing choices*
- 4) *Density helps support community fiscal health*

1. <https://archive.epa.gov/greenbuilding/web/pdf/density.pdf>

2. <https://www.cityofbastrop.org/upload/page/0569/docs/City%20of%20Bastrop%20Drainage%20Master%20Plan.pdf>

- 5) *Density helps improve security*
- 6) *Density helps protect the environment*

However, the publication goes further into a “lessons learned” where density did not work, and ways to improve design to achieve denser neighborhoods or areas. This includes:

- 1) *“Increase densities in appropriate locations*
- 2) *Connect people and places through a complete street network that invites walking and bicycling and provides convenient access to bus or rail,*
- 3) *Mix uses to create a quality of life where people may choose to live near their work, walk to the local store, or bike to the library with their kids,*
- 4) *Place parking in alternative locations to support density and create inviting places to walk,*
- 5) *Create great places for people.*

The combination of these five principles, along with resident involvement, helps ensure that density contributes to the community’s economic, social and environmental health” pg. 12

While many will argue that 1000’s of people had input into the development of the B3 code, many residents are unaware of the implications of the code beyond a pretty picture, and especially those who live in “town proper” are not aware that their neighbor may tear down an existing home, subdivide the lot, and create a series of tiny homes on tiny lots which currently allow for 60% maximum in the P3 (normal residential) zoning.

Place Types	P1	P2	P3	P4	P5
A. LOT OCCUPATION					
Lot Coverage		40% max	50 60% max	60 70% max	65 80% max
Facade Buildout at Build-to-Line		40% min	40% min	60% min	80% min
Build-to-Line		10 ft – no max	10 ft – 25 ft*	5 ft – 15 ft	2 ft – 15 ft
Additional Dwelling Unit		1 2	1 2	1 2	

~~*Lots exceeding ½ acre may extend the 1 layer of the Lot up to 60 ft from the Frontage Line.~~

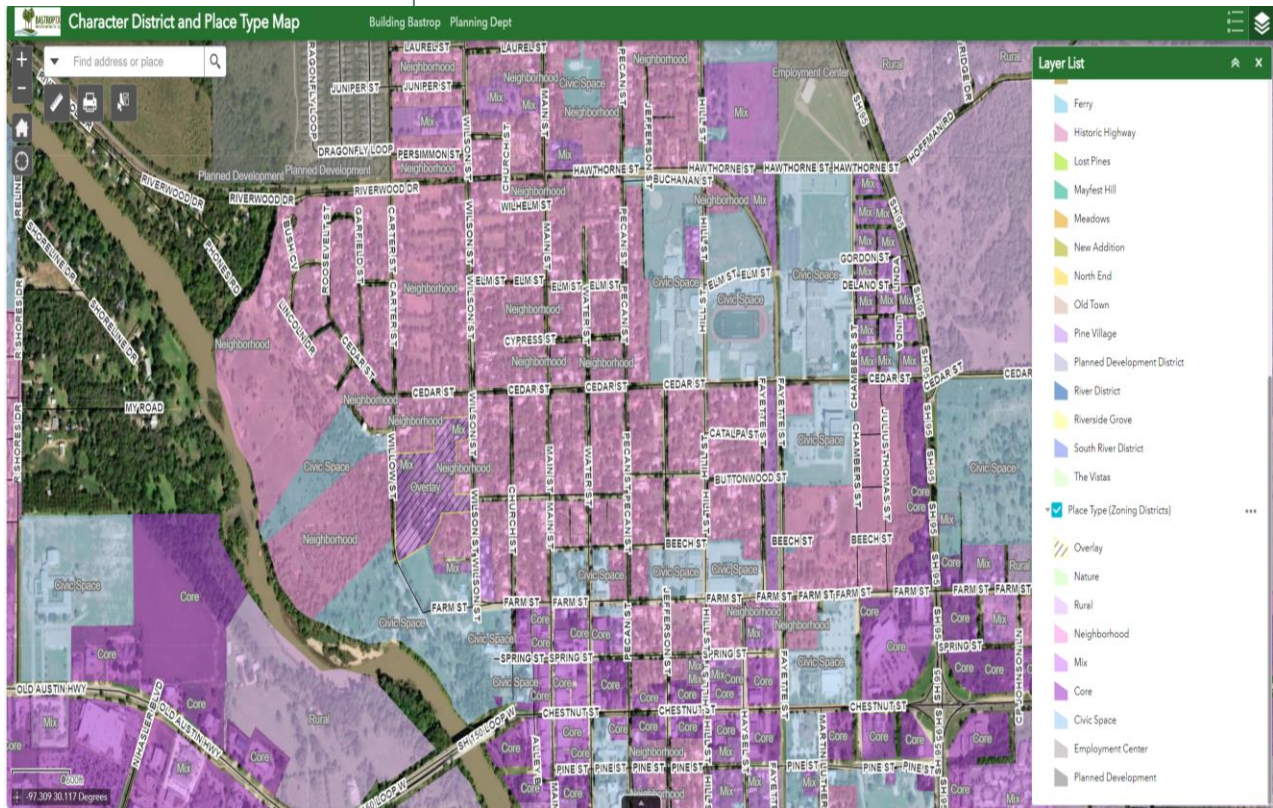
Strike through in the “Build-to-Line” will be dependent on the type of development and parking proposed. For example, if a development chooses front layer parking, the setback should be adequate to allow for a parking space that would not cause the vehicle to hang over into the sidewalk causing an obstruction to walkers. Alternatively, if a developer proposes alley loaded parking, the rear setback should be adequate enough to park a vehicle also without encroachment. This “Build-to-Line” requires scrutiny at the site development process and needs further refinement. Evidence of an unsafe “Build-to-Line” can be seen at the multifamily development on 969.

The existing zoning map shows the vast majority of “town proper” to be zoned P3 shown in the areas highlighted in pink. P3 is called out as “low density”, however, the not lot size minimum, as well as 60% impervious cover, two (2) additional dwelling units, although well intentioned in

- 1. <https://archive.epa.gov/greenbuilding/web/pdf/density.pdf>
- 2. <https://www.cityofbastrop.org/upload/page/0569/docs/City%20of%20Bastrop%20Drainage%20Master%20Plan.pdf>

the graphic below, does not fit the “low density” label.

SEC 3.1.005 PLACE TYPE ZONING DISTRICTS TABLE



Further, the absence of mass transit or a fully developed transportation system renders many of these points moot.

Drainage Costs

1. <https://archive.epa.gov/greenbuilding/web/pdf/density.pdf>
2. <https://www.cityofbastrop.org/upload/page/0569/docs/City%20of%20Bastrop%20Drainage%20Master%20Plan.pdf>

Increased impervious cover numbers increase the amount of runoff on a piece of property. The City received a draft drainage plan² from Halff and Associates in 2023 with a price tag of more than \$121M dollars.

Table 5-4: Drainage CIP Project Ranking

Ranking	Project ID	Project Name	Estimated Project Cost	Ranking Value
Mitigation Projects				
1	SB-01	Detention Pond at Hunters Crossing	\$709,000	83.3
2	GB-02	Gills Branch Flood Mitigation Improvements	\$14.05 M	73.3
3	GB-01	SH-95 at Gills Branch	\$688,000	71.7
4	PC-02	Riverwood Dr. at Piney Creek	\$2.29 M	68.3
5	GB-03	Water, Spring, & Cedar St. Drainage	\$25.66 M	66.7
6	PC-04	Local Storm Drain Improvements Near Piney Creek	\$5.14 M	63.3
6	PC-05	Pecan St. Bypass & Pond Diversion	\$23.73 M	63.3
6	GB-04	Hill, Pecan, & Pine St. Drainage	\$8.70 M	63.3
9	GB-05	Pecan, Beech, & Haysel to Gills Branch	\$20.56 M	61.7
10	PC-01	SH-95 at Piney Creek (2% ACE LOS)	\$6.72 M	60.0
11	PC-01	SH-95 at Piney Creek (1% ACE LOS)	\$13.61 M	58.3

The drainage improvements needed in “town proper” are more than \$86M dollars. Increasing density and increasing impervious cover serves to spread this cost among existing residents.

Quite simply, increased impervious cover as provided for in the existing B3 increases the propensity for flood.

This proposal seeks to reduce the impervious cover ratio in the P3 to 50% max, P4 60% max, and P5 to 65% max, and places the needs of residents above the desire for denser development.

Representatives with Halff and Associates will be available for discussion and questions from the Commission.

FISCAL IMPACT:

None

RECOMMENDATION:

Recommend the amendments as proposed by staff.

ATTACHMENTS:

1. <https://archive.epa.gov/greenbuilding/web/pdf/density.pdf>
2. <https://www.cityofbastrop.org/upload/page/0569/docs/City%20of%20Bastrop%20Drainage%20Master%20Plan.pdf>

1. B3 Code Proposed Amendment in redline

1. <https://archive.epa.gov/greenbuilding/web/pdf/density.pdf>
2. <https://www.cityofbastrop.org/upload/page/0569/docs/City%20of%20Bastrop%20Drainage%20Master%20Plan.pdf>



STAFF REPORT

MEETING DATE: January 14, 2025

TITLE:

Consider and act on Resolution No. R-2025-06, regarding a Visit Bastrop Destination Marketing Services Agreement between the City of Bastrop and Visit Bastrop, as attached in Exhibit A; authorizing the City Manager to execute all necessary documents; and providing for findings of fact; repealer; severability; effective date; proper notice and meeting.

AGENDA ITEM SUBMITTED BY:

Submitted by: Sylvia Carrillo-Trevino, ICMA-CM, CPM, City Manager

BACKGROUND/HISTORY:

The original contract was approved on September 12, 2017. A first amendment was approved on January 15, 2020. A second amendment was approved on November 10, 2020. There was a third amendment approved on August 30, 2021. The fourth amendment is related to changes requested by the City of Bastrop. The requested changes for Council consideration are as follows:

1. SCOPE OF SERVICES

1.1. Services to be Provided. Visit Bastrop agrees to provide the services described below:

(h) Provide tourism marketing to the City to jointly improve and maximize opportunities for **community assets**.

1.2. Benchmarks & Performance Measures. Visit Bastrop agrees to meet or exceed the benchmarks and performance measures included in **Attachment "A"**.

2. OPERATIONS

2.1. Business Plan. In **May** of each year, Visit Bastrop shall submit to the City Manager a Business Plan with a proposed budget that indicates in appropriate detail how the funding to be provided by the City for the upcoming fiscal year will be expended. This plan and proposed budget will be presented publicly at a Joint City Council meeting.

2.2. Financial Management.

(e) **Financial Policies.** The Financial Policies of Visit Bastrop **shall mirror the policies of the City of Bastrop, where HOT Funds are utilized.**

2.3. Board Operations.

(i) **Board Meetings.** Visit Bastrop shall ensure that the Board of Directors meets at least **seven (7) times a year**. The Board of Directors will receive routine updates on the organization's operations. While the Board may have an Executive Committee, the entire Board shall

receive full briefings from staff and Board leadership, **on a per meeting basis.**

(f) Joint Meeting. The City Council and Visit Bastrop Board of Directors shall conduct one or more joint meetings annually to share objectives, provide operational updates, and achieve alignment of purpose **in May of each year.**

2.6. Personnel Policies. The Personnel Policies of Visit Bastrop **shall mirror the policies of the City of Bastrop.**

3. COMPENSATION

3.2. Targeted Appropriation. The City shall target thirty-five percent (35%) of the net HOT Revenue collected by the City as an annual appropriation to Visit Bastrop. This amount shall not be more than **\$1,250,000.00** of total HOT Revenues. Each year during the City's annual budget process, the targeted percentage will be considered in making an annual appropriation to be paid to Visit Bastrop under this Agreement.

4. DURATION

4.2 Automatic Renewal. The term of this 2025 Agreement shall automatically renew for successive one-year periods, **for up to three years**, and thus be extended for an additional one-year (12-month) term unless a Party provides written notice of an intention to terminate the agreement. To be effective, a Party's notice of their intention to terminate the agreement must be received by the other Party no later than ninety (90) days prior to the end of the then-current term.

4.4. Suspension. Either Party may temporarily suspend payments due or services rendered (as may be appropriate) under this 2024 Agreement if the other Party breaches its obligations under this agreement and fails to cure or otherwise remedy the breach to the other Party's satisfaction. Prior to suspending payments, the non-breaching Party must first provide the other Party with written notification of the breach that shall serve as the basis of the suspension and inform them that they have **thirty** (30) days to cure or otherwise remedy the breach to the non-breaching Party's satisfaction.

5. MISCELLANEOUS

5.10. Back payment Clause. This agreement shall acknowledge that after the effective date of **January 14, 2025**, Visit Bastrop shall be issued a back payment of the October 2024 quarterly installment from the City's annual appropriation to Visit Bastrop for the payment that was not issued in October of 2024.

FISCAL IMPACT:

N/A

RECOMMENDATION:

Take action on Resolution No. R-2025-06, regarding a Visit Bastrop Destination Marketing Services Agreement between the City of Bastrop and Visit Bastrop, as attached in Exhibit A.

ATTACHMENTS:

- Resolution No. R-2025-06
- Exhibit A: Destination Marketing Agreement- Visit Bastrop



RESOLUTION NO. R-2025-06

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS APPROVING A FOURTH AMENDMENT TO THE DESTINATION AND MARKETING SERVICES AGREEMENT; ATTACHED AS EXHIBIT A; AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY DOCUMENTATION; PROVIDING FOR FINDINGS OF FACT; REPEALER; SEVERABILITY; EFFECTIVE DATE; PAPER NOTICE AND MEETING.

WHEREAS, the City of Bastrop and Visit Bastrop entered into that certain Destination and Marketing Services Agreement, ("Agreement") on September 12, 2017, for destination and marketing services to be provided by Visit Bastrop; and

WHEREAS, the City of Bastrop City Council and the Visit Bastrop Board of Directors signed the First Amendment to the Destination and Marketing Services Agreement between the City of Bastrop, Texas and Visit Bastrop on 15th of January, 2020, as provided herein; and

WHEREAS, the City of Bastrop City Council and the Visit Bastrop Board of Directors signed the Second Amendment to the Destination and Marketing Services Agreement between the City of Bastrop, Texas and Visit Bastrop on 10th of November, 2020, as provided herein; and

WHEREAS, the City of Bastrop City Council and the Visit Bastrop Board of Directors signed the Third Amendment to the Destination and Marketing Services Agreement between the City of Bastrop, Texas and Visit Bastrop on August 30th, 2021, as provided herein; and

WHEREAS, the City of Bastrop requested a fourth amendment to the terms of the Agreement, as provided herein.

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

Section 1. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Bastrop, Texas, and are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.

Section 2. The City Council approves and authorizes the execution of the fourth amendment of the Visit Bastrop Destination and Marketing Services Agreement, attached hereto as Exhibit "A", on behalf of the City.

Section 3. Repealer: To the extent reasonably possible, resolutions are to be read together in harmony. However, all resolutions, or parts thereof, that are in

conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters regulated.

Section 4. Severability: Should any of the clauses, sentences, paragraphs, sections, or parts of this Resolution 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 Resolution.

Section 5. Effective Date: This Resolution 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, its Code of Ordinances, and the laws of the State of Texas.

Section 6. Proper Notice & Meeting: It is hereby officially found and determined that the meeting at which this Resolution 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.

DULY RESOLVED & ADOPTED by the City Council of the City of Bastrop, TX, on this, the 14th day of January, 2025.

[Signature Page Follows]

THE CITY OF BASTROP, TEXAS:

Lyle Nelson, Mayor

ATTEST:

City Secretary

APPROVED AS TO FORM:

City Attorney

DESTINATION MARKETING SERVICES AGREEMENT
between the
CITY OF BASTROP, TEXAS
& VISIT BASTROP

This Destination Marketing Services Agreement (“2025 Agreement”) is hereby entered into by and between the City of Bastrop, Texas, a Texas municipal corporation (“City”), and the Bastrop Destination Marketing Organization, a Texas non-profit corporation (“Visit Bastrop”), each being a “Party” to this Agreement, and both being referred to collectively as the “Parties”.

WHEREAS, a tourist is an individual who travels from the individual's residence to a different municipality, county, state, or country for business, pleasure, recreation, education, or culture; and

WHEREAS, the tourism industry is a vital economic generator the Bastrop community in terms of both Sales Taxes and Hotel Occupancy Taxes; and

WHEREAS, the City imposes a Hotel Occupancy Tax on persons who pay for the use of lodging establishments generally including hotels, motels, bed and breakfasts, and short-term rentals; and

WHEREAS, the City is authorized and capable of engaging directly in marketing activities that promote the Bastrop community and its lodging industry to tourists and those who attend conventions, including but not limited to branding the community as a desirable destination for tourists; and

WHEREAS, the City of Bastrop City Council (“City Council”) prefers to outsource such marketing activities to a separate organization that will provide oversight to Bastrop’s visitor assets and provide support to community assets, such as those engaged in the Arts, Entertainment, Film, History, Lodging, Nightlife, Outdoors Recreation, Restaurants, Retail, and Sports; and Convention Center Space

WHEREAS, the Bastrop Destination Marketing Organization was incorporated as a nonprofit corporation in 2017, under the assumed name of “Visit Bastrop”, and has been conducting business as such since that time; and

WHEREAS, the City and Visit Bastrop entered into a Destination and Marketing Services Agreement, (“Original Agreement”) on September 12, 2017; and

WHEREAS, the City and Visit Bastrop approved amendments to the terms of the Original Agreement in 2019, 2020, and 2021; and

WHEREAS, the Parties seek to repeal all prior agreements between them and enter into a new agreement that more clearly states the nature of the mutual arrangement, establishes certain operational requirements, and provides clear metrics that

define success; and

WHEREAS, the City Council finds that the services provided for under this 2025 Agreement satisfy the mandates of Texas Tax Code chapter 351, including but not limited to the encouragement and promotion of tourism, conducting conventions, promoting the arts and historical restoration or preservation project and sporting events that increase economic activity at hotels and motels within the vicinity; and

WHEREAS, pursuant to the Bastrop Home Rule Charter, the City has the authority to enter into contracts pursuant to Section 2.01; and

WHEREAS, the City Council finds that the terms and conditions of this 2025 Agreement satisfy the City's *Hotel Occupancy Tax Use Policy*; and

WHEREAS, the City Council and the Visit Bastrop Board of Directors find this 2025 Agreement to be reasonable, prudent, necessary, and in the public interest.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein, the parties agree on the following modifications to the Agreement:

1. SCOPE OF SERVICES

1.1. Services to be Provided. Visit Bastrop agrees to provide the services described below:

- (a) Promote the Bastrop community as a destination for tourists; and
- (b) Increase the Bastrop community's visibility through media and public relations; and
- (c) Attract tourists to the City and its vicinity; and
- (d) Secure meetings, retreats, and conventions to the City and its vicinity via promotion of the Bastrop Exhibit and Convention Center; and
- (e) Produce marketing and imaging campaigns for the Bastrop community; and
- (f) Utilize research technology on economic trends, growth sectors, and regional competitive strengths and weaknesses to provide tourism forecasts to the City assist the City in making strategic decisions that support, provide for, or foster tourism; and
- (g) Serve as a liaison to community assets, local businesses, and City departments in furtherance of the services listed in this section; and
- (h) Provide tourism marketing to the City to jointly improve and maximize opportunities for community assets.

1.2. Benchmarks & Performance Measures. Visit Bastrop agrees to meet or exceed the benchmarks and performance measures included in *Attachment "A"*.

1.3. Additional Services. The City acknowledges that the City Manager may periodically request that Visit Bastrop perform services beyond those listed above. In such instances, if Visit Bastrop is willing and able to perform, the City Manager is authorized to provide

additional compensation to Visit Bastrop within the scope of the City Manager's expenditure authority and in accordance with the City's budget.

- 1.4. Contracting of Services.** The City acknowledges that Visit Bastrop may contract with vendors and entities unaffiliated with the City to perform or assist in the performance of some of the services provided for under this 2025 Agreement. Nothing herein shall be construed to allow for an assignment of this agreement.

2. OPERATIONS

- 2.1. Business Plan.** In May of each year, Visit Bastrop shall submit to the City Manager a Business Plan with a proposed budget that indicates in appropriate detail how the funding to be provided by the City for the upcoming fiscal year will be expended. This plan and proposed budget will be presented publicly at a Joint City Council meeting.

2.2. Financial Management.

- (a) Use of Funds.** Visit Bastrop shall expend funds provided by the City under this 2025 Agreement in strict compliance with the terms and conditions of the agreement, the Business Plan, and Texas Tax Code Chapter 351.
- (b) Segregation of Funds.** Visit Bastrop shall segregate all funds provided by the City under this 2025 Agreement into a separate account and shall not commingle with Visit Bastrop's General Fund or funds received from any other source.
- (c) Budget.** Visit Bastrop shall ensure that all expenditures are in accordance with an annual operating budget, which shall be a public document. Visit Bastrop shall submit a copy of each year's budget to the City along with any proposed amendments in advance of approval by the Visit Bastrop Board of Directors.
- (d) Annual Audit.** Visit Bastrop shall have an annual financial audit of its accounts performed by an independent Certified Public Accountant (CPA) who is not engaged to perform any routine bookkeeping or financial management services for Visit Bastrop. Visit Bastrop shall provide a copy of the annual audit report to the City. The audit report shall be a public document.
- (e) Financial Policies.** The Financial Policies of Visit Bastrop shall mirror the policies of the City of Bastrop, where HOT Funds are utilized.
- (f) Investment Policy.** Visit Bastrop shall ensure that any investment of funds provided by the City to Visit Bastrop under this 2025 Agreement is performed in strict compliance with the Texas Public Funds Investment Act, Texas Government Code Chapter 2256.

2.3. Board Operations.

- (a) **Bylaws.** Visit Bastrop shall ensure that a current copy of the Bylaws for the Board of Directors is submitted to the City Manager. Visit Bastrop shall ensure that a current copy of any proposed amendments to the Bylaws are submitted to the City Manager in advance of approval by the Board of Directors.
- (b) **Board Meetings.** Visit Bastrop shall ensure that the Board of Directors meets at least seven (7) times a year. The Board of Directors will receive routine updates on the organization's operations. While the Board may have an Executive Committee, the entire Board shall receive full briefings from staff and Board leadership, on a per meeting basis.
- (c) **Complete Board.** Visit Bastrop shall ensure that the Board of Directors shall diligently strive to maintain a complete Board of Directors by dutifully filling vacancies in a prompt and timely manner. There shall be a disinclination to allow vacant positions to linger. Recruitment, appointment, onboarding and training will be a priority for the Board of Directors.
- (d) **Board Education.** Visit Bastrop shall ensure that the Board of Directors shall receive training at least annually on the following topics: Texas Hotel Occupancy Tax Expenditures, Texas Open Meetings Act, Texas Public Information Act, Ethical Conduct for Board Members, and Best Practices for service on nonprofit boards.
- (e) **Open Meetings.** Visit Bastrop shall ensure that all meetings of the Board of Directors shall comply with the Texas Open Meetings Act, Texas Government Code Chapter 551.
- (f) **Joint Meeting.** The City Council and Visit Bastrop Board of Directors shall conduct one or more joint meetings annually to share objectives, provide operational updates, and achieve alignment of purpose in May of each year.

2.4. Transparency.

- (a) **Records Retention.** Visit Bastrop shall comply with the Texas Local Government Records Act, Texas Local Government Code Chapter 551.
- (b) **Open Records.** Visit Bastrop shall comply with the Texas Public Information Act, Texas Government Code Chapter 552.
- (c) **City Access.** Visit Bastrop shall promptly provide the City access to all records related to the terms or conditions of this 2025 Agreement, including but not limited to data regarding services provided, funds received, and funds expended. Visit Bastrop agrees the City has a special right of access to examine, inspect, and audit all records regarding services provided or funds expended under this agreement. Upon receipt of written

request by the City, Visit Bastrop shall either (1) make records available within ten (10) days for inspection or copying by the City at Visit Bastrop's place of business; or (2) transmit the data electronically to the City as instructed by City personnel.

- (d) Confidentiality.** When necessary to protect legal data, trade secrets, sensitive financial or proprietary information benefiting a third party, the City and Visit Bastrop will cooperate in good faith to take reasonable steps to maintain the privileged and/or confidential nature of data in its possession, as may be allowed by law.

2.5. Reports to City.

- (a) Monthly Reports.** Visit Bastrop shall submit written monthly reports to the City Manager summarizing services performed under this agreement, including relevant performance measures (benchmarks).
- (b) Quarterly Reports.** Visit Bastrop shall submit in-person quarterly reports to the City Council summarizing services performed under this agreement, including relevant performance measures (benchmarks).
- (c) Additional Reports.** Visit Bastrop shall timely inform the City regarding high-profile or significant efforts to attract tourists to the Bastrop community.

2.6. Personnel Policies. The Personnel Policies of Visit Bastrop shall mirror the policies of the City of Bastrop.

2.7. Insurance. Visit Bastrop shall maintain appropriate levels of general liability insurance based on the size of its operation and workforce. Visit Bastrop shall make certificates of coverage available to the City upon request.

3. COMPENSATION

3.1. Definitions. For purposes of this 2025 Agreement, the following definitions are applicable.

Hotel Occupancy Tax (HOT) is the tax imposed by the City in accordance with Texas Tax Code Section 351.004 on persons who pay for the use of lodging establishments generally including hotels, motels, bed and breakfasts, and short-term rentals.

HOT Revenue is the revenue collected by lodging establishments then remitted to the City by the Office of the Texas Comptroller of Public Accounts in accordance with Texas Tax Code Chapter 351.

Available HOT Revenue is HOT Revenue minus an amount necessary for servicing or satisfying the City's outstanding debt and contractual obligations unrelated to Visit Bastrop that were secured by HOT Revenue as per the City's annual budget.

- 3.2. Targeted Appropriation.** The City shall target thirty-five percent (35%) of the net HOT Revenue collected by the City as an annual appropriation to Visit Bastrop. This amount shall not be more than \$1,250,000.00 of total HOT Revenues. Each year during the City's annual budget process, the targeted percentage will be considered in making an annual appropriation to be paid to Visit Bastrop under this Agreement.
- 3.3. Payment Schedule.** The City's annual appropriation to Visit Bastrop shall be paid in equal quarterly installments on the first day of each month (October, January, April, July).

4. DURATION

- 4.1. Initial Term.** The term of this 2025 Agreement shall commence on January 14, 2025, and will remain in full force and effect for 9 months, thus ending on September 30, 2025, unless earlier terminated as provided herein.
- 4.2. Automatic Renewal.** The term of this 2025 Agreement shall automatically renew for successive one-year periods, for up to three years, and thus be extended for an additional one-year (12-month) term unless a Party provides written notice of an intention to terminate the agreement. To be effective, a Party's notice of their intention to terminate the agreement must be received by the other Party no later than ninety (90) days prior to the end of the then-current term.
- 4.3. Appropriations.** All obligations of the City arising under this 2025 Agreement are subject to annual appropriations by the City Council.
- 4.4. Suspension.** Either Party may temporarily suspend payments due or services rendered (as may be appropriate) under this 2025 Agreement if the other Party breaches its obligations under this agreement and fails to cure or otherwise remedy the breach to the other Party's satisfaction. Prior to suspending payments, the non-breaching Party must first provide the other Party with written notification of the breach that shall serve as the basis of the suspension and inform them that they have thirty (30) days to cure or otherwise remedy the breach to the non-breaching Party's satisfaction.
- 4.5. Termination.**
- (a) Expiration.** This 2025 Agreement shall terminate upon expiration of the current term if a Party provided timely notice of an intention not to renew, as provided above.
- (b) Non-Appropriation.** This 2025 Agreement shall terminate if upon final approval of the annual budget for the upcoming fiscal year no or insufficient appropriations are made by the City Council to fund Visit Bastrop's services under the agreement.
- (c) Mutual Consent.** This 2025 Agreement shall terminate by mutual consent if the

Parties execute a joint notice of termination providing for the effective date and the Parties' intentions regarding then-pending services and appropriations.

(d) For Cause. This 2025 Agreement shall terminate upon a Party providing the other Party written notification of the occurrence of one or more of the following:

- (1) A Party being in default for failing to timely cure an incident of breach serving as a cause of suspension (as provided above).
- (2) Ceasing operations for a period exceeding twenty (20) days.
- (3) Selling or otherwise transferring all of the Party's assets.
- (4) Termination by Law in response to the enactment of a state or federal law that renders the lawful performance of any term or condition stated herein impossible.

5. MISCELLANEOUS

- 5.1. Assignment.** This agreement is not assignable.
- 5.2. Independent Contractor.** Visit Bastrop is an independent contractor. Nothing herein shall be construed to create a joint venture.
- 5.3. Repealer.** The Parties agree that all previous agreements between them for destination marketing services and their amendments are hereby repealed in their entirety and hereafter shall have no further force or effect
- 5.4. Severability.** In the event any section, subsection, paragraph, sentence, phrase, or word herein is held invalid, illegal, or unconstitutional, the balance of this Agreement shall be enforceable and shall be read as if the parties intended at all times to delete said invalid section, subsection, paragraph, sentence, phrase or word.
- 5.5. Controlling Law & Venue.** This agreement shall be construed under the laws of the State of Texas. Venue for any action under this agreement shall be the State District Court of Bastrop County, Texas. This agreement is performable in Bastrop County, Texas.
- 5.6. Counterparts.** This agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.
- 5.7. Entirety.** This agreement embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporary agreements between the parties and relating to the matters in agreement, and except as otherwise provided herein may not be modified without written agreement of the parties to be attached to and made a part of agreement.
- 5.8. Amendment.** This agreement may only be amended by written instrument approved by both Parties.

5.9. Effective Date. This agreement shall become effective on *January 14, 2025*, after having been executed by both Parties.

5.10. Back payment Clause. This agreement shall acknowledge that after the effective date of *January 14, 2025*, Visit Bastrop shall be issued a back payment of the October 2024 quarterly installment from the City’s annual appropriation to Visit Bastrop for the payment that was not issued in October of 2024.

Signature Page to Follow

EXECUTED in duplicate originals this, the _____ day of January 2025.

CITY OF BASTROP:

Sylvia Carrillo-Trevino, City Manager

ATTEST:

City Secretary

VISIT BASTROP:

Lee Harle, Board Chairperson

ATTEST:

Name: _____, Board Secretary

APPROVED AS TO FORM:

City Attorney

Attachment "A"

Benchmarks & Performance Measures



Performance Measures		Benchmarks
Sales	Leads	monthly & quarterly vs prior year
	Bid/Proposals	monthly & quarterly vs prior year
	Group Bookings	monthly & quarterly vs prior year
	Lost Opportunities	monthly & quarterly vs prior year
	Activities	monthly & quarterly vs prior year
Marketing/Communications	Website Traffic	monthly & quarterly vs prior year - Unique users, Pageviews, Average time on page
	Partner Referrals from our Website	monthly & quarterly vs prior year
	Newsletter Signups	monthly & quarterly / vs prior year - open rate
	Media/PR Placements	monthly & quarterly vs prior year - number of impressions
	Social Media Audience	monthly & quarterly vs prior year - total size (FB, Instagram, X, LinkedIn, You Tube), social engagement rate, total impressions
Hotel Performance	Occupancy	monthly & quarterly vs prior year
	Room Revenue	monthly & quarterly vs prior year
	Average Daily Rate (ADR)	monthly & quarterly vs prior year



STAFF REPORT

MEETING DATE: January 14, 2025

TITLE:

Consider Action to approve the first reading of Ordinance No. 2025-01 of the City Council of the City of Bastrop, Texas amending the Code of Ordinances, related to Chapter 12 Titled "Traffic and Vehicles," Article 12.05 Titled "Speed Limits," amending section 12.05.006 titled "SH 21 Frontage Road speed limits." zoning for traffic and rate of speed therein, on SH 21 Frontage Road in the city limits of the City of Bastrop; defining speeding and fixing a penalty therefore; declaring what may be a sufficient complaint in prosecutions hereunder; repealing all prior ordinances that are in conflict herewith; and providing for findings of fact, enactment, codification, effective date, repealer severability, proper notice and meeting as shown in Exhibit A, and move to include on the January 28th Consent Agenda for second reading.

AGENDA ITEM SUBMITTED BY:
Kennedy Higgins, Senior Planner

BACKGROUND/HISTORY:

TXDOT conducted an engineering and traffic investigation regarding the speed and number of vehicles that utilized SH 21 Frontage Road. The recommendation from TXDOT was to modify the speed limit to 50 miles per hour for East bound traffic, and 45 Miles per hour for westbound traffic.

POLICY EXPLANATION:

Texas Transportation Code

Chapter 545, Subchapter H. Speed Restrictions, Section 545.356 Authority of Municipality to Alter Speed Limits and section 545.351 (a) Maximum Speed Requirement.

Sec. 545.356. AUTHORITY OF MUNICIPALITY TO ALTER SPEED LIMITS. (a) The governing body of a municipality, for a highway or part of a highway in the municipality, including a highway of the state highway system, has the same authority to alter by ordinance prima facie speed limits from the results of an engineering and traffic investigation as the Texas Transportation Commission on an officially designated or marked highway of the state highway system. The governing body of a municipality may not modify the rule established by Section 545.351(a) or establish a speed limit of more than 75 miles per hour.

(b) The governing body of a municipality, for a highway or part of a highway in the municipality, including a highway of the state highway system, has the same authority to alter prima facie speed limits from the results of an engineering and traffic investigation as the commission for an officially designated or marked highway of the state highway system, when the highway or part of the highway is under repair, construction, or maintenance. A municipality may not modify the rule established by Section 545.351(a) or establish a speed limit of more than 75 miles per hour.

Sec. 545.351. MAXIMUM SPEED REQUIREMENT. (a) An operator may not drive at a speed greater than is reasonable and prudent under the circumstances then existing.

Bastrop Code of Ordinances

Chapter 12, article 12.05 – Speed Limits, section 12.05.003 Specific speed limits
Sec. 12.05.003 - Specific speed limits.

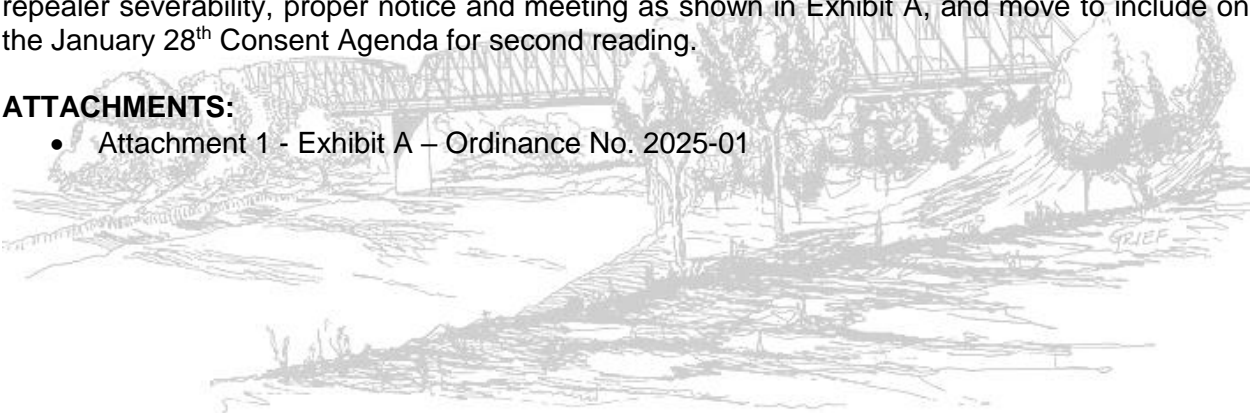
When signs are erected giving notice thereof, no person shall operate a vehicle on any road or highway within the city at a speed greater than that indicated in the schedule as maintained on file in the office of the City Secretary.

RECOMMENDATION:

Consider Action to approve the first reading of Ordinance No. 2025-01 of the City Council of the City of Bastrop, Texas amending the Code of Ordinances, related to Chapter 12 Titled "Traffic and Vehicles," Article 12.05 Titled "Speed Limits," amending section 12.05.006 titled "SH 21 Frontage Road speed limits." zoning for traffic and rate of speed therein, on SH 21 Frontage Road in the city limits of the City of Bastrop; defining speeding and fixing a penalty therefore; declaring what may be a sufficient complaint in prosecutions hereunder; repealing all prior ordinances that are in conflict herewith; and providing for findings of fact, enactment, codification, effective date, repealer severability, proper notice and meeting as shown in Exhibit A, and move to include on the January 28th Consent Agenda for second reading.

ATTACHMENTS:

- Attachment 1 - Exhibit A – Ordinance No. 2025-01



ORDINANCE NO. 2025-01

SPEED LIMIT ON SH 21 FRONTAGE ROAD SPEED LIMITS

AN ORDINANCE OF THE CITY OF BASTROP, TEXAS, AMENDING THE CODE OF ORDINANCES RELATED TO CHAPTER 12 TITLED “TRAFFIC AND VEHICLES”, ARTICLE 12.05 TITLED “SPEED LIMITS”, AMENDING SECTION 12.05.006 TITLED “SH 21 FRONTAGE ROAD SPEED LIMITS.” ZONING FOR TRAFFIC AND RATE OF SPEED THEREIN, ON SH 21 FRONTAGE ROAD IN THE CITY LIMITS OF THE CITY OF BASTROP; DEFINING SPEEDING AND FIXING A PENALTY THEREFORE; DECLARING WHAT MAY BE A SUFFICIENT COMPLAINT IN PROSECUTIONS HEREUNDER; REPEALING ALL PRIOR ORDINANCES THAT ARE IN CONFLICT HERewith; AND PROVIDING FOR FINDINGS OF FACT, ENACTMENT, CODIFICATION, EFFECTIVE DATE, REPEALER SEVERABILITY, PROPER NOTICE AND MEETING.

WHEREAS, the Texas Department of Transportation has determined upon the basis of engineering and traffic investigation that the prima facie maximum speed limit for that portion of SH 21 Frontage Road as shown on the attached Exhibit A, shall be stated and described hereinafter; and

WHEREAS, the City of Bastrop desires to protect and ensure the public health, safety, and welfare of its residents and business by regulating and guiding the general traveling public; and

WHEREAS, the City Council desires to change the current prima facie speed limits on SH 21 Frontage Road in the city limits of the City of Bastrop, as provided herein, to 50 miles per hour for East bound traffic, and 45 Miles per hour for westbound traffic pursuant to Section 12.05.006 of the Code of Ordinances to better protect the convenience, health, safety, and welfare of the residents of the City and of the motoring public.

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

Section 1. The facts and recitations set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. It is hereby determined upon the basis of an engineering and Traffic investigation that the prima facie maximum speed limit on those portions of SH 21 Frontage Road routed in the City of Bastrop, is hereby stated, which prima facie maximum speed limit shall be effective at all times and signs will be erected giving notice of the prima facie maximum speed limit

so declared to wit.

FOR EASTBOUND TRAFFIC

Beginning at Control Section 0265-04 at mile point 11.718 (at FM 20) to mile point 15.061 (at Water Street), a distance of 3.343 miles, a prima facie maximum speed limit of 50 miles per hour.

Control Section 0265-04 mile point 3.343 is equivalent to Control Section 0265-05 MP 5.000.

Beginning at Control Section 0265-05 at mile point 5.000 (at Water Street) to mile point 5.664 (at SH 95- Jackson Street), a distance of 0.664 miles, a prima facie maximum speed limit of 50 miles per hour.

FOR WESTBOUND TRAFFIC

Beginning at Control Section 0265-05 at mile point 5.664 (at SH 95- Jackson Street) to mile point 5.000 (at Water Street), a distance of 0.664 miles, a prima facie maximum speed limit of 45 miles per hour.

Control Section 0265-05 MP 5.000 is equivalent to Control Section 0265-04 mile point 3.343.

Beginning at Control Section 0265-04 at mile point 15.061 (at Water Street) to mile point 11.718 (at FM 20), a distance of 3.343 miles, a prima facie maximum speed limit of 45 miles per hour.

Section 3. That all of the streets of this city, and all portions of any such streets, are hereby declared to be public streets and that the driving or operating of any motor vehicle on or along any portion of any street of this city at a rate of speed that is greater than the maximum rate of speed for said portion of said street, as fixed by this ordinance shall be guilty of a misdemeanor, which is named “ The Offense of Speeding “ and that the said offense is punishable by a fine in any sum not to exceed Two Hundred dollars (\$200.00). That the use of the word “Speeding” shall be sufficient to designate the said offense, and shall mean that a motor vehicle has been driven upon a public street at a greater rate of speed than fixed by City Ordinance for the street and for the zone thereof, that such motor vehicle was so being driven upon, if zoned.

That in prosecutions under this ordinance, for the offense of speeding, the complaint, if in other respects sufficient in form, shall as to the portion thereof seeking to acknowledge the offense, be sufficient if it in substance alleges that the defendant did while driving a motor vehicle in said city commit the offense of “Speeding”.

Section 4. Amendment to the City Code. The City of Bastrop Code of Ordinances Chapter 12 “Traffic and Vehicles”, Article 12.05 “Speed Limits”, Section 12.05.006 “SH 21 Frontage Road Speed Limits” of the Code of Ordinances is hereby amended to reflect the speed limit on those portions of SH 21 routed in the City of Bastrop per section 2 of this ordinance, and shall read in accordance with Exhibit B.

Section 5. Passage. 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.

Section 6. Severability. If any clause or provision of this Ordinance shall be deemed to be unenforceable for any reason, such unenforceable clause or provision shall be severed from the remaining portion of the Ordinance, which shall continue to have full force and effect.

Section 7. Repeal. This Ordinance shall be and is hereby cumulative of all other ordinances of the City of Bastrop, Texas, and this Ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this Ordinance, in which event such conflicting provisions, if any, in such other Ordinances, are hereby repealed.

Section 8. 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.

READ & ACKNOWLEDGED on First Reading by the City Council of the City of Bastrop, on this, the 14th day of January 2025.

PASSED & APPROVED on Second Reading by the City Council of the City of Bastrop, on this, the 28th day of January 2025.

APPROVED:

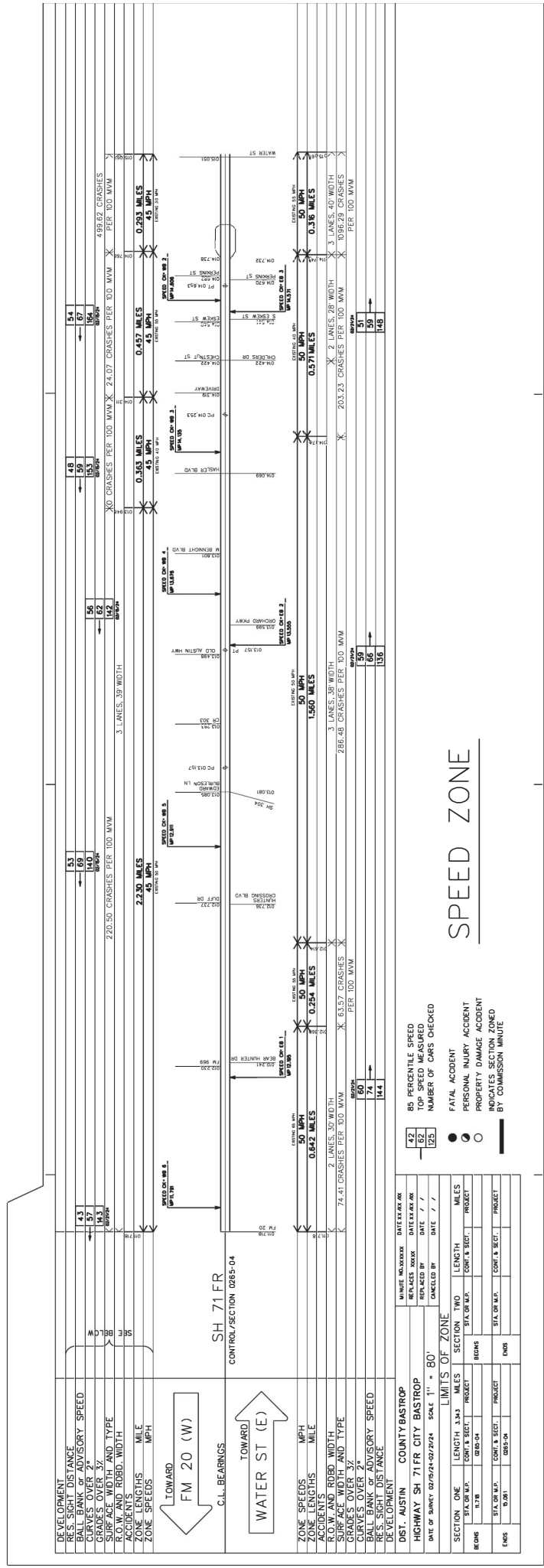
by: _____
Lyle Nelson, Mayor

ATTEST:

City Secretary

APPROVED AS TO FORM:

City Attorney



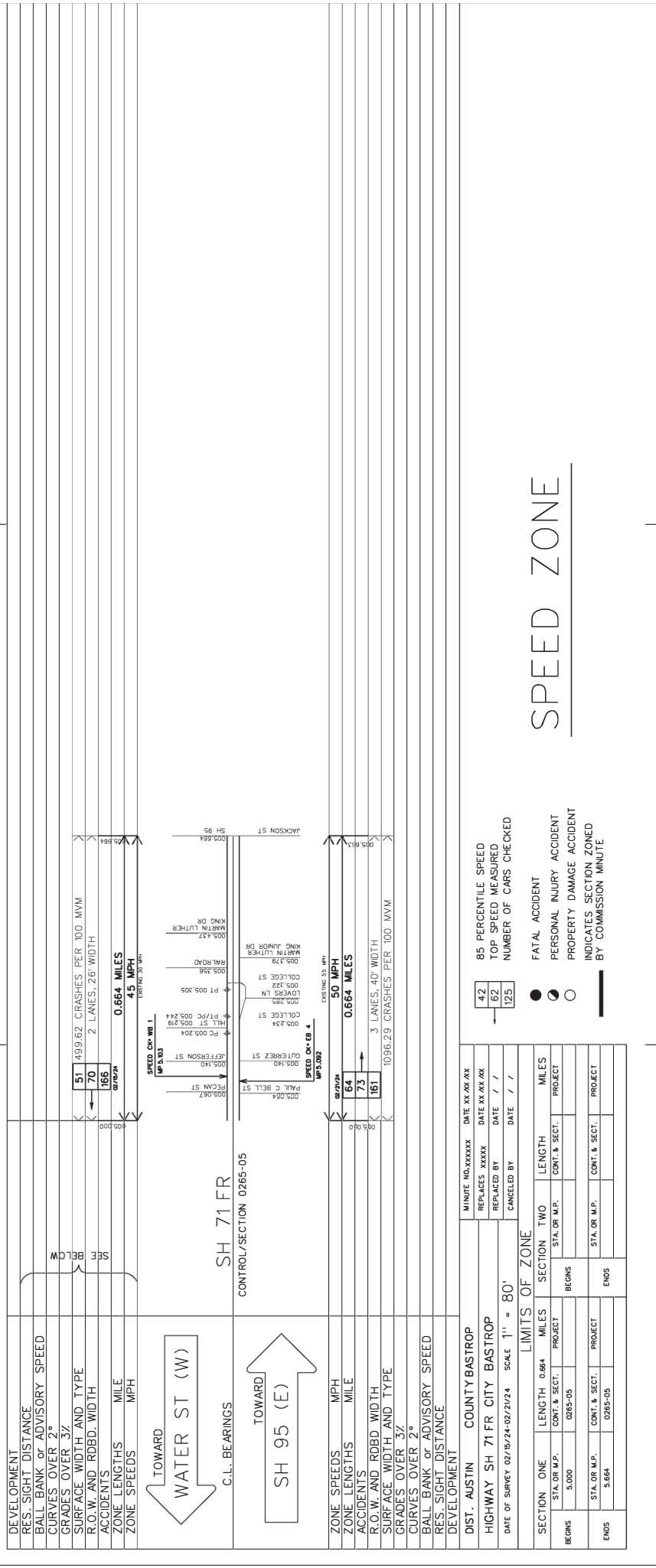


Exhibit B – Amendment to;

City of Bastrop Code of Ordinances Chapter 12; Traffic and Vehicles

Article 12.05; Speed Limits - Section 12.05.006; SH 21 Frontage Road Speed Limits.

Sec. 12.05.007 - SH 21 Frontage Road speed limits.

(a) Due to an imminent threat to public health and safety, the speed limits on SH 21 Frontage Roads within the city shall be as follows:

(1) *Eastbound towards Smithville..*

~~(A) On SH 21 Frontage Roads from mile point 12.633 (at west city limit) to mile point 14.064 (at Hasler Boulevard), a distance of 1.431 miles, shall hereby be a maximum speed limit of fifty (50) miles per hour.~~

~~(B) On SH 21 Frontage Roads from mile point 14.064 (at Hasler Boulevard) to mile point 14.921 (at West End Colorado River Bridge), a distance of 0.857 miles, shall hereby be a maximum speed limit of forty (40) miles per hour.~~

~~(A) Beginning at Control Section 0265-04 at mile point 11.718 (at FM 20) to mile point 15.061 (at Water Street), a distance of 3.343 miles, a prima facie maximum speed limit of 50 miles per hour.~~

~~(B) Beginning at Control Section 0265-05 at mile point 5.000 (at Water Street) to mile point 5.664 (at SH 95- Jackson Street), a distance of 0.664 miles, a prima facie maximum speed limit of 50 miles per hour.~~

(2) *Westbound towards Austin.*

~~(A) On SH 21 Frontage Roads from mile point 14.921 (at the west end of the Colorado River Bridge) to mile point 14.064 (at Hasler Boulevard), a distance of 0.857 miles, shall hereby be a maximum speed limit of 40 miles per hour.~~

~~(B) On SH 21 Frontage Roads from mile point 14.064 (at Hasler Boulevard), to mile point 12.633 (at west city limit) a distance of 1.431 miles, shall hereby be a maximum speed limit of fifty (50) miles per hour.~~

~~(A) Beginning at Control Section 0265-05 at mile point 5.664 (at SH 95- Jackson Street) to mile point 5.000 (at Water Street), a distance of 0.664 miles, a prima facie maximum speed limit of 45 miles per hour.~~

~~(B) Beginning at Control Section 0265-04 at mile point 15.061 (at Water Street) to mile point 11.718 (at FM 20), a distance of 3.343 miles, a prima facie maximum speed limit of 45 miles per hour.~~

(b) The director of public works shall cause SH 21 Frontage Road speed limit signs and

other traffic-control devices to be erected at such locations deemed necessary to provide reasonable notice of the above speed limits to those traveling on SH 21 Frontage Roads within the city.

(c) Violators shall be cited and subject to a fine for the offense of speeding as set forth in section 12.05.008.



STAFF REPORT

MEETING DATE: January 14, 2025

TITLE:

POSTPONED 12/10/2024: Conduct a public hearing, consider and act on the first reading of Ordinance No. 2024-44 of the City Council of the City of Bastrop, Texas, approving the zoning change for 10.56 +/- acres out of Nancy Blakey Survey Abstract 98, located west of FM 969, within the City of Bastrop from P2 Rural to P5 Core as shown in Attachment 2; providing for findings of fact; providing for repealer; providing for severability; providing for enforcement; providing for proper notice and meeting; and establishing an effective date; and move to include on January 28, 2025, Consent Agenda for second reading.

STAFF REPRESENTATIVE:

Submitted by: Kennedy Higgins – Senior Planner, Development Services

BACKGROUND:

At the 12/10/2024 City Council meeting discussion was brought up in regard to the impervious cover on the site. This development will happen in two phases, the first phase constitutes 20.85% impervious cover. After discussion with the applicant, they are willing to engineer their pond to increase the volume by 10% if 80% impervious cover is allowed.

The applicant has applied for a Zoning Concept Scheme for the newly annexed FM 969 Retail Center. When land is annexed, it is automatically zoned P2 Rural then is rezoned as needed. The proposal is to change the zoning from P2 Rural to P5 Core in order to develop the property as a gas station and retail center.

PLANNING & ZONING COMMISSION RECOMMENDATION:

The P&Z Commission reviewed the Zoning Concept Scheme at their November 21, 2024, regular meeting, and recommended approval of the rezoning request, for a zone P5 Core, with a vote of 8-0.

STAFF RECOMMENDATION:

Conduct a public hearing, consider and act on the first reading of Ordinance No. 2024-44 of the City Council of the City of Bastrop, Texas, approving the zoning change for 10.56 +/- acres out of Nancy Blakey Survey Abstract 98, located west of FM 969, within the City of Bastrop from P2 Rural to P5 Core as shown in Attachment 2; providing for findings of fact; providing for repealer; providing for severability; providing for enforcement; providing for proper notice and meeting; and establishing an effective date; and move to include on January 28, 2025, Consent Agenda for second reading.

ATTACHMENTS:

- Attachment 1: Memo Staff Report for Zoning Concept Scheme from P&Z
- Attachment 2: Ordinance No. 2024-44

ORDINANCE 2024-44

**ZONING CONCEPT SCHEME CHANGE
FM 969 RETAIL CENTER, R30094**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, APPROVING THE ZONING CHANGE FOR 10.56 +/- ACRES OUT OF THE NANCY BLAKEY SURVEY ABSTRACT 98, IN CITY OF BASTROP, TEXAS, FROM P2 RURAL TO P5 CORE; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR REPEALER; PROVIDING FOR SEVERABILITY; PROVIDING FOR ENFORCEMENT; PROVIDING FOR PROPER NOTICE AND MEETING; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Bastrop, Texas (City) is a Home-Rule City acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, on or about September 26, 2024, Mirza Baig submitted a request for zoning modifications for a property located west of FM 969, within the City limits of Bastrop, 10.56 +/- Nancy Bakey Survey Abstract 98 (“Property”); and

WHEREAS, the City Staff has reviewed the request for zoning modifications, and finds it to be justifiable based upon the Future Current Use for this Property; and

WHEREAS, City Council has reviewed the request for zoning modifications, and finds the request to be reasonable and proper under the circumstances; and

WHEREAS, in accordance with Texas Local Government Code Chapter 211, public notice was given, and a public hearing was held before the City of Bastrop Planning and Zoning Commission (P&Z) on November 21, 2024, and a recommendation was made to approve the zoning change; and

WHEREAS, in accordance with Texas Local Government Code Chapter 211, public notice was given, and a public hearing was held before the City Council regarding the requested zoning modification; and

WHEREAS, Texas Local Government Code Section 51.001 provides the City general authority to adopt an Ordinance or police regulations that are for good government, peace, or order of the City and are necessary or proper for carrying out a power granted by law to the City; and

WHEREAS, after consideration of public input received at the hearing, the information provided by the Applicants, and all other information presented, City Council finds that it is necessary and proper to enact this Ordinance.

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

- Section 1:** The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

- Section 2:** The Property, 10.56 +/- Nancy Bakey Survey Abstract 98, more particularly shown and described in Attachment 1 which is attached and incorporated herein, is hereby rezoned from P2 Rural to P5 Core. The City Manager is hereby authorized to promptly note the zoning change on the official Zoning Map of the City of Bastrop, Texas.

- Section 3:** All ordinances, resolutions, 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.

- Section 4:** If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, that invalidity or the unenforceability will not affect any other provisions or applications of this Ordinance that can be given effect without the invalid provision.

- Section 5:** 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.

- Section 6:** This Ordinance shall be effective immediately upon passage and publication.

[Signatures on following page]

READ & ACKNOWLEDGED on First Reading on this the 10th day of December 2024.

READ & ADOPTED on Second Reading on this the 14th day of January 2025.

APPROVED:

Lyle Nelson, Mayor

ATTEST:

City Secretary

APPROVED AS TO FORM:

City Attorney

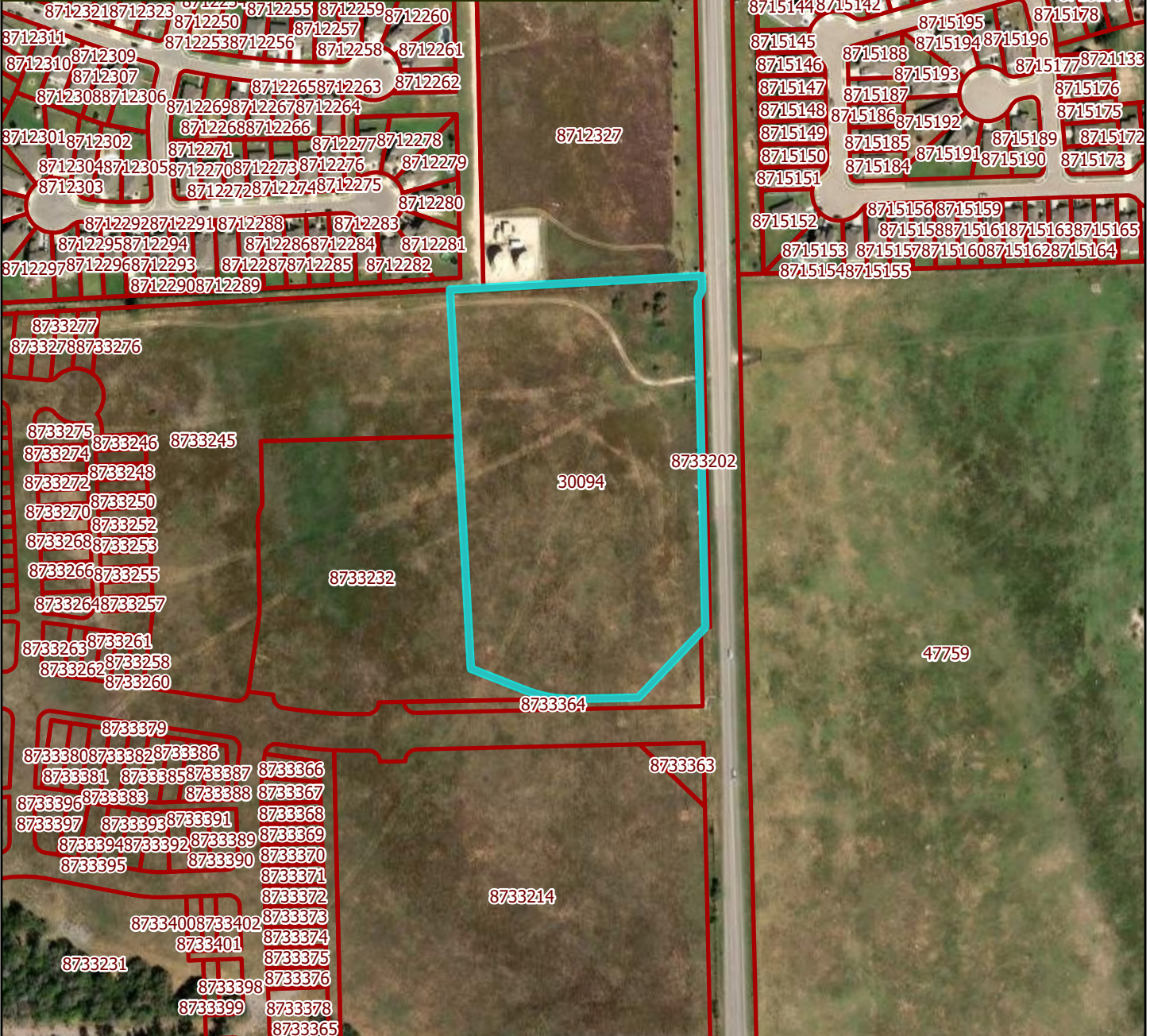
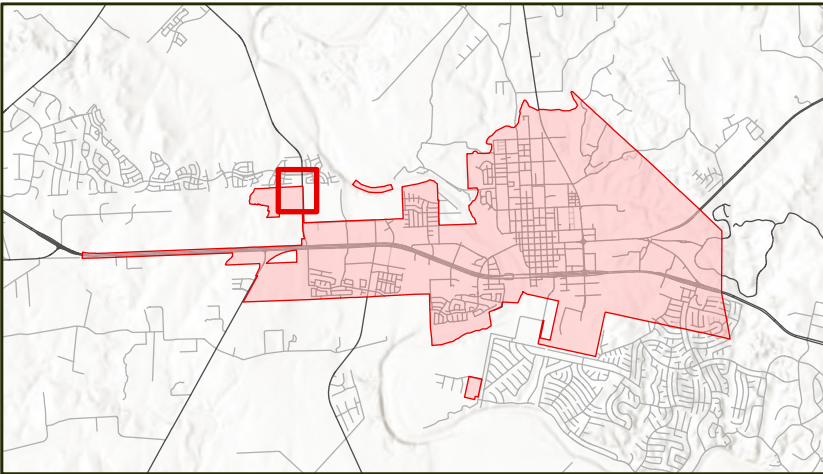
ATTACHMENT 1

Property Description



Attachment 1 Location Map

Rezone PID 30094



10/23/2024

0 125 250 375 500 ft



Scale 1:4,000

The City of Bastrop, Texas makes no warranties regarding the accuracy or completeness of the information used to compose this map or the data from which it was produced. The map does not purport to depict the boundaries between private and public lands. This map is general in nature and is not suitable for navigational purposes.



To: Sylvia Carrillo, City Manager
From: Kennedy Higgins, Senior Planner- Planning & Development
Date: November 21, 2024
Subject: FM 969 Retail Center Zoning Concept Scheme

=====

ITEM DETAILS:

Site Address: West of FM 969, North of SH 71
Property ID: R30094
Total Acreage: 10.56 +/- acres
Acreage Rezoned: 10.56 +/- acres
Legal Description: 10.56 +/- Nancy Bakey Survey Abstract 98,

Property Owner: SIS Bastrop LLC
Agent Contact: Mirza Baig, PSCE Inc

Existing Use: Vacant
Existing Zoning: P2 Rural
Proposed Zoning: P5 Core
Future Land Use: Neighborhood Residential

BACKGROUND:

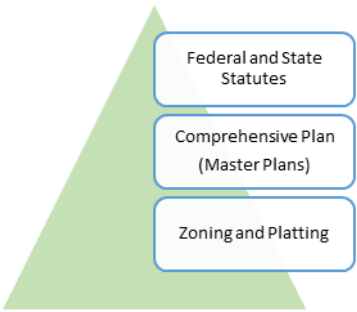
The applicant has applied for a Zoning Concept Scheme for the newly annexed FM 969 Retail Center. When land is annexed, it is automatically zoned P2 Rural then is rezoned as needed. The proposal is to change the zoning from P2 Rural to P5 Core in order to develop the property as a gas station and retail center.

LAND USE:

The existing land use is classified as Place Type P2 – Rural and is defined in the code as Rural living and sparsely settled lands to be located in a manner that does not cause a nuisance to a more intensely inhabited area. P2 consists of sparsely settled lands in open or cultivated states that may include food production.

Place Type P5 – Core is defined in the code as a higher density mixture of building types that accommodate commercial, retail, offices, row houses, and apartments. It has a tight network of streets, with wide sidewalks, steady street tree plantings, and buildings set close to the sidewalks. P5 is a highly walkable area. A continuous line of buildings is critical to define the public frontage and allow for visible activity along the street edge.

POLICY EXPLANATION:



Texas Local Government Code

Sec. 211.006. PROCEDURES GOVERNING ADOPTION OF ZONING REGULATIONS AND DISTRICT BOUNDARIES. (a) The governing body of a municipality wishing to exercise the authority relating to zoning regulations and zoning district boundaries shall establish procedures for adopting and enforcing the regulations and boundaries. A regulation or boundary is not effective until after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard. Before the 15th day before the date of the hearing, notice of the time and place of the hearing must be published in an official newspaper or a newspaper of general circulation in the municipality.

(c) If the governing body of a home-rule municipality conducts a hearing under Subsection (a), the governing body may, by a two-thirds vote, prescribe the type of notice to be given of the time and place of the public hearing. Notice requirements prescribed under this subsection are in addition to the publication of notice required by Subsection (a).

The public meeting was noticed in the newspaper 11/06/2024, Zoning Change signs were visibly placed in the front of the property on 11/06/2024 and notice was sent to 24 property owners within 200 feet of the property boundary on 11/06/2024. Notice of the meeting was posted at least 72 hours in advance.

(d) If a proposed change to a regulation or boundary is protested in accordance with this subsection, the proposed change must receive, in order to take effect, the affirmative vote of at least three-fourths of all members of the governing body. The protest must be written and signed by the owners of at least 20 percent of either:

- (1) the area of the lots or land covered by the proposed change; or
- (2) the area of the lots or land immediately adjoining the area covered by the proposed change and extending 200 feet from that area.

(e) In computing the percentage of land area under Subsection (d), the area of streets and alleys shall be included.

At the time of this report, no protest has been received.

(f) The governing body by ordinance may provide that the affirmative vote of at least three-fourths of all its members is required to overrule a recommendation of the municipality's zoning commission that a proposed change to a regulation or boundary be denied.

If the Planning & Zoning Commission makes a unanimous recommendation of the denial of the zoning request, the City Council must have a minimum vote of three-fourths majority to approve the zoning request.

Compliance with 2036 Comprehensive Plan:

The Neighborhood Residential character area is for single family residential subdivision development, associated amenities such as parks, trails, open spaces, and public uses such as schools, fire stations, and more. Although individual developments may exhibit common features including home size, lot size, setbacks, impervious surface coverage, etc., the character area supports variations of these spatial and aesthetics characteristics, subject to appropriate transitions in form, scale, and density between blocks or adjacent developments. In some instances, transitions between developments and adjacent character areas may include higher density housing types or neighborhood oriented commercial uses of limited scale.

While the future land use map calls for this area to be Neighborhood Residential, the neighboring properties are zoned for residential. There is a lot of development in this area for residential, but not as much development for commercial properties in order to serve the surrounding areas. This rezone to P5 Core would create much needed commercial services.

RECOMMENDATION:

Hold a public hearing, consider and act on a recommendation for the Zoning Concept Scheme for the FM 969 retail center, changing the zoning of 10.56 acres out of the Nancy Blakey Survey Abstract 98, located west of FM 969 - R30094, within the City of Bastrop from P2 Rural to P5 Core, as shown on Attachment 1.

ATTACHMENTS:

- Attachment 1: Location Map
- Attachment 2: Exhibits



STAFF REPORT

MEETING DATE: January 14, 2025

TITLE:

Consider and act to approve the first reading of Ordinance No. 2025-05, amending the budget for the Fiscal Year 2025 in accordance with existing statutory requirements; appropriating the various amounts herein as attached in Exhibit A; repealing all prior ordinances and actions in conflict herewith; and move to include on the consent agenda of the January 28, 2025, City Council agenda for a second reading.

AGENDA ITEM SUBMITTED BY:

Edi McIlwain, Chief Financial Officer

BACKGROUND/HISTORY:

The FY2025 budget was approved by City Council on September 17, 2024. Since that approval, the City has identified minor corrections found after adoption and needs to implement various changes recommended by the City Manager.

Exhibit A to the ordinance explains in detail the nature of each of the budget amendments being requested.

The Financial Management Policy states that the level of budgetary control is at the department level in all Funds over \$25,000. If transfers are required over \$25,000 between departments, this must be approved by City Council.

The City Charter requires that when the budget is amended, that the amendment be made by Ordinance.

FISCAL IMPACT:

Various – See Ordinance Exhibit A

RECOMMENDATION:

Edi McIlwain, Chief Financial Officer, recommends approval of the first reading of Ordinance No. 2025-05 of the City Council of the City of Bastrop, Texas, amending the budget for the Fiscal Year 2025 in accordance with existing statutory requirements; appropriating the various amounts herein as attached in Exhibit A; repealing all prior ordinances and actions in conflict herewith; and move to include on the consent agenda of the January 28, 2025, City Council agenda for a second reading.

ATTACHMENTS:

- Ordinance No. 2025-05
- Exhibit A

ORDINANCE NO. 2025-05

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, AMENDING THE BUDGET FOR THE FISCAL YEAR 2025 IN ACCORDANCE WITH EXISTING STATUTORY REQUIREMENTS; APPROPRIATING THE VARIOUS AMOUNTS HEREIN, AS ATTACHED IN EXHIBIT A; REPEALING ALL PRIOR ORDINANCES AND ACTIONS IN CONFLICT HEREWITH; AND ESTABLISHING FOR AN EFFECTIVE DATE.

WHEREAS, the City Manager of the City of Bastrop, Texas has submitted to the Mayor and City Council proposed amendment(s) to the budget of the revenues and/or expenditures/expenses of conducting the affairs of said city and providing a complete financial plan for Fiscal Year 2025; and

WHEREAS, the Mayor and City Council have now provided for and conducted a public hearing on the budget as provided by law.

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

Section 1: That the proposed budget amendment(s) for the Fiscal Year 2025, as submitted to the City Council by the City Manager and which budget amendment(s) are attached hereto as Exhibit A, are hereby adopted, and approved as the amended budget of said City for Fiscal Year 2025.

Section 2: If any provision of this ordinance or application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the other provisions, or application thereof, of this ordinance, which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are hereby declared to be severable.

Section 3: 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.

READ and APPROVED on First Reading on the 14th day of January 2025.

READ and ADOPTED on Second Reading on the 28th day of January 2025.

APPROVED:

Lyle Nelson, Mayor

ATTEST:

City Secretary

APPROVED AS TO FORM:

City Attorney

**City of Bastrop
Budget Amendment
Fiscal Year 2025**

	Original Budget	Increase Decrease	Amended Budget
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GENERAL FUND

To fund repairs to buildings and vehicles caused by hail damage. These expenditures will be funded using insurance proceeds received in the prior year and in the current year.

DR:	101-22-00-5345	Building Maintenance	233,517.00	123,640.25	357,157.25
CR:	101-00-00-4537	Insurance Proceeds	(91,585.57)	(67,961.52)	(159,547.09)
CR:		Prior Year Committed Funds	-	(55,678.73)	
DR:	101-22-00-5340	Vehicle Maintenance	79,750.00	181,674.05	261,424.05
CR:		Prior Year Committed Funds		(181,674.05)	

STREET MAINTENANCE FUND

**To fund expenditures for the remodel and the Comprehensive Land Use Plan
USING UNUSED BUDGETED REVENUE FROM CURRENT YEAR**

DR:	108-15-06-5345	MAINT OF BUILDING	-	22,000.00	22,000.00
DR:	108-15-06-5505	PROFESSIONAL SERVICES	18,000.00	40,000.00	58,000.00

VEHICLE AND EQUIPMENT REPLACEMENT FUND

**To fund the purchase of an animal control vehicle using Prior Year Funds designated to
Development Services**

DR:	380-00-00-6030	VEHICLE	1,348,500.00	100,000.00	1,448,500.00
CR:		PRIOR YEAR FUNDS		(100,000.00)	

Original Budget	Increase Decrease	Amended Budget
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WATER WASTEWATER FUND

To fund Land Acquisition for WWTP #3 using prior year funds - land purchase previously approved by council

NOTE: This will make the Water Wastewater fund out of compliance with the fund balance policy. This amendment will cause estimated fund balance to be \$1,885,679 which is 20% of estimated operating expenditures. In order to be in compliance with the fund balance policy the city must maintain a fund balance of \$2,364,474.75. The City will make it a priority to replenish fund balance to be in compliance.

DR:	202-35-41-6060	REAL PROPERTY	-	1,869,721.74	1,869,721.74
CR:		PRIOR YEAR FUNDS		(1,869,721.74)	

LAND ACQUISITION FUND

To fund Land Acquisition for WWTP#3 using prior year funds - land purchase previously approved by council

DR:	151-00-00-6060	REAL PROPERTY	-	287,483.00	287,483.00
CR:		PRIOR YEAR FUNDS		(287,483.00)	

CO SERIES 2024 FUND

To fund expenditures related to XS Water Plant, Pearl River Wastewater Line, FM 969 Offsite Wastewater Line using bond proceeds allocated to these projects from CO Series 2024

DR:	265-00-00-6177	FM 969 OFFSITE WASTEWATER LINE	-	2,575,848.00	2,575,848.00
DR:	265-35-00-6179	PEARL RIVER WASTEWATER LINE	-	1,423,000.00	1,423,000.00
DR:	235-35-00-6325	XS WATER PLANT	-	32,846,152.00	32,846,152.00

From: Noelia Rodea <nrodea@bisdtx.org>
Sent: Thursday, December 19, 2024 9:25 AM
To: City Sec
Subject: Bastrop ISD - School Board Recognition

You don't often get email from nrodea@bisdtx.org. [Learn why this is important](#)

CAUTION: This email originated outside the City of Bastrop, TX email system. Please maintain caution when opening links or attachments.

Good Morning,





On Tuesday, January 21, during our regular monthly meeting, we will recognize and honor the School Board for their dedicated service to our district and community. In previous years, the city has sent the Mayor with a proclamation to acknowledge the BISD board members' contributions. I wanted to check if the city plans to issue a proclamation this year and if a presenter will be sent. Your assistance with this matter would be greatly appreciated!

I am happy to discuss this further with you. You can reach me at 512-772-7125. I look forward to hearing from you.

Thank You,

Noelia Rodea
Executive Administrative Assistant to the Superintendent



-  nrodea@bisdtx.org
-  [512-772-7125](tel:512-772-7125)
-  906 Farm Street, Bastrop, TX 78602
-  bisdtx.org



CITY OF BASTROP

RESOLUTION NO. R-2024 - 49

OFFICE OF MAYOR

**A RESOLUTION OF THE CITY OF BASTROP, TEXAS,
ESTABLISHING CITY POLICIES REGARDING CERTAIN
ASPECTS OF THE OFFICE OF MAYOR**

WHEREAS, the City Council of the City of Bastrop (City Council) has a shared interest in promoting integrity in municipal operations; and

WHEREAS, pursuant to Chapter 51 of the Texas Government Code the City Council has the authority to take action necessary and proper for the good government, peace, or order of the City of Bastrop; and

WHEREAS, pursuant Bastrop's Home Rule Charter Section 1.02, the City Council has the authority to determine the policies of the City; and

WHEREAS, the City Council passed resolution R-2023-129, authorizing an investigation under the city charter into financial mismanagement allegations made against Visit Bastrop and "certain interactions between particular leaders of the City and of Visit Bastrop;" and

WHEREAS, the City Council passed a motion on December 18, 2023, to file an ethics complaint against Mayor Nelson under Bastrop Code of Ethics section 1.15.009(h)(2) for Abuse of Power - Interference with the above-mentioned investigation; and

WHEREAS, the Bastrop Board of Ethics unanimously determined that Mayor Nelson interfered with the above-mentioned investigation, violating the Bastrop Code of Ethics, and issued a Letter of Reprimand on April 10, 2024; and

WHEREAS, the City Council finds it to be reasonable and prudent to approve this resolution modifying certain practices and policies, and further determines that Mayor Nelson's conduct has provided a rational basis for this resolution.

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

Section 1: The City Council hereby approves the following policies:

1. Expenses for Official Business Trips

It shall be the policy of the City of Bastrop that, in order for the mayor's actual expenses, advanced expenses, or per diem to be reimbursed by the City, those expenses must first be approved by the City Council.

2. City funds for Mayor's Attendance at Events

It shall be the policy of the City of Bastrop that no city funds shall be expended for the mayor's attendance at any event, function, or convention without prior approval of the City Council.

3. Mayor's Office Space

It shall be the policy of the City of Bastrop that the Mayor shall not be provided the exclusive (sole) use of designated (assigned) office space at City Hall. At the City Manager's discretion, temporary shared workspace and meeting space may be provided to all City Council Members (including the mayor) as needed when available.

4. Speaking Roles at City Functions

It shall be the policy of the City of Bastrop that City staff shall not schedule or propose the mayor to speak at city or city-sponsored events, outside of City Council Meetings, without prior approval of the City Council.

5. City Hall Access

It shall be the policy of the City of Bastrop that the mayor shall not be provided an identification badge (door key cards) granting him unassisted access to the Authorized Personnel Only (Employee-Only) areas at City Hall. Instead, all City Council Members including the mayor will have the same access.

6. Appointment to Internal or External Boards

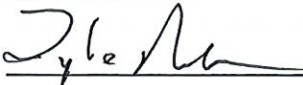
It shall be the policy of the City of Bastrop that the mayor shall not serve as a representative of the City on internal or external boards, commissions, committees and task forces (boards). Therefore, to the extent Mayor Nelson has been appointed or otherwise designated to serve in a representative capacity by the City Council on boards inside or outside the City of Bastrop organization, those appointments or designations are hereby revoked, shall be interpreted as void, and the seat considered vacant. This shall include, but is not limited to, the Bastrop Economic Development Corporation, CAPCOG, County Public Health Department, Clean Air Coalition, and Mayor Nelson's role as council liaison to city boards and commissions.

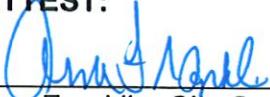
7. Legislative Advocacy

It shall be the policy of the City of Bastrop that the City shall not have a Legislative Director. Therefore, to the extent the mayor has been previously designated or authorized by the City Council to serve as a spokesperson or advocate the City, that designation is hereby revoked, shall be interpreted as void without having previously received specific authorization in advance from the City Council.


Section 2: The meeting at which this Resolution 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 Texas Open Meetings Act.

DULY RESOLVED & ADOPTED by the City Council of the City of Bastrop, Texas, on this, the 29th day of April 2024.

APPROVED:


ATTEST:


Ann Franklin, City Secretary

APPROVED AS TO FORM:


Alan Bojorquez, City Attorney



STAFF REPORT

MEETING DATE: January 14, 2025

TITLE:

Consider and act on Resolution No. R-2025-08, Appointing Karen Kincaid Brady, Executive Director of the Bastrop Museum and Visitor's Center to Place 7 of the Cultural Arts Commission for a Three-Year Term beginning January 2025 and Ending in September 2028; Receiving Confirmation by the City Council of the Appointment; And Providing for an Effective Date.

AGENDA ITEM SUBMITTED BY:

Submitted by: Mayor Lyle Nelson

BACKGROUND/HISTORY:

Pursuant to Chapter 1 "General Provisions", Article 1.04 "Boards and Commissions" board members shall be appointed by the mayor and confirmed by the Council, for terms of three (3) years.

FISCAL IMPACT:

N/A

RECOMMENDATION:

The Mayor requests the City Council's confirmation of this appointment by approval of the Resolution.

ATTACHMENTS:

1. Resolution No. R-2025-08

RESOLUTION NO. R-2025-08

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, APPOINTING KAREN KINCAID BRADY TO PLACE 7 OF THE CULTURAL ARTS COMMISSION FOR A THREE-YEAR TERM BEGINNING JANUARY 2025 AND ENDING IN SEPTEMBER 2028; RECEIVING CONFIRMATION BY THE CITY COUNCIL OF THE APPOINTMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Chapter 1 “General Provisions”, Article I.04 “Boards and Commissions” board members shall be appointed by the mayor and confirmed by the Council, for terms of three (3) years; and

WHEREAS, under Section 1.04.002(1) “Membership, terms” any individual that has previously served two (2) consecutive terms on a particular advisory body, must wait one full year before being reappointed to the same advisory body; and

WHEREAS, the Cultural Arts Commission has a vacancy in Place 7 for a full three-year term ending September 2028.

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

SECTION 1. Findings of Fact: The foregoing recitals are incorporated into this Resolution by reference as findings of fact as if expressly set forth herein.

SECTION 2. Mayor Nelson has appointed, and the City Council has confirmed the appointment of Karen Kincaid Brady to Place 7, for a three-year term ending on September 2028.

SECTION 3. This Resolution shall take effect immediately upon its passage and it is so resolved that the Cultural Arts Commission shall now be composed of the following:

Place	Represents	Name	Appointment Date	Term	Expiration Date
1	Theater	Lisa Holcomb	2021, 2024	1, 2	2024, 2027
2	School	Jerry Gee Cordova	2024	1	2027
3	Film	Michael Kiddoo	2024	Unexpired	2025
4	Art	Maria Montoya Stayton	2021, 2023	1, 2	2023, 2025
5	Dance/Music	Yvonne Keyrouz	2024	Unexpired	2025
6	Art	Chloe Brevelle	2023	Unexpired	2025
7	Museum	Karen Kincaid Brady	2025	1	2028

DULY RESOLVED AND ADOPTED by the City Council of the City of Bastrop this **14th** day of **January 2025**.

CITY OF BASTROP, TEXAS

Lyle Nelson, Mayor

ATTEST:

City Secretary

APPROVED AS TO FORM:

City Attorney



STAFF REPORT

MEETING DATE: January 14, 2025

TITLE:

Consider and act on Resolution No. R-2025-05 of the City Council of the City of Bastrop, Texas approving a Public Improvement Plan Agreement with PRC 01 Bastrop LLC for Sendero, as attached in Exhibit A; authorizing the City Manager to execute all necessary documents; providing for a repealing clause; and establishing an effective date.

STAFF REPRESENTATIVE:

Submitted by: Kennedy Higgins, Senior Planner, Development Services Department

BACKGROUND/HISTORY:

The Public Improvement Plan Agreement was developed as part of the City of Bastrop's Development Manual. This standardized agreement is a tool that can be used by staff. It allows a developer to establish the infrastructure costs, inspections fees and begin construction of public street and utility infrastructure. The agreement also establishes the process to record the final plat with a fiscal guaranty for the approved section of the subdivision prior to the completion of all public improvements. The cost estimates and scope of work included in the Agreement were approved with the Public Improvement Plans approved by the Project Manager.

POLICY EXPLANATION:

Texas Local Government Code 212.010 Standards for Approval of Plat requires that a new subdivision should extend roads and utilities in conformance to the city requirements and bonds be submitted in accordance with the municipal policy for the approval of subdivision plats.

Section 1.4.003 Public improvement Plan Agreement (PIPA) of the B3 Code establishes the requirements for approval of the PIPA.

FUNDING SOURCE:

N/A

RECOMMENDATION:

Consider and act on Resolution No. R-2025-05 of the City Council of the City of Bastrop, Texas approving a Public Improvement Plan Agreement with PRC 01 Bastrop LLC for Sendero, as attached in Exhibit A; authorizing the City Manager to execute all necessary documents; providing for a repealing clause; and establishing an effective date.

ATTACHMENTS:

- Resolution No. R-2025-05
- Exhibit A – Sendero Public Improvement Plan Agreement

RESOLUTION NO. R-2025-05

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS APPROVING A PUBLIC IMPROVEMENT PLAN AGREEMENT WITH PRC 01 BASTROP LLC FOR SENDERO, AS ATTACHED IN EXHIBIT A; AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY DOCUMENTS; PROVIDING FOR A REPEALING CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, The City Council has adopted the Bastrop Building Block (B³) Code and related codes that provide a process for the standards and construction of public improvements that support the development created during the subdivision process; and

WHEREAS, the Development Manual includes the requirement for a developer to provide a Public Improvement Plan Agreement to ensure the installation of the public improvements; and

WHEREAS, the “Developer” known as PRC 01 Bastrop LLC for Sendero has an approved Public Improvement Plan for the construction of a mixed use commercial subdivision; and

WHEREAS, The City Council also understands the importance of the required public improvements and the value they bring in regard to the public safety of neighborhoods.

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

Section 1: That the City Manager will execute the Public Improvement Plan Agreement attached as Exhibit A.

Section 2: All orders, ordinances, and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

Section 3: That this Resolution shall take effect immediately upon its passage.

DULY RESOLVED AND ADOPTED by the City Council of the City of Bastrop this 14th day of January, 2025.

APPROVED:

Lyle Nelson, Mayor

ATTEST:

City Secretary

APPROVED AS TO FORM:

City Attorney

CITY OF BASTROP, TEXAS
Public Improvement Plan Agreement

SENDERO

The State of Texas

County of Bastrop

WHEREAS, **PRC 01 Bastrop, LLC**, hereinafter referred to as, "Developer", is the developer of the following described property and desires to make certain improvements to the following lots and blocks in **Sendero**, a development in the **City of Bastrop**, Texas: being **5 (five) blocks, 1 (one) reserve, and 11 (eleven) lots**; and

WHEREAS, the said Developer has requested the City of Bastrop, a Home Rule Municipality of Bastrop County, Texas, hereinafter referred to as, "City", to provide approvals and cooperative arrangements in connection with said improvements:

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

That said Developer, acting herein by and through [owner], its duly authorized officer, and the City, acting herein by and through Sylvia Carrillo, its City Manager, for and in consideration of the covenants and agreements herein performed and to be performed, do hereby covenant and agree as follows regarding assurance of construction of (1) sanitary sewer facilities , (2) streets , (3) public drainage, (4) street lights and street signs, and (5) park/trail improvements **are to be maintained by the City of Bastrop unless stated otherwise in the 380 Agreement between the City of Bastrop and PRC 01 Bastrop, LLC effective June 11, 2024**; summary of applicable infrastructure (development) amounts; assurance payments to the City; payment of inspection fees; and miscellaneous provisions relating to the acceptable completion of said construction according to the plans for **Sendero** approved by the City on **[public improvement plan approval date]**.

1.00 Assurance of Infrastructure Construction

1.10 Employment of Contractors

In accordance with this agreement, the Developer agrees to employ a general contractor or contractors in accordance with the conditions set forth in Section 4.00 for work for which the Developer is providing as stated herein and indicated in the Summary of Infrastructure (Development) Assurance Amounts, Section 2.30 on page 4 of this agreement.

1.11 Public Infrastructure Construction and Acceptance Process

- a) The Developer and the City/County agree that a pre-construction meeting will not be held and notice to proceed will not be issued until the Public Improvement Inspection fees are paid to the City/County and a copy of the approved plan set provided to the City Construction Manager. The Public Improvement Inspection fees will be per the Master Fee Schedule adopted with Ordinance Number 2024-21 herein referenced below:

Public Improvement Inspections - First 100 acres	\$1,500 per acre
Public Improvement Inspections – Next 150 acres	\$750 per acre
Public Improvement Inspections – All additional acres over 250 acres	\$325 per acre
Erosion and Sedimentation Controls	\$1.00 per linear foot
Public Infrastructure	\$4.00 per linear foot per infrastructure item (i.e. streets, drainage, water, wastewater, etc.)
Re-Inspection Fee	\$150.00 per hour

- 1. All fees will need to be validated by a sealed Engineers Estimate of Probable Quantities (Attachment 1).

- b) Upon completion of the Infrastructure, the developer must furnish the City with the following prior to acceptance and release of fiscal guarantee (if provided):
1. As-Built/Record Drawings of Public Improvement Plans in pdf format and in CAD/GIS format;
 2. The Developer agrees to require the contractor(s) to furnish the City and County with a two (2) year maintenance bond in the name of the City, subject to City approval, for twenty five percent (25%) of the contract price of the public streets, sidewalk, and drainage improvements. The maintenance bond(s) shall be submitted and approved prior to the final acceptance of the improvements;
 3. Letter of Concurrence from the Design Engineer;
 4. Close out documents required by the Engineering Department

(Attachment 2).
- c) Once these items are provided, the City will provide a Letter of Acceptance from the City Engineer.
- d) In order to record the Final Plat, the developer must complete one of the following:
1. Have received a Letter of Acceptance from the City Engineer; or
 2. Provide fiscal guarantee for 125% of the outstanding Infrastructure (Development) Improvement Costs, with Engineer's Opinion of Probable Costs. This guarantee will not be released until acceptance of the Infrastructure by the City Engineer.

1.12 Payment of Miscellaneous Construction Costs

It is further agreed and understood that additional costs may be required of the Developer to cover such additional work, materials and/or other costs as may be made necessary by conditions encountered during construction and within the scope of this project.

1.13 Compliance with Tree Preservation Ordinance

The Developer is responsible to fully comply with the City’s Tree Preservation Ordinance and Construction Standards during all phases of construction. The Developer submitted a tree protection plan and protected tree survey showing the protected trees on site and the measures of tree protection to be employed prior to any site work on the project with Public Improvement Plans approved on [plan approval date].

2.00 Infrastructure (Development) Improvement Costs

All infrastructure (development) improvement costs are the full responsibility of the Developer unless otherwise noted, or unless otherwise funded with a public improvement district revenue, tax increment reinvestments zone revenue, or a Chapter 380 grant, pursuant to a separate agreement. The following improvement costs have been developed using the Developer's plans and specifications and recommendations by the City in accordance with the construction guidelines set forth by the City:

2.10 Water Improvements

The distribution of costs between the City and the Developer for all domestic and fire water facilities are as follows:

	Full Project Cost	Developer Amount	City Participation
Water Facilities	\$204,994.80	\$204,994.80	\$0.00
Total Construction Cost	\$204,994.80	\$204,994.80	\$0.00

2.20 Sanitary Sewer Improvements

The distribution of costs between the City and the Developer for all sanitary sewer are as follows:

	Full Project Cost	Developer Amount	City Participation
Sanitary Sewer Facilities	\$140,616.00	\$140,616.00	\$0.00
Total Construction Cost	\$140,616.00	\$140,616.00	\$0.00

2.30 Drainage Improvements

The distribution of costs between the City and the Developer for drainage improvements are as follows:

	Full Project Cost	Developer Amount	City Participation
Storm Drainage Facilities	\$2,560,526.47	\$	\$0.00

2.40 Street Improvements

The distribution of costs between the City and the Developer for all street improvements are as follows:

	Full Project Cost	Developer Amount	City Participation
Streets & Sidewalks	\$233,558.50	\$	\$0.00
Erosion Control Items	\$7,000.00	\$	\$0.00
Total Construction Cost	\$240,558.50	\$	\$0.00

2.50 Summary of Infrastructure (Development) Costs Amounts

	Final Assurance Amount
Water Facilities	\$204,994.80
Sewer Facilities	\$140,616.00
Storm Drainage Facilities	\$2,560,526.47
Streets, Sidewalks & Erosion Control Improvements	\$1,271,288.73
Total Infrastructure Development Cost Amounts	\$4,177,426.00

INSPECTION FEES TO BE PAID PRIOR TO PRE-CONSTRUCTION MEETING:

Public Infrastructure Quantities

	Rate	Construction Quantities	Inspection Fee
First 100 acres	\$1,500/ac	3.5035	\$5,255.25
Next 150 acres	\$750/ac	0	\$0.00
All additional acres over 250 acres	\$325/ac	0	\$0.00
Erosion & Sedimentation Controls	\$1.00/ linear ft.	2,631	\$2,631.00
Public Infrastructure (i.e. streets, drainage, water, wastewater, etc.)	\$4.00/ linear ft.	11,873	\$47,492.00
Payment to the City			\$55,378.25

The Public Improvement Inspection fee amount is **\$55,378.25**.

RECOMMENDED:

NAME, P. E.
City Engineer

Date

3.00 Miscellaneous Improvements

3.10 Drainage Operation and Maintenance Plan

The Developer will provide the City with a Drainage Operation and Maintenance Plan (plan) in accordance with the Stormwater Drainage Manual. The plan shall provide detailed information regarding the obligation of responsible parties for any drainage system, stormwater system, or other improvement which will not be dedicated to the City as part of this agreement.

3.20 Sidewalks

The Developer shall be responsible for installing sidewalks along rights-of-way on open space lots and other lots that will not contain single family residential units within Sendero as shown on the approved Public Improvement Plans. All sidewalks shall be in compliance with the City’s and County’s Master Transportation Plan and conform to the City of Bastrop Standard Construction Details.

3.30 Screening Wall, Landscaping, and Irrigation

The Developer shall be responsible for installing screening walls, retaining walls, landscaping, and irrigation in accordance with the approved Public Improvement Plans approved on **[PLAN APPROVAL DATE]**.

3.40 Street Lights [(Bluebonnet Electric Cooperation OR Bastrop Power & Light)]

The Developer is responsible for the initial installation and maintenance of all street lights. The MUD or HOA will be responsible or obligated to maintain and/or replace any standard or non-standard street light poles.

as set forth in the City of Bastrop Impact Fee Ordinance that is in effect as of the date of this agreement **unless specified otherwise in the 380 Agreement between the City of Bastrop and PRC 01 Bastrop, LLC effective June 11, 2024.**

Impact Fees to be paid are as follows:

	Number Lots	Fee per Lot	Final Assessment Amount
Water Impact Fee		\$	\$
Wastewater Impact Fee		\$	\$
Total Impact Fees			\$

4.00 Miscellaneous Provisions

4.10 Bonds

The developer will provide the City with proof of payment to the surety, and that all other obligations of the developer or contractor have been met, in order for the bonds to be binding upon the surety.

4.20 Public Liability

The Developer shall further require the contractor(s) to secure Public Liability Insurance. The amount of Insurance required shall include Public Liability, Bodily Injury and Property Damage of not less than \$100,000 one person, \$300,000 one accident and \$100,000 property damage. The minimum requirements for automobile and truck public liability, bodily injury and property damage shall also include not less than \$100,000 one person, \$300,000 one accident, and \$100,000 property damage.

The Contractor shall provide Worker's Compensation Insurance in accordance with the most recent Texas Workers' Compensation Commission's rules.

4.30 General Indemnity Provisions

The Developer shall waive all claims, fully release, indemnify, defend and hold harmless the City and all of its officials, officers, agents, consultants, employees and invitees in both their public and private capacities, from any and all liability, claims, suits, demands or causes of action, including all expenses of litigation and/or settlement which may arise by injury to property or person occasioned by error, omission, intentional act of Developer, its officers, agents, consultants, employees, invitees, or other person, arising out of or in connection with the Agreement, or on or about the property, and Developer will, at its own cost and expense, defend and protect the City and all of its officials, officers, agents, consultants, employees and invitees in both their public and private capacities, from any and all such claims and demands. Also, Developer agrees to and shall indemnify, defend and hold harmless the City and all of its officials, officers, agents, consultants, employees and invitees in both their public and private capacities, from and against any and all claims, losses, damages, causes of action, suit and liability of every kind, including all expenses of litigation, court costs and attorney fees for injury to or death of any person or for any damage to any property arising out of or in connection with this Agreement or any and all activity or use pursuant to the Agreement, or on or about the property. This indemnity shall apply whether the claims, suits, losses, damages, causes of action or liability arise in whole or in part from the intentional acts or negligence of developer or any of its officers, officials, agents, consultants, employees or invitees, whether said negligence is contractual, comparative negligence, concurrent negligence, gross negligence or any other form of negligence. The City shall be responsible only for the

City's sole negligence. Provided, however, that nothing contained in this Agreement shall waive the City's defenses or immunities under Section 101.001 et seq. of the Texas Civil Practice and Remedies Code or other applicable statutory or common law. Notwithstanding anything to the contrary in this section, the Developer shall not be required to indemnify the City in the event the claims, suits, losses, damages, causes of action or liability arise in whole or in part as a result of the City's breach of this agreement or a separate agreement pertaining to the property governed by this agreement.

4.31 Indemnity Against Design Defects

Approval of the City Engineer or other City employee, official, consultant, employee, or officer of any plans, designs or specifications submitted by the Developer under this Agreement shall not constitute or be deemed to be a release of the responsibility and liability of the Developer, its engineer, contractors, employees, officers, or agents for the accuracy and competency of their design and specifications. Such approval shall not be deemed to be an assumption of such responsibility or liability by the City for any defect in the design and specifications prepared by the consulting engineer, his officers, agents, servants, or employees, it being the intent of the parties that approval by the City Engineer or other City employee, official, consultant, or officer signifies the City's approval of only the general design concept of the improvements to be constructed. In this connection, the Developer shall indemnify and hold harmless the City, its officials, officers, agents, servants and employees, from any loss, damage, liability or expense on account of damage to property and injuries, including death, to any and all persons which may arise out of any defect, deficiency

or negligence of the engineer’s designs and specifications incorporated into any improvements constructed in accordance therewith, and the Developer shall defend at his own expense any suits or other proceedings brought against the City, its officials, officers, agents, servants or employees, or any of them, on account thereof, to pay all expenses and satisfy all judgments which may be incurred by or rendered against them, collectively or individually, personally or in their official capacity, in connection herewith. Notwithstanding anything to the contrary in this section, the Developer shall not be required to indemnify the City in the event the claims, suits, losses, damages, causes of action or liability arise in whole or in part as a result of the City's breach of this agreement or a separate agreement pertaining to the property governed by this agreement.

4.32 Approval of Plans

The Developer and City agree that the approval of plans and specifications by the City shall not be construed as representing or implying that improvements built in accordance therewith shall be free of defects. Any such approvals shall in no event be construed as representing or guaranteeing that any improvement built in accordance therewith will be designed or built in a good and workmanlike manner.

Neither the City or County, nor its elected officials, officers, employees, contractors and/or agents shall be responsible or liable in damages or otherwise to anyone submitting plans and specifications for approval by the City for any defects in any plans or specifications submitted, revised, or approved, in the loss or damages to any person arising out of approval or disapproval or failure to approve or disapprove any plans or specifications, for any loss or damage arising from the non-compliance of such plans or specifications with any governmental ordinance or regulation, nor any

defects in construction undertaken pursuant to such plans and specifications.

4.33 Venue

Venue of any action brought hereunder shall be in the City of Bastrop, Bastrop County, Texas.

4.40 Dedication of Infrastructure Improvements

Upon final acceptance of **SENDERO**, the public streets and sidewalks shall become the property of the City.

4.50 Assignment

This agreement, any part hereof, or any interest herein shall not be assigned by the Developer without written consent of the City Manager, said consent shall not be unreasonably withheld, and it is further agreed that such written consent will not be granted for the assignment, transfer, pledge and/or conveyance of any refunds due or to become due to the Developer except that such assignment, transfer, pledge and/or conveyance shall be for the full amount of the total of all such refunds due or to become due hereunder nor shall assignment release assignor or assignee from any and all Development assurances and responsibilities set forth herein.

4.60 Conflicts

In the event of a conflict between this agreement and that certain **Chapter 380 Agreement** between the City of Bastrop and **PRC 01 Bastrop, LLC** effective **June 11, 2024** (the "Development Agreement"), the Development Agreement shall control. Nothing in this agreement shall be construed as amending the Development Agreement.

IN TESTIMONY WHEREOF, the City of Bastrop has caused this instrument to

Public Improvement Plan Agreement – Sendero

Item 11K.

be executed in duplicate in its name and on its behalf by its City Manager, attested by its City Secretary, with the corporate seal of the City affixed, and said Developer has executed this instrument in duplicate, at the City of Bastrop, Texas this the ___ day of _____, 2025.

PRC 01 Bastrop, LLC

City of Bastrop, Texas

Signatory

Sylvia Carrillo, ICMA-CM, CPM

Company: Pearl River Management
LLC, Its Manager

City Manager

ATTEST:

Irma Parker
City Secretary

Date

Distribution of Originals:

Developer
City Secretary
Planning and Development Department



STAFF REPORT

MEETING DATE: January 14, 2025

TITLE:

Consider and act on Resolution No. R-2025-10 in Support of Employee Kennedy Higgins Omitted from Resolution R-2024-179 Adopted on December 10, 2024 and Named in the Lee Dossier as Submitted by Council Member Cheryl Lee; Directing this Document with a Certified Copy is Delivered to Employee; Directing that this document be provided to the Human Resources Director for inclusion in this Employee's Personnel File; Providing for a Repealing Clause; And Establishing an Effective Date.

AGENDA ITEM SUBMITTED BY:

Submitted by: Irma G. Parker, City Secretary, TRMC, CMC

BACKGROUND/HISTORY:

The City Council directed a resolution be presented for action to indicate support of employees named in the dossier. Our HR Director advised via email that one employee had been omitted. Staff is correcting that omission.

FISCAL IMPACT:

None

RECOMMENDATION:

Administration recommends approval.

ATTACHMENTS:

1. Resolution No. R-2025-10

RESOLUTION NO. R-2025-10

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS IN SUPPORT OF EMPLOYEE KENNEDY HIGGINS OMITTED FROM RESOLUTION R-2024-179 ADOPTED ON DECEMBER 10, 2024 AND NAMED IN THE LEE DOSSIER AS SUBMITTED BY COUNCIL MEMBER CHERYL LEE; DIRECTING THIS DOCUMENT WITH A CERTIFIED COPY IS DELIVERED TO EMPLOYEE; DIRECTING THAT THIS DOCUMENT BE PROVIDED TO THE HUMAN RESOURCES DIRECTOR FOR INCLUSION IN THIS EMPLOYEE’S PERSONNEL FILE; PROVIDING FOR A REPEALING CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, during the city manager's annual evaluation conducted at the November 12, 2024 City Council Meeting Council Member Lee and Mayor Lyle Nelson requested an agenda item to discuss the employment of City Manager in Executive or Closed Session; and

WHEREAS, during this meeting, specific allegations were presented in a dossier created and submitted by Council Member Lee. This dossier alleges fiscal misconduct and requested an investigation into the conduct of the City Manager. In the dossier, Council Member Lee identified City of Bastrop Employees Andres Rosales, Irma G. Parker, Victoria Psencik, Vivianna Nicole Andres, Elisha Perkins, Doug Haggerty, Kathy Danielson, James E. Cowey, Laura Allen, John Eddleton, Curtis Hancock, Jaime Saldivar, Jimmie Campbell, Tim Vande Vorde and Kennedy Higgins whom she claims are unqualified for their positions and have contributed to the fiscal corruption and mismanagement of the city; and

WHEREAS, Mayor Pro-Tempore Kirkland opined that the language contained in the resolution and agenda item language was inflammatory and in today’s digital world all employees listed in the Lee Dossier may be subjected to discrimination including but not limited:

1. to make decisions about or in connection with hiring, promoting, reassigning, or continuing to employ any person, including current or potential volunteers and household employees such as childcare workers, contractors, or home health aides;
2. to make decisions about or in connection with renting or selling a house, apartment, or other residential property to any person;
3. to make decisions about or in connection with lending money or extending credit to any person;
4. in connection with the underwriting of insurance;
5. for any purpose related to any eligibility determination about a person; or
6. for any other purposes that would require Federal Credit Reporting Act (FCRA) compliance; and

WHEREAS, following a properly made motion and second, the city council resolved that every employee listed in the Lee Dossier would be included in a resolution exonerating

them of any wrongdoing to remedy the harm caused by the fake Lee Dossier. The motion passed with a vote of 4 in favor and 1 against, with Council Member Lee casting the lone vote; and

WHEREAS, after the presentation of Resolution No. 2024-179, Human Resources Department advised that employee Kennedy Higgins was omitted from said Resolution and requested this omission be corrected.

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

SECTION 1. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Bastrop, Texas, and are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.

SECTION 2. Staff was directed to correct this omission. The attached Commendation and updated Resolution has been prepared for adoption. City Manager Sylvia Carrillo-Trevino has prepared and attached hereto a Letter of Commendation and Support to Kennedy Higgins who was named and listed in the Fake Lee Dossier.

SECTION 3. All orders, ordinances, and resolutions, or parts thereof, which are inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

SECTION 4. Should any portion or part of this Resolution be held for any reason invalid or unenforceable by a court of competent jurisdiction, the same shall not be construed to affect any other valid portion hereof. Still, all valid portions hereof shall remain in full force and effect.

SECTION 5. This Resolution shall be in full force and effect from and after its passage.

SECTION 6. The City Council hereby finds and declares that written notice of the date, hour, place, and subject of the meeting at which this Resolution was adopted was posted and that such meeting was open to the public as required by law at all times during which this Resolution and the subject matter hereof were discussed, considered and formally acted upon, all as required by the Texas Open Meetings Act, Chapter 551, Texas Government Code, as amended.

DULY RESOLVED AND ADOPTED by the City Council of the City of Bastrop this the **14th** day of **JANUARY 2025.**

CITY OF BASTROP, TEXAS

Lyle Nelson, Mayor

Mayor Pro-Tempore John Kirkland

Council Member Cheryl Lee

Council Member Cynthia Meyer

Council Member Kevin Plunkett

Council Member Kerry Fossler

ATTEST:

Irma G. Parker, City Secretary



EXHIBIT 1

COMMENDATION PRESENTED TO Kennedy Higgins, Senior Planner

At the direction of the Bastrop City Council, I would like to thank you for your contributions to the citizens of Bastrop during these challenging times. You were mentioned in the Lee Dossier and unfortunately omitted from Resolution No. 2024-179 which was presented and adopted at the December 10, 2024 Council Meeting.

Your dedication to our fellow employees, as well as to the elected and appointed officials of the City, has played a vital role in ensuring that we continue to provide the best services to our constituents during this challenging time. The unity of our team in these efforts has been remarkable. Your extraordinary commitment, innovative ideas, excellent cooperation, selfless service, and devotion to duty have been truly inspiring. Thank you for your hard work and dedication. You have gone above and beyond what is expected of you in your position as Senior Planner in the Building Development Department.

I am delighted to send you this Letter of Commendation as a mark of the City Council and my appreciation.

Sincerely,

Sylvia Carrillo-Trevino
City Manager

Cc: Personnel File



STAFF REPORT

MEETING DATE: January 14, 2025

TITLE:

Consider and act on Resolution No. R-2025-13, Ordering a Special Election to be held on Saturday, May 3, 2025 for the Recall of Mayor Lyle Nelson according to the Bastrop Home Rule Charter; Designating Polling Places within the City; Establishing other Procedures for the Conduct of the Special Election, Including Providing that the Election is to be held as a Joint Election in Conjunction with Bastrop County; Providing a Severability Clause; and Providing an Effective Date.

AGENDA ITEM SUBMITTED BY:

Submitted by: Irma G. Parker, City Secretary, TRMC, CMC

BACKGROUND/HISTORY:

A petition for the recall of Mayor Nelson was submitted on July 25, 2024. After a 'cure' to the missing items in the petition, was submitted on September 3, 2024. It was certified by the City Secretary, Irma G. Parker on Tuesday, September 17, 2024. See the timeline below:

July 25, 2024	A petition to recall Mayor Lyle Nelson was submitted to the Bastrop City Secretary's office.
July 26, 2024	Counsel for Relator Mayor Lyle Nelson sent a demand to the Bastrop City Secretary to declare the Petition insufficient for lack of signer's affidavit on each page.
August 13, 2024	Respondent Interim City Secretary submitted a staff report to the City Council declaring the Petition insufficient for lack of a signer's affidavit on each page.
September 3, 2024	Petition circulators submitted a "Supplementary" recall petition to the City Secretary.
September 15, 2024	Relator's counsel sent a demand to the Interim City Secretary that she hold the Supplementary recall petition as insufficient for lack of valid signer's affidavits.
September 17, 2024	Interim City Secretary presented her determination (dated September 13, 2024) to the City Council that the Supplementary recall petition is sufficient.
September 22, 2024	A Writ of Mandamus (suit) is filed against City Secretary Irma G. Parker for certifying the petition.
November 25, 2024	The Writ of Mandamus was denied. The petition was declared valid.

The final petition tally is as follows:

Number	Comment
1,738	Signatures contained in the Petition Pages
-132	Minus disqualified Petition Signatures
-8	Minus requests for Withdrawal received before the Petition was filed
4	Withdrawal requests received after the Petition was filed (noted – but not counted in the final count)
1,598	Required Signatures for a Valid Petition
1,557	25%- Number of Qualified Signatures Required for a Valid Petition

Per the City Charter, Section 10.08 "Recall Election," within five (5) days after such petition has been certified and presented to the Council, the person seeking to be removed may request in writing to have a public hearing to present facts pertinent to the charges specified in the petition.

The deadline for such hearing has passed with no request by Mayor Lyle Nelson.

Bastrop Charter requires an election to be ordered.

FISCAL IMPACT:

Bastrop County Elections Administrator Kristin Miles advised the estimated cost for the May 3, 2025 election(s) is \$16,500. The cost will be the same whether it is the general election only or the general election held jointly with a recall election. This cost could change depending on the other contracting entities. The estimated cost for each additional election would be \$23,000. Again, this cost would be for each election date, regardless of what is on the ballot.

RECOMMENDATION:

As required by Section 10.08, the Bastrop City Council must call an election.

ATTACHMENTS:

1. Resolution No. R-2025-13 (English)
2. Resolution No. R-2025-13 (Spanish) – *not included but will be presented at the meeting*
3. Writ of Mandamus
4. Court ruling the petition valid
5. Amicus brief

RESOLUTION NO. R-2025-13

A RESOLUTION OF THE CITY OF BASTROP, TEXAS CITY COUNCIL ORDERING A SPECIAL ELECTION TO BE HELD ON SATURDAY, MAY 3, 2025 FOR THE RECALL OF MAYOR LYLE NELSON ACCORDING TO THE BASTROP HOME RULE CHARTER; DESIGNATING POLLING PLACES WITHIN THE CITY; ESTABLISHING OTHER PROCEDURES FOR THE CONDUCT OF THE SPECIAL ELECTION, INCLUDING PROVIDING THAT THE ELECTION IS TO BE HELD AS A JOINT ELECTION IN CONJUNCTION WITH BASTROP COUNTY; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1: In accordance with the general laws and Constitution of the State of Texas, and the Charter of the City, a Special Election is hereby called and ordered for Saturday, May 3, 2025. All residents and qualified voters of the City of Bastrop shall be permitted to vote, in said election for the purpose of voting for or against the recall of Mayor Lyle Nelson.

SECTION 2: The present existing boundaries and territory of the Bastrop County election precincts that are wholly or partly within the corporate limits of the City shall constitute the election precincts for the election. The precinct numbers for the same shall be the corresponding Bastrop County precinct numbers. The polling places for the general election shall be as outlined in the Joint Election Agreement (as defined in Section 3, below).

SECTION 3: The election shall be held as a joint election with Bastrop County and other municipalities and school districts according to a Joint Election Agreement for the conduct of a joint election to be held on May 3, 2025 and the County shall be responsible for appointing all election judges and clerks and shall be responsible for their compensation. Election judges and clerks shall have the qualifications required by law and notice of appointment shall be given to such judges and clerks by the Administrator in accordance with law.

SECTION 4: Kristen Miles, Bastrop County Elections Administrator, is hereby appointed as Early Voting Clerk. The period for early voting by personal appearance, as established by provisions of the Texas Election Code, is between the hours of 8:00 a.m. and 5:00 p.m. beginning Tuesday, April 22, 2025 (first business day after San Jacinto Day) and ending on Tuesday, April 29, 2025. Early Voting by personal appearance will be conducted in the Office of the Elections Department, 804 Pecan Street, Bastrop, Texas 78602 and at other locations so designated by the Bastrop County Elections Administrator.

SECTION 5: The Early Voting Clerk shall process all applications for early voting by mail. Applications for ballot by mail shall be mailed to: Bastrop County Elections Department, 804 Pecan Street, Bastrop, Texas 78602. The last day for unregistered applicants to submit a federal postcard application and be eligible to vote a full ballot is the close of business on Thursday, April 3, 2025.

SECTION 6: Notice of this election shall be given in accordance with the provisions of the

Texas Election Code and returns of such notice shall be made as provided for in said Code. The Mayor or Mayor Pro-Tempore shall issue all necessary orders and writs for such election. Returns of such election shall be made to the City Secretary immediately after the closing of the polls. In addition, the election materials as outlined in Section 272.005, Texas Election Code, shall be printed in both English and Spanish for use at the polling places and for each voting for said election.

SECTION 7: Pursuant to Home Rule Charter, Tuesday, May 13, 2025 at 6:30 p.m. has been tentatively set as the date of the Official Canvass. The City Secretary is directed to record results in the Election Register as soon as practical after the Canvass.

SECTION 8: Should any part, section, subsection, paragraph, sentence, clause or phrase contained in this resolution is held to be unconstitutional or of no force and effect, such holding shall not affect the validity of the remaining portion of this ordinance, but in all respects said remaining portion shall be and remain in full force and effect.

SECTION 9: It is hereby officially found and determined that the meeting at which this ordinance is passed is open to the public as required by law, and that public notice of the time, place and purpose of said meeting was given as required.

SECTION 10: That this Resolution shall become effective from and after its passage as may be required by law or by the City Charter or ordinance.

DULY RESOLVED by the Bastrop City Council on this the 14th day of JANUARY 2025.

CITY OF BASTROP, TEXAS

Lyle Nelson, Mayor

ATTEST:

APPROVED AS TO FORM:

City Secretary

City Attorney

No. _____

**IN THE COURT OF APPEALS
THIRD DISTRICT OF TEXAS
AUSTIN, TEXAS**

***IN RE* MAYOR LYLE NELSON**

RELATOR

**ORIGINAL PETITION
FOR WRIT OF MANDAMUS**

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ATTORNEYS FOR RELATOR

IN THE INTEREST OF TIME, ORAL ARGUMENT IS NOT REQUESTED

IDENTITY OF PARTIES AND COUNSEL

RELATOR:

MAYOR LYLE NELSON

Relator is the Mayor of Bastrop, Texas and the subject of a Recall Petition submitted to Respondent Interim City Secretary, Irma Parker, who certified the petition as sufficient. Mayor Nelson can be contacted through his counsel of record.

COUNSEL FOR RELATORS:

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RESPONDENT:

IRMA PARKER

Irma Parker is the Interim City Secretary for the City of Bastrop who certified as sufficient a recall petition for the removal of Relator Mayor Lyle Nelson.

COUNSEL FOR RESPONDENT:

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STATEMENT OF THE CASE

July 25, 2024	A petition to recall Mayor Lyle Nelson was submitted to the Bastrop City Secretary's office. Exh-Rel-3
July 26, 2024	Counsel for Relator Mayor Lyle Nelson sent a demand to the Bastrop City Secretary to declare the Petition insufficient for lack of signer's affidavit on each page. Exh-Rel-4
August 13, 2024	Respondent Interim City Secretary submitted a staff report to the City Council declaring the Petition insufficient for lack of a signer's affidavit on each page. Exh-Rel-5
September 3, 2024	Petition circulators submitted a "Supplementary" recall petition to the City Secretary. Exh-Rel-7
September 15, 2024	Relator's counsel sent a demand to the Interim City Secretary that she hold the Supplementary recall petition as insufficient for lack of valid signer's affidavits. Exh-Rel-9
September 17, 2024	Interim City Secretary presented her determination (dated September 13, 2024) to the City Council that the Supplementary recall petition is sufficient. Exh-Rel-8, 10, & 11

STATEMENT ON MANDAMUS JURISDICTION

THIS COURT HAS SPECIFIC JURISDICTION OVER THIS ELECTION ISSUE

The Bastrop City Charter requires, before a recall election of a City official can be called, that a sufficient petition be submitted by the City Secretary to the City Council. Both the Courts of Appeals and the Texas Supreme Court have jurisdiction to issue writs of mandamus “to compel the performance of any duty imposed by law in connection with the holding of an election...” Tex. Elec. Code § 273.061; *see also*, Tex. Const., art. V, § 6 (providing original jurisdiction as may be prescribed by law).

The Bastrop City Charter is such a “law” applicable to Tex. Elec. Code § 273.061; *see In re Woodfill*, 470 S.W.3d 473, 481 (Tex. 2015); *Howard v. Clack*, 589 S.W.2d 748, 750 (Tex. App.—Dallas 1979, no writ) (holding that a duty imposed by city charter is a duty “imposed by law” under the predecessor statute to Tex. Elec. Code § 273.061). Respondent Interim City Secretary has a nondiscretionary duty to reject the Supplementary Recall Petition as insufficient under the Bastrop City Charter, § 10.07. The sufficiency of the recall petition is a question of law for which this Court has original jurisdiction.

ISSUE PRESENTED

Because the Supplementary Recall Petition lacks a valid Signer’s Truth Affidavit on each page of the Petition as required by Bastrop City Charter § 10.07, the Interim City Secretary has a nondiscretionary duty to certify the Petition as insufficient and has no authority to declare an insufficient Petition as sufficient. *Bejarano v. Hunter*, 899 S.W.2d 346, 350 (Tex. App.—El Paso 1995, no writ) (“We find that the city clerk's duty to apply the statutory requirements to all applications, and reject those that are insufficient, is ministerial. The clerk possesses no discretion to ignore or amend either the city charter or state election law.... Failure to perform her duty subjects [the City Secretary] to mandamus.” *citing* Tex. Elec. Code § 273.061).

APPENDIX AND VERIFIED RECORD REFERENCES

Appendix Exhibits [Attached]

APP.TAB XX

Verified Trial Court Record [Filed Separately]

VR: 0001 et seq.

STATEMENT OF FACTS

SUMMARY OF KEY FACTS

Lyle Nelson was elected Mayor of Bastrop in a run-off on June 8, 2024 and took office on June 20, 2024. Within just 2 months, political opponents, including some members of the City Council, began efforts to overturn the election by setting up a recall effort. However, the justification, or lack thereof, for this recall effort is not what is at issue in this case. This case is solely about whether, upon review of the face of the recall petition—which, if sufficient, would trigger a recall election—the Interim City Secretary has a nondiscretionary duty to hold that the recall petition is insufficient.

Applicable Law

The two key laws at issue are Bastrop City Charter § 10.07 and Tex. Elec. Code § 277.004. The applicable part of Charter § 10.07 says:

Section 10.07 Power of Recall

[...]

The petition shall be signed and verified in the manner required for an initiative petition, shall contain a general statement of the grounds upon which the removal is sought and one of the signers of each petition paper shall make an affidavit that the statements made therein are true. VR:0025

Tex. Elec. Code § 277.004 says:

Sec. 277.004. EFFECT OF CITY CHARTER OR ORDINANCE. Any requirements for the validity or verification of

Original Petition for Writ of Mandamus

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petition signatures in addition to those prescribed by this chapter that are prescribed by a home-rule city charter provision or a city ordinance are effective only if the charter provision or ordinance was in effect September 1, 1985.¹

After having first decided, on August 13, 2024, that the recall petition was insufficient (*see* VR:0142-0143) because it lacked compliance with Bastrop City Charter § 10.07 (which speaks to the requirement for certain affidavits to be included on each page of the petition form), the Respondent City Secretary decided on September 15, 2024 (*see* VR: 0345) that Section 10.07 of the Charter was preempted by Tex. Elec. Code § 277.004 (which speaks solely to the validity and verification of petition *signatures*). The Respondent further decided that, for the 91 pages of the 97-page petition missing a Signer’s Truth Affidavit, the Circulators could “creatively” comply with Section 10.07 by simply adding their *duplicated* signatures to each page as a “signer” and then executing the Signer’s Truth Affidavit for that page. The City Secretary reached that decision despite, after being asked how she handled duplicate petition signatures, answered, “Duplicate signatures were not counted.” VR: 0356. Yet, without counting the 91 duplicate signatures “creatively” added by the Circulators in order to provide a Signer’s Truth Affidavit to each of those pages, the Supplementary Recall Petition still lacks the required number of

¹ It is undisputed that the Bastrop City Charter did not exist on September 1, 1985.

signer affidavits.

THE JULY 25TH RECALL PETITION AND CERTIFICATION OF INSUFFICIENCY

The first recall petition was submitted on July 25th to the City Secretary. Exh. Relator-3 (VR: 0042 – 0138). The petition did not contain a Signer’s Truth Affidavit as required by Charter § 10.07. Instead, the petition contained a Circulator’s Affidavit (also required by Charter § 10.07) that was amended to include the statement “and that the statements made therein are true” as was required by the Charter to be affirmed by a “Signer” of the Petition.


Sample Circulator’s Affidavit (VR: 0043): ²

STATE OF TEXAS, COUNTY OF BASTROP: I John Kirkland, being first duly sworn, on oath depose and say that I am one of the signers of the above petition; and that the statements made therein are true; and that I personally circulated this paper. All signatures were made in my presence, and I believe them to be the genuine signatures of the persons whose names they purport to be.

Sworn and subscribed to before me this 24 day of July 2024.

X John Kirkland
Signature of Circulator

X Elyssa Sanders
Notary Public in and for State of Texas



RECEIVED
7-25-2024

On 6 pages, the Circulator also signed, as a voter Signer, on that page, but on 91 of the petition pages, no one who signed the petition form as a voter Signer on that page signed a Signer’s Truth Affidavit. On July 26, 2024, Relator’s counsel pointed out the deficiency—that 91 of the 96 pages in the Petition lacked the Charter-required

² The Circulators of the recall petition included Mayor Pro-Tem John Kirkland and Council Members Kevin Plunkett and Cynthia Meyer who, together, constitute a voting majority of the Bastrop City Council.

Signer’s Truth Affidavit—and demanded the petition be declared insufficient. VR: 0139 – 0141. On August 13, 2024, the City Secretary submitted a Staff Report to the City Council in which she said:

While the petition contains a sufficient number of valid signatures, it is **insufficient** because it does not include the required affidavits. An attestation of truth from a signer of each page of the petition is required for each page (citing Charter § 10.07). (emphasis in original) VR: 0142.

The City Council received the report but took no action. VR: -151 (Council meeting minutes, August 13, 2024, Item 14E).

THE SEPTEMBER 3, 2024 SUPPLEMENTARY RECALL PETITION & CERTIFICATION OF SUFFICIENCY

On September 3, 2024, the Circulators submitted an amended petition. VR: 0154 – 0344. Amending a recall petition, after it is declared insufficient, is allowed by Charter § 10.08 if submitted within 10 days after being found insufficient. (*see* Charter at VR: 0025). As explained by the petition Circulators:

This supplementary petition amends the previously submitted petition by reciting verbatim each individual paper of the *original* petition and amending on additional signature line to each paper. (underlined emphasis added) VR: 0154. ³

In other words, to “comply” with the Signer Affidavit required by the Charter, the

³ It seems to be undisputed by the Charter’s phrase “each paper” means “each page.”

Circulators added their own signatures on each petition page as an additional voter signature, necessarily creating a duplicate voter signature each time they did that.

For example, John Kirkland signed the original-and-resubmitted petition on page 1 both as a circulator and as a voter signer and relied on the modified Circulator's Affidavit to constitute both the Circulator's affidavit and Signer's Truth Affidavit. VR: 0156 (bearing John Kirkland's signature on line 1 of the petition page No. 1 (upper righthand corner) and in the Circulator's Affidavit at the bottom of that page. As a result, Relator did not challenge the validity of that, Page 1, of the petition. However, for the Supplementary Recall Petition, John Kirkland purported to add his signature to the petition a second time—a duplicate—to Page 2 of the Petition (for which he was the Circulator), but which he did not originally sign as a voter signer. *Compare* VR: 0158 (Page 2 of the Petition, showing no signature by John Kirkland as a voter signer) and VR: 0157 (on which John Kirkland purports to add his signature as a voter signer to Page 2 of the Petition). This “creative” tactic was used throughout the remainder of the Supplementary Recall Petition.

Mayor Pro-Tem Kirkland and Councilmember Plunkett are avid political opponents of Mayor Nelson who led the recall petition drive. They signed a Signer's Truth Affidavit on 65 of the 96 petition pages, meaning Kirkland's signature *as a voter signer* (to be distinguished from signing as a “circulator”) is duplicated 49

times and Plunkett’s signature is duplicated 16 times in the petition, as are other circulators’ signatures.

On September 15, 2024, Relator’s counsel sent a demand to the City Secretary that she declare the Supplementary Recall Petition insufficient for failure to comply with Charter § 10.07 and that she refuse to count the duplicate signatures added to the supplement for any purpose at all, including the requirement for the Signer’s Truth Affidavit. VR: 0346 – 0347. At the City Council meeting on September 17, 2024, the City Secretary presented a letter/email she had sent on September 13, 2024 to Circulator John Kirkland, addressed to him in his *official* capacity as “Mayor Pro-Tempore Kirkland,” saying:

I am writing to inform you that I have reviewed the Petition you presented in July 2024. I certify that your Petition is sufficient to present to the voters at a May 2025 Election. VR: 0345

The City Secretary asserted, based on an email (dated August 13, 2024) from Chuck Pinney, an attorney with the Secretary of State’s Office, that whether Charter § 10.07 had to be complied with depends on whether that provision was in effect on September 1, 1985, which it was not. *See* VR: 0038 – 0039. The City Secretary did not indicate to the Council at the meeting that that email had been superseded by the Secretary of State’s office on August 21, 2024, after concluding that the Secretary of State could not advise the City on the applicability of Charter § 10.07 “because it

rests in part on interpretation of the city charter.” VR: 0034.

The Secretary of State changed its position about opining on Charter § 10.07 after receiving an email from, Rezzin Pullum, an attorney with the City Attorney’s law firm, questioning whether Tex. Elec. Code § 277.004 (dealing with validity of petition *signatures*) would preempt a home-rule City Charter provision dealing with requirements for inclusion of affidavits related to the *form* of a *recall* petition. VR: 0036 – 0037. Mr. Pullum’s email cited *City of Sherman v. Hudman*, 996 S.W.2d 904 (Tex. App.—Dallas 1999) for the proposition that “the charter requirements other than those effecting the validity or verification of petition signatures would be applicable and mandatory. Thus, the attestation of truth speaks in terms of attesting to the belief of the truth of the recall grounds and only applies to the validity of the recall petition.” VR: 0037.

At the Council meeting on September 17, 2024, the City Secretary indicated that she had received opinions on these legal issues from the City Attorney and another attorney. The City Secretary said, “I can’t say that we just ignored him, but we did ...that was just another opinion.” VR: 0356.

If a recall election was to be held, it would have to be ordered by the City Council no later than February 14, 2025, 78-days prior to the uniform election date of May 3, 2025. *See* Tex. Elec. Code § 3.005(c). Therefore, before that deadline,

Relator is hopeful this Court will obtain briefing and render a decision on the application for a writ of mandamus ordering the City Secretary to declare the recall petition insufficient. Thus, there would be no predicate basis on which the City Council could order a recall election.

ARGUMENT & AUTHORITIES

SUMMARY OF THE BASIS FOR MANDAMUS RELIEF

A writ of mandamus will issue to compel a public official to perform a ministerial act. An act is ministerial when the law clearly spells out the duty to be performed by the official with sufficient certainty that nothing is left to the exercise of discretion.

Anderson v. City of Seven Points, 806 S.W.2d 791, 793 (Tex. 1991). Such is the case of the duty of the Bastrop City Clerk to reject as insufficient, the recall petition at issue in this case for failure to comply with Charter § 10.07.

Relator contends that the Supplementary Recall Petition is insufficient on its face, for lack of a valid Signer's Affidavit as required by Charter § 10.07. This claim is within the Court's jurisdiction for mandamus relief. *See Bejarano v. Hunter*, 899 S.W.2d 346, 349 (Tex. App.—El Paso 1995, no writ):

While appellate courts have no ability to resolve factual disputes in a mandamus action, where a petition is lacking on its face, we may issue mandamus ordering a certifying official to reject the would-be candidate's application. [citation omitted].

The Court explained that if the petition at issue “is fatally incomplete on its face” then, “absent other complicating factors” the Court will “have jurisdiction to grant mandamus here.” *Id.* In *Bejarano*, the City Clerk decided to certify petitions that did not have voter registration numbers nor the required signer’s statement that they knew the purpose for which they had signed the petition. *Id.* at 348. As in this case, in *Bejarano*, “The city clerk’s responsibilities are likewise outlined in both the election code and the city charter.” *Id.* at 350. The Court held:

We find that the city clerk's duty to apply the statutory requirements to all applications, and reject those that are insufficient, is ministerial. The clerk possesses no discretion to ignore or amend either the city charter or state election law. [...] Accordingly, having disregarded the law because it did not suit her own notion of what a petition should contain, the city clerk accepted [the] petition, and certified [it]. This she had no discretion to do; she was required by the state and city laws to inform [the applicant] that her application was insufficient

The Court emphasized that the City Clerk’s compliance with the city charter is mandatory:

In the event that we have not made our holding in this matter sufficiently clear, we restate it: compliance with state election laws and the city charter is mandatory. The clerk’s duty to reject all insufficient applications [...] is ministerial. [...] Failure to perform her duty subjects [the City Secretary] to mandamus. Tex. Elec. Code Ann. § 273.061. *Id.*

The City Secretary has a nondiscretionary duty to enforce the Bastrop City Charter § 10.07 by invalidating the recall petition.

Relator Has No Adequate Remedy on Appeal

For mandamus to issue, a relator must show that it has no adequate remedy by appeal. An appellate remedy is ‘adequate’ when any benefits to mandamus review are outweighed by the detriments.

In re Union Carbide Corp., 273 S.W.3d 152, 156 (Tex. 2008). In this case, both the interests of the Relator (to require the City Secretary to perform her nondiscretionary duty and invalidate the recall petition) and those of the City of Bastrop and its taxpayers are served by the benefits of mandamus relief on the questions of law in this case. Otherwise, a comedy of errors may occur if a recall election proceeds that should never have occurred because it is based on an invalid, insufficient petition. If an election is ordered, there will be a cost to taxpayers; Relator would be instantly removed from office if the invalid election results in such removal, even before an election contest could be filed and finally decided. *See* City Charter § 10.10 (if the recall election is successful, “the Council shall immediately declare the office vacant.”) VR: 0026.

Obtaining an early decision, via mandamus, of the sufficiency of the petition that would initiate the recall election is far more equitable and makes more efficient use of the resources of the parties and the judiciary than proceeding to a potential election contest, assuming *arguendo* that an election contest is even allowed if the initiating recall petition is invalid. *See* Tex. Elec. Code § 221.003(a) (restricting

grounds for an election contest to whether the results of the final canvass were “the true outcome” of the election or was the election tainted by some misconduct or error by someone “officially involved *in the administration of the election.*”). With such restrictive language for an election outcome, it is not certain at all that, if Mayor Nelson is removed at an election based on the City Secretary’s erroneous certification of the recall petition, he has an adequate remedy on appeal to file an election contest.

Mayor Nelson is also confident that, when the truth is known, he would prevail with the voters and defeat a recall election. This is all the more reason a mandamus decision now on the validity of the recall petition now outweighs any detriments there may be to such mandamus relief. Regardless of how a recall election would turn out, there is no adequate remedy on appeal if the election process is allowed to proceed based on an insufficient recall petition. And it is not in the public interest.

PROPERLY CONSTRUED, TEX. ELEC. CODE § 277.004 DOES NOT PREEMPT THE BASTROP CITY CHARTER RECALL PETITION AFFIDAVIT REQUIREMENT

The City Secretary decided that Charter § 10.07 is invalid and unenforceable because, she asserts, it puts additional requirements, beyond Tex. Elec. Code Ch. 277, for the “validity or verification of petition signatures.” In fact, Charter § 10.07 does nothing more than to require the form of the recall petition to contain a

statement of the grounds for recall and to have multiple voters attest to truth of the alleged grounds for recall. The point missed by the City Secretary is that the recall petition must comply both with the City Charter requirements for the content of the petition and the Election Code requirements to determine which signatures are valid. “Determining whether a city charter provision conflicts with the state election code presents us with a pure question of law, which we review de novo.” *Austin Police Ass'n v. City of Austin*, 71 S.W.3d 885, 888 (Tex. App.—Austin 2002, no pet.).

**THE BASTROP CITY CHARTER CONTAINS REQUIREMENTS FOR THE “FORM” OF
RECALL PETITIONS SEPARATE FROM REQUIREMENTS FOR WHAT CONSTITUTES
VALID “SIGNATURES.”**

The City Secretary contends that she was not required to enforce Charter § 10.07 because it was not in effect on September 1, 1985 and is, thus, preempted by Tex. Elec. Code § 277.004. This contention was, and is, without merit. The City Charter is akin to the “City’s Constitution” and is approved by the voters of the City. All of its provisions must be respected, especially by city officials on whom falls the duty to enforce it.

It seems to have gotten lost in the emotionally-charge politics of the recall campaign, that the voters of the City of Bastrop built into their “Constitution” protections and requirements that must be met before an elected official’s election will be submitted to another election called to overturn the previous election. It may

be that the petition Circulators do not want Mayor Nelson to continue to serve for the remaining 3 years to which he was elected, but the City Charter's recall process must be *strictly* followed. *See Bejarano v. Hunter*, 899 S.W.2d 346, 349 (Tex. App.—El Paso 1995, no writ)

There are several safeguards in the Bastrop City Charter to guard against mob lynching parties directed at recalling elected officials such as Mayor Nelson. For example, City Charter section 10.07 requires a recall petition to be “signed and verified in the manner required for an initiative petition.” The initiative provision in Charter § 10.03 requires, *inter alia*, that each page of the petition contain a “statement of the circulator that he/she personally circulated the foregoing paper, that all the signatures appended thereto were made in his/her presence and that he/she believes them to be the genuine signatures of the persons whose names they purport to be.” VR: 0023, 0024. Charter § 10.07 has 2 additional requirements specifically for recall petitions; (a) that the petition “contain a general statement of the grounds upon which the removal is sought,” and (b) that “one of the signers of each petition paper shall make an affidavit that the statements made therein are true.”

Thus, the Bastrop City Charter clearly distinguishes between recall petition “circulators” and recall petition “signers.” In interpreting the Bastrop City Charter, this honorable Court must assume that each word was used intentionally. *See Fort*

Worth Transp. Auth. v. Rodriguez, 547 S.W.3d 830, 838 (Tex. 2018)(“We read statutes contextually to give effect to every word, clause, and sentence, because every word or phrase is presumed to have been intentionally used with a meaning and a purpose.”)

The City Secretary misconstrued “circulator” and “signer” to be one and the same, even though, in doing so, she allowed, and considered valid, the duplicate signatures on scores of the petition pages. *See In re Holcomb*, 186 S.W.3d 553, 555 (Tex. 2006) ([...] we hold a petition containing duplicate signatures is invalid [...].”); *Cohen v. Rains*, 745 S.W.2d 949, 954 (Tex. App.—Houston [14th Dist.] 1988, no writ) (duplicate signatures on a petition don’t count).

The People of Bastrop, in making their City Charter to be somewhat restrictive on recalling their elected officials—a matter that is not contained in state law and was not required to be allowed at all in the City Charter—chose to require a high threshold for the number of required signatures, 25% of the registered voters, and top of that two distinct affidavits on each page: One affidavit by the Circulator and another affidavit to be signed by at least one voter who signed that page to attest to the truth of the grounds on which the petition sought the official’s removal. In adopting their City Charter, the People of Bastrop rightly placed restrictions on what would constitute a sufficient recall petition. They require that the petition state the

grounds for recall, and they require that more than just a few zealous circulators of the petition attest to the truth of the grounds for recall. One way to ensure there is widespread believe in the truth of the stated grounds for recall—and not just that there were voters who wanted to have another election—is require that, if there are 96 pages to a recall petition, then 96 voters—one on each petition page—must believe and attest to the truth of the grounds for recall.

With the blessing of the City Secretary, the Circulators of the recall petition at issue here were allowed to violate the standards for recall petitions set by the People of Bastrop in their City Charter.

It is important to note that even if one of these 3 conditions for the *form* of a recall petition was not met, but all the signature lines contained the information required by Tex. Elec. Code § 277.002, e.g., address, date of birth/voter I.D. number, date of signature, the *signatures* on that page would be valid, but the petition itself would not be. In other words, there was an insufficient number of voters who attested to the truth of the grounds for recall. If the Court were to accept the City Secretary’s position that the Signer’s Truth Affidavit is not required in order the certify the petition as sufficient, then by the same reasoning, the City Secretary could ignore whether the recall petition stated any grounds for the removal of the officials or

contained a Circulator's affidavit. This would lead to flippant petitioning for recall and potential fraud in signing the petitions.

CHARTER § 10.07 AND TEX. ELEC. CODE CH. 277 ARE NOT IN CONFLICT.

The Texas Supreme Court has clearly addressed how to construe state statutes and city charters when it is alleged they are in conflict. “We presume a home-rule city charter provision to be valid, and the courts cannot interfere unless it is unreasonable and arbitrary, amounting to a clear abuse of municipal discretion.” *In re Sanchez*, 81 S.W.3d 794, 796 (Tex. 2002), as supplemented on denial of reh'g (Aug. 29, 2002). The Court said:

A city charter provision that attempts to regulate a subject matter a state statute preempts is unenforceable to the extent it conflicts with the state statute. However, if the Legislature decides to preempt a subject matter normally within a home-rule city's broad powers, it must do so with “unmistakable clarity.” Accordingly, *courts will not hold a state law and a city charter provision repugnant to each other if they can reach a reasonable construction leaving both in effect.* (emphasis added). *Id.*

Tex. Elec. Code chapter 277 concerns what *signatures* can be considered valid for purposes of petitions that are ordered by law outside the Election Code. Section 277.004 says that Chapter 277 preempts any home-rule city charter provision that would impose additional “requirements for the validity or verification of petition *signatures*” than those imposed in that chapter. For example, if a city charter required that, for a petition *signature* to be valid, the petition had to include the signer's Social

Security number, that charter provision would be void as in conflict with the *signature* validity requirements of Chapter 277. However, if a recall petition contains *signatures* that are valid, but the *form* of pages in the recall petition are missing the required statements and affidavits, then the recall petition is insufficient.

Tex. Elec. Code Ch. 277 merely establishes a statewide standard for what information is required for a petition *signature* to be considered valid. When it comes to recall petition, the Bastrop City Charter—legitimately and without conflict with the Elections Code—establishes its standards for (a) how many (valid) signatures overall must appear in the petition, (b) what statements (such as grounds for recall) must appear in the petition, (c) how many voters must attest to the truth of the grounds for recall by requiring one voter per petition page to so swear (*i.e.*, Charter § 10.07), and (d) that the Circulator of each page swear to witnessing the signatures and to the belief that the signatures are legitimate. These are all important safeguards against voters being tricked, as Relator believes they were in this case, into signing a recall petition based on false allegations.

PRAYER

For these reasons, Relator Mayor Lyle Nelson asks the Court to grant this Writ of Mandamus and order Respondent Irma Parker in her official capacity as Interim City Secretary of the City of Bastrop to declare the Recall Petition (Exh.

Relator-3) and the Supplementary Recall Petition (Exh. Relator-7) insufficient based on the requirements of the Bastrop City Charter, and grant Relator such other relief to which, by law or equity, he is entitled and award court costs to Relator.

Respectfully submitted,

/s/ Bill Aleshire

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TEX. R. APP. P. 52.3(J) CERTIFICATION

Pursuant to Tex. R. App. P. 52.3(j), the undersigned certifies that he has reviewed the above Petition for Writ of Mandamus and concluded that every factual

statement in the petition is supported by competent evidence included in the attached verified record and appendix.

/s/ Bill Aleshire
BILL ALESHIRE

CERTIFICATE OF COMPLIANCE

The undersigned hereby certifies that this document was computer generated and the word count of the document, except for those items “excluded” by section Tex. R. App. P. 9.4(i)(2)(D), is 4,155 based on the count of the computer program used to prepare the document.

/s/ Bill Aleshire
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served electronically on the following counsel of record for Respondent on September 21, 2024:

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7/26/24	Exh Relator-4 2024-07-26 AleshireLAW Letter to City Secretary Franklin	VR: 0139 - 0141
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APPENDIX INDEX

APP TAB A – Tex. Elec. Code Ch. 277

APP TAB B - Howard v. Clack, 589 S.W.2d 748 (Tex. App.—Dallas 1979)

APP TAB C – *Bejarano v. Hunter*, 899 S.W.2d 346 (Tex. App.—El Paso 1995)

APP TAB D - *In re Sanchez*, 81 S.W.3d 794 (Tex. 2002)

APP TAB E - *City of Sherman v. Hudman*, 996 S.W.2d 904 (Tex. App. Dallas 1999)

ELECTION CODE

TITLE 16. MISCELLANEOUS PROVISIONS

CHAPTER 277. PETITION PRESCRIBED BY LAW OUTSIDE CODE

Sec. 277.001. APPLICABILITY OF CHAPTER. This chapter applies to a petition authorized or required to be filed under a law outside this code in connection with an election.

Added by Acts 1987, 70th Leg., ch. 54, Sec. 16(c), eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 728, Sec. 81, eff. Sept. 1, 1993.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1235 (S.B. 1970), Sec. 25, eff. September 1, 2009.

Sec. 277.002. VALIDITY OF PETITION SIGNATURES. (a) For a petition signature to be valid, a petition must:

(1) contain in addition to the signature:

(A) the signer's printed name;

(B) the signer's:

(i) date of birth; or

(ii) voter registration number and, if the territory from which signatures must be obtained is situated in more than one county, the county of registration;

(C) the signer's residence address; and

(D) the date of signing; and

(2) comply with any other applicable requirements prescribed by law.

(b) The signature is the only information that is required to appear on the petition in the signer's own handwriting.

(c) The use of ditto marks or abbreviations does not invalidate a signature if the required information is reasonably ascertainable.

(d) The omission of the state from the signer's residence address does not invalidate a signature unless the political subdivision from which the signature is obtained is situated in more than one state. The omission of the zip code from the address does not invalidate a signature.

(e) A petition signature is invalid if the signer signed petition earlier than the 180th day before the date the petition is filed.

(f) The signer's residence address and the address listed on the signer's registration are not required to be the same if the signer is eligible to vote under Section 11.004 or 112.002.

Added by Acts 1987, 70th Leg., ch. 54, Sec. 16(c), eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 728, Sec. 82, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1349, Sec. 73, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1316, Sec. 43, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1107 (H.B. 2309), Sec. 1.25(a), eff. September 1, 2005.

Acts 2021, 87th Leg., R.S., Ch. 711 (H.B. 3107), Sec. 97, eff. September 1, 2021.

Sec. 277.0021. MEANING OF QUALIFIED VOTER. A reference in a law outside this code to "qualified voter" in the context of eligibility to sign a petition means "registered voter."

Added by Acts 1989, 71st leg., ch. 483, Sec. 1 , eff. Sept. 1, 1989.

Sec. 277.0022. WITHDRAWAL OF SIGNATURE. (a) A signer may not withdraw the signature from a petition on or after the date the petition is received by the authority with whom it is required to be filed. Before that date, a signer may withdraw the signature by deleting the signature from the petition or by filing with the authority with whom the petition is required to be filed an affidavit requesting that the signature be withdrawn from the petition.

(b) A withdrawal affidavit filed by mail is considered to be filed at the time of its receipt by the appropriate authority.

(c) The withdrawal of a signature nullifies the signature on the petition and places the signer in the same position as if the signer had not signed the petition.

Added by Acts 1993, 73rd Leg., ch. 728, Sec. 83, eff. Sept. 1, 1993.

Sec. 277.0023. SUPPLEMENTING PETITION. (a) Except as

provided by Subsection (b), a petition may not be supplemented, modified, or amended on or after the date it is received by the authority with whom it is required to be filed unless expressly authorized by law.

(b) If a petition is required to be filed by a specified deadline, the petitioner may file one supplementary petition by that deadline if the original petition contains a number of signatures that exceeds the required minimum number by 10 percent or more and is received by the authority with whom it is required to be filed not later than the 10th day before the date of the deadline. The authority shall notify the petitioner as to the sufficiency of the petition not later than the fifth regular business day after the date of its receipt.

Added by Acts 1993, 73rd Leg., ch. 728, Sec. 83, eff. Sept. 1, 1993.

Sec. 277.0024. COMPUTING NUMBER OF SIGNATURES. (a) Except as provided by Subsection (b), if the minimum number of signatures required for a petition is determined by a computation applied to the number of registered voters of a particular territory, voters whose names appear on the list of registered voters with the notation "S", or a similar notation, shall be excluded from the computation.

(b) The signature of a voter whose name appears on the list of registered voters with the notation "S", or a similar notation, is considered valid if the voter:

- (1) is otherwise eligible to vote in the territory;
- and
- (2) provides a residence address located in the territory.

Added by Acts 1995, 74th Leg., ch. 797, Sec. 43, eff. Sept. 1, 1995.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 711 (H.B. 3107), Sec. 98, eff. September 1, 2021.

Sec. 277.003. VERIFYING SIGNATURES BY STATISTICAL SAMPLE. If a petition contains more than 1,000 signatures, the city secretary or other authority responsible for verifying the


signatures may use any reasonable statistical sampling method determining whether the petition contains the required number of valid signatures, except that the sample may not be less than 25 percent of the total number of signatures appearing on the petition or 1,000, whichever is greater. If the signatures on a petition circulated on a statewide basis are to be verified by the secretary of state, the sample prescribed by Section 141.069 applies to the petition rather than the sample prescribed by this section.

Added by Acts 1987, 70th Leg., ch. 54, Sec. 16(c), eff. Sept. 1, 1987.

Sec. 277.004. EFFECT OF CITY CHARTER OR ORDINANCE. Any requirements for the validity or verification of petition signatures in addition to those prescribed by this chapter that are prescribed by a home-rule city charter provision or a city ordinance are effective only if the charter provision or ordinance was in effect September 1, 1985.

Added by Acts 1987, 70th Leg., ch. 54, Sec. 16(c), eff. Sept. 1, 1987.

Howard v. Clack, 589 S.W.2d 748 (1979)

 KeyCite Yellow Flag - Negative Treatment
Distinguished by [Toubaniaris v. American Bureau of Shipping](#),
Tex.App.-Hous. (1 Dist.), October 29, 1998
589 S.W.2d 748
Court of Civil Appeals of Texas, Dallas.

Charles HOWARD, Margie Howard, Joe Langfitt, Barbara Langfitt, David Bolton, Gayle Dunn, Robert Dunn, Frank Robertson, Betty Pryon, David Mitchell, Janet Mitchell, Jim Thornhill, and Helene Thornhill, Relators,

v.

Charles CLACK, George Drum, Corky Crowder, Larry Holley, Charles Palmore, Joe Regian, Gwen Smale, Dale Stringfellow, and Martin Suber, as Members of the City Council of the City of Garland, Texas, Respondents.

No. 20196.
|
Oct. 3, 1979.

Synopsis

Voters in city of Garland brought action for writ of mandamus to compel city council to hold an election seeking recall of one of its members. The Court of Civil Appeals, Guittard, C. J., held that: (1) phrase “laws of this state” as used in mandamus statute encompasses a duty imposed by charter adopted under Home Rule Amendment; (2) under provision of city charter that secretary was to examine recall petitions to ascertain if they were signed by requisite number of qualified voters and was to attach a certificate showing result of such examination and if petition were sufficient the secretary was to submit the same to city council which “shall” order and fix the date for holding the election, the city council did not have authority and discretion to review the sufficiency of the recall petition and decline to call an election if it determined that the petition did not have the requisite number of genuine signatures; and (3) even if charter failed to confer on any agency authority to determine whether any signatures were fraudulent, such circumstance would not justify judicial recognition of such authority in the council.

Mandamus granted.

West Headnotes (5)

[1] **Mandamus**  Municipalities and municipal officers in general

Phrase “laws of this state” as used in mandamus statute does not limit Court of Civil Appeals’ jurisdiction to enforcement of duties imposed by law of statewide scope but includes a duty imposed under a city charter adopted pursuant to the Home Rule Amendment. [Vernon’s Ann.Civ.St. arts. 1174, 1735a](#); [Vernon’s Ann.St.Const. art. 11, § 5](#).

1 Case that cites this headnote

[2] **Mandamus**  Appointment or removal of public officers or employees

Court of Civil Appeals had jurisdiction to issue writ of mandamus compelling city council to comply with ministerial duties imposed on it by city charter in connection with recall elections. [Vernon’s Ann.Civ.St. art. 1735a](#).

2 Cases that cite this headnote

[3] **Municipal Corporations**  Proceedings and Review
Public Employment  Petition or other application

Under provision of city charter that secretary was to examine recall petitions to ascertain if they were signed by requisite number of qualified voters and was to attach a certificate showing result of such examination and if petition were sufficient the secretary was to submit the same to city council which “shall” order and fix the date for holding the election, the city council did not have authority and

discretion to review the sufficiency of recall petition and decline to call an election if it determined that the petition did not have the requisite number of genuine signatures [Vernon's Ann.St.Const. art. 11, § 5](#).

6 Cases that cite this headnote

[4] [Municipal Corporations](#) → [Proceedings and Review](#)
[Public Employment](#) → [Petition or other application](#)

Even if city charter failed to confer authority on any city agency to determine whether signatures on a recall petition were fraudulent, such would not justify judicial recognition of such authority in city council where no such authority was otherwise expressed or implied in the charter. [Vernon's Ann.St.Const. art. 11, § 5](#).

4 Cases that cite this headnote

[5] [Mandamus](#) → [Appointment or removal of public officers or employees](#)

Writ of mandamus would issue to compel city council to hold election for recall of one councilman where city charter imposed on council a mandatory, ministerial duty to order a recall election on presentation of a petition accompanied by a certificate of the city secretary that the petition was sufficient and it was undisputed that the secretary had made such a certificate and that the council had refused to order the election. [Vernon's Ann.Civ.St. art. 1735a](#).

7 Cases that cite this headnote

Attorneys and Law Firms

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John F. Boyle, Jr., Dallas, for respondents.

Before GUITTARD, C. J., and CARVER and STOREY, JJ.

Opinion

GUITTARD, Chief Justice.

Relators in this original petition for mandamus are voters in the city of Garland who have sought to invoke the provisions of the *750 city charter for recall of one of the members of the city council. Their petition for recall was certified by the city secretary as containing the names of the requisite number of voters, but the city council has refused to call an election after making its own examination of the petition and determining that some of the purported signatures are not genuine and that others are of persons who have sought to withdraw their names. Relators seek a writ of mandamus under [article 1735a, Tex.Rev.Civ.Stat. Ann.](#) (Vernon Supp. 1978-1979), on the ground that after the city secretary certified the petition as containing the requisite number of names, the city council had no discretion to review the sufficiency of the petition and had only a ministerial duty to call an election. We agree with this interpretation of the charter. Accordingly, we grant the writ.

Jurisdiction

[1] [2] Before discussing the merits of the petition for mandamus, we must consider respondents' objection that we have no jurisdiction under [article 1735a](#) because duties imposed by the charter are not duties imposed by "the laws of this state." We disagree. The statute gives us jurisdiction to issue the writ against public officers "to compel the performance, in accordance with the laws of this state, of any duty imposed upon them, respectively, by law, in connection with the holding of any general, special, or primary election . . ." This statute cannot properly be interpreted as limiting our jurisdiction to enforcement of duties imposed by laws of statewide scope. A city with a charter adopted under the Home Rule Amendment, [Tex.Const. art. XI s 5](#), has legislative powers not dependent on the general laws of the state. [Lower Colorado River Authority v. City of San Marcos, 523 S.W.2d 641, 643-44 \(Tex.1975\)](#); [City of Beaumont v.](#)

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Bond, 546 S.W.2d 407, 409 (Tex.Civ.App. Beaumont 1977, writ ref'd n.r.e.). Such a charter is declared by statute to be a "public act," and all courts are required to take judicial notice of it. *Tex.Rev.Civ.Stat. Ann. art. 1174* (Vernon 1963); *City of Dallas v. Megginson*, 222 S.W.2d 349, 351 (Tex.Civ.App. Dallas 1949, writ ref'd n.r.e.). Consequently, a duty imposed by such a charter is a duty "imposed by law" within article 1735a, on which our jurisdiction rests. *Nelson v. Welch*, 499 S.W.2d 927, 928 (Tex.Civ.App. Houston (14th Dist.) 1973, no writ) (appellate court had jurisdiction, but denied mandamus on merits).

Merits

^[3] Having determined that we have jurisdiction, we must consider the principal question, that is, whether the city council has authority and discretion to review the sufficiency of the petition for recall and decline to call an election if it determines that the petition does not have the requisite number of genuine signatures. We conclude that it has no such authority.

The pertinent provision of the charter is section 93, which provides:

Any member or all members of the council (including the mayor) may be recalled and removed from office by the electors qualified to vote for a successor of such incumbent by the following procedure:

A petition signed by qualified voters entitled to vote for a successor to each member sought to be removed, equal in number to twenty-five (25) per cent of the number of votes cast at the last regular municipal election for that office which is the subject of the petition, shall be filed with the city secretary; provided that not less than eight hundred (800) signatures shall be required in the case of council members and not less than two thousand (2,000) signatures shall be required in the case of the mayor. Such petition shall contain a general statement of the ground for which the removal is sought. The signatures to the petition need not all be appended to one paper, but each signer shall add to his signature his place of residence, giving the street and number. One of the signers to each paper shall make oath before an officer competent to administer oaths that each signature is that of the person whose name it purports to be. Within ten (10) days *751 from the filing of such petition, The city secretary shall examine

the same and, from the list of qualified voters, ascertain whether or not the petition is signed by the requisite number of qualified voters, and, if requested to do so, the council shall allow him/her extra help for that purpose. He/she shall attach to said petition a certificate showing the results of such examination. If by the city secretary's certificate, the petition is shown to be insufficient, it may be amended within ten (10) days from the date of such certificate by obtaining additional signatures. The city secretary shall, within ten (10) days after such amendment is filed, in case one is filed with him/her, make like examination of the said amended petition and, if his/her certificate shall show same to be insufficient, shall be returned to the person filing same and shall not be subject to amendment.

If the petition be found sufficient, the city secretary shall submit the same to the council without delay and the council, in the event the mayor or council member named in said petition fails to resign, Shall order and fix a date for holding the election (Emphasis added)

Respondents contend that this provision limits the city secretary's authority to the purely ministerial task of comparing the names appearing in the petition with the list of qualified voters to ascertain whether the requisite number of qualified names appear and that she has no authority to decide whether any of the purported signatures are genuine. Further, respondents argue that in order to prevent fraud, some agency of the city must have authority before the election is called to determine whether the signatures are genuine, and that only the city council is in a position to make such a determination since it is authorized by section 21(i) of the charter to "(s)ummons and compel the attendance of witnesses and the production of books and papers before it whenever it may deem necessary for the more effective discharge of its duties."

We cannot agree with respondents because we find nothing in the charter expressly authorizing the city council to take any action with respect to a recall election other than that provided in section 93, which requires the council to order the election whenever the city secretary presents a certificate stating that the petition has been examined and found sufficient. Neither do we find any implied authority for the council to make its own investigation and determination of the sufficiency of the petition. Respondents point to no general language of the charter from which such authority can be implied as incidental. They rely on the council's authority in section 21(i) to compel the attendance of witnesses and the production of books and papers. This authority is limited to situations in which such action is deemed "necessary

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for the more effective discharge of its duties.” We find no duties imposed on the council concerning a recall election that would make appropriate the exercise of such powers.

^[4] With respect to respondents’ argument concerning protection against fraud, we need not consider whether the city secretary has authority to determine whether any of the signatures are fraudulent. Even if the charter fails to confer such authority on any agency of the city, that circumstance would not justify judicial recognition of authority in the council that cannot be found, either expressly or impliedly, in the provisions of the charter. Fraud, if it exists, may be dealt with as such. If discovered in time, it may be made an issue in the recall election. Criminal penalties are also available.

Our holding on this point is supported by the decision of the Supreme Court in *Weatherly v. Fulgham*, 153 Tex. 481, 271 S.W.2d 938, 940 (1954), in the analogous situation of a petition by an independent candidate for a place on the general election ballot. The court held that the Secretary of State, who had the statutory duty to examine the petition and certify the candidate for a place on the ballot, had no authority to inquire into facts outside the record for ***752** the purpose of determining whether any of the signatures were forged or procured by fraud. The court pointed out that if forgery or fraud was committed, criminal penalties were available.

Good reason exists to explain why the people of Garland granted no such power to their city council. Section 93 provides that if the secretary finds the petition insufficient, and so certifies, the petitioners are allowed ten days from the date of the certificate to amend the petition by obtaining additional signatures. Respondents concede that if the secretary’s certificate states that the certificate is sufficient, and the council rejects it as insufficient as a result of its own investigation, no such time for amendment would exist. It would be unreasonable to construe section 93 as permitting the petitioners to be thus deprived of their right to amend.

Moreover, to imply authority on the part of the council to make the ultimate determination of sufficiency of the petition would commit the decision to a body that could not be considered impartial. Every recall petition affects at least one of the council members directly, and contemporaneous petitions with respect to other members might well affect a majority, or, indeed, all members of

the council. In that situation, each member of the council would be called on to vote on the sufficiency of petitions calling for recall of other members. Rather than create that possibility, the drafters of section 93 apparently intended to commit the responsibility of determining sufficiency of the petition to the city secretary, an impartial officer not subject to recall. We construe the charter in accordance with that evident intent.

This construction is directly supported by *Young v. State*, 87 S.W.2d 520, 522 (Tex.Civ.App. Fort Worth 1935, writ ref’d), which held that the board of aldermen of the city of Wichita Falls had no discretion in the matter of calling a recall election because a charter provision similar to that now before us imposed the duty of determining and certifying the sufficiency of the recall petition on the city clerk rather than on the board of aldermen. Since writ of error in that case was “refused” without qualification, the decision must be regarded as authoritative. We see no conflict between Young and cases cited by appellee, such as *City Commission of Pampa v. Whatley*, 366 S.W.2d 620 (Tex.Civ.App. Amarillo 1963, no writ) and *Vetters v. State*, 255 S.W.2d 588 (Tex.Civ.App. San Antonio 1953, no writ). In Whatley the provisions of the charter are not quoted, and we cannot determine whether they were similar to section 93. Vetters stands for the rule that the city secretary’s duties under a charter provision similar to section 93 are ministerial, but our holding in this case is consistent with a characterization of the duties of the Garland city secretary as ministerial.

^[5] We find that section 93 imposes on the Garland City Council a mandatory, ministerial duty to order a recall election on presentation of a petition accompanied by a certificate of the city secretary that the petition is sufficient. The undisputed evidence shows that the secretary has made such a certificate and that the city council has refused to order the election. Consequently, the writ of mandamus will be issued.

Mandamus granted.

All Citations

589 S.W.2d 748

Howard v. Clack, 589 S.W.2d 748 (1979)

APP TAB C

 KeyCite Yellow Flag - Negative Treatment
Distinguished by [Lee v. Dallas County Democratic Party](#),
Tex.App.-Dallas, September 20, 2018

899 S.W.2d 346
Court of Appeals of Texas,
El Paso.

Manuel BEJARANO, Relator,
v.
Carole HUNTER, City Clerk, Respondent.


No. 08-95-00109-CV.
|
April 27, 1995.

Synopsis

Candidate for city council sought mandamus relief, requesting that Court of Appeals order city clerk to remove name of opponent from ballot for noncompliance with filing requirements. The Court of Appeals held that: (1) clerk lacked discretion to grant insufficient application, but (2) beginning of early voting had rendered issue moot.

Mandamus denied.

West Headnotes (7)

[1] Mandamus  Announcing candidacy, placing names on ballot, and filing and certifying ticket




Although appellate courts have no ability to resolve factual disputes in mandamus action, where petition is lacking on its face, Court of Appeals may issue mandamus ordering certifying official to reject would-be candidate's application.

6 Cases that cite this headnote

[2] Public Employment  Elective office

Statutory requirements concerning candidacy for public office are mandatory, and must be strictly construed to ensure compliance.

1 Case that cites this headnote

[3] Mandamus  Announcing candidacy, placing names on ballot, and filing and certifying ticket
Municipal Corporations  Application for and making of appointment in general
Public Employment  Election or appointment

City clerk lacked discretion to accept applications for candidacy for city office that did not fully comply with application requirements, and so was subject to mandamus for accepting insufficient application. [V.T.C.A., Election Code §§ 141.062-141.065, 273.061](#); El Paso, Tex., City Charter § 2.2(E).

5 Cases that cite this headnote

[4] Appeal and Error  Want of Actual Controversy

Capable of repetition yet evading review exception to mootness doctrine applies where act challenged is of such short duration that meaningful review cannot be obtained before issue becomes moot, and there is reasonable expectation that same action will occur again if not addressed.

3 Cases that cite this headnote

[5] Mandamus  Mandamus Ineffectual or Not Beneficial

Although issue of whether candidate's opponent's name should have been stricken from ballot for failing to fully comply with application requirements was moot, Court of

Appeals would address issue on merits under capable of repetition yet evading review exception to mootness doctrine, since city clerk's longstanding refusal to comply with application law that clerk considered superfluous and unnecessary rendered matter capable of repetition, and tight time constraints for bringing challenge, which allowed only fleeting opportunity for appellate review, met evading review requirement. *V.T.C.A., Election Code §§ 141.062–141.065, 273.061*; El Paso, Tex., City Charter § 2.2(E).

10 Cases that cite this headnote

[6] **Action** → Moot, hypothetical or abstract questions

Case becomes moot when any right which might be determined by judicial tribunal could not be effectuated in manner provided by law.

1 Case that cites this headnote

[7] **Mandamus** → Mandamus Ineffectual or Not Beneficial

Although there was good cause to challenge grant by city clerk of application for candidacy for public office that did not meet application requirements, action was moot since early voting had begun. *V.T.C.A., Election Code §§ 141.062–141.065, 273.061*; El Paso, Tex., City Charter § 2.2(E).

2 Cases that cite this headnote

Attorneys and Law Firms

*347 [Michael R. Gibson](#), El Paso, for relator.

[Laura P. Gordon](#), Asst. City Atty., El Paso, for respondent.

[Victor M. Firth](#), Mounce & Galatzan, El Paso, for real-party-in-interest.

Before the court en banc.

OPINION

In this original proceeding in mandamus relator Manuel Bejarano, a candidate for El Paso city council, district 6 in the May 1995 election, requests that we order the El Paso city clerk to remove the name of his opponent, Barbara Perez, from the ballot.¹ We find that although candidate Perez's petition in lieu of filing fee is insufficient on its face, the start of early voting has mooted the controversy. We therefore deny mandamus relief, ordering that both candidates remain on the ballot.

ANARCHY IN E.P.

This controversy results from the El Paso city clerk's conscious decision to ignore the requirements of state law and of the city charter, coupled with a candidate's apparent indifference to her own responsibility under those laws. Arrogance, ineptness, confusion, and carelessness have combined here to needlessly complicate the electoral process. Gamesmanship, although encompassing valid legal strategy, has compounded the difficulty and precluded the remedy relator seeks. The undisputed facts follow.

Barbara Perez is the incumbent in the race for El Paso city council, district 6 (the lower valley district). On February 20, 1995, the first day for filing as a candidate in the May 1995 city election, she filed her application for a place on the general election ballot with city clerk Carole Hunter. Rather than pay the \$250 filing fee, Perez filed a petition in lieu thereof. Her petition included forty-seven signatures, only seventeen of which included the signer's voter registration number along with other identifying information. Each signature was on a form supplied by the Texas Secretary of State; the top of each page contained blanks for the appropriate candidate's name, the office sought, and the election date. Despite clear instructions accompanying the forms that this information

must be filled out for each page of signatures obtained, of seven pages containing signatures *348 in Perez's petition only two were completed.

City clerk Hunter accepted Perez's application, and certified her name to be placed on the 1995 city election ballot. By the clerk's own admission, she did not require that Perez's petition include the voter registration numbers of its signatories; neither did she require that signature pages include the completed declaration that the signatory knew the purpose for which he or she signed. In her affidavit before this Court, Hunter stated that she did not require such information because:

There is no requirement in the Charter or state law that the candidates [sic] name be at the top of every page, although the form states that such information should be filled in.

.....

I informed Ms. Perez and other similarly situated candidates for city office that their petitions, which did not contain voter registration numbers, complied with the City Charter. I did so using my discretion as the City Clerk in determining the validity of the petition.

If I believed that voter registration numbers were required, I could have filled those in. In fact, one candidate for a city representative position, Jesus Terrazas, requested that I give him access to the voter registration ballots so that he could fill in the voter registration numbers. I informed Mr. Terrazas that he did not need that information and that I could verify the signatures without that information. I have been accepting petitions without voter registration numbers for several years.

In my opinion, the requirement that voter registration numbers be placed on a nominating petition is a superfluous and unnecessary requirement....

The filing period for city elections closed on March 22, 1995. One other candidate, Manuel Bejarano, filed an application to run for the lower valley seat. On March 23, 1995, Hunter certified both candidates to be placed on the ballot. Also on March 23, Bejarano obtained a copy of Perez's petition. On March 24, his lawyer sent clerk Hunter a letter informing her that he believed Perez's petition was insufficient. Hunter made no reply to this letter. On April 7, 1995, the period to file as a write-in candidate expired. That day, Bejarano filed a mandamus action against the city clerk in the 171st District Court of El Paso County, asking that Perez's name be removed from the ballot.

Candidate Perez obtained counsel and a number of legal maneuvers ensued in the district court. Perez attempted removal to federal district court, with remand the same day; the sitting judge was disqualified;² the presiding judge quickly appointed a visiting judge; Perez exercised a strike of that judge under [Tex.Gov't Code Ann. § 74.053](#) (Vernon Supp.1995); the presiding judge appointed a second visiting judge, and scheduled the case for hearing on April 14, 1995 (which was both Good Friday and the last working day before the beginning of early voting). Bejarano requested mandamus against the regional presiding judge from this Court on April 13, asking that the district court be ordered to hold an immediate hearing. We denied mandamus on the grounds that any action by the district court would be void, as it possessed no jurisdiction over a challenge to a ballot application. [Tex.Elec.Code Ann. § 273.061](#) (Vernon 1986). On Friday, April 14, 1995 at approximately 9 a.m., Bejarano filed in this Court another motion for leave to file a petition for writ of mandamus, this time against the El Paso city clerk, Carole Hunter. He did not serve the city attorney or real-party-in-interest Perez until 11:28 a.m. This Court granted leave to file, requested full briefing by all parties to be submitted by Monday, April 17, and scheduled oral argument for Tuesday, April 18, 1995. Argument from relator Bejarano, the City of El Paso, and real-party-in-interest Perez was heard by this Court en banc on that date.

*349 JURISDICTION

^[1] As a threshold matter, we note that jurisdiction to compel an election officer to remove a candidate's name from the ballot is vested in the appellate courts. The Texas Election Code provides:

The supreme court or a court of appeals may issue a writ of mandamus to compel the performance of any duty imposed by law in connection with the holding of an election or a political party convention, regardless of whether the person responsible for performing the duty is a public officer. [Tex.Elec.Code Ann. § 273.061](#) (Vernon 1986).

Numerous mandamus cases in the appellate courts have addressed the very issue before us here: whether an application for a place on the ballot must be rejected because the petition in lieu of filing fee was defective. *See Strachan v. Lanier*, 867 S.W.2d 52, 53 (Tex.App.—Houston [1st Dist.] 1993) (orig. proceeding);

Cohen v. Strake, 743 S.W.2d 366, 367 (Tex.App.—Houston [14th Dist.] 1988) (orig. proceeding); *Gray v. Vance*, 567 S.W.2d 16, 17 (Tex.Civ.App.—Fort Worth 1978) (orig. proceeding). While appellate courts have no ability to resolve factual disputes in a mandamus action, where a petition is lacking on its face, we may issue mandamus ordering a certifying official to reject the would-be candidate's application. *Strachan*, 867 S.W.2d at 53. Thus, if Perez's petition is fatally incomplete on its face as Bejarano suggests (and absent other complicating factors), we have jurisdiction to grant mandamus here.

THE CITY CLERK'S DUTIES

^[2] ^[3] The Texas Election Code allows a home-rule city, such as El Paso, to establish its own requirements for ballot place applications in city elections. *Tex.Elec.Code Ann. § 143.005* (Vernon Supp.1995). Although the city has established its own rules through the city charter, the requirements for a petition in lieu of filing fee are almost identical to those required under state law.³ Compare *Tex.Elec.Code Ann. § 141.063(2)* (Vernon 1986) with El Paso City Charter § 2.2(E). A candidate for city office may secure a place on the ballot by filing an application for a place on the general election ballot and paying a \$250 filing fee. El Paso City Charter § 2.2(D). A candidate may avoid the filing fee by filing a petition in lieu thereof containing twenty-five valid signatures along with the application. *Tex.Elec.Code Ann. §§ 141.062–141.065* (Vernon 1986); El Paso City Charter § 2.2(E). Statutory requirements concerning candidacy for public office are mandatory, and must be strictly construed to ensure compliance. *Wallace v. Howell*, 707 S.W.2d 876, 877 (Tex.1986); *Jones v. Mather*, 709 S.W.2d 299 (Tex.App.—Houston [14th Dist.] 1986) (orig. proceeding); *Gray*, 567 S.W.2d at 17.

Requirements concerning the validity of a petition in lieu of filing fee require that:

- (a) To be valid, a petition *must*:
- (1) be timely filed with the appropriate authority;
 - (2) contain valid signatures in the number required by this code; and
 - (3) comply with any other applicable requirements for validity prescribed by this code.

(b) A petition may consist of multiple parts. *Tex.Elec.Code Ann. § 141.062* (Vernon 1986) [emphasis added].

A signature on a petition is valid if:

(1) Except as otherwise provided by this code, the signer, at the time of signing, is a registered voter of the territory from which the office sought is elected or has been issued a registration certificate for a registration that will become effective in that territory on or before the date of the applicable election;

*350 (2) the petition includes the following information with respect to each signer:

- (A) the signer's residence address;
- (B) the signer's voter registration number ...
- (C) the date of signing; and
- (D) the signer's printed name;

(3) the part of the petition in which the signature appears contains the affidavit required by *Section 141.065*;

(4) each statement that is required by this code to appear on each page of the petition appears, at the time of signing, on the page on which the signature is entered; and

(5) any other applicable requirements prescribed by this code for a signature's validity are complied with. *Tex.Elec.Code Ann. § 141.063* (Vernon 1986) [emphasis added].

The city clerk's responsibilities are likewise outlined in both the election code and the city charter. Again, under the two laws her duties are identical in almost every respect. Under the city charter:

Within five days after the filing of a nominating petition, the City Clerk *shall* notify the candidate and the person who filed the petition, if other than the candidate, whether it satisfies the requirements prescribed by this Charter. If a petition is found insufficient, the City Clerk *shall* return it immediately to the person who filed it with a statement certifying wherein it is insufficient. El Paso City Charter § 2.2(E) [emphasis added].

We find that the city clerk's duty to apply the statutory requirements to all applications, and reject those that are insufficient, is ministerial. The clerk possesses no discretion to ignore or amend either the city charter or state election law. Nevertheless, the city clerk has averred

that she decided voter registration numbers were “superfluous and unnecessary,” and that she would not require them on candidate applications. Similarly, she has wholly ignored the requirement that each page of a petition bearing signatures contain, at the time of signing, the candidate’s name, office sought, and election date.⁴ Accordingly, having disregarded the law because it did not suit her own notion of what a petition should contain, the city clerk accepted Perez’s application and petition, and certified her name to be placed on the ballot. This she had no discretion to do; she was required by the state and city laws to inform Perez that her application was insufficient, and return it to her within five days of receiving it. Had the clerk complied with her ministerial duty, Perez would have had ample time to correct the deficiencies and file a new application before the filing deadline. Failing to perform that duty, the clerk set the stage for a completely avoidable comedy of errors.

In the event that we have not made our holding in this matter sufficiently clear, we restate it: compliance with state election laws and the city charter is mandatory. The clerk’s duty to reject all insufficient applications for a place on the ballot is ministerial. Perez’s petition in lieu of filing fee was insufficient as a matter of law, and city clerk Hunter was required to reject it. Failure to perform her duty subjects Hunter to mandamus. *Tex.Elec.Code Ann. § 273.061 (Vernon 1986)*.

THE CANDIDATE’S RESPONSIBILITIES

Having concluded that the city clerk deliberately declined to perform ministerial duties required of her by both the election code and the city charter, we turn now to the comportment of the candidate Barbara Perez. First, we emphasize that it is the *candidate*, not the city clerk, who is primarily responsible and accountable for properly completing and timely filing her election application, including the petition if she elects not to pay the \$250 filing fee (a decision this candidate no doubt deeply regrets in hindsight). Although the city clerk is charged with reviewing the application, in the end it is the candidate *351 who must insure that it complies with the state and local law. If she does not, she is at risk of having her candidacy rejected; if not by the clerk, then by the court if an enterprising opponent seeks her removal from the ballot. It is the candidate’s responsibility because it is the candidate’s name that will (or will not) appear on the ballot.

Here, it is manifest that the petition submitted by Perez did not comply with the law. Most signatories failed to supply their voter’s registration numbers, which are required under both the present election code and city charter. A candidate for city council wishing to avoid a filing fee must obtain twenty-five signatures with voter’s registration numbers, here from among 68,000 constituents. Perez may find this requirement oppressive and arbitrary. If so, she had two alternatives: pay the \$250 filing fee, or challenge the constitutionality of the requirement in court. She did neither.

Second, we turn to what we find to be Perez’s far more serious omission: her failure to complete the statement at the top of each page of signatures, *before* asking voters to sign.⁵ Although Perez signed the required circulator’s affidavit, which states that she “called each signer’s attention to the above statements and read them to him [sic] before the signer affixed his [sic] signature,” for most pages of her petition this affirms only that she read a statement which was missing all the crucial information a voter needed before signing. We cannot assume that the circulator supplied information missing from the face of the petition itself. A voter may sign only one petition per electoral office. Informing voters of the name, electoral race, and election which they are choosing to so endorse is a vital part of the petition process. Failing to do so risks confusion (at best) and deception (at worst). A voter should never be asked to sign a blank endorsement; by doing so he or she gives up a right, and should be asked to do so only in a way that reflects a knowing choice. Thus, the declaration at the top of each petition page is not a mere technicality, nor a hurdle serving no real purpose: it serves a purpose important to its *signatories*, informing them in writing of the candidate for whom they sign, and of those candidates for whom they cannot sign henceforth. A small but significant civil right is relinquished; this is not trivial, and the challenge of such an omission cannot be shrugged off as merely technical. The candidate *must* provide her supporters with this information.

MOOTNESS

[4] [5] Although we conclude that the controversy between these individual parties became moot with the beginning of early voting, we have addressed its merits because it falls within a classic category of cases which are an exception to the mootness doctrine: those capable of repetition yet evading review. *See Roe v. Wade*, 410 U.S.

113, 93 S.Ct. 705, 35 L.Ed.2d 147 (1973); *Pilcher v. Rains*, 853 F.2d 334, 335 n. 1 (5th Cir.1988). The “capable of repetition yet evading review” exception applies where the act challenged is of such short duration that meaningful review cannot be obtained before the issue becomes moot. *General Land Office v. OXY U.S.A.*, 789 S.W.2d 569, 571 (Tex.1990); *Click v. Tyra*, 867 S.W.2d 406, 408 (Tex.App.—Houston [14th Dist.] 1993) (orig. proceeding). In addition, there must be a reasonable expectation that the same action will occur again if not addressed. *Click*, 867 S.W.2d at 408. Given the city clerk’s long-standing refusal to comply with the law, together with her sworn statements that a declaration of the petition’s purpose is not required and voter registration numbers are “superfluous and unnecessary,” we find this matter is capable of repetition.

Although candidates for city office have apparently been submitting insufficient applications for ballot placement for years, and the clerk has been approving them for just as long, this is the first legal challenge to these practices. The tight time constraints for bringing a challenge, and the two-year election cycle, create only a fleeting opportunity for appellate review. We therefore conclude *352 that this matter also meets the “evading review” requirement. We may rarely determine the merits of a controversy where they will no longer effect the outcome of the particular dispute before us; this is one of those rare times. Thus, although we find that Perez’s petition was insufficient, and that the clerk failed to perform her ministerial duty of rejecting her application, we also find that her name should not be stricken from the ballot, as early voting has already begun.

The last day for challenging a candidate’s ballot application is the day before the beginning of absentee voting by personal appearance (early voting) for the election for which the application is made. *Tex.Elec.Code Ann. § 141.034* (Vernon Supp.1995). Here, early voting began April 17, 1995. Relator properly invoked the mandamus jurisdiction of this Court for the first time on April 14, 1995 (Good Friday), three days (two of which were Passover and Easter) before early voting began.⁶ This Court could not afford all parties time to fully brief the issues, nor could we properly consider the issues after briefing, before early voting began. Bejarano never requested a stay of early voting, which might have preserved the possibility of striking Perez’s name from the ballot before voting began. Once the first early vote was cast with Perez’s name as a candidate for city council, any order altering the ballot would interfere with the orderly process of the election. See *Smith v. Crawford*, 747 S.W.2d 938, 940 (Tex.App.—Dallas 1988) (orig. proceeding).

[6] [7] The only relief Bejarano has requested of this Court is that Perez be removed from the ballot. A case becomes moot “when any right which might be determined by the judicial tribunal could not be effectuated in the manner provided by law.” *Smith*, 747 S.W.2d at 940. Where voting has begun, we believe the rights of the voters to an accurate, reliable ballot must override Bejarano’s right to challenge his opponent’s insufficient application for a place on that ballot. The requested relief in this particular case is therefore moot and we cannot grant it, even where there is good cause for the challenge. See *id.*; *Price v. Dawson*, 608 S.W.2d 339, 340 (Tex.Civ.App.—Dallas 1980, no writ); *Tafolla v. City of Uvalde*, 428 S.W.2d 486, 487 (Tex.Civ.App.—San Antonio 1968) (orig. proceeding); *Cummins v. Democratic Executive Committee of Lampasas County*, 97 S.W.2d 368, 369 (Tex.Civ.App.—Austin 1936, no writ).

CONCLUSION

This controversy is thick with allegations and accusations that the provisions of the election code and city charter are merely hypertechnical, archaic rules intended to prevent fair access to the ballot. We unanimously disagree. The purpose of meticulous adherence to the law is not to deprive willing candidates from their place on the ballot; the purpose is to ensure equal treatment of all candidates and to protect voters from fraud. Elected officials serve at the pleasure of the voting public and it is the rights of voters which must be vigorously preserved. Although there is no hint of fraud or deception in this case, and we imply none, we cannot analyze the purpose of the rules in a vacuum. We speak not to the merits or capabilities of either contender in the race before us. Instead, we must inspect the voting process in the wider context of overall fair elections. If the election officers of this state are accorded broad discretion in accepting insufficient petitions for one candidate in one election, that discretion also allows them to refuse insufficient petitions for another candidate which may be viewed by that clerk, for political or personal reasons, as an undesirable candidate. There is no constraint on this power if clerks are granted authority to interpret the law at their whim. No clerk is justified in stating, under oath, that she has determined an election requirement is “superfluous and *353 unnecessary.” Imagine the outrage if a clerk disallowed a petition lacking voter registration numbers in the handwriting of the signatory, as required by the city charter, while the same clerk accepted the

opponent's petition and offered to fill in the voter registration numbers as authorized by the election code. Such discretionary application of the rules invites discrimination. And while we note that in the record before us, the city clerk has treated all candidates equally, the very fact that she believes herself free to interpret the election laws as she sees fit demonstrates the potential for abuse.

Further, the caption at the top of each signature page of a petition has an important purpose in protecting the voter. A failure to apprise the signatory of the name, ballot position, and election date of the candidate for whom support is sought can lead to chaos. Suppose an unscrupulous candidate omits the notice or leaves blank the declaration of the candidate's name and position sought, to find at the end of a successful day she has more than enough names to ensure a ballot position. What prevents that candidate from giving (or selling) her extra signatures to another candidate for another office? This possibility leads us to the conclusion that the rules were designed for a cogent and necessary purpose; they are neither hypertechnical nor archaic. While we recognize that the voters want to choose among the full range of qualified candidates, and that many may view this

challenged process as an interference with that right, we caution that without this process, meaningful safeguards are abandoned. Democracy requires a fair election; that requirement is not a technicality. We cannot allow rules designed to protect the process to be ignored at the whim of an individual.

We have determined the merits of this action because the circumstances here meet the "capable of repetition yet evading review" exception to the mootness doctrine. We deny Bejarano's requested relief, as the inception of early voting rendered this particular controversy moot. Both candidates will remain on the ballot, and the voters may choose between them, having been fully informed of each actor's contribution to this electoral free-for-all.

The Court will entertain no motions for rehearing.

All Citations

899 S.W.2d 346

Footnotes

- 1 Although the relief relator requests is that the city clerk be "directed ... to remove the Real Party In Interest's name from the 1995 El Paso General Election Ballot," we believe the ministerial act which the clerk may perform is actually that of declaring the candidate's application for office insufficient. El Paso City Charter § 2.2(D). Such a declaration would presumably require removal of the would-be candidate's name from the ballot. Because of the outcome we reach in this case, we do not address the question of whether Bejarano's petition properly requests relief directed against a party that can perform it.
- 2 Judge Peca apparently disqualified himself under the belief that this was an election contest proceeding under [Tex.Elec.Code Ann. § 221.001](#) (Vernon Supp.1995), which does require that a judge from another jurisdiction be appointed to hear the contest. [Tex.Elec.Code Ann. § 231.004](#) (Vernon 1986). This proceeding is not an election contest, however, and remedy is by mandamus to the appellate courts.
- 3 The city charter states that the application shall be filed "in accordance with the laws of Texas," thus referring back to the election code. El Paso City Charter § 2.2(D). The charter does differ from the state election code in one important respect: it requires that the voter registration number be completed by the signer, while the state code allows the number to be filled in later, by another person. Perez has challenged the constitutionality of the state code provision, but has not so challenged the city charter provision. We therefore do not address whether the more stringent city charter provision is unconstitutional under [Pilcher v. Rains, 853 F.2d 334, 336–37](#) (5th Cir.1988).
- 4 Although the election code does not specifically recite this requirement, we find that the provisions of [Tex.Elec.Code Ann. §§ 141.063\(4\), 141.064, 141.065\(1\), and 141.066\(a\)](#) (Vernon 1986) imply that each petition page must contain this information at the time each signature is obtained.

Bejarano v. Hunter, 899 S.W.2d 346 (1995)

- 5 The declaration read: "Signing the petition of more than one candidate for the same office in the same election is prohibited." "I know that the purpose of this petition is to entitle _____ to have his [sic] name placed on the ballot for the office of _____ for the _____ election."
- 6 Bejarano strategically waited for the expiration of both the filing deadline for ballot position and write-in candidacy before commencing his legal challenge. His clear purpose was to prevent Perez from curing her errors. This decision resulted in insufficient time for this Court to act. Bejarano filed his petition on the last possible working day, he then inexplicably waited two and one-half more hours before serving notice on the City of El Paso and his opponent. Having chosen to wait until his opponent could not cure her petition, he must accept the consequences of that choice.

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In re Sanchez, 81 S.W.3d 794 (2002)

45 Tex. Sup. Ct. J. 596, 45 Tex. Sup. Ct. J. 1257

81 S.W.3d 794
Supreme Court of Texas.

In re San Juanita SANCHEZ, Pete Garcia,
and Esperanza Lopez Flores, Relators.

No. 02–0317.

April 22, 2002.

Supplemental Opinion on Denial of
Rehearing Aug. 29, 2002.

Synopsis

Candidates for mayor and city commissioners of home-rule city filed petition against city secretary for writ of mandamus claiming that charter's deadline, rather than deadline in Election Code, applied to their applications. The Supreme Court held that Election Code's forty-five day deadline did not preempt home-rule city charter's thirty-day deadline for candidates' applications for mayor and city commissioners.

Writ conditionally granted, and motion for rehearing denied.

West Headnotes (11)

- [1] **Municipal Corporations**↔Conflict with charter or act of incorporation
Municipal Corporations↔Appointment or Election
Public Employment↔Election or appointment

Election Code's forty-five day deadline did not preempt home-rule city charter's thirty-day deadline for candidates' applications for mayor and city commissioners, and, thus, the charter's deadline was enforceable; the Code permits a city charter to prescribe requirements in connection with a candidate's application for a place on the ballot. *V.T.C.A., Election Code* §§ 143.005, 143.007, 143.008, 144.005(a).

1 Case that cites this headnote

- [2] **Municipal Corporations**↔Local legislation

Home-rule cities possess the full power of self government and look to the legislature for limitations on their power, not for grants of power.

19 Cases that cite this headnote

- [3] **Municipal Corporations**↔Particular Powers and Functions

Courts presume a home-rule city charter provision to be valid and cannot interfere unless it is unreasonable and arbitrary, amounting to a clear abuse of municipal discretion.

4 Cases that cite this headnote

- [4] **Municipal Corporations**↔Concurrent and Conflicting Exercise of Power by State and Municipality

City charter provision that attempts to regulate a subject matter a state statute preempts is unenforceable to the extent it conflicts with the state statute.

10 Cases that cite this headnote

- [5] **Municipal Corporations**↔Local legislation

If the legislature decides to preempt a subject matter normally within a home-rule city's broad powers, it must do so with unmistakable clarity.

17 Cases that cite this headnote

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[6] Municipal Corporations ⚡ Conflict with charter or act of incorporation

Courts will not hold a state law and a city charter provision repugnant to each other if they can reach a reasonable construction leaving both in effect.

4 Cases that cite this headnote

[7] Municipal Corporations ⚡ Consent of local authorities or voters

When a home-rule city establishes its own election application requirements, the only Election Code application requirement that the city must retain is a statement that the candidate is aware of the nepotism law; city need not retain any other application requirement, including the timely filing requirement. V.T.C.A., Election Code §§ 141.031, 141.031(4)(L), 143.005(b), 143.007.

1 Case that cites this headnote

[8] Municipal Corporations ⚡ Consent of local authorities or voters

Election Code's timing requirements do not prohibit a home-rule city from adopting a different filing deadline for municipal elections than the forty-five-day deadline prescribed by the Code. V.T.C.A., Election Code §§ 143.005, 143.007.

[9] Municipal Corporations ⚡ Consent of local authorities or voters

Exception in statute stating forty-five-day deadline for candidate's application for a place on the ballot, "except as otherwise provided by this code" does not refer only to the deadline for a special election to fill a vacancy; rather, the exception also refers to statute which allows home-rule cities to adopt a filing deadline. V.T.C.A., Election Code §§ 143.005, 143.007, 201.054(a).

[10] Municipal Corporations ⚡ Consent of local authorities or voters

Statute which permits a city charter to prescribe requirements in connection with a candidate's application for a place on the ballot for an office of a home-rule city allows home-rule cities to adopt a filing deadline and allows more than differences in the application form for a place on the ballot. V.T.C.A., Election Code § 143.005.

2 Cases that cite this headnote

[11] Municipal Corporations ⚡ Appointment or Election
Public Employment ⚡ Election or appointment

Supreme Court's decision that Election Code's forty-five day filing deadline did not preempt home-rule city charter's thirty-day deadline for candidates' applications was not a change in the law and, therefore, did not require submission to the United States Department of Justice for pre-clearance; the Supreme Court merely interpreted the Code's language. Voting Rights Act of 1965, § 4(f)(2), 42 U.S.C.A. § 1973b(f)(2); V.T.C.A., Election Code §§ 143.005, 143.007.

Attorneys and Law Firms

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*795 Israel Ramon, Jr., Law Office of Israel Ramon, for relators.

Jose R. Guerrero, Leo Montalvo, Jesus Ramirez, Montalvo & Ramirez, for respondent.

PER CURIAM.

In this mandamus proceeding, relators seek a writ directing San Juan’s City Secretary, Vicki Ramirez, to accept their applications and place their names on the ballot for the upcoming city commission election. Ramirez refused to accept relators’ applications, claiming they were untimely. Although relators submitted their applications after the deadline in [Election Code section 143.007](#), relators did submit them before the filing deadline San Juan’s Home Rule Charter prescribed. On April 17, 2002, we issued an order conditionally granting relief, with opinion to follow, because early voting began that day. We now hold that [Texas Election Code section 143.005](#) permits a home-rule city to set a deadline for filing applications for municipal elections that differs from the deadline contained in [Election Code section 143.007](#). Because relators timely submitted their applications under San Juan’s Charter, Ramirez was required to accept them and place relators’ names on the ballot.

I

Relator San Juanita Sanchez seeks to run for mayor in San Juan’s May 4, 2002, general election. Relators Pete Garcia and Esperanza Lopez Flores seek to run for city commissioner in the same election. San Juan is a home-rule city, and its voters have adopted a Home Rule Charter. *See* [Tex. Const. art. XI, § 5](#); *see also* [Tex. Loc. Gov’t Code § 51.072](#). Under San Juan’s Charter, relators had until thirty days before election day, which was April 4, 2002, to file their applications for a place on the ballot. The Charter Article X, section 10.07 provides, in relevant part: “Any qualified person who desires to become a candidate for election to a place on the City Commission shall file with the City Secretary at least thirty (30) days prior to *796 the election an application for his name to appear on the ballot.”

On March 21, 2002, before the Charter’s filing deadline,

relators informed Ramirez that they intended to file their applications. Ramirez would not accept them, stating they were untimely under [Election Code section 143.007](#). [Section 143.007](#) provides, in relevant part: “Except as otherwise provided by this code, an application for a place on the ballot must be filed not later than 5 p.m. of the 45th day before election day.” [Tex. Elec.Code § 143.007\(a\)](#). Ramirez claimed that [section 143.007](#) controlled over the Charter and required relators to file their applications by March 20, 2002—forty-five days before election day. Because Ramirez would not accept relators’ applications in person, relators mailed them to her on March 27, 2002.

Relators then sought mandamus relief in the court of appeals, seeking to require Ramirez to accept their applications and place their names on the ballots. That court denied relief without opinion. Relators next filed a mandamus petition with this Court. We conditionally granted relief, indicating that this opinion would follow.

II

^[1] The parties do not dispute that relators filed their applications before the Charter’s deadline, but after the deadline set forth in [Election Code section 143.007](#). Accordingly, we decide the legal question of which filing deadline applies to relators’ applications. *See In re Canales, 52 S.W.3d 698, 701 (Tex.2001)*. We can then determine whether Ramirez had a duty to accept relators’ applications and place their names on the ballot. *See* [Tex. Elec.Code § 273.061](#).

III

^[2] ^[3] Home-rule cities, such as San Juan, derive their powers from the Texas Constitution. *See* [Tex. Const. art. XI, § 5](#); *see also* [Tex. Loc. Gov’t Code § 51.072](#). They possess “the full power of self government and look to the Legislature not for grants of power, but only for limitations on their power.” *Dallas Merchant’s and Concessionaire’s Ass’n v. City of Dallas, 852 S.W.2d 489, 490–91 (Tex.1993)*. We presume a home-rule city charter provision to be valid, and the courts cannot interfere unless it is unreasonable and arbitrary, amounting to a clear abuse of municipal discretion. *See City of Brookside Village v. Comeau, 633 S.W.2d 790,*

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792 (Tex.1982); *City of Houston v. Todd*, 41 S.W.3d 289, 295 (Tex. App–Houston [1st Dist.] 2001, pet. denied).

[4] [5] [6] A city charter provision that attempts to regulate a subject matter a state statute preempts is unenforceable to the extent it conflicts with the state statute. *See Dallas Merchant's and Concessionaire's Ass'n*, 852 S.W.2d at 491. However, if the Legislature decides to preempt a subject matter normally within a home-rule city's broad powers, it must do so with "unmistakable clarity." *Id.* Accordingly, courts will not hold a state law and a city charter provision repugnant to each other if they can reach a reasonable construction leaving both in effect. *Id.*

We must determine whether the Election Code preempts the Charter's thirty-day filing deadline. We start with Election Code section 141.031, which enumerates the "general requirements" that a candidate's application must satisfy. Tex. Elec.Code § 141.031. For example, a candidate's application must be in writing, be signed and sworn to by the candidate, and must include the candidate's name, occupation, and office sought. *Id.* § 141.031(1), (2), (4). Another general requirement *797 is that the application must "be timely filed with the appropriate authority." *Id.* § 141.031(3). Thus, section 141.031's plain language makes "timely fil[ing]" a requirement for a valid application. As we recently stated in *In re Gamble*, "the candidate has a duty to file a compliant application before the filing deadline." 71 S.W.3d 313, 318 (Tex.2002).

Section 141.031 does not specify when an application is "timely filed." However, section 143.007 requires a candidate to file an application no later than the forty-fifth day before election day, "[e]xcept as otherwise provided by this code." Tex. Elec.Code § 143.007(a). Thus, section 143.007 acknowledges that other Election Code sections may provide exceptions to the forty-five day filing deadline.

Section 143.005 embodies just such an exception. It governs applications for home-rule city office—the type of office at issue here. *Id.* § 141.005. Section 143.005(a) provides that "[a] city charter may prescribe requirements in connection with a candidate's application for a place on the ballot for an office of a home-rule city." *Id.* § 143.005(a). Accordingly, the Election Code expressly allows home-rule cities, such as San Juan, to establish their own application requirements in municipal elections. *See Bejarano v. Hunter*, 899 S.W.2d 346, 349 (Tex.App.-El Paso 1995, orig. proceeding).

Here, San Juan chose to establish a filing deadline that differs from the deadline in Election Code section

143.007. Instead of section 143.007's forty-five day deadline, San Juan's Charter requires a candidate to file an application with the City Secretary "at least thirty (30) days prior to the election day." The Charter's filing deadline does not conflict with the Election Code. Instead, section 143.005 expressly authorizes San Juan to establish a different filing date. *See* Tex. Elec.Code § 143.005(a).

Certainly, the Election Code does not preempt with "unmistakable clarity" San Juan's ability to prescribe a different filing deadline. *See Dallas Merchant's and Concessionaire's Ass'n*, 852 S.W.2d at 491. We reject Ramirez's contention that Election Code sections 144.005 and 143.008 show the Legislature "clearly reserved for itself regulation in this area." Section 144.005 provides: "[e]xcept as otherwise provided by law," an application for office other than a county or city office must be filed no later than the forty-fifth day before election day. Tex. Elec.Code § 144.005(a). Ramirez states that Election Code section 1.005(10) defines "law," as meaning, among other things, "city charter." *Id.* § 1.005(10). Ramirez argues that, if the Legislature intended to allow home-rule cities to create exceptions to section 143.007's deadline, it would have used the phrase "other law" rather than "as otherwise provided by this code." *Compare* Tex. Elec.Code § 144.005, with § 143.007.

Ramirez's argument lacks merit. Section 144.005 does not apply to municipal elections and does not govern here. Moreover, Ramirez's argument presumes no other Election Code provision allows home-rule cities to adopt their own filing deadlines for municipal elections. But, as we have explained, section 143.005 does just that. Thus, section 144.005 in no way suggests that the Legislature intended to preempt home-rule cities from adopting their own filing deadlines.

We reach the same conclusion about section 143.008. Section 143.008 applies to candidates for city office "with a four-year term," and states:

If at the deadline prescribed by Section 143.007 no candidate has filed an application for a place on the ballot for an *798 office, the filing deadline for that office is extended to 5 p.m. of the 40th day before election day.

Tex. Elec.Code § 143.008(a), (b).

Section 143.008 applies only when section 143.007's deadline applies. And, section 143.007's deadline does not apply when a home-rule city charter prescribes a different filing deadline than does section 143.007. Accordingly, section 143.008 does not apply here, and does not preempt home-rule cities from adopting their own filing deadlines under section 143.005.

^[7] In fact, under [Election Code section 143.005\(b\)](#), when a home-rule city establishes its own application requirements, the only Election Code application requirement that the city must retain is a statement that “the candidate is aware of the nepotism law, Chapter 573, Government Code.” *Id.* § 143.005(b). Consequently, the Election Code prohibits a home-rule city from adopting a charter provision that does not require a candidate’s application to contain this statement. *Id.* § 141.031(4)(L). However, [section 143.005\(b\)](#) unambiguously states that “[t]he other provisions of [Section 141.031](#) do not apply.” *Id.* § 141.005(b). Therefore, a home-rule city need not retain any other application requirement in [section 141.031](#), including “timely fil[ing]” under [section 143.007](#). *Id.*

This construction of the Election Code gives effect to both the Election Code and San Juan’s Charter provisions, without holding one filing deadline repugnant to the other. *See Dallas Merchant’s and Concessionaire’s Ass’n*, 852 S.W.2d at 491. It also gives appropriate deference to the broad discretionary powers the Texas Constitution gives to home-rule cities. *See id.*

We accordingly conclude that San Juan’s Charter filing deadline applies here. Ramirez does not dispute that relators attempted to file their applications within that deadline. Further, the only reason Ramirez gave for rejecting relators’ applications was the deadline in [Election Code section 143.007](#). We therefore hold that Ramirez was required to accept the applications and place relators’ names on the ballot.

Without hearing oral argument, we conditionally granted the writ by order issued April 17, 2002, and directed Ramirez to accept relators’ applications and place their names on the ballot. *See Tex.R.App. P. 52.8(c)*. As we noted in that order, the writ will not issue unless Ramirez does not comply with our decision.

Justice [HANKINSON](#) did not participate in the decision.

Supplemental Opinion on Motion for Rehearing

PER CURIAM.

We deny relators’ motion for rehearing. But by this supplemental opinion, we address the three arguments the

Texas Secretary of State makes in her amicus brief filed in support of rehearing.

I

The Secretary of State argues that our holding, which allows a home-rule city to prescribe a different filing deadline for municipal elections from that prescribed by [Texas Election Code section 143.007](#), will have adverse effects that reach beyond this case. For example, the Secretary of State asserts that federal law requires election ballots to be mailed to military and overseas voters no later than thirty days before election day. *See 42 U.S.C. § 1973ff–1*. The Secretary of State asserts that because we have upheld San Juan’s filing deadline of thirty days before election day to apply for a place on the *799 ballot, it is impossible to comply with this federal law.

The Secretary of State contends that, compounding this problem, [Texas Election Code section 146.054](#) requires that write-in candidates be given five days after the filing deadline for their applications to be received. Therefore, under San Juan’s thirty-day filing deadline, the application process cannot close until twenty-five days before election day. And the ballot printing process can only begin on the twenty-fourth day before election day. According to the Secretary of State, six days after federal law requires the ballots to be mailed, the ballots will be sent to the printer. As a result, the Secretary of State argues that our holding effectively allows home-rule cities to violate federal law.

We disagree. First, our opinion in no way suggests that a home-rule city is free to violate federal law when setting an application deadline for a place on the ballot in a municipal election. Second, the only authority the Secretary of State cites as requiring her to mail ballots to military and overseas voters no later than thirty days before election day is [42 U.S.C. § 1973ff–1](#). But that statute is inapplicable here.

[42 U.S.C. § 1973ff–1](#) provides that each state shall:

- (1) permit absent uniformed services voters and overseas voters to use absentee registration procedures and to vote by absentee ballot in general, special, primary, and runoff elections *for Federal office*;
- (2) accept and process, with respect to any election

for Federal office, any otherwise valid voter registration application and absentee ballot application from an absent uniformed services voter or overseas voter, if the application is received by the appropriate State election official not less than 30 days before the election;

(3) permit overseas voters to use Federal write-in absentee ballots (in accordance with section 1973ff-2 of this title) in general elections for Federal office; and

(4) use the official post card form (prescribed under section 1973ff of this title) for simultaneous voter registration application and absentee ballot application.

42 U.S.C. § 1973ff-1 (emphasis added). Thus, 42 U.S.C. § 1973ff-1 only applies to elections for federal office, not to municipal elections in home-rule cities. Moreover, 42 U.S.C. § 1973ff-1 does not require the Secretary of State to mail ballots to military and overseas voters thirty days before election day. Rather, it requires military and overseas voters to submit voter registration applications to the “appropriate State election official” not less than thirty days before election day. 42 U.S.C. § 1973ff-1(2).

We have found no provision requiring the Secretary of State to mail ballots to military and overseas voters in municipal elections for home-rule cities thirty days before election day. In fact, Texas Election Code section 101.004(e) states that military personnel and individuals domiciled in Texas but temporarily living outside the territorial limits of the United States may request a ballot for an election by submitting a “federal postcard application” by the thirtieth day before election day. See Tex. Elec.Code §§ 101.001–101.004. If the voter timely submits such an application, then the balloting materials must be airmailed to the voter. See Tex. Elec.Code § 101.007. But if the voter can request balloting materials up to the thirtieth day before election day, the Secretary of State cannot be required to mail ballots thirty days prior to election day. Thus, we *800 are unpersuaded that our opinion has created a conflict with federal law or allows home-rule cities to violate federal law.

The Secretary of State also contends that our opinion will have adverse effects by allowing home-rule cities to set any filing deadline they want. The Secretary of State asserts that the Election Code requires early voting to begin seventeen days before election day. See Tex. Elec.Code § 85.001. Because write-in candidates are allowed an additional five days after the filing deadline to submit their applications, the Secretary of State argues that, depending on the deadline the home-rule city adopts, it might become impossible for the printed ballots to be

ready for early voting.

The Secretary of State’s argument does not warrant granting rehearing in this case. The Secretary of State does not contend that San Juan’s thirty-day filing deadline runs afoul of the Election Code’s early voting deadlines. Instead, she expresses concern about other home-rule cities possibly adopting deadlines shorter than San Juan’s that could impact early voting and the Election Code’s other timing requirements. But such a case is not before us.

¹⁸¹ Moreover, we agree that the Election Code contains certain timing requirements that home-rule cities must meet when selecting a filing deadline to apply for a place on the ballot in a municipal election. We did not suggest otherwise in our initial opinion. Those timing requirements, however, do not prohibit a home-rule city from adopting under section 143.005 a different filing deadline for municipal elections than the forty-five-day deadline prescribed under section 143.007. Indeed, the Secretary of State concedes that political subdivisions other than counties and cities can adopt their own filing deadlines under section 144.005. But she offers no explanation about why that does not create a conflict with the Election Code’s other timing requirements.

II

The Secretary of State next argues that our opinion interprets Election Code section 143.007 in a way that contravenes legislative intent. The Secretary of State asserts that Texas Election Code section 31.003 requires her to “obtain and maintain uniformity in the application, operation, and interpretation of this code and of the election laws outside this code.” The Election Code defines “law” as “a constitution, statute, city charter, or city ordinance.” Tex. Elec.Code § 1.005(10). Thus, the Secretary of State contends, the Legislature intended that uniformity should govern the interpretation of election laws contained in city charters.

According to the Secretary of State, Election Code section 143.005 allows home-rule cities to adopt differences only in the application form for a place on the ballot—not the filing deadline. The Secretary of State also points to Texas Education Code section 11.055, which provides for a forty-five-day deadline for filing an application for school-related elections. Tex. Educ.Code § 11.055. According to the Secretary of State, elections for an

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independent school district or community college can be combined with a city election. By providing the same deadline for both city and school elections, the Election and Education Codes work together to encourage joint elections, thereby lowering election costs.

^[9] In addition, the Secretary of State asserts that the Legislature knew how to alter filing deadlines because it did so for political subdivisions other than counties and cities in [Election Code section 144.005](#). It provided there that “[e]xcept as otherwise *801 provided by law, an application for a place on the ballot must be filed not later than 5 p.m. of the 45th day before election day.” Thus, the Secretary of State contends that the Legislature knew how to be clear when excepting a political entity from the forty-five-day deadline. The Secretary of State contends that [section 143.007](#)’s language—“[e]xcept as otherwise provided by this code”—refers to the deadline for a special election to fill a vacancy under [Texas Election Code section 201.054](#).

[Section 201.054\(a\)](#) provides:

A candidate’s application for a place on a special election ballot must be filed not later than:

- (1) 5 p.m. of the 31st day before election day, if election day is on or after the 36th day after the date the election is ordered; or
- (2) 5 p.m. of a day fixed by the authority ordering the election, which day must be not earlier than the fifth day after the date the election is ordered and not later than the 20th day before election day, if election day is before the 36th day after the date the election is ordered.

According to the Secretary of State, the Legislature intended that political subdivisions other than counties and cities could set their own filing deadlines. But the Legislature intended the forty-five-day deadline to apply to cities and counties, except for special elections.

^[10] As mentioned, the Secretary of State interprets [section 143.005](#) as allowing home-rule cities to adopt differences only in the application form for a place on the ballot. But the Election Code indicates otherwise. The Legislature provided in [section 143.005\(b\)](#) that the only Election Code application requirement a home-rule city must retain is a statement that “the candidate is aware of the nepotism law, Chapter 573, Government Code.” See [Tex. Elec.Code §§ 141.031\(4\)\(L\); 143.005\(b\)](#). And the “other provisions of [Section 141.031](#) do not apply.” [Tex. Elec.Code § 143.005\(b\)](#). Those “other provisions” include “timely fil[ing].” See *id.* § 141.031(3). The Legislature could have said in [section 143.005\(b\)](#) that the home-rule

city must also retain the “timely fil[ing]” requirement of [section 143.007](#), but it did not do so.

The Secretary of State further attempts to limit [section 143.007](#)’s phrase—“[e]xcept as otherwise provided by this code”—to [section 201.054](#). While [section 201.054](#) may be included in [section 143.007](#)’s exception, that exception is broader than the Secretary of State suggests. For example, [section 143.007](#) does not state “[e]xcept as otherwise provided by [section 201.054](#).” The exception we relied upon is contained in [section 143.005](#), and that is a provision “otherwise provided by this code.”

Further, the Secretary of State may be correct that the Education Code and the Election Code allow elections for an independent school district or community college to be combined with a city election to lower election costs. But neither the Secretary of State nor the Education and Election Codes suggest that this is mandatory. Presumably, a home-rule city is aware that it can combine such elections if the filing deadlines are the same, which will save it money. But that does not change the conclusion that [section 143.005](#) permits a home-rule city to adopt a different filing deadline for municipal elections than what [section 143.007](#) prescribes. Here, if San Juan’s voters decide it would be better to have combined elections, they can amend the City Charter to provide a forty-five-day filing deadline for municipal elections.

III

^[11] The Secretary of State’s last argument is that the Court’s ruling effects a *802 change in the law requiring submission to the Department of Justice. The Secretary of State asserts that in a 1983 election law opinion, the Secretary of State determined that state election law prevails over conflicting provisions of city charters. Since the Election Code became effective in 1986, the Secretary of State’s interpretation of the forty-five-day filing deadline has been that it prevents home-rule cities from adopting their own application deadlines. The Secretary of State asserts that this interpretation was sent to the Justice Department in a 1985 letter stating:

The revised law [[section 143.007](#)] standardizes the filing deadline for a candidate’s application for a place on the ballot for a city office. The section provides a deadline of the 45th day before election day rather than the 31st day before election day, to allow for the authority’s obtaining ballots in time to start sending out

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absentee mail ballots as soon as possible after the 45th day preceding the election pursuant to section 86.004.

The Secretary of State contends that our opinion reaches a different conclusion and represents a change in the State’s election law. The Secretary of State asserts that federal law requires changes in state election laws, whether those changes occur by legislation or through court order, to be submitted to the Justice Department for pre-clearance. *See, e.g.*, 42 U.S.C. §§ 1973b(f)(2) and 1973c. The Secretary of State asserts that she is responsible for submitting those changes, and if this Court’s judgment becomes final, that change must be submitted to the Justice Department.

Our opinion does not change the State’s election law. We were called upon only to interpret the existing Election Code’s language. And we concluded that section 143.005 authorizes San Juan’s City Charter’s provision prescribing a thirty-day filing deadline, instead of the forty-five-day filing deadline prescribed by section 143.007.

Moreover, the Secretary of State’s letter sent to the Justice Department in 1985 provides: “[t]he revised law [section 143.007] standardizes the filing deadline for a candidate’s application for a place on the ballot for a city office....” But the letter does not state that section 143.007


standardizes the filing deadline for a candidate’s application for a place on the ballot for a “home-rule” city office. This distinction is significant because that same letter provides that section 143.005 “authorizes a home-rule city by charter to prescribe requirements for a candidate’s application for a place on the ballot for a city office....” Thus, the Secretary of State made clear to the Justice Department in 1985 that home-rule cities could prescribe their own requirements for a candidate’s application for a place on the ballot in municipal elections. And under Election Code section 143.005, those “requirements” include filing deadlines. In any event, if the Secretary of State does not think that the 1985 submission is accurate under our construction of the Election Code, she may, of course, determine that the submission should be amended.

Relators’ motion for rehearing is denied.

All Citations

81 S.W.3d 794, 45 Tex. Sup. Ct. J. 596, 45 Tex. Sup. Ct. J. 1257

City of Sherman v. Hudman, 996 S.W.2d 904 (1999)

 KeyCite Yellow Flag - Negative Treatment
Review Granted, Judgment Vacated, and Remanded by Agreement by
City of Sherman v. Hudman, Tex., February 3, 2000

996 S.W.2d 904
Court of Appeals of Texas,
Dallas.

THE CITY OF SHERMAN, Mayor Julie
Ellis Starr, Former Mayor Harry
Reynolds, and City Clerk Helen Friend,
Appellants,

v.

Carl HUDMAN, Sherman Police
Association, Mike Roberts, J.W. Bain,
and Sherman Firefighters Association,
Appellees.

No. 05-95-01600-CV.

|
June 25, 1999.

Synopsis

Police and firefighters brought declaratory judgment action against city, seeking injunctive and mandamus relief on ground that city did not have authority to call election pursuant to initiative petition to repeal their collective bargaining rights. Following election, they amended petition to add election contest to suit. City filed plea to the jurisdiction. The 15th Judicial District Court, Grayson County, Fry, J., denied plea and entered judgment declaring repeal election void. City appealed. The Court of Appeals, Moseley, J., held that: (1) allegation that city lacked statutory authority to hold repeal election fell within ambit of Declaratory Judgments Act; (2) city, in conducting repeal election, was required to comply with form and content requirements for petitions as set forth in election code; (3) there was sufficient evidence that city violated election code by allowing supplementation of petition to repeal, and thus, city clerk was without authority to certify petition; (4) city's failure to comply with city charter provision, which required initiative petition form to contain full text of ordinance to be repealed, precluded city clerk from certifying petition; and (5) even if election requirements were directive and not mandatory, city failed to substantially comply with them, and thus, election was void.

Affirmed.

West Headnotes (32)

[1] Municipal Corporations Initiative

Issues raised by appeal challenging authority of city to call election to repeal collective bargaining rights of police and firefighters and challenging election results themselves were not moot, even though subsequent unchallenged election repealed rights, where outcome of appeal would determine whether the parties were subject to collective bargaining during the period between the two elections.

[2] Pleading Plea to the Jurisdiction

A plea to the jurisdiction contests the trial court's authority to determine the subject matter of the cause of action.

[3] Courts Presumptions and Burden of Proof as to Jurisdiction

The plaintiff bears the burden of alleging facts affirmatively showing the trial court has subject-matter jurisdiction.

[4] Pleading Plea to the Jurisdiction

When deciding to grant a plea to the jurisdiction, a trial court must look solely to the allegations in the petition.

[5] Pretrial Procedure → Want of jurisdiction

Dismissing a cause of action for lack of subject-matter jurisdiction is only proper when it is impossible for the plaintiff's petition to confer jurisdiction on the trial court.

[6] Appeal and Error → Subject-matter jurisdiction

Because the question of subject-matter jurisdiction is a legal question, appellate court reviews de novo the trial court's ruling on a plea to the jurisdiction.

[7] Appeal and Error → Subject-matter jurisdiction

When reviewing a ruling on a plea to the jurisdiction, Court of Appeals must determine whether a party has met its burden of pleading facts showing the trial court has subject-matter jurisdiction over the pending controversy.

[8] Appeal and Error → Pleading and dismissal

When reviewing a ruling on a plea to the jurisdiction, Court of Appeals takes allegations in the pleadings as true and construes them in favor of the pleader.

[9] Election Law → Power to Confer and Regulate

The holding of an election and the election procedure are part of the political powers of the state; except as provided by statute, the judiciary has no control over the election process.

[10] Election Law → Limitations and laches

A void election is subject to collateral attack at any time.

1 Case that cites this headnote

[11] Election Law → Ordering or calling election

If a governmental entity was wholly without authority to call an election, the election held pursuant to such an order is void.

[12] Election Law → Ordering or calling election

An order for an election that is void for lack of authority to call that election cannot be valid for any purpose.

[13] Election Law → Effect of Irregularities or Defects

In a collateral attack on the validity of an election, the court may not inquire into latent defects in the petition process; however, where the defect is substantial, appears on the face of the petition, and shows the governing entity's lack of statutory authority to call an election, any election held pursuant thereto is void.

authority to hold the election, where pre-election pleadings did not assert grounds constituting an election contest.

[14] Declaratory Judgment → Elections

A challenge to the statutory authority to hold an election may be brought by way of a declaratory judgment action.

[18] Trial → Effect as verdict

Findings of fact entered in a case tried to a court have the same force and dignity as a jury's verdict upon special issues.

[15] Declaratory Judgment → Elections

Police and firefighters' allegation that city lacked statutory authority to hold election to repeal their collective bargaining rights fell within ambit of Declaratory Judgments Act, even though pleadings also alleged wrongdoing and fraud in the election process, where pleadings alleged defects that were apparent on the face of the petition forms. [V.T.C.A., Civil Practice & Remedies Code § 37.004](#).

1 Case that cites this headnote

[19] Appeal and Error → Application of law to or in light of facts

Court of Appeals does not review a trial court's conclusions of law for factual sufficiency.

[16] Municipal Corporations → Initiative procedure

While allegations of wrongdoing and fraud in the process of the election were proper subjects of an election contest, the allegation by police and firefighters that city had no statutory authority to hold the election to repeal their collective bargaining rights was not. [V.T.C.A., Election Code § 221.003](#).

[20] Appeal and Error → Plenary, free, or independent review
Appeal and Error → Application of law to or in light of facts

When reviewing the trial court's legal conclusions, Court of Appeals evaluates them independently, determining whether the trial court correctly drew the legal conclusions from the facts.

[17] Municipal Corporations → Initiative procedure

Police and firefighters did not prematurely file election contest, which challenged results of election to repeal their collective bargaining rights, by amending after the election their pre-election pleadings, which challenged city's

[21] Municipal Corporations → Initiative procedure

City, in conducting election to repeal collective bargaining rights for police and firefighters, was required to comply with form and content requirements for petitions as set forth in election code. [V.T.C.A., Election Code § 277.001 et seq.](#); [V.T.C.A., Local Government Code §](#)

174.005.

[22] Municipal Corporations → Initiative procedure

Petition requirements of election code apply to repeal petitions brought under local government code setting forth requirements for adoption and repeal of collective bargaining rights for police and firefighters, to the extent election code requirements do not conflict with requirements contained in the local government code. V.T.C.A., Election Code § 277.001 et seq.; V.T.C.A., Local Government Code §§ 174.005, 174.053.

[23] Municipal Corporations → Initiative procedure

Petition to repeal collective bargaining rights for police and firefighters was essentially a petition by electors requesting city to pass an ordinance calling for a repeal election, and thus was an initiative petition that was subject to charter provisions relating to petition requirements for initiative petitions, where city was a home-rule city and its charter provisions relating to petition requirements were in effect on September 1, 1985. V.T.C.A., Election Code § 277.004.

[24] Municipal Corporations → Mode of exercise of powers in general

A municipal government acts through the passage of ordinances, which are municipal bylaws passed by the governing body of the municipality for the regulation, management, and control of its affairs and those of its citizens; therefore, for a city to hold an election, the city council must pass an ordinance calling for the election.

[25] Municipal Corporations → Initiative procedure

There was sufficient evidence that city violated election code by allowing supplementation of initiative petition to repeal collective bargaining rights for police and firefighters, and thus, city clerk was without authority to certify petition, where 37 petition forms were submitted, date stamps on forms indicated they were filed at various dates and times, and city treated such forms as one petition. V.T.C.A., Election Code § 277.0023(a).

1 Case that cites this headnote

[26] Municipal Corporations → Initiative procedure

City's failure to comply with city charter provision, which required initiative petition form to contain full text of ordinance to be repealed, precluded city clerk from certifying petition to repeal collective bargaining rights for police and firefighters, even though petition was entitled referendum petition, and not initiative petition.

[27] Municipal Corporations → Initiative procedure

City failed to comply with city charter provision requiring petition to identify a single committee of five electors as responsible for circulating and filing petition, and thus, city clerk was without authority to certify initiative petition to repeal collective bargaining rights for police and firefighters, where petition forms contained more than one committee of five electors.

[28] **Statutes** → Plain Language; Plain, Ordinary, or Common Meaning

When interpreting statutes, courts are directed to give words their ordinary meaning.

[29] **Municipal Corporations** → Initiative procedure

Election statutes and city charter regarding petitions used mandatory language, such as “may not” and “shall contain,” in setting forth requirements for properly calling an election, and thus, such requirements were mandatory for initiative petition to repeal collective bargaining rights for police and firefighters. [V.T.C.A., Election Code § 277.001 et seq.](#)

[30] **Election Law** → Construction and Operation
Municipal Corporations → Construction of charters and statutory provisions

Courts are to construe the provisions of election statutes and city charters that relate to voters as directory whereas the provisions which relate to what is required of candidates are mandatory.

[31] **Municipal Corporations** → Initiative procedure

Even assuming requirements for petitions, as set forth in election statutes and city charter, were merely directive and not mandatory, city failed to substantially comply with such requirements, and thus, initiative petitions were insufficient to confer authority on city to call election to repeal collective bargaining rights for police and firefighters and election was void, where no single petition form contained required number of signatures, none of the petition forms contained the full language of the proposed ordinance to be voted upon, and the forms

contained different committees of five electors. [V.T.C.A., Election Code § 277.001 et seq.](#)

2 Cases that cite this headnote

[32] **Election Law** → Construction and Operation

Substantial compliance with an election requirement cannot exist when there has been a complete lack of compliance and the purpose of the requirement has not been fulfilled.

Attorneys and Law Firms

***907 C. Robert Heath**, Bickerstaff Heath Smiley Pollan Kever & McDaniel, Austin, for Appellant.

Roger D. Sanders, Sanders O’Hanlon & Motley, P.C., Sherman, B. Craig Deats, P.C., Austin, for Appellee. Before Justices [MALONEY](#) and [MOSELEY](#).¹

*908 OPINION

Opinion By Justice [MOSELEY](#).

The City of Sherman, Mayor Julie Ellis Starr, Former Mayor Harry Reynolds, and City Clerk Helen Friend (collectively “the City”) appeal the trial court’s judgment voiding the results of an election repealing the City’s adoption of the Fire and Police Employee Relations Act.² In fifteen points of error, the City generally asserts (1) the trial court did not have jurisdiction to render a judgment, (2) the trial court applied incorrect legal findings of fact. For the reasons set forth below, we affirm the trial court’s judgment.

BACKGROUND

In 1974, Sherman voters adopted the provisions of the Fire and Police Employee Relations Act. Under this act, police and firefighters are granted the right to organize and collectively bargain with the City regarding compensation, hours, and other conditions of employment.³ Collective bargaining rights, once adopted, may be repealed only by an election called by the City after receiving a petition signed by a sufficient number of voters.⁴

In early 1995, the Sherman City Council sought repeal of collective bargaining rights for police and firefighters. According to testimony at trial, the City wanted to place the repeal measure on the May 6, 1995 general election ballot because a general election brought out a greater number of voters thereby increasing the probability that the repeal measure would pass. John Gilliam, the city attorney, prepared a petition form at the request of H.K. Lyde, a Sherman citizen active in the repeal effort. According to Gilliam, the petition form was drafted in an attempt to comply with state law and city charter requirements. The petition form called for “the repeal of collective bargaining rights for Sherman policemen and firefighters pursuant to [section 174.053 of the local government code](#).” Lyde and others circulated the multiple petition forms and obtained signatures. Thirty-seven separate petition forms were received by the city clerk’s office between January 23, 1995 and February 8, 1995. When each form was submitted, it was stamped “received,” and the time of receipt was noted. After receiving all thirty-seven petition forms, the city clerk, Helen Friend, verified the signatures and certified the thirty-seven forms as one petition. Friend testified she placed all the petition forms in a single file folder and intended to treat them as a single document.

After receiving the petition forms, the Sherman City Council passed Ordinance 4401 placing the collective bargaining repeal measure on the May 6, 1995 general municipal election ballot. During the first reading of the proposed ordinance at the city council meeting, questions arose about the validity of the sworn circulator affidavits on several of the petition forms. Specifically, it came to light that Mayor Reynolds had circulated some petitions and obtained signatures. Gilliam went to the city clerk’s office to see if Mayor Reynolds had signed any circulator affidavits. Gilliam found no petition forms signed by Mayor Reynolds. However, Gilliam ascertained that Lyde had signed as circulator three petition forms that were actually circulated by Mayor Reynolds.

While at the city clerk’s office, Gilliam also learned a woman named Virginia Evans had signed a circulator

affidavit on a petition form she did not circulate. Evans had taken a petition form circulated by her employer to the city clerk’s office for filing. The deputy clerk, Linda Ashby, noticed the circulator affidavit had not been signed and told Evans she needed to sign it. Evans informed Ashby she did not circulate the petition form and had not witnessed any of the signatures. Ashby consulted Friend about the matter, and *909 Friend stated that for Evans to submit the petition form, she would have to sign the circulator affidavit. Ashby relayed this information to Evans. According to Evans, both Ashby and Friend watched her sign the circulator affidavit knowing she (Evans) had not circulated the petition form.⁵

Because of the problems, the City decided to disregard (but not officially decertify) the sixty-five signatures involved in the Lyde and Evans petition forms because the remaining petition forms collectively contained a total number of signatures that exceeded the minimum number of signatures required to call the election under [section 174.053\(a\) of the local government code](#). City officials did not investigate any other circulator affidavits and represented they knew of no problems with the other petition forms. However, after the election, it was discovered that Lyde signed circulator affidavits on eight additional petition forms without actually witnessing the signatures thereon.

Before the election, the police and firefighters sought a temporary and permanent injunction, mandamus, and declaratory judgment in the district court on the ground the petition was invalid for failure to comply with applicable state law and city charter requirements. At the City’s urging, the trial court declined to enjoin the election and abated the action until after the election on May 6, 1995. The repeal measure appeared on the May 6 ballot.

After the votes were canvassed, the City declared the repeal measure passed by 257 votes. Thereafter, the police and firefighters amended their pleadings to add an election contest to their suit. The City filed a plea to the jurisdiction asserting the trial court did not have jurisdiction because the election contest was filed before the election was held and, thus, was premature. The City further asserted the declaratory judgments act did not confer independent jurisdiction on the trial court. The trial court denied the City’s plea to the jurisdiction.

The case was called to trial before the court and, after hearing evidence, the trial court entered findings of fact and conclusions of law. The trial court concluded that, to be legally sufficient, the petition had to meet the requirements of chapter 174 of the Texas Local

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Government Code, chapter 277 of the Texas Election Code, and “all applicable provisions” of the Sherman City Charter. Because the petition forms did not comply with these requirements, the trial court concluded the City did not have statutory authority to call the repeal election and, therefore, the May 6, 1995 repeal election was void.

The trial court also found certain city officials involved in the election engaged in misconduct rising to the level of fraud such that the court could not ascertain the true outcome of the May 6 repeal election. Specifically, the trial court found the conduct of city officials in knowingly falsifying one circulator affidavit, failing to swear in the affiants of at least fifteen circulator affidavits, ignoring known false affidavits, failing to fully investigate the possibility that other false affidavits existed, and certifying unverified signatures, among other related misconduct, constituted election fraud. The trial court entered judgment declaring the May 6, 1995 repeal election void, setting aside the repeal election results, permanently enjoining the City from giving effect to the repeal election results, and awarding attorney’s fees to the police and firefighters. The City now appeals this judgment.

MOOTNESS

^[1] Following submission of this appeal, we requested the parties to submit additional briefing on whether the issues in this appeal are rendered moot by the results of a January 18, 1997 election repealing the collective bargaining rights for police and firefighters. After reviewing the *910 briefs, the supplemental briefs, and the record, we conclude the issues raised by this appeal are not moot. Specifically, the outcome of this appeal will determine whether the parties were subject to collective bargaining during the period between the two elections. This issue is central to ongoing disputes between the parties, some of which have resulted in litigation. Accordingly, we will address the merits of this appeal.

JURISDICTION

In its first point of error, the City contends the trial court erred in overruling the City’s pleas to the jurisdiction because the trial court did not have jurisdiction over the

declaratory judgment suit filed by the police and firefighters. Specifically, the City argues the trial court lacked jurisdiction because the police and firefighters were, in essence, challenging the election results and any challenge to the results of an election may be brought only as an election contest. The City further maintains that, even if the suit was considered an election contest, the trial court did not have jurisdiction because the election contest was filed prematurely.

The police and firefighters respond that the trial court obtained jurisdiction over the declaratory judgment action because in their pleadings they asserted the City was wholly without authority to call and hold the repeal election. The police and firefighters further argue they did not amend their pleadings to allege an election contest until after the election; therefore, the election contest was timely filed.

A. Standard of Review

^[2] ^[3] ^[4] ^[5] A plea to the jurisdiction contests the trial court’s authority to determine the subject matter of the cause of action.⁶ The plaintiff bears the burden of alleging facts affirmatively showing the trial court has subject-matter jurisdiction.⁷ When deciding to grant a plea to the jurisdiction, a trial court must look solely to the allegations in the petition.⁸ Dismissing a cause of action for lack of subject-matter jurisdiction is only proper when it is impossible for the plaintiff’s petition to confer jurisdiction on the trial court.⁹

^[6] ^[7] ^[8] Because the question of subject-matter jurisdiction is a legal question, we review *de novo* the trial court’s ruling on a plea to the jurisdiction.¹⁰ We must determine whether a party has met its burden of pleading facts showing the trial court has subject-matter jurisdiction over the pending controversy.¹¹ We take allegations in the pleadings as true and construe them in favor of the pleader.¹²

B. Applicable Law

^[9] The holding of an election and the election procedure are part of the political powers of the state; except as provided by statute, the judiciary has no control over the election process.¹³ [Section 221.002 of the Texas Election Code](#) gives the district court exclusive original jurisdiction of an election contest.¹⁴ [Section 221.003](#)

prescribes *911 the scope of inquiry in an election contest as follows:

(a) The tribunal hearing an election contest shall attempt to ascertain whether the outcome of the contested election, as shown by the final canvass, is not the true outcome because:

- (1) illegal votes were counted; or
- (2) an election officer or other person officially involved in the administration of the election:
 - (A) prevented eligible voters from voting;
 - (B) failed to count legal votes; or
 - (C) engaged in other fraud or illegal conduct or made a mistake.

* * * * *

(c) This section does not limit a provision of this code or other statute expanding the scope of inquiry in an election contest.¹⁵

A contestant may not file an election contest before the day after the election and must file it within thirty days of the date the official result of the contested election is determined.¹⁶

^[10] ^[11] ^[12] However, a void election is subject to collateral attack at any time.¹⁷ If a governmental entity was wholly without authority to call an election, the election held pursuant to such an order is void.¹⁸ An order for an election that is void for lack of authority to call that election cannot be valid for any purpose.¹⁹

^[13] ^[14] In a collateral attack on the validity of an election, the court may not inquire into latent defects in the petition process; however, where the defect is substantial, appears on the face of the petition, and shows the governing entity's lack of statutory authority to call an election, any election held pursuant thereto is void.²⁰ A challenge to the statutory authority to hold an election may be brought by way of a declaratory judgment action.²¹

Under the Texas Uniform Declaratory Judgments Act, "[a] court of record within its jurisdiction has power to declare rights, status, and other legal relations whether or not further relief is or could be claimed."²² The purpose of the declaratory judgments act is to "settle and afford relief

from uncertainty and insecurity with respect to rights, status, and other legal relations."²³ The act permits interested persons to have a court determine any question of construction or validity arising under a statute and to obtain a declaration of the rights, status, or other legal relations thereunder.²⁴

C. Discussion

^[15] We first address the City's contention the trial court did not have jurisdiction over the declaratory judgment action. The City asserts that, because the police and firefighters are challenging the results of the May 6 election, their suit may be brought only as an election contest. However, the City concedes that, "if *912 the governmental entity was wholly without authority to call the election so that the election was void (as opposed to voidable), then a declaratory judgment action might be proper." Our review of the pleadings shows that, although the police and firefighters challenged the election results, they also alleged that defects apparent on the face of the petition forms deprived the City of any statutory authority to call the election. The allegation that the City did not have authority to call the election is in addition to and separate from the allegations of wrongdoing and fraud in the process of the election which allegedly affected the outcome of the election.

^[16] While allegations of wrongdoing and fraud in the process of the election are proper subjects of an election contest,²⁵ an allegation the City had no statutory authority to hold the repeal election is not.²⁶ Resolving such an allegation requires judicial interpretation and construction of the Fire and Police Employees Relations Act, the Texas Election Code, and the Sherman City Charter. Therefore, the allegation the City had no statutory authority to hold the repeal election falls within the ambit of the declaratory judgments act.²⁷ The police and firefighters alleged facts that, if true, entitled them to a declaratory judgment that the election was void.²⁸ Accordingly, we conclude the trial court did not err in denying the City's plea to the jurisdiction to the extent it complained the trial court did not have jurisdiction over the declaratory judgment action.

^[17] We next address the City's contention that the trial court did not obtain jurisdiction over the police and firefighters' election contest because it was prematurely filed. On May 19, 1995, after the May 6 election and within the thirty-day period for bringing an election contest, both the police and firefighters amended their pleadings to add a claim that the election was void

because of fraud, illegal conduct, or mistake by the City which affected the repeal election's outcome. Before May 19, neither the police nor the firefighters asserted grounds constituting an election contest. Thus, contrary to the City's assertion, the police and firefighters did not contest the election results until after the election was held. The amended pleadings asserting an election contest were filed within the statutory period for bringing an election contest.²⁹ Accordingly, the trial court did not err in denying the City's plea to the jurisdiction on the ground that the election contest was prematurely filed. We overrule the City's first point of error.

STANDARD OF REVIEW

^[18] In its remaining points of error, the City challenges the various findings of fact and conclusions of law entered by the trial court. Findings of fact entered in a case tried to a court have the same force and dignity as a jury's verdict upon special issues.³⁰ We apply the same standards in reviewing the legal and factual sufficiency of the evidence supporting the trial court's fact findings as we do when reviewing the legal and factual sufficiency of the evidence supporting a jury's answer to a special issue.³¹ We do not substitute our *913 judgment for that of the fact finder, even if we might have reached a different conclusion when reviewing the evidence.³²

Instead, when addressing a legal sufficiency challenge we view the evidence in a light most favorable to the finding, consider only the evidence and inferences that support the finding, and disregard all evidence and inferences to the contrary.³³ We uphold the finding if more than a scintilla of evidence exists to support it.³⁴ In reviewing a factual sufficiency challenge, we examine all of the evidence and set aside a finding only if it is so against the great weight and preponderance of the evidence that it is clearly wrong and unjust.³⁵

^[19] ^[20] We do not review a trial court's conclusions of law for factual sufficiency.³⁶ When reviewing the trial court's legal conclusions, we evaluate them independently, determining whether the trial court correctly drew the legal conclusions from the facts.³⁷ Conclusions of law will be upheld on appeal if the judgment can be sustained on any legal theory supported by the evidence.³⁸

APPLICATION OF ELECTION CODE AND CITY CHARTER

In its fourth point of error, the City contends the trial court erred in concluding the repeal petitions did not comply with all applicable provisions of law. Under this point, the City argues the trial court erred in applying Texas Election Code and Sherman City Charter requirements to petitions seeking to repeal collective bargaining under chapter 174 of the Texas Local Government Code. The City asserts chapter 277 of the election code setting forth petition requirements is preempted by [section 174.005 of the local government code](#) and is therefore inapplicable to the repeal petition process.³⁹

A. Application of Election Code

^[21] Chapter 174 of the local government code sets forth the requirements for adoption and repeal of collective bargaining rights for police and firefighters. [Section 174.005](#) provides:

This chapter preempts all contrary local ordinances, executive orders, legislation, or rules adopted by the state or by a political subdivision or agent of the state, including a personnel board, civil service commission, or home-rule municipality.⁴⁰

[Section 174.053\(a\)](#) provides the governing body of a political subdivision shall order an election for the repeal of collective bargaining rights on receiving a petition signed by the requisite number of qualified voters of the political subdivision.⁴¹ [Section 174.053](#) also provides language that must appear on the ballot and prescribes the number of signatures that must be obtained to conduct the election.⁴² However, chapter 174 does not otherwise prescribe the form or content of the repeal petition.

Chapter 277 of the election code establishes minimum requirements for petitions "authorized or required to be filed under a *914 law outside [the election code] in connection with an election ..." ⁴³ Chapter 277 sets forth requirements for determining the validity of petition signatures,⁴⁴ withdrawing petition signatures,⁴⁵ supplementing the petition,⁴⁶ and computing and verifying the signatures.⁴⁷

^[22] The City argues chapter 277 of the election code is preempted by chapter 174 of the local government code. We disagree. By its terms, [section 174.005](#) preempts only laws *contrary* to provisions contained in chapter 174.

Because chapter 174 is a law outside the election code that authorizes or requires a petition to be filed in connection with an election, we conclude the petition requirements of election code chapter 277 apply to repeal petitions under local government code chapter 174 to the extent they do not conflict with requirements contained in chapter 174.⁴⁸

B. Application of City Charter Requirements

^[23] The City also contends the provisions in the Sherman City Charter governing initiative and referendum petitions do not apply to a petition seeking the repeal of collective bargaining rights under chapter 174 of the local government code. We have already concluded chapter 277 of the election code applies to elections under chapter 174 of the local government code to the extent there is no conflict between them. Section 277.004 of the election code specifically makes effective “any requirements for the validity or verification of petition signatures in addition to those provided [by chapter 277 of the election code] that are prescribed by a home-rule city charter provision,” if the charter provision was in effect September 1, 1985.⁴⁹

The City does not dispute that it is a home-rule city and that its charter provisions relating to petition requirements were in effect on September 1, 1985. Instead, the City asserts that a repeal election under chapter 174 of the local government code is not an “initiative” or “referendum” as those terms are defined by the city charter.

The Sherman City Charter defines the power of initiative as “the power [of the electors] to propose any ordinance except an ordinance appropriating money, or authorizing the levy of taxes, and to adopt or reject same at the polls.”⁵⁰ The charter defines the power of referendum as “the power of the electors to approve or reject at the polls any ordinance passed by the [city] council, or submitted by the council to a vote of the electors.”⁵¹ According to the City, these charter provisions only apply to the enactment and repeal of ordinances and, in an election held under chapter 174 of the local government code, no ordinance was before the voters.

^[24] A municipal government acts through the passage of ordinances, which are municipal bylaws passed by the governing body of the municipality for the regulation, management, and control of its affairs and those of its citizens.⁵² Therefore, for a city to hold an election, the city *915 council must pass an ordinance calling for the

election. Here, the petition forms called for repeal of collective bargaining provisions pursuant to section 174.053 of the local government code. Section 174.053 provides that the governing body shall order an election when presented with a petition signed by the requisite number of qualified voters (*i.e.*, electors) of the political subdivision.⁵³ Therefore, a petition to hold an election under section 174.053(a) is essentially what the city charter defines as an initiative petition a petition by electors requesting the city council pass an ordinance calling for an election on whether to repeal collective bargaining rights.⁵⁴ Accordingly, we conclude that under section 277.004 of the election code, the provisions of the city charter relating to initiative petitions apply to the repeal petition process to the extent they do not conflict with the provisions of chapter 174 of the local government code. We overrule the City’s fourth point of error.

FACIAL DEFECTS IN REPEAL PETITION FORMS

We now turn to the City’s fifth, sixth, and seventh points of error, in which it asserts the trial court erred in determining certain defects in the petition forms rendered them invalid to confer authority on the City to call the election.

A. Compliance with Statutory and Charter Requirements

1. Supplementing Petition/Sufficiency of Petition

Section 277.0023(a) of the election code provides a petition may not be supplemented, modified, or amended on or after the date it is received by the authority with whom it is required to be filed unless expressly authorized by law.⁵⁵ This provision does not conflict with any requirements contained in chapter 174 of the local government code. Thus, it applies to the repeal election at issue here.

^[25] The trial court found none of the petition forms filed contained the requisite number of signatures to provide the City with authority to call the repeal election. The trial court also found no set of valid petition forms filed on any single calendar day contained a sufficient number of valid

signatures. The trial court concluded as a matter of law that, by allowing the thirty-seven petition forms to be submitted on different days and at different times, the City allowed supplementation of the “petition” in violation of [section 277.0023\(a\) of the election code](#).

In its seventh point of error, the City asserts the trial court erred in determining the multiple petition “pages” did not constitute a single petition. We will treat the City’s contention as a challenge to the legal and factual sufficiency of the evidence supporting the trial court’s findings of fact as well as a challenge to the trial court’s conclusion of law that the City violated the election code by allowing supplementation of the petition.

Uncontroverted evidence in the record shows thirty-seven separate petition forms were submitted to the city clerk between January 23, 1995 and February 8, 1995 on different dates and at different times. Each petition form admitted into evidence by stipulation of the parties contains a date stamp showing the date and time of filing. A comparison of the petition forms shows they were filed on different days and at different times.⁵⁶

Nevertheless, the City contends the thirty-seven petition forms constituted a single petition. In support of its argument, the City relies heavily on Friend’s allegedly “uncontradicted” testimony that she gathered all of the petition forms in a single folder and, only when the last petition form was filed, did she accept all of the *916 forms as one petition. However, Friend’s intent to treat the multiple petition forms as a single document is irrelevant in determining whether the petition forms constituted a single petition. Further, the trial court, as the fact finder, was not bound by Friend’s testimony. The date stamps appearing on the petition forms indicate the forms were filed at various dates and times, and they clearly contradict Friend’s testimony. Lastly, the petition forms themselves identify several different committees of electors “who as a committee of the petitioners, shall be regarded as responsible for the circulation and filing of the petition ... “ according to the city charter. We conclude the trial court’s finding of fact that thirty-seven separate petition forms were filed is supported by legally and factually sufficient evidence.

The City also contends the trial court erred in concluding as a matter of law that the repeal petitions were supplemented in violation of [election code section 277.0023](#), which prohibits supplementation of petitions. We have already determined that election code chapter 277 applies to the petition process in this election. By treating petition forms filed on different days and at different times as one petition, the City allowed

supplementation of the petition in violation of [section 277.0023](#). Accordingly, we conclude the trial court correctly concluded the petition was improperly supplemented in violation of [section 277.0023 of the election code](#). We overrule the City’s seventh point of error.

2. Language of the Petition

^[26] The city charter provides that initiative petition papers shall contain the full text of the proposed ordinance.⁵⁷ This provision does not conflict with any provision in chapter 174 of the local government code and thus is not preempted by that chapter.

The trial court found the petition forms did not contain the full text of the ordinance to be voted upon as required by the city charter. The trial court concluded the city clerk was without authority to certify the petition because the City failed to comply with the charter requirement.

In its fifth point of error, the City argues the trial court erred in determining the petition did not contain all of the language required by law. Specifically, the City contends the city charter provision requiring that the full text of the proposed ordinance be set out in the petition is inapplicable because this petition is not an initiative petition. According to the City, at most, the repeal petition is a referendum petition, and the city charter does not require referendum petitions to contain the full text of ordinances to be repealed.

The repeal petition forms contained the following language:

REFERENDUM PETITION

A PETITION SEEKING THE REPEAL OF COLLECTIVE BARGAINING RIGHTS FOR SHERMAN POLICEMEN AND FIREFIGHTERS, PURSUANT TO SECTION 174.053 OF THE TEXAS LOCAL GOVERNMENT CODE.

The undersigned registered voters of the City of Sherman, Texas by the signature of their names, seek the repeal of collective bargaining rights for Sherman Policemen and Firefighters, pursuant to

Section 174.053 of the Texas Local Government Code.

The petition forms do not contain the full text of the ordinance ordering the election and thus on their face do not comply with the charter requirement. We have already concluded the petition required under [section 174.053 of the local government code](#) is in the nature of an initiative petition as that term is defined in the city charter.⁵⁸ Contrary to the City's assertions, the title "Referendum Petition" is not determinative of the nature or effect of the petition.⁵⁹ Accordingly, we again *917 reject the City's argument. Additionally, uncontradicted trial testimony showed the City used the same procedures for all election petitions. Thus, the City admittedly disregarded its own established petition procedures and now attempts to claim those procedures were not required by law. We conclude the trial court did not err in applying to the repeal petitions the Sherman City Charter requirement that initiative petitions must contain the full text of the proposed ordinance. Further, the trial court did not err in concluding the repeal petition did not contain all of the language required by the Sherman City Charter. We overrule the City's fifth point of error.⁶⁰

3. Committee of Electors

The Sherman City Charter requires that every petition shall contain the names and addresses of "five (5) electors who, as a committee of the petitioners, shall be regarded as responsible for the circulation and filing of the petition."⁶¹ This provision does not conflict with any of the requirements of chapter 174 of the local government code and thus applies to the election at issue here.

^[27] The trial court concluded the city clerk was without authority to certify the petition because there existed no committee of five electors and the petition forms failed to identify a single committee of five electors as required by the Sherman City Charter.

In its sixth point of error, the City argues the trial court erred in concluding the failure of the petition to identify a single committee of five electors deprived the city clerk of the authority to certify the petition as a valid basis for the repeal election. Specifically, the City contends that, because the committee list is not part of the certification process as set out in the city charter, the existence of multiple committees does not affect the validity of the signatures on the petition. The City does not dispute the fact that the petition forms contain more than one committee of five electors. Instead, the City asserts this defect should not affect the validity of the signatures

because the committee of electors is not considered in certifying a petition. To certify a petition, the city charter requires the city clerk to check for a signed circulator affidavit and determine if the requisite number of qualified electors signed the petition.⁶² However, that the committee of electors is not considered during the certification process does not change the fact that the petitions wholly failed to comply with this requirement, a fact obvious from the face of the petition forms. Accordingly, we conclude the trial court did not err in concluding the petition failed to comply with the charter requirements. We overrule the City's sixth point of error.

B. Effect of Non-compliance with Statutory and City Charter Requirements

Having concluded the City did not comply with statutory and city charter requirements, we next examine the effect of the City's noncompliance.

In its third point of error, the City contends the trial court erred in treating the petition requirements as mandatory rather than directory. In its second point of error, the City contends the trial court erred in failing to give sufficient deference to the will of the voters by focusing on the mechanics *918 of the petition process. We will address these points of error together.

^[28] ^[29] We have already concluded that the provisions of chapter 277 of the Texas Election Code and provisions of the Sherman City Charter apply to the petitions prepared in this repeal election to the extent they do not conflict with chapter 174 of the Texas Local Government Code. The applicable statutes and the city charter set forth the petition requirements in mandatory language. For example, [section 277.0023 of the election code](#) unequivocally states "a petition *may not* be supplemented, modified, or amended on or after the date it is received by the authority with whom it is required to be filed..."⁶³ Section four of the city charter provides "[i]nitiative petition papers *shall contain* the full text of the proposed ordinance" and on each petition "there *shall appear* ... the names and addresses of five (5) electors."⁶⁴ When interpreting statutes, we are directed to give words their ordinary meaning.⁶⁵

Despite the plain language of the applicable provisions of law and the city charter, the City argues the mechanics of the petition process are largely irrelevant after the election has taken place; therefore, we should treat the petition requirements as directory only. According to the City, when election requirements are directory, substantial

compliance with the law is all that is required.⁶⁶

[³⁰] Courts are to construe the provisions that relate to voters as directory whereas the provisions which relate to what is required of candidates are mandatory.⁶⁷ The rationale for the differing rules is that the right to vote is fundamental while the right to hold office is in the nature of a privilege.⁶⁸ Most of the cases in this area address whether laws proscribing the conduct of the election at the polls are mandatory or directory.⁶⁹ However, in the instant case, the provisions at issue do not relate to the mechanics of voting or the right of an individual citizen to cast a ballot; rather, these provisions set out the requirements for properly calling an election.⁷⁰ As such, these provisions are more analogous to requirements for candidates to get on the ballot, which repeatedly have been held mandatory and therefore require strict compliance.⁷¹ Accordingly, we conclude the trial court properly treated the petition requirements of chapter 277 of the election code and the city charter as mandatory.

[³¹] Moreover, even accepting the City's argument that the provisions of chapter 174 of the local government code, chapter 277 of the election code, and the city charter are directory only, the record shows the City did not substantially comply with the applicable petition requirements. "Substantial compliance" does not mean literal and exact compliance with every provision of a statute. If the statutory *919 mandate is followed sufficiently to reasonably carry out the intent and purpose of the statute, substantial compliance will be deemed to have occurred.⁷² However, the record shows the City completely failed to comply with several of the petition requirements, and these deficiencies were apparent on the face of the petitions. No single petition form contained a sufficient number of signatures to vest the city council with the authority to call the May 6 repeal election. Likewise, none of the petition forms contained the full language of the proposed ordinance to be voted upon, and the forms contained different committees of five electors.

[³²] Substantial compliance with an election requirement cannot exist when there has been a complete lack of compliance and the purpose of the requirement has not been fulfilled. In this case, the defects were substantial and were apparent on the face of the petitions.⁷³ Thus, the petitions were insufficient to confer authority on the City to call the May 6 repeal election. We conclude the trial court correctly found the May 6 repeal election was void.⁷⁴ We overrule the City's second and third points of

error.

In its fourteenth point of error, the City contends that the trial court erred in setting aside the results of the May 6, 1995 repeal election and in enjoining the City from giving effect to the results of that election. We have already determined the trial court did not err in concluding the repeal election was void. Accordingly, we overrule the City's fourteenth point of error.

ATTORNEY'S FEES

In its fifteenth point of error, the City contends the trial court erroneously awarded attorney's fees under the declaratory judgments act. The City's sole contention under this point is that, because suit could only be brought as an election contest and could not be maintained as a declaratory judgment action, there is no statutory basis for the trial court's award of attorney's fees. We have already held this suit could be maintained as a declaratory judgment action. Under the declaratory judgments act, the trial court may, in its discretion, award costs and reasonable attorney's fees "as are equitable and just."⁷⁵ Accordingly, we conclude the trial court did not err in awarding attorney's fees to the police and firefighters. We overrule the City's fifteenth point of error.

Because we have concluded the trial court correctly held the May 6 repeal election was void because the City was without authority to order the election, we need not address the City's remaining points of error eight through twelve challenging the trial court's findings on the validity of the circulator's affidavits. We also need not address the City's thirteenth point of error challenging the trial court's determination that police and firefighters have a protectable due process right in maintaining the collective bargaining system.⁷⁶

We affirm the trial court's judgment.

All Citations

996 S.W.2d 904

Footnotes

¹ Justice Ron Chapman was a member of the panel at the time this case was argued and submitted for decision. Justice Chapman

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retired from the Court on December 31, 1998. Therefore, he did not participate in the issuance of this opinion.

2 See Tex. Local Gov't Code Ann. § 174.001–.253 (Vernon 1999).

3 *Id.* § 174.023.

4 See *id.* § 174.053(a).

5 Although Friend gave contradictory testimony at trial, the trial court specifically found that her testimony was not credible.

6 *Bland Indep. Sch. Dist. v. Blue*, 989 S.W.2d 441, 445 (Tex.App.—Dallas 1999, pet filed); *State v. Benavides*, 772 S.W.2d 271, 273 (Tex.App.—Corpus Christi 1989, writ denied).

7 *Texas Ass'n of Bus. v. Texas Air Control Bd.*, 852 S.W.2d 440, 446 (Tex.1993); *Bland Indep. Sch. Dist.*, 989 S.W.2d at 446.

8 *Bland Indep. Sch. Dist.*, 989 S.W.2d at 446; *Liberty Mut. Ins. Co. v. Sharp*, 874 S.W.2d 736, 739 (Tex.App.—Austin 1994, writ denied).

9 See *Bland Indep. Sch. Dist.*, 989 S.W.2d at 446; *Sharp*, 874 S.W.2d at 739.

10 See *Mayhew v. Town of Sunnyvale*, 964 S.W.2d 922, 928 (Tex.1998), *cert. denied*, 526 U.S. 1144, 119 S.Ct. 2018, 143 L.Ed.2d 1030 (1999); *Bland Indep. Sch. Dist.*, 989 S.W.2d at 446.

11 See *Texas Parks & Wildlife Dep't v. Garrett Place, Inc.*, 972 S.W.2d 140, 142–43 (Tex.App.—Dallas 1998, no pet.).

12 *Texas Ass'n of Bus.*, 852 S.W.2d at 446.

13 *Moore v. Barr*, 718 S.W.2d 925, 926 (Tex.App.—Houston [14th Dist.] 1986, no writ); *Crittenden v. Cox*, 513 S.W.2d 241, 245 (Tex.Civ.App.—Eastland 1974, no writ).

14 See Tex. Elec.Code Ann. § 221.002(a) (Vernon 1986).

15 Tex. Elec.Code Ann. § 221.003(a),(c) (Vernon 1986).

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- 16 See *id.* § 233.006(a),(b).
- 17 See *Mesquite Indep. Sch. Dist. v. Gross*, 123 Tex. 49, 57, 67 S.W.2d 242, 246 (1934); *Sawyer v. Board of Regents*, 393 S.W.2d 391, 396 (Tex.Civ.App.—Amarillo 1965, no writ).
- 18 See *City of Kingsville v. International Ass’n of Firefighters, Local Union No. 2390*, 568 S.W.2d 397, 400 (Tex.Civ.App.—Corpus Christi 1978, no writ).
- 19 See *Sawyer*, 393 S.W.2d at 396.
- 20 See *West End Rural High Sch. Dist. v. Columbus Consol. Sch. Dist.*, 148 Tex. 153, 158, 221 S.W.2d 777, 780 (1949) (citing *Cary v. Simpson*, 239 Ky. 381, 39 S.W.2d 668, 670 (1931)).
- 21 See *City of Kingsville*, 568 S.W.2d at 399; see also *City of Honey Springs v. Templeton*, 194 S.W.2d 620, 623 (Tex.Civ.App.—Dallas 1946, writ ref’d n.r.e.).
- 22 Tex. Civ. Prac. & Rem.Code Ann. § 37.003(a) (Vernon 1997).
- 23 *Id.* § 37.002(b).
- 24 *Id.* § 37.004(a).
- 25 See Tex. Elec.Code Ann. § 221.003 (Vernon 1986) (tribunal determines whether outcome of election is not true outcome due to fraud or illegal conduct in administration of election); see also *City of Kingsville*, 568 S.W.2d at 400.
- 26 *Commissioners’ Court v. Rayburn*, 264 S.W.2d 552, 555 (Tex.Civ.App.—Beaumont 1954, no writ) (statutory authority to hold election can be determined by declaratory judgment action).
- 27 See Tex. Civ. Prac. & Rem.Code Ann. § 37.004 (Vernon 1997); *Rayburn*, 264 S.W.2d at 555 (application of declaratory judgment act to construe statutes proper).
- 28 See *City of Kingsville*, 568 S.W.2d at 399.
- 29 See Tex. Elec.Code Ann. § 233.006(a),(b) (Vernon 1986).

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- 30 *Gregory v. Sunbelt Sav., F.S.B.*, 835 S.W.2d 155, 158 (Tex.App.—Dallas 1992, writ denied).
- 31 *Baker v. Baker*, 719 S.W.2d 672, 674 (Tex.App.—Fort Worth 1986, no writ).
- 32 *Federal Deposit Ins. Corp. v. F & A Equip. Leasing*, 854 S.W.2d 681, 684 (Tex.App.—Dallas 1993, no writ).
- 33 *Stafford v. Stafford*, 726 S.W.2d 14, 16 (Tex.1987).
- 34 *Id.*
- 35 *Cain v. Bain*, 709 S.W.2d 175, 176 (Tex.1986).
- 36 *Sears, Roebuck & Co. v. Nichols*, 819 S.W.2d 900, 903 (Tex.App.—Houston [14th Dist.] 1991, writ denied).
- 37 *Dallas Morning News v. Board of Trustees*, 861 S.W.2d 532, 536 (Tex.App.—Dallas 1993, writ denied).
- 38 *Wagoner v. Morrow*, 932 S.W.2d 627, 631 (Tex.App.—Houston [14th Dist.] 1996, no writ).
- 39 *See* Tex. Local Gov't Code Ann. § 174.005 (Vernon 1999).
- 40 *Id.* § 174.005.
- 41 *See id.* § 174.053(a).
- 42 *See id.* § 174.053.
- 43 Tex. Elec.Code Ann. § 277.001 (Vernon Supp.1999).
- 44 *See id.* § 277.002.

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45 See *id.* § 277.0022.

46 See *id.* § 277.0023.

47 See *id.* §§ 277.0024 & 277.003.

48 See [Tex. Local Gov't Code Ann. § 174.005 \(Vernon 1999\)](#) (chapter preempts only *contrary* law); see also [Op. Tex. Sec'y State No. JH-4 \(1993\)](#) (signatures on petition for election under Fire and Police Employee Relations Act must comport with requirements of [section 277.002\(a\) of election code](#)).

49 [Tex. Elec.Code Ann. § 277.004 \(Vernon Supp.1999\)](#).

50 Sherman City Charter art. IX, § 1.

51 *Id.* art. IX, § 2.

52 [Dallas Power & Light Co. v. Carrington, 245 S.W. 1046, 1048 \(Tex.Civ.App.—Dallas 1922, writ dismissed\)](#); see also [Tharp v. Blake, 171 S.W. 549, 551 \(Tex.Civ.App.—El Paso 1914, no writ\)](#) (governing body of municipality speaks through its ordinances).

53 See [Tex. Local Gov't Code Ann. § 174.053\(a\) \(Vernon 1999\)](#).

54 Sherman City Charter art. IX, § 6.

55 See [Tex. Elec.Code Ann. § 277.0023\(a\) \(Vernon Supp.1999\)](#).

56 A few of the petitions do not have a time noted on them.

57 Sherman City Charter art. IX, § 4.

58 See Sherman City Charter art. IX, § 6.

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- 59 *Cf. State Bar of Tex. v. Heard*, 603 S.W.2d 829, 833 (Tex.1980) (substance rather than title determines nature of pleading); *Messmer v. State Farm County Mut. Ins. Co. of Tex.*, 972 S.W.2d 774, 777 (Tex.App.—Corpus Christi 1998, no writ) (same).
- 60 Also under this point of error, the City challenges the trial court’s finding that the repeal petitions did not contain the language required by section 174.053(b) of the local government code. See *Tex. Local Gov’t Code Ann. § 174.053(b)* (Vernon 1999). However, in light of our conclusion that the petition forms did not contain the language required by the Sherman City Charter, our review of this contention is unnecessary. See *Tex.R.App. P. 47.1*.
- 61 Sherman City Charter art. IX, § 4.
- 62 *Id.* art. IX, § 5.
- 63 *Tex. Elec.Code Ann. § 277.0023* (Vernon Supp.1999) (emphasis added).
- 64 Sherman City Charter art. IX, § 4 (emphasis added).
- 65 See *Tex. Gov’t Code Ann. § 312.002* (Vernon 1998).
- 66 See *Holt v. Trantham*, 575 S.W.2d 83, 86 (Tex.Civ.App.—Fort Worth 1978, writ ref’d n.r.e.).
- 67 See *Geiger v. DeBusk*, 534 S.W.2d 437, 439 (Tex.Civ.App.—Dallas 1976, no writ).
- 68 *McWaters v. Tucker*, 249 S.W.2d 80, 82 (Tex.Civ.App.—Galveston 1952, no writ).
- 69 See, e.g., *Setliff v. Gorrell*, 466 S.W.2d 74, 79 (Tex.Civ.App.—Amarillo 1971, no writ) (whether fact that polls opened at 8:00 a.m. rather than 7:00 a.m. invalidated election); *Wooley v. Sterrett*, 387 S.W.2d 734, 741–43 (Tex.Civ.App.—Dallas 1965, no writ) (whether various irregularities in conduct at polls invalidated election).
- 70 See *Countz v. Mitchell*, 120 Tex. 324, 332, 38 S.W.2d 770, 773 (1931) (right to hold election depends on authority conferred by law); *Williams v. Glover*, 259 S.W. 957, 960 (Tex.Civ.App.—Waco 1924, no writ) (same).
- 71 *Wallace v. Howell*, 707 S.W.2d 876, 877 (Tex.1986); *Bejarano v. Hunter*, 899 S.W.2d 346, 349 (Tex.App.—El Paso 1995, no writ).

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72 See *Santos v. Guerra*, 570 S.W.2d 437, 440 (Tex.Civ.App.—San Antonio 1978, writ ref'd n.r.e.).

73 See *West End Rural High Sch. Dist.*, 221 S.W.2d at 780.

74 See *id.* at 779.

75 See Tex. Civ. Prac. & Rem.Code Ann. § 37.009 (Vernon 1997).

76 See Tex.R.App. P. 47.1.

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History (2)

Direct History (2)

- 1. [City of Sherman v. Hudman](#) 
996 S.W.2d 904 , Tex.App.-Dallas , June 25, 1999

Review Granted, Judgment Vacated, and Remanded by Agreement by

- 2. [City of Sherman v. Hudman](#)
2000 WL 36750990 , Tex. , Feb. 03, 2000

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-24-00610-CV

In re Mayor Lyle Nelson

ORIGINAL PROCEEDING FROM BASTROP COUNTY

MEMORANDUM OPINION

The petition for writ of mandamus is denied. *See* Tex. R. App. P. 52.8(a).

Edward Smith, Justice

Before Chief Justice Byrne, Justices Smith and Theofanis

Filed: November 20, 2024

No. 03-24-00610-CV

**IN THE COURT OF APPEALS
THIRD DISTRICT OF TEXAS
AUSTIN, TEXAS**

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***IN RE* MAYOR LYLE NELSON**

RELATOR

**AMICUS CURIAE BRIEF OF
JOHN KIRKLAND**

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IN THE INTEREST OF TIME, ORAL ARGUMENT NOT REQUESTED

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STATEMENT OF THE CASE

Substantially more people signed the recall petition than have ever voted in any Bastrop city election in the history of the city. Nearly three times the number of people who initially voted for the Mayor have signed the recall petition.

If the recall election does not take place, the harm to these voters is constitutional in nature – it impacts their suffrage rights.

Both the original and the amended versions of the recall petition have sufficient signature counts to meet the 25% statutory minimum. Both petitions contain the required affidavits. Any errors made in the circulation of the recall petition are technical in nature, and it would be against the spirit and intent of the Power of Recall granted to the voters of Bastrop to invalidate the petition for technical errors.

ISSUES PRESENTED

In assessing the validity of the recall petition, the issues presented are as follows:

1. Whether voter rights are affected by invalidating a recall petition for technical errors;
2. Whether invalidating all signatures because of a duplicate signature, or requiring a unique qualified voter to swear an oath to each petition paper, is reasonable; and

3. Whether the terms “signer” and “statements” should be interpreted to exclude the validity of the petition circulator’s oath that is on each page of the petition.

INTRODUCTION

My name is John Kirkland. I am a registered and qualified voter in the city of Bastrop, and one of the circulators of the recall petition at issue in this case. Additionally, I serve as an elected city council member and Mayor Pro Tem for Bastrop. I write this brief in my capacity as a signer, circulator of the petition, and concerned citizen.

I am an engineer and not an attorney. I have researched these issues which I respectfully submit to this court, together with facts and arguments. I submit this brief in hopes of the court’s consideration of the issues presented herein, and respectfully ask for the court’s understanding.

STANDING

The Uniform Declaratory Judgments Act authorizes a "person ... whose rights, status, or other legal relations are affected by a ... municipal ordinance" to "have determined any question of construction or validity arising under the . . . ordinance" TEX. CIV. PRAC. & REM. CODE ANN. § 37.004(a) (West 2008). To establish standing under the Act, a party "must show a particularized, legally protected interest that is actually or imminently affected by the alleged harm." *Save Our Springs*

Alliance, Inc. v. City of Dripping Springs, 304 S.W.3d 871, 882 (Tex. App.-Austin 2010, pet. denied). As a petitioner seeking the removal of Mayor Nelson from office, my voting rights are imminently affected by the harm of invalidating the recall petition.

“It has been specifically held that where a City Charter confers a right upon the qualified electors to petition the City Council for a recall election, a signer of the petition has a justiciable interest in the subject matter of the litigation . . .” *Leggitt v. Nesbitt*, 415 S.W.2d 696 (Tex. Civ. App.—12th Dist. 1967).

STATEMENT OF FACTS

1. In June 2023, Mayor Nelson was elected by 567 of the 6,314 registered voters in the City of Bastrop on that date. Election results are attached as Exhibit A.
2. On April 11, 2024, after conducting an evidentiary hearing, the Bastrop Board of Ethics unanimously issued the strongest penalty they can levy against an elected official, a Letter of Reprimand, to Mayor Nelson for abusing his position to interfere with an administrative investigation. A copy of the Letter of Reprimand is attached as Exhibit B.
3. On July 25, 2024, as a result of the ethics reprimand against Mayor Nelson, the recall petitioners of Bastrop submitted a 96-page recall petition to the City Secretary with 1,738 total signatures. The city secretary determined the recall

petition contained 1,598 qualified voter signatures, exceeding the 25% statutory requirement of 1,557.

4. Each of the 96 petition papers was signed by the petition circulator, who provided the required statement of the circulator in an affidavit affirming that the “statements contained therein are true”. A notary verified the affidavit on each petition paper, signing and stamping each page. An empty petition form is attached as Exhibit C.

5. On August 24, 2024, the City Secretary incorrectly determined that the petition was insufficient, citing non-compliance with §10.07 of the Bastrop Charter requirement that “one of the signers of each petition paper make an affidavit affirming that the statements made therein are true.” This was interpreted as requiring the Petition Circulator to re-sign each petition paper before submitting an amended petition.

6. Rather than file a Writ of Mandamus petition to request the court to validate the original petition, on September 3, 2024, to satisfy the City Secretary’s requirement of an additional signature on each petition paper, the petitioners submitted an amended recall petition. The amended petition added the circulator as an additional signature to 94 of the 96 original petition papers. Of the remaining 2 petition papers, one was already signed by the circulator as a qualified voter, and the other page, containing a single voter signature, was withdrawn. The additional

signatures were not intended or needed to count towards the statutory minimum signature total.

7. On September 13, 2024, as a result of the requested amendments, the City Secretary certified the petition as “sufficient to present to the voters at a May 2025 Election”.

8. On September 25, 2024, Mayor Nelson filed a writ of mandamus petition arguing the recall petition should be invalidated on the basis of technical errors in the form of the petition.

ARGUMENT

1. The People Have Spoken – Impact on Voter Rights

The Texas Constitution recognizes suffrage rights of qualified voters. Tex. Const. Art. VI, "Suffrage". To invalidate the recall efforts on a technicality would be to deny the voters of Bastrop their suffrage rights and violate the spirit of the Texas Constitution.

Mayor Nelson received 567 votes in the June 10, 2023, City of Bastrop Runoff Election. Following his official reprimand by the Bastrop Board of Ethics, the petition to recall the Mayor yielded 1,738 signatures, with 1,598 qualified voter signatures. It is significant to the citizenry of Bastrop that nearly three times the number of people who voted for the Mayor have demanded his recall.

The Texas Supreme Court, in discussing citizen petition efforts, stated that the “Election Code disfavors local technicalities that hamper the people's right to amend their charter.” *In re Dorn*, 471 S.W.3d 823, 826 (Tex. 2015). Given that the petition in this case is facing invalidation based on local technicalities, the same principal protecting charter amendments ought to apply to the protection of recall efforts.

Additionally, the purpose of the charter provisions should be considered. To invalidate the recall efforts due to a technicality goes against the spirit and intent of providing for a recall option in the first place. Texas courts have long established that ambiguity in a statute should be construed in favor of its objective:

The cardinal rule in statutory interpretation and construction is to seek out the legislative intent from a general view of the enactment as a whole, and, once the intent has been ascertained, to construe the statute so as to give effect to the purpose of the Legislature . . . It is recognized that a statute is to be construed with reference to its manifest object, and if the language is susceptible of two constructions, one of which will carry out and the other defeat such manifest object, it should receive the former construction.

Citizens Bank of Bryan v. First State Bank, Hearne, 580 S.W.2d 344, 347–48 (Tex. 1979) (internal citations omitted).

The manifest object of the Bastrop charter’s recall provision in §10.07 is to provide people of the city of Bastrop with the power to exercise their political rights. Construing the language in a manner opposite to the intention of the charter goes against the established law in *Citizens Bank of Bryan v. First State Bank, Hearne*.

The issue in this case is not one of formalities, but of protecting the citizenry's constitutionally protected suffrage rights. The technicalities argued in Relator's writ of mandamus should not drown out the voices of Bastrop's qualified voters.

2. Relator's reasons for invalidating the recall petition are unreasonable

The thrust of Relator's argument is that the original recall petition was invalid, because a unique voter on each petition paper, and not the petition circulator, must swear an oath to the veracity of the statements contained on each petition paper. Relator also suggests, harshly, that 1,598 petition signatures ought to be invalidated because of a single duplicate voter signature on each petition page. Such assertions are patently unreasonable.

Reasonableness is paramount in the context of voter rights. "To be valid a registry law or ordinance must be reasonable, neither impairing the right of suffrage guaranteed by the constitution nor depriving a person of his right where there is no fault or negligence on his part." *Holt v. Trantham*, 575 S.W.2d 83, 86 (Tex. Civ. App. 1979). "In the determination of the compliance or non-compliance . . . the test may require the consideration of the 'reasonableness' of the provisions relating to qualification of a petition as sufficient." *Id.*

The reasonableness of the assertion that the Circulator cannot qualify as a signer of the petition paper, can be illustrated by comparison with the City of Austin's recall provisions.

In near-identical language to the City of Bastrop’s charter, the city of Austin’s current “Power of Recall” provision requires that the recall petition “shall contain a general statement of the grounds for which the removal is sought, and one of the signers of each petition paper shall make an affidavit that the statements therein made are true.” City of Austin Charter, art. IV § 6.

This scenario can be played out to its logical conclusion. The Austin city secretary reports on the Austin city web site that there are 585,433 qualified voters as of January 31, 2024. To recall the mayor of Austin would require 10%, or 58,544 signatures. If each petition paper holds 20 signatures, the recall efforts would yield at minimum nearly 3,000 pages. If, as Relator argues, one qualified voter from each page must attest to the veracity of the statements therein, such a requirement would result in nearly 3,000 unique individuals swearing nearly 3,000 affidavits.

The bulk of petition work is done by a small group of dedicated volunteers. Such a proposition would yield an absurd result. It would require taking a notary door-to-door to request signers if they will swear as true the “statements” made on the petition paper. Then, if the Relator gets his way, the circulator gets to deal with the definition of the word, “statements”, and try to convince each potential affidavit signer that they only need to swear an oath to the truthfulness of one statement on the page (general statement of the grounds for removal) but not any of the other statements therein made even though the word “statements” is plural. Only a foolish

person would sign such an affidavit under those conditions, and the likelihood of success would be near zero.

Even though the population of Bastrop is smaller than that of Austin, the same principals of reasonableness apply. Requiring 96 affidavits for 96 petition papers signed by 96 different people cannot be what the charter intended, and it would be a hindrance to the recall process.

It is likewise unreasonable to invalidate an entire petition paper because of the existence of a duplicate signature. To do so would be to impair the suffrage rights of the remaining petitioners and deprive them of their constitutional rights, in the absence of fault or negligence on their part. In this instance, the Petition Circulator's added signature on each amended petition paper was done to satisfy the City Secretary's request. Further, the added signature was not used and was not intended to be used to meet the statutory minimum signature count for petition validity, as they were signing the petition page a second time in their capacity as a circulator of that page. Even if such addition was erroneous or negligent, the original 20 petitioners on each page should not have their voice taken away due one voter's error. To do so would be contrary to constitutional right of suffrage.

Relator's counsel demands in the Original Petition for Writ of Mandamus that the city secretary "refuse to count the duplicate signatures added to the supplement

for any purpose at all, including the requirement for the Signer’s Truth Affidavit.”

However, the court cases Relator cites don’t support this position:

In *In re Holcomb*, 186 S.W.3d 553, 555 (Tex. 2006), the court held that “a petition containing duplicate signatures is invalid” only if it fails to meet the statutory minimum. The court allowed the petitioner to gather five additional signatures without invalidating the entire petition, any pages, or the duplicate signatures themselves—duplicates simply didn’t count toward the statutory minimum.

In *Cohen v. Rains*, 745 S.W.2d 949, 954 (Tex. App.—Houston [14th Dist.] 1988, no writ), the court stated that “duplicate signatures... cannot be counted to satisfy the statutory minimum of 750.”

Both cases specify that duplicates don’t count toward statutory minimums but don’t require their forcible removal. In the Bastrop recall petition, circulator signatures were neither needed nor intended to meet the statutory minimum signature counts. Neither the Bastrop Charter nor Tex. Elec. Code § 277 requires duplicate signatures to be excised; therefore, Relator’s demand to exclude them “for any purpose at all” lacks support in statute or case law.

To invalidate nearly 1600 signatures for one duplicate signature on each page is unreasonable, and to require a unique qualified voter to swear an oath to the veracity of each petition page is also unreasonable. Reasonableness is important,

because without it we risk “impairing the right of suffrage guaranteed by the constitution.” *Holt v. Trantham*, 575 S.W.2d at 86.

3. The terms “signer” and “statements” should be interpreted to validate the petition circulator’s oath.

The City Secretary’s initial refusal of the original recall petition was based on the interpretations of the term “signer”, and the requirement that a “signer” of each petition paper swear to the truth of the “statements” therein. The City Secretary concluded that “signer” did not include the Petition Circulator.

Beyond the arguments about reasonableness, above, I would like to state the obvious – the Petition Circulator has in fact signed every petition paper in a dedicated signature line at the lower left of each paper, therefore Petition Circulator is a signer of each petition paper. The statements on the petition paper include voter identification rows and a “statement of the circulator”, and only the Petition Circulator can attest to the veracity of those statements. Therefore, the Oath sworn by Circulator as a signer of both the original and amended petitions is valid and both petitions should have been accepted.

More clarity can be gained by examining the terms “statements” and “signer” in Bastrop Charter §10.07, Power of Recall, “... one of the signers of **each petition paper** shall make an affidavit that the **statements made therein** are true.” (emphasis added)

a. Where should one look to determine which statements should be verified by affidavit?

The “statements” that must be verified are “made therein” on “each petition paper”. Thus, each petition paper must be inspected to determine the statements to be verified by affidavit.

b. Is there a petition form that can be inspected to identify the “statements” on each petition paper?

The city of Bastrop does not provide a specified form for recall. Prior to circulation, I created the petition form shown in Exhibit C to conform to the Bastrop Charter’s requirements and provided it to the city secretary to confirm the form was acceptable. The city secretary validated that the form was acceptable for use for the recall effort for Mayor Lyle Nelson. This petition form was used 96 times for each petition paper of the submitted recall petition.

Independently of the city’s approval of the form used for this petition, the charter says that the statements that must be verified are contained on each petition paper, so each petition paper must be inspected to identify its statements.

c. What statements are “made therein” on “each petition paper”?

Because the charter’s affidavit requirement uses the plural term, “statements”, it can be presumed using the rules of statutory construction that such usage is intentional. Further, if the charter had intended to create limitations on which

statements must be included or excluded from the “affidavit that the statements made therein are true”, then it would have stated those limitations. For example, if the intent of the Bastrop Charter was to include exclusively the grounds for removal as asserted by the Relator, the language would more likely be “shall make an affidavit that the **grounds upon which the removal is sought** are true” rather than “shall make an affidavit that the **statements made therein** are true”.

The word “statements” has a standard definition of “a written or spoken expression of facts or opinions.” There are 4 types of statements on each petition paper as seen on the petition form in Exhibit C:

- 1) General statement of the grounds upon which the removal is sought, as required per Bastrop Charter §10.07,
- 2) “Statement of the circulator”, as required per Bastrop Charter’s §10.07 requirement that the petition paper be verified in the same manner as an initiative petition in §10.03,
- 3) A statement with the phrase “the statements made therein are true”, verified by affidavit, as required per Bastrop Charter §10.07, and
- 4) Statements by each qualified voter that they agree with the grounds for removal by providing their signature, name, address, date of signature, birthdate, and voter ID.

d. Who is a “signer”?

The Bastrop Charter does not define the term “signer”. The generic definition of signer is “a person that has signed an official document.” There are three types

of individuals who are signers of each petition paper in their respective capacities who meet the generic definition:

- 1) **Qualified voters**, who sign on the inline signature lines, are signers demanding the removal of the city official, asserting their agreement with the grounds for removal,
- 2) **Petition Circulator**, who signs a dedicated signature line at the lower left of each petition paper, has made a statement that each signature was made in their presence and that the statements made therein are true, and
- 3) **Notary**, who signs, stamps, and verifies the Statement of the Circulator and the sworn statement of truth from the Circulator.

e. Which “signer” can verify the “statements made therein” without perjuring themselves?

Out of the three different types of “signers of each petition paper”, only the petition Circulator can attest to the truthfulness of all the statements made on the petition paper without committing perjury. Only the Circulator is capable of truthfully stating that all the signatures were made in their presence. The Circulator signed and made the required affidavit on every petition paper to this end.

The Texas Supreme Court says, “It is a rule of statutory construction that every word of a statute must be presumed to have been used for a purpose. Likewise, we believe every word excluded from a statute must also be presumed to have been excluded for a purpose.” *In re Bell*, 91 SW 3d 784, 790 (Tex, 2002). If the Charter

had intended for the affidavit signer to be limited to unique qualified voters, as Relator suggests, then surely the Charter would have specified such a requirement.

f. Why is an affidavit required for a recall petition and not an initiative petition?

The City of Bastrop's charter in §10.07 requires that a recall petition "be signed and verified in the same manner required for an initiative petition", but then adds an additional requirement for "an affidavit that the statements made therein are true." The key difference between the Initiative and Recall processes is that while an initiative petition only requires a statement of the circulator (not a sworn affidavit), the recall petition requires an affidavit to verify the truth of the statements made therein.

The language of the charter is clear that each recall affidavit must cover the statements on each, individual petition paper, not just the grounds for removal as proposed by the Relator. This includes the circulator's statement, which affirms that the signatures were made in their presence and are believed to be genuine. In contrast to an initiative petition, where the circulator's statement alone is sufficient, the recall petition requires this statement to be verified under oath, adding an important layer of protection to the integrity of the recall process.

This heightened affidavit requirement ensures that someone is swearing to the authenticity of the signatures and the manner in which they were collected, as well

as the grounds for removal. The added affidavit requirement serves as a safeguard to prevent fraud or misconduct in the recall process, recognizing the gravity of removing an elected official from office.

Because the Petition Circulator has signed each page of both the original and amended petitions, the Petition Circulator is clearly a “signer” of each petition paper. Because “statements” consist of all statements made on each petition paper, including the circulator’s statement that all signatures were made in their presence AND each statement made by a qualified voter, only the Petition Circulator is qualified to swear an oath to the veracity of the “statements made therein” on the petition paper. Therefore, the Petition Circulator’s Oath in both the original and amended petitions is valid and should have been accepted by the City Secretary.

CONCLUSION

The spirit and intent of the Power of Recall provision in Bastrop’s charter is to provide its people with the ability to exercise their constitutional suffrage rights. The requirement that unique qualified voters swear an oath on each petition page is not reasonable, and excluding the petition circulator as a signer of the petition page to invalidate the petition paper’s sworn oath creates absurd results. It is likewise unreasonable to invalidate 1,598 valid signatures due to duplicate signatures. The petition should not be invalidated on the basis of technicalities without considering the very serious effect on voter rights.

PRAYER

In the Original Writ of Mandamus petition before this court, Mayor Nelson states he is confident “he would prevail with the voters and defeat a recall election.”

Given the choice between actual harm to the suffrage rights of a substantial percentage of the citizens of Bastrop, Texas, and the relatively low harm anticipated by the mayor himself, I pray that you would choose to protect the suffrage rights of the citizens of Bastrop and deny this Writ of Mandamus. Let the People Decide!

Respectfully submitted this 28 day of October, 2024.

/s/ John Kirkland
JOHN KIRKLAND, *pro se*

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CERTIFICATE OF COMPLIANCE

I, John Kirkland, certify that this document was computer generated and the word count of the document, except for those items “excluded” by section Tex. R. App. P. 9.4(i)(2)(D), is 3,583 based on the count of the computer program used to prepare the document.

/s/ John Kirkland
JOHN KIRKLAND

CERTIFICATION OF FEES

I, John Kirkland, certify that no fees were paid in the preparation of this document, pursuant to Tex. R. App. P. 11(c).

/s/ John Kirkland
JOHN KIRKLAND

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served electronically on the following counsel of record for Relator and Respondent on October 28, 2024:

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JOHN KIRKLAND

APPENDIX INDEX

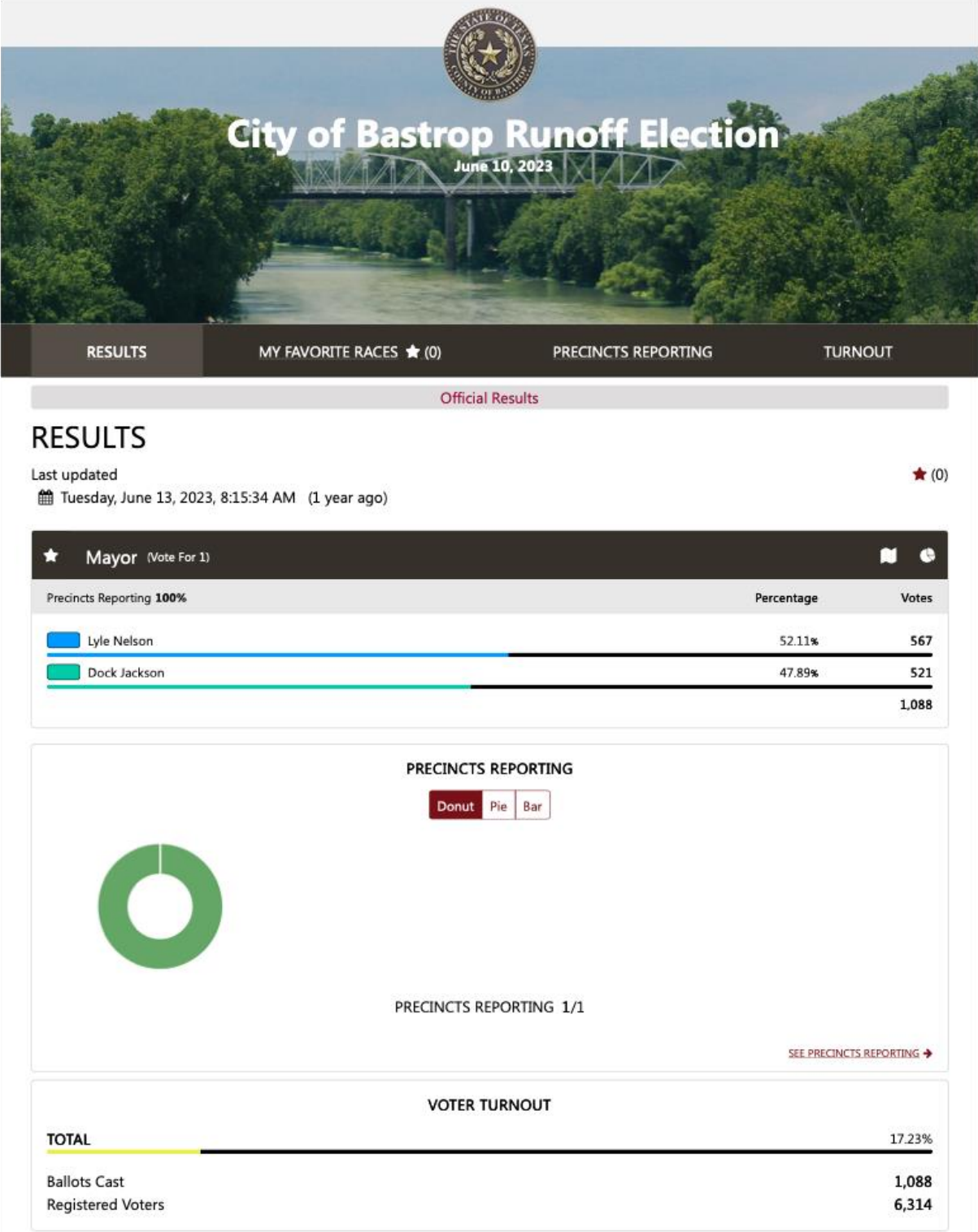
APP TAB A – Exhibit A – Official Election Results for June 10, 2023, City of Bastrop Runoff Election for Relator Lyle Nelson 26

APP TAB B – Exhibit B – Bastrop Board of Ethics Letter of Reprimand for Lyle Nelson 27

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Exhibit A – Official Election Results for June 10, 2023, City of Bastrop Runoff Election for Relator Lyle Nelson.



<https://results.enr.clarityelections.com/TX/Bastrop/117971>

Exhibit B – Bastrop Board of Ethics Letter of Reprimand for Lyle Nelson



Letter of Reprimand

April 11, 2024

Lyle Nelson
Mayor, City of Bastrop
1311 Chestnut Street
Bastrop, TX 78602

Mayor Nelson:

Pursuant to Section 1.15.018(b)(3) of the Bastrop Code of Ethics, the City of Bastrop Board of Ethics issues this **Letter of Reprimand** and, in support thereof, finds the following:

- You were alleged to have violated Section 1.15.009(h)(2) of the City of Bastrop Code of Ethics by interfering with an administrative investigation;
- An evidentiary hearing was conducted on April 10, 2024, at which you were present, represented by counsel, and afforded the opportunity to present evidence and cross-examine the complainant;
- At the conclusion of the evidentiary hearing, the Board of Ethics unanimously determined that, based on the evidence admitted at the hearing, you violated Section 1.15.009(h)(2) of the Bastrop Code of Ethics by abusing your position to interfere with an administrative investigation; and
- After considering the severity and intent of your conduct, the Board of Ethics voted to issue a **Letter of Reprimand**.



In accordance with Section E.27 of the Board of Ethics Rules of Procedure, a copy of this Letter of Reprimand is being furnished to the City Secretary, the City Attorney, and the City Council (through the Mayor Pro Tem).

Sincerely,

A handwritten signature in blue ink, appearing to read "Chris Duggan", is written over the typed name and title.

Chris Duggan
Chair, Bastrop Board of Ethics

Cc: Ann Franklin, City Secretary
Alan Bojorquez, City Attorney
Mayor Pro Tem John Kirkland on behalf of the Bastrop City Council

City of Bastrop Charter Requirements for Petitions

§10.03 Form of Petition for Initiative and Referendum

All petition papers circulated for the purpose of an initiative or referendum shall be uniform in size and style. Initiative petition papers shall contain the full text of the proposed ordinance. The signatures to initiative and referendum petitions need not all be appended to one paper, but to each separate paper there shall be attached a statement of the circulator that he/she personally circulated the foregoing paper, that all the signatures appended thereto were made in his/her presence and that he/she believes them to be the genuine signatures of the persons whose names they purport to be. Each signer of any such petition shall sign his/her name in ink, shall indicate after his/her name his/her place of residence by street, street number and zip code, shall indicate his/her voter registration certificate number and shall record the date of signature.

§10.07 Power of Recall

The people of the City reserve the power to recall the Mayor or any other member of the Council and may exercise such power by filing with the City Secretary a petition, signed by qualified voters of the City equal in number to at least twenty-five (25) percent of the number of registered voters residing in the City at the time of the last regular municipal election of the City demanding the removal of the Mayor or other member of the Council. The petition shall be signed and verified in the manner required for an initiative petition, shall contain a general statement of the grounds upon which the removal is sought and one of the signers of each petition paper shall make an affidavit that the statements made therein are true.

§10.08 Recall Election

All papers comprising a recall petition shall be assembled and filed with the City Secretary. Within thirty (30) days after the petition is filed, the City Secretary shall determine its sufficiency and, if found to be sufficient, shall certify this fact to the Council at its next regular meeting. If a recall petition is found to be insufficient, it may be amended within ten (10) days after notice of such insufficiency by the City Secretary, by filing a supplementary petition. In that event, the same procedures shall then be followed by the City Secretary and the Council as in the case of an original petition. The finding of insufficiency of a recall petition shall not prejudice the filing of a new petition for the same purpose.

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Associated Case Party: Lyle\Nelson

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DAVID F.BRAGG		DFBRAGG@SBCGLOBAL.NET	10/31/2024 1:59:52 PM	SENT

Associated Case Party: IrmaParker

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