

STATE OF TEXAS *
COUNTY OF HENDERSON *
CITY OF GUN BARREL CITY *

The City Council of the City of Gun Barrel City, Texas met in a regular meeting, in City Hall, located at 1716 West Main Street, Gun Barrel City, Texas, on Tuesday, January 22, 2013 at 6:30 p.m.

Mayor Eaton called the meeting to order at 6:30 p.m. and gave the invocation. The Pledge of Allegiance followed. Roll was called. A quorum was established.

[Council Member - Rodney Bevill: Present](#)

[Council Member - Melvyn Hayes: Present](#)

[Mayor - Paul Eaton: Present](#)

[Council Member - Dennis Baade: Present](#)

[Council Member - Curtis Webster: Absent](#)

[Council Member - Ronnie Johnson: Present](#)

Citizen Presentations: None

ITEM # 1: Consent Agenda: All matters listed under ‘Consent Agenda’ are considered to be routine by the City Council and will be enacted by one motion. There will not be separate discussion of these items. If discussion is desired, that item will be removed from the consent agenda and will be considered separately. Consider approving the **minutes** of the **November 27, 2012 Council meeting** and the following **November & December reports:**

Financial – Budget vs. Actual Expenses – Year to Date (Sept & Oct) (**Nov & Dec Unavailable**)

Municipal Court – traffic and non-traffic court activity

Police Department – number of cases filed and cleared

Dispatch Report – calls for service

Animal Control – number of complaints, impoundments and citations

Fire Department/Fire Marshal – number of incidents, investigations & mutual aid

Street Department – cost break down of monthly street repair

Building Official – number of inspections and associated fees

Code Enforcement – break down of violations (**December Unavailable**)

EDC minutes (November) and October & November financial reports (**December Unavailable**)

[Council Member - Dennis Baade: Motion to approve the Consent Agenda.](#)

[Council Member - Rodney Bevill: 2nd](#)

[Council Member - Rodney Bevill: Approve](#)

[Council Member - Melvyn Hayes: Approve](#)

[Mayor - Paul Eaton: N\A](#)

[Council Member - Dennis Baade: Approve](#)

[Council Member - Curtis Webster: Absent](#)

[Council Member - Ronnie Johnson: Approve](#)

ITEM # 2: First reading of Resolution #R-2013-001, EDC Project 2012-005, Dino & Jamye Perelli d/b/a GBC Music. **(Mayor)**

Mayor Eaton gave the first reading of Resolution #R-2013-001.

ITEM # 3: First reading of Resolution #R-2013-002, EDC Project 2012-004, Emergicon, LLC. **(Mayor)**

Mayor Eaton gave the first reading of Resolution #R-2013-002.

ITEM # 4: Discuss and/or take action to award bids for the year 2013 for street materials and construction consisting of: **(Mayor)**

- Cold mix asphalt per ton delivered
- One and one half inch flex base rock per ton delivered
- Hot mix asphalt per ton delivered
- Hot mix asphalt per ton installed
- 3/8 inch pea gravel per ton delivered
- Polymer modified asphalt (UPM) per ton delivered
- Wash sand per ton delivered
- Tack coat per gallon
 - 1) CSS-1
 - 2) SS-1
 - 3) PHPM-50

Recommendations:

King Sand & Gravel	Wash Sand Delivered Per Ton	\$14.00
Apac Texas Inc.	Hot Asphalt Delivered Per Ton	\$79.50
S & S Trucking	Base Rock Delivered Per Ton	\$15.00
R K Hall	Cold Mix Delivered Per Ton	\$83.60
Trinity Materials	Pea Gravel Delivered Per Ton	\$13.50
Advanced Paving	Hot Asphalt Installed Per Ton	\$88.75

Apac Texas Inc. was cheaper on both the hot asphalt delivered and the cold mix delivered but the Street Superintendent chose to recommend that the bid go to R K Hall for the hot asphalt delivered because R K Hall had a better work ethic than Apac and the materials from R K Hall were of a better quality.

[Council Member - Dennis Baade: Motion to award the bids as recommended by the Street Superintendent.](#)

[Council Member - Ronnie Johnson: 2nd](#)

[Council Member - Rodney Beville: Approve](#)

[Council Member - Melvyn Hayes: Approve](#)

[Mayor - Paul Eaton: N/A](#)

[Council Member - Dennis Baade: Approve](#)

[Council Member - Curtis Webster: Absent](#)

[Council Member - Ronnie Johnson: Approve](#)

ITEM # 5: Discuss and/or take action to approve the contract price of \$3,501.85 from Henderson County to conduct the May 11, 2013 election. **(City Manager)**

The quote of \$3,501.85 was for a turn-key operation of the election by the County.

[Council Member - Dennis Baade: Motion to approve the contract price of \\$3,501.85 from Henderson County to conduct the May 11, 2013 election.](#)

[Council Member - Rodney Bevill: 2nd](#)

[Council Member - Rodney Bevill: Approve](#)

[Council Member - Melvyn Hayes: Approve](#)

[Mayor - Paul Eaton: N\A](#)

[Council Member - Dennis Baade: Approve](#)

[Council Member - Curtis Webster: Absent](#)

[Council Member - Ronnie Johnson: Approve](#)

ITEM # 6: Discuss and/or take action to adopt Ordinance #O-2013-001 calling a general election for May 11, 2013 for the election of three council persons for two year terms each. **(Mayor)**

[Council Member - Ronnie Johnson: Motion to adopt Ordinance #O-2013-001 calling a general election for May 11, 2013 for the election of three council persons for two year terms each.](#)

[Council Member - Dennis Baade: 2nd](#)

[Council Member - Rodney Bevill: Approve](#)

[Council Member - Melvyn Hayes: Approve](#)

[Mayor - Paul Eaton: N\A](#)

[Council Member - Dennis Baade: Approve](#)

[Council Member - Curtis Webster: Absent](#)

[Council Member - Ronnie Johnson: Approve](#)

ITEM # 7: Discuss and/or take action to accept Larry Moon's resignation from the Planning and Zoning Commission. **(City Manager)**

Mr. Moon would be taking on some new and unexpected responsibilities that would not allow him to effectively serve on the Commission for the remainder of his term.

[Council Member - Ronnie Johnson: Motion to accept Larry Moon's resignation from the Planning and Zoning Commission effective immediately.](#)

[Council Member - Melvyn Hayes: 2nd](#)

[Council Member - Rodney Bevill: Approve](#)

[Council Member - Melvyn Hayes: Approve](#)

[Mayor - Paul Eaton: N\A](#)

[Council Member - Dennis Baade: Approve](#)

[Council Member - Curtis Webster: Absent](#)

[Council Member - Ronnie Johnson: Approve](#)

ITEM # 8: Second reading of Resolution #R-2013-001, EDC Project 2012-005, Dino & Jamye Perelli d/b/a GBC Music. **(Mayor)**

Mayor Eaton gave the second reading of Resolution #R-2013-001.

ITEM # 9: Discuss and/or take action to adopt Resolution #R-2013-001, EDC Project 2012-005, Dino & Jamye Perelli d/b/a GBC Music. **(EDC/Mayor)**

[Council Member - Dennis Baade: Motion to adopt Resolution #R-2013-001, EDC Project 2012-005, Dino & Jamye Perelli d/b/a GBC Music.](#)

[Council Member - Rodney Bevill: 2nd](#)

[Council Member - Rodney Bevill: Approve](#)

[Council Member - Melvyn Hayes: Approve](#)

[Mayor - Paul Eaton: N\A](#)

[Council Member - Dennis Baade: Approve](#)

[Council Member - Curtis Webster: Absent](#)

[Council Member - Ronnie Johnson: Approve](#)

ITEM #10: Second reading of Resolution #R-2013-002, EDC Project 2012-004, Emergicon, LLC. **(Mayor)**

Mayor Eaton gave the second reading of Resolution #R-2013-002.

ITEM #11: Discuss and/or take action to adopt Resolution #R-2013-002, EDC Project 2012-004, Emergicon, LLC. **(EDC/Mayor)**

[Council Member - Ronnie Johnson: Motion to adopt Resolution #R-2013-002, EDC Project 2012-004, Emergicon, LLC.](#)

[Council Member - Dennis Baade: 2nd](#)

[Council Member - Rodney Bevill: Approve](#)

[Council Member - Melvyn Hayes: Approve](#)

[Mayor - Paul Eaton: N\A](#)

[Council Member - Dennis Baade: Approve](#)

[Council Member - Curtis Webster: Absent](#)

[Council Member - Ronnie Johnson: Approve](#)

ITEM #12: Second reading of Ordinance #O-2012-013 creating a franchise fee for water. **(Mayor)**

Mayor Eaton gave the second reading of Ordinance #O-2012-013.

ITEM #13: Discuss and/or take action to approve the modification to the percentage rate in Ordinance #O-2012-013 creating a franchise fee for water. **(Mayor) Per Section 10.02 of City Charter, this ordinance will take effect 30 days after approval.**

This ordinance had been before the ECCFWSD Board. They were coming back with a recommendation from their attorney of 2% instead of 2 ½% so the ordinance has been modified to reflect that change.

[Council Member - Dennis Baade: Motion to approve the modification to the percentage rate in Ordinance #O-2012-013 creating a franchise fee for water.](#)

[Council Member - Melvyn Hayes: 2nd](#)

[Council Member - Rodney Bevill: Approve](#)

[Council Member - Melvyn Hayes: Approve](#)

[Mayor - Paul Eaton: N\A](#)

[Council Member - Dennis Baade: Approve](#)

[Council Member - Curtis Webster: Absent](#)

[Council Member - Ronnie Johnson: Approve](#)

ITEM #14: Second reading of Ordinance #O-2012-014 creating a franchise fee for wastewater.

Mayor Eaton gave the second reading of Ordinance #O-2012-014.

ITEM #15: Discuss and/or take action to approve the modification to the percentage rate in Ordinance #O-2012-014 creating a franchise fee for wastewater. **(Mayor) Per Section 10.02 of City Charter, this ordinance will take effect 30 days after approval.**

This ordinance had been before the ECCFWSD Board. They were coming back with a recommendation from their attorney of 3% instead of 2 ½% so the ordinance has been modified to reflect that change.

[Council Member - Ronnie Johnson: Motion to approve the modification to the percentage rate in Ordinance #O-2012-014 creating a franchise fee for wastewater.](#)

[Council Member - Dennis Baade: 2nd](#)

[Council Member - Rodney Bevill: Approve](#)

[Council Member - Melvyn Hayes: Approve](#)

[Mayor - Paul Eaton: N\A](#)

[Council Member - Dennis Baade: Approve](#)

[Council Member - Curtis Webster: Absent](#)

[Council Member - Ronnie Johnson: Approve](#)

ITEM #16: Discuss and/or take action to receive recommendations for amendments to the Charter from the Charter Review Commission. **(Charter Review Commission)**

Patsy Black, Chairman of the Charter Review Commission (CRC), said six meetings had been held but they could have used six months to work on this. The Commission's recommendations had been distributed to the Council. Those recommendations differed from the City Attorney's. She realized the Council had the authority to accept, deny or alter in any way the recommendations presented. In 2008, the CRC received a paper from a different attorney in the same law firm we currently use stating that each proposition shall be printed on the ballot in the form of a single statement. That was the main reason why their first proposition differed from Mr. Krueger's because the CRC felt it was three different items and should be addressed separately. Citizens should be able to vote on each proposition. If propositions are grouped together, voters don't have the freedom to vote for each aspect of that proposition. So by voting yes they agree to all aspects of that proposition when in fact they may have only agreed to one.

The CRC's list of recommendations included:

Proposition 1 - 3.02 – Term Limits -Add the sentence 'A break in service of a two (2) year term must be taken after the maximum term is served.

Proposition 2 – 3.06 (2) – Vacancies - Remove the words 'In addition" making the sentence read: ~~In addition,~~ Any member of the City Council who has been absent ~~for six (6)~~ **three (3)** consecutive regular meetings due to any reason shall have ~~the~~ his seat declared vacant at the next regular meeting of the City Council, by resolution.

Proposition 3 – 3.14 (1) - Ordinances - This was submitted by the City Secretary who stated she didn't amend ordinances by using brackets around omitted language and quotation marks around new language. She used strikeout marks to omit language and put new language in bold print. By doing so, the ordinance was more understandable and easier to read. However, a member of the CRC had suggested adding a sentence to read: Each new ordinance must be written in a manner to be in agreement with the City Charter and not make for an ambiguous language or action subject to individual interpretation.

Proposition 4 – 5.01 (4) - Elections – The City Secretary suggested deleting this entire paragraph because the list of voter registrants was maintained by the Henderson County Voter Registrar's office.

Proposition 5 – 5.04 (3) – Official Results - The City Secretary suggested deleting the second sentence in the paragraph. ~~If a specific date is not specified by the Texas Election Code, such run-off election shall be held on the second Saturday following the preceding regular or special election.~~ AND rewriting the last sentence to read: Such run-off election shall be held according to the Texas Election Code ~~as if it were a run-off election with a specific date~~ **and other applicable statutes.**

Proposition 6 – 7.02 – Budget - Make the paragraph read: On or before the first (1st) day of the ~~eleventh (11th)~~ **ninth (9th)** month of the fiscal year, the City Manager shall submit to the City Council a budget for the ensuing fiscal year and an accompanying message.

Proposition 7 – 7.13 – Appropriations - Change the third sentence to read: The purpose of any such appropriation shall be deemed abandoned if ~~three (3)~~ **five (5)** years pass without any disbursement from or encumbrance of the appropriation.

Proposition 8 – 9.04 – Master Plan - Add a sentence to read: **The Master Plan shall include, but is not limited to, the Future Land Use Plan, Thoroughfare Use Plan and the Parks and Open Space Plan and shall abide by the following conditions.**

Proposition 9 - 11.01 – Remove the paragraph and replace it with: **All records of the City will be handled under the Public Information Act.**

Proposition 10 – 15.02 – Add a sentence to read: **The Home Rule Charter for the City of Gun Barrel City is a document that is within the laws of the State of Texas but is allowed to be more restrictive.**

Term limitations came up in the Attorney's Proposition 1. The CRC didn't agree with this because two positions could be held as Council and Mayor to reach the maximum number of years served. The Board positions are one position. So when you say the Board's terms will be the same as the Council that wasn't true because one person could serve for a total of four years in a combination of the Mayors position and a Council position. The CRC voted down term limitations. The only Board in the Charter without term limitations is the EDC. A Council member had requested term limitations for the EDC Board. The CRC voted it down. However, the Council had the authority to vote to make that a Charter amendment.

There were several things in the Charter that were not being followed. Black wasn't saying it was deliberate. Perhaps the Council wasn't aware of these things. There were a lot of non-substantive changes. In 2008, it was voted that non-substantive changes to the Charter could be made without taking it to the voters. If it doesn't change the meaning of the sentence, it can be changed with a majority approval by the Council.

Ms. Black said she was always honored when asked to serve on a Committee. However, they needed a little more time. She praised the people who had served on the Commission.

Mr. Krueger, the City Attorney, addressed the Council saying it had been a privilege to work with this Charter Review Commission. He took the blame for the confusion with regard to things that were put in that were not voted on or voted against by the Commission. He put those things in so they could look at some of the things the Council was talking about.

The City Attorney's list of recommendations included:

Proposition 1 – 3.02, 8.01 (1) and 8.02 - Term Limits - There was a great debate about term limitations on the EDC Board and other Board positions. Mr. Krueger felt if they changed the terms for one entity then you would have to look at all the Boards.

Proposition 2 – 3.06 – Vacancies - the CRC felt that missing three consecutive regular meetings was a significant amount of time to be absent. There's a question to what a reasonable absence is and the Council can decide if it's an acceptable reason or not. If they miss six regular meetings, the seat would be declared vacant. Change the paragraph to read: If any member of the City Council is absent for **three (3)**~~four (4) of seven (7)~~ consecutive regular meetings, without explanation acceptable to a majority of the remaining city council members, **the his seat** office shall be declared vacant at the next regular meeting of the City council by resolution. In addition, any member of the City Council who has been absent for six (6) consecutive regular meetings due to any reason shall have **the his** seat declared vacant at the next regular meeting of the City Council, by resolution.

Proposition 3 - 7.13 – Appropriations – Change the third sentence to read: The purpose of any such **capital** appropriation shall be deemed abandoned if ~~three (3)~~ **five (5)** years pass without any disbursement from or encumbrance of the appropriation.

Proposition 4 – 5.01 (4) – City Elections – CRC and Attorney agreed that it should be deleted. However, the attorney had three options.

Proposition 5 –3.14 (1) - Ordinances – CRC and Attorney agreed this should be changed as suggested by the City Secretary.

Proposition 6 – 5.04 - Official Results – CRC and Attorney agreed this should be changed as suggested by the City Secretary.

Proposition 7 – 7.02 – Budget – CRC and Attorney agreed to change from the eleventh month to the ninth month giving more time for budgeting process.

Proposition 8 – 9.04 – Master Plan - CRC and Attorney agreed to add the sentence at the beginning of the sentence.

The Attorney didn't have a Proposition 9 or 10. His comments on the CRC's Proposition 9 was as follows:

Proposition 9 - 11.01 – Remove the paragraph and replace it with: **All records of the City will be handled under the Public Information Act.** The Attorney's comment was that any record that was not privileged or excepted under that Act must be produced. The Charter was written before the Public Information Act was written. Paragraph 11.01 would be deleted in its entirety and replaced with the above sentence.

Johnson asked if they were just going to receive the recommendations tonight. They could receive the recommendations from the CRC and the attorney and schedule a workshop to work on the language. There was a lot of information and they had two different proposals. He needed more time to review the information.

Term limitations – a Council person could serve three (3) consecutive two-year terms on the Council which would be six consecutive years and then run for a two year term for Mayor for a total of eight years. But that person could only serve three (3) consecutive two-year terms, a total of six years, in any one single position. A total of eight years could be served in a combination of two different positions, two terms as Council member and two terms as Mayor would be eight consecutive years. Or, three terms as Council member and one term as Mayor. At that point, the person would have to step down.

Johnson had questions on the following Propositions by the attorney:

Proposition 1 - When asked about three different Charter Sections being under Proposition 1, the attorney said they would get the language so the ballot reads correctly. There would be separate Propositions so they each would stand independently.

Proposition 4 – 5.01 (4) – City Elections - The attorney had three options. After a lengthy discussion, Rita Evans explained that the City Secretary recommended that the entire 5.01 subparagraph 4 be deleted. Then subparagraph 5 becomes 4.

Proposition 7 – 7.02 – Budget – Johnson said they struggled to get the budget done this year so to move this back to the ninth month put a lot of pressure on the City Manager and Treasurer. This seemed like moving it back a lot.

Johnson's final question was one term limits for the EDC. If they did this, what happens to the people who have already been on there for six years. Would this be retroactive? The attorney said this would be an issue and you need to think about how you're going to implement this. You can't amend the Charter by an ordinance so this needs to be discussed. Baade said there were three people on the EDC now that were doing things on the Board that were directly related to their careers. They were excellent people. When you lose those people, it's tuff. It's hard to find qualified people. He was on the EDC so he probably won't vote on this issue. A lengthy discussion followed about the pros and cons of term limits.

The attorney stated the EDC didn't have term limits so the Council could set limits by ordinance. You could manage the EDC by that ordinance. It didn't have to be in the Charter. Where term limits were set for the Planning and Zoning, the Board of Adjustments and the Park Board in the Charter, those term limits had to be changed by a Charter amendment election. You could do that with the budget as well.

Patsy Black stated she'd like them to take into consideration that when they take something out of the Charter and put it under an ordinance it can be just as easily changed by an ordinance. When it's in the Charter, it has to go to the voters which gives them more say. When you're deleting the Charter, you're taking it away from the people.

Council Member - Ronnie Johnson: Motion to receive recommendations for amendments to the Charter from the Charter Review Commission.

Council Member –Melvin Hayes: 2nd

Council Member - Rodney Bevill: Approve

Council Member - Melvyn Hayes: Approve

Mayor - Paul Eaton: N\A

Council Member - Dennis Baade: Approve

Council Member - Curtis Webster: Absent

Council Member - Ronnie Johnson: Approve

ITEM #17: Discuss and/or take action to adopt Ordinance #O-2013-002 calling a special election for May 11, 2013 for the purpose of amending the City Charter. **(Mayor)**

Council Member - Ronnie Johnson: Motion to adopt Ordinance #O-2013-002 calling a special election for May 11, 2013 for the purpose of amending the City Charter.

Council Member - Melvyn Hayes: 2nd

Council Member - Rodney Bevill: Approve

Council Member - Melvyn Hayes: Approve

Mayor - Paul Eaton: N\A

Council Member - Dennis Baade: Approve

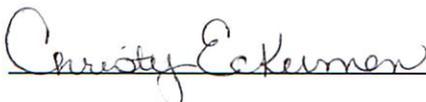
Council Member - Curtis Webster: Absent

Council Member - Ronnie Johnson: Approve

Tentative dates for a workshop were discussed.

The meeting adjourned at 8:05 p.m.

Attest:



Christy Eckerman, City Secretary

Approved:



Paul Eaton, Mayor