



THE CITY OF BANDERA

511 MAIN ST. P. O. BOX 896 BANDERA, TEXAS 78003-0896

**MINUTES
FOR THE REGULAR MEETING
OF THE CITY COUNCIL OF THE CITY OF BANDERA
DECEMBER 1, 2016, 6:00 PM
IN THE MUNICIPAL BUILDING AT
511 MAIN STREET, BANDERA, TEXAS**

- I. Call to order.** The meeting was called to order at 6:00 pm by Mayor Suzanne Schauman. Mayor Pro Tem Rebeca Gibson and Council Members Glenn Clark and Toni Kunz were in attendance. Council Members Cindy Coffey and Sheila Pumphrey were absent. City Administrator Mike Garr, Acting City Secretary Diana Edwards, City Treasurer Rose Garr, City Marshal Will Dietrich, City Attorney Dan Santee and Municipal Court Judge Michael Towers were also present.
- II. Invocation and Pledge of Allegiance.** No invocation was given and all stood for the Pledge of Allegiance.
- III. Visitors to be heard.** No one signed up to speak.
- IV. Requests and announcements.**
 - a. Mayor Schauman asked for Council's permission to skip down to Item VIII for a special announcement regarding the run-off election and there was no objection. It is the City's responsibility to come up with election judges by 5 pm tomorrow. We still need two volunteers to work from 6:30 am until 1:00 pm on Election Day, December 20, and they need to be registered voters in the city. Citizen John Bissett volunteered from the audience to serve as election judge.
 - b. Council Member Glenn Clark asked to make a statement. There was an article that came out in the newspaper today quoting Mr. Clark as saying that City Council members have to follow the chain of command. Mr. Clark stated that he did not make that statement and that the City Council does not have a chain of command.
- V. Approval of Minutes from meetings held on November 21, 2016 and October 20, 2016, and Amendment to Minutes from the meeting held on October 6, 2016.**
 - Council Member Rebeca Gibson made a motion, with a second from Council Member Toni Kunz, to approve the minutes from the November 21, 2016 meeting. No discussion, all in favor, none opposed. Motion to approve the minutes passed.

- Council Member Rebeca Gibson made a motion, with a second from Council Member Toni Kunz, to approve the minutes from the October 20, 2016 meeting. No discussion, all in favor, none opposed. Motion to approve the minutes passed.
- Council Member Rebeca Gibson stated that the October 6, 2016 minutes were previously approved and the required modification had been made. No further discussion.

VI. Staff Reports:

Marshal's Report.

- Marshal Dietrich stated that they are ramping up their building and security checks during the holidays.
- The Christmas Parade is scheduled for tomorrow night and it will be the first time for a night parade to go down Main Street.
- Marshal Deitrich will be attending active shooter training on December 19 and 20, 2016 in Fair Oaks Ranch. He is also working on scheduling an active shooter training here in the city in February for city and county officers. Marshal Deitrich and Deputies Smith, Heidelberg and Wedgworth attended ambush training with the City of Ingram Police Department. In addition, Deputies Wedgworth and Heidelberg have completed field officer training.
- The City of Bandera was represented by Marshal Dietrich and Deputies Smith, Wedgworth and Sill at Deputy Benjamin Marconi's funeral in San Antonio on Monday.
- Council Member Glenn Clark asked about a "typical assist other agency" activity and Marshal Dietrich stated that when the fire department, EMS, or other law enforcement agency puts a call out to the city for assistance, the Marshal's office responds to those requests.

Municipal Court Report. No discussion about the report provided in the packet.

VII. Consideration, discussion and possible action on the following items:

- a. Presentation by Chris Darus regarding signage on the city's water tower recognizing the Bandera Lady Bulldogs for winning the cross-country state championship three years in a row.**

Chris Darus asked the City Council to consider recognizing the recent accomplishments of the girls varsity cross-country team at Bandera High School. The last three years in a row, the Lady Bulldogs have been crowned UIL Girls 4A State Champions in cross-country and Mr. Darus proposed that the girls' accomplishments be placed on the side of the Bandera water tower facing the high school and Main Street. Outside funding is being arranged.

Following discussion by the Mayor, City Council and City Administrator, Council Member Toni Kunz made a motion to approve the request to go forward on water tower signage to be completed with outside funding. The motion was seconded by Council Member Rebeca Gibson. All in favor, none opposed. Motion passed.

- b. Adoption of the City of Bandera 2017 Holiday Schedule.**

Following a brief discussion, Council Member Glenn Clark moved to approve the City of Bandera 2017 Holiday Schedule, with a second by Council Member Toni Kunz. All in favor, none opposed. Motion passed.

c. Appointment of the Municipal Court Judge or temporary judge in accordance with Section 7.01.002 of the Bandera Code of Ordinances.

Mayor Schauman stated that Judge Michael Towers is in attendance and invited him to address the Council.

Judge Towers discussed how he and Judge Eino Zapata agreed to help the city with legal matters upon the resignation of Judge Kaiser. Their primary purpose is to magistrate people who have been arrested without a warrant, establish probable cause, and make sure those people were arrested lawfully. The former Mayor and City Council chose to appoint them as temporary judges so that the newly elected Mayor and City Council could make the decision on whether to continue the status quo or change their status to Municipal Judge and Associate Judge. Judge Towers presides over the Municipal Court and takes care of the usual day-to-day business in Court. Judge Towers and Judge Zapata currently rotate being "on call" one week at a time from Monday morning at 7:00 am until the following Monday morning at 7:00 am. When Judge Zapata is on call, he is also the Municipal Court Judge. In Judge Towers' opinion, everything is working fine.

Following discussion by the Mayor, City Council and City Administrator regarding rates, number of arrests, and clarification on the titles of Municipal Judge and Associate Judge, Council Member Glenn Clark made a motion to appoint Judge Michael Towers as Municipal Judge and Judge Eino Zapata as Associate Judge, with a second from Council Member Toni Kunz. All in favor, none opposed. Motion passed.

d. Appointment of the City Marshal in accordance with Section 9.03.033 of the Bandera Code of Ordinances.

Mayor Schauman stated that each time there is a mayoral election, a City Marshal is appointed. Council Member Glenn Clark made a motion to reappoint City Marshal Will Dietrich and Council Member Rebeca Gibson seconded the motion. There was no discussion, all were in favor, none opposed. Motion passed.

e. Designation of an official newspaper for the City of Bandera.

Council Member Glenn Clark made a motion to designate the Bandera Bulletin as the official newspaper of the City of Bandera, with a second from Council Member Rebeca Gibson. Mayor Schauman stated that the history is that they have typically alternated with Bandera Courier each year. Council Member Toni Kunz stated that it is her understanding that the reason we designate one paper is so that citizens know which one to go to for public hearing notices and to publish in both newspapers is costly. When time is at issue, such as for the run-off election, we publish a public notice one week in the Bulletin and the following week in the Courier. Mayor Schauman asked if all were in favor of designating the Bandera Bulletin as the official newspaper, and none opposed. Motion passed.

f. Awarding of the administrative services contract for the 2016-2017 TxCDBG Community Development Fund Application to Langford Community Management Services.

City Administrator Mike Garr discussed the Request for Proposals (RFPs) that were sent to five management services companies for managing the 2016-2017 grant regarding the TCEQ inspection of September 15. Langford Community Management Services was the only firm to respond to the RFP and Mr. Garr endorses their selection since the City has worked well with them in the past.

After discussion about TCEQ requirements, the grant process, and other projects, Council Member Rebeca Gibson made a motion to approve the Administrative Services Contract for the 2016-2017

TxCDBG Community Development Fund grant to Langford Community Management Services, with a second from Council Member Toni Kunz. Mayor Schauman asked if there was any further discussion. All in favor, none opposed. Motion passed.

- g. Awarding of the management/administrative services contract for the preparation of the 2017-2018 TxCDBG Community Development Fund Application and subsequent contract administration if application is funded.**

City Administrator Mike Garr discussed that this contract is the precursor to preparing and putting together the 2016-2017 request. In order to be able to work on a project for 2017-2018, we need to secure the administrative services company and once again, Langford Community Management Services was the only company to respond to the RFP. Council Member Rebeca Gibson asked what other companies were sent the RFPs, to which Mr. Garr said he didn't have that specific information in front of him but that five firms in the San Antonio area out of 30 different companies in the State of Texas were randomly selected to receive the RFP. Council Member Toni Kunz asked if there was any urgency to getting this item approved tonight. Mr. Garr stated that it's important that we get our request in before everything's already been awarded. Council Member Kunz agreed that's important. Mayor Schauman confirmed that this contract is for one specific grant for 2017-2018. Council Member Glenn Clark made a motion, with a second from Council Member Toni Kunz, to award the management/administrative services contract of the 2017-2018 TxCDBG Community Development Fund to Langford Community Management Services. All in favor, none opposed, motion passed.

- h. Awarding of the engineering services contract for the preparation of the 2017-2018 TxCDBG Community Development Fund Application and subsequent contract implementation if application is funded.**

City Administrator Mike Garr discussed the response packages that along with him, Mayor Suzanne Schauman and Council Member Glenn Clark reviewed. The City of Bandera sent out five RFPs and received responses from three engineering companies. They independently of each other graded the companies, with Klein and Cope being the one that scored the highest. There is no project in mind yet, but we would have an engineering company that will provide the service in case we decide on one. Mayor Schauman said that she was one of the three that reviewed the proposals but that there was really no way to grade them based on what is contained in the packet. Council Member Toni Kunz commented that if there is no urgency and no project in mind, then we really don't know what kind of engineer we would need.

Judy Langford of Langford Community Services reported that at a federal law went into a effect a couple of years ago about the application process. The gist is that HUD's position is that helping with the application was not seen as having pre-information for getting the work once it was funded; however, OMB monitored HUD and disagreed with that position. HUD has not yet come back to the state of Texas to say that you must have pre-procurement before you put in an application or the people that help with the application cannot do the administration and design once it's funded. The state of Texas may go in that direction in the next few months and we'll be in the process of submitting an application, then waiting to see if it's funded. Since you are generally not charged for the application or for the engineering or the administration, nobody would want to help you with your application. At the very least, you have to have an engineer and you have to have a sealed cost estimate. Applications are due on February 9, 2017 and even though that's a couple of months away, you still have to do a public hearing and a resolution, come up with a project, and submit it all by February 9.

Council Member Glenn Clark commented that he feels the same as Mayor Schauman on the grading process of these firms. He did not have time to verify any of the information provided. Ms. Langford said that each company should have provided references in their packets. City Administrator Garr

said that two of the engineering firms have previously done work in the City of Bandera. Ms. Langford stated that if Council will be having their meeting on December 15, then there's probably enough time to check references before that meeting. Council Member Toni Kunz made a motion to table this item until the December 15th meeting, with a second from Council Member Rebeca Gibson. All in favor, none opposed. Motion passed.

VIII. Update and discussion on pending legal issues.

- a. General discussion with the City Attorney on legal issues including possible future code revisions, policy revisions, outstanding complaints or areas of concern. This discussion will begin in open session, however, depending on the nature of the questions or discussion with the City Council, the City Council may convene in Executive Session as stated below.**

Mayor Suzanne Schauman stated that City Attorney Dan Santee is present and invited him to discuss pending items.

Attorney Santee said that he has been working with the City of Bandera for about a year and one of the first issues he dealt with was resolving some issues with the former City Administrator. He discussed the City's Code of Ordinances, specifically the substandard buildings or dangerous structures ordinance, primarily with respect to the historic Cabaret building. Mr. Santee discussed the case of *Dallas v. Stuart* that came out of the Supreme Court and the issue of due process. The revised draft ordinance has been posted to the City's website so that we can get feedback from citizens. The key difference in the existing ordinance and revised ordinance is the overall due process and also the definition used to determine whether or not a building is in need of attention. Another thing to look at is the sign ordinance. Attorney Santee has drafted a number of those for some cities around San Antonio for their consideration to try and bring their sign ordinances into compliance with the Supreme Court ruling. More recently, the Third Court of Appeals out of Austin issued a case where they invalidated two portions of the Highway Beautification Act (HBA), which is something the Texas legislature is going to have to look at because according to the Appellate Court, the HBA is unconstitutional. Mr. Santee recommends citing the general zoning authority to regulate structures and a sign is a structure. He also discussed the Planning and Zoning Commission, the city's personnel policy, and how to determine the difference between a liability and non-liability claim.

Council Member Glenn Clark asked Mr. Santee about the proposed ordinance change on yard sale signs. Discussion followed by council members about language contained in the ordinance that would regulate how many yard sales a resident could hold annually. Mr. Santee will locate the draft ordinance and suggested that Mr. Garr review it and mark it up first, which would save time and money. He also said that another thing to consider is to have a subcommittee of citizens, but not a quorum of council, to identify things that need to be specifically addressed. He suggested that it be broken down, section by section. Mayor Schauman agreed that this is a good idea for a workshop.

Council Member Toni Kunz asked about breaking out into Executive Session. Attorney Santee asked the Mayor to read Item VII(b).

- b. "Pursuant to Section 551.071 of the Texas Government Code, the City of Bandera will consult in closed session with its attorney to receive legal advice regarding pending or contemplated litigation, a settlement offer, or on a matter in which the duty of the attorney to the**

governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter” to include the following matters:

- 1. Legal guidance regarding possible City Code and/or policy amendments.**
- 2. Pending or contemplated litigation.**

Mayor Schauman recessed the Regular Meeting to go into Executive Session at 7:08 pm.

Mayor Schauman reconvened the Regular Meeting at 7:48 pm. No action is to be taken on Executive Session issues.

IX. Requests and announcements. Mayor Schauman asked for requests or announcements that did not come up at the beginning of the meeting.

- Council Member Toni Kunz stated she had a list of things she is concerned about and asked Council their thoughts about sending ideas and concerns that need to be addressed to Mr. Garr. These items could be prioritized and discussed at a future workshop. Mayor Schauman responded that any lists should be kept independent of one another in order to avoid any sort of running quorum. Council Member Rebeca Gibson stated that there was a previous agenda item to schedule a workshop after the Hill Country Alliance luncheon and the new council was seated. Mr. Garr said that particular workshop topic was limited to the park. Ms. Gibson said that she liked the idea of sending things in advance to Mr. Garr so that he could filter through and see where commonalities lie which would help narrow the focus of the workshop. Mr. Garr prefers that method too, as opposed to receiving verbal suggestions. Ms. Gibson believes it would be beneficial to schedule time to address certain ordinances, or the master plan, and actually put action steps into place to focus on and prioritize these issues. She suggests two workshops in one day, with two separate agendas, having a break in between. Council Member Toni Kunz agrees. After more discussion, it was decided that council members will send ideas and suggestions to Mr. Garr by December 15 and at the council meeting on that day, a workshop will be scheduled.
- Council Member Rebeca Gibson asked about the status of hiring the Public Works Director. Mr. Garr responded that we have not received applications from qualified licensed candidates. TCEQ requires the city to have a certified Class C Waste Water Operator on duty 40 hours per week, including holidays. The previous DPW director had all the licenses and none of the employees did. Mr. Garr is trying to find employees that already have some of the necessary licenses. The city needs to decide where the licenses should be, whether in the work force or in the director’s position. Council Member Gibson stated that she would like to see the DPW director hire those employees and asked Council Member Glenn Clark if he had seen any of the applications, to which he responded no. Council Member Toni Kunz said that she thinks this is a priority and if we have an excellent candidate that we have to pass on because there’s a structure in place that doesn’t work in today’s world, then this needs to be addressed. Council Member Clark stated that this discussion is getting too deep and Mayor Schauman suggested we move on to Administrator’s comments. However, EDC Director Art Crawford spoke up at this time with a comment.
- Mr. Crawford requested that when a workshop is scheduled that EDC be involved. He also asked that the following items be added for review and approval to the agenda at the next City Council meeting on December 15:
 - Change in check signers from John Hegemier to Suzanne Schauman.
 - Amendment to EDC’s 2016-2017 budget.
 - \$50,000 expenditure for the Skate Park project.
 - \$75,000 expenditure for the early flood warning system.
 - Advertise an open position on EDC for a county business person.

Discussion followed regarding the fact that Council Members Toni Kunz and Glenn Clark were part of the approval process on the two expenditures since they were members of the Economic Development Corporation. Ms. Kunz suggested that the two expenditures be tabled until after the run-off election. Regarding the ad, Mr. Garr stated that an ad recently ran for two consecutive weeks for P&Z and EDC which only generated one applicant for EDC. Council Member Kunz suggested just putting the selection on the agenda, not the advertisement.

X. City Administrator's Comments.

- Mr. Garr reported that the Indian Waters well is up and running. This process took a few months and it provides a solution to one of the TCEQ problems regarding lack of well sites, water production and water storage. It went on line this week. Council Member Kunz asked about water pressure issues and Mr. Garr responded that there have been some fluctuations. Low pressure may be coming from the main tower which communicates by telemetry to Mulberry, but now it has the ability to communicate with Indian Waters too so if one well can't provide water, the other well should be able to respond.

XI. Motion to Adjourn. Council Member Glenn Clark made a motion to adjourn, with a second from Council Member Gibson. Meeting adjourned at 8:02 pm.



Diana Edwards
Acting City Secretary