**MINUTES**

**OF THE SPECIAL MEETING OF THE**

**CITY COUNCIL OF THE CITY OF BANDERA**

**OCTOBER 22TH, 2015**

**AT 6:00 PM IN THE MUNICIPAL BUILDING**

**AT 511 MAIN STREET, BANDERA, TX**

1. Meeting called to order by Mayor Pro Tem, Suzanne Schauman at 6:00 pm. Council members Glenn Clark, Sheila Pumphrey, Charlotte Browning, and Jim Hannah were present. City Administrator, Lamar Schulz, City Secretary, Karen Chesler, and City Treasurer, Trinity Burnes were also present.
2. Invocation given by Martha Shoemaker & all stood for the Pledge of Allegiance.
3. Visitors to be heard – no one signed up and no one spoke.
4. Minutes of Previous Meeting

Glenn Clark stated on the workshop minutes from August 27, 2015 at 1:00 pm he wanted one change to the minutes on the second page to read he is going to support the library and take out the not because he did support the Bandera Library.

**Council member Sheila Pumphrey made a motion to approve the Workshop Meeting minutes for August 27, 2015 at 1:00 pm, seconded by Council Member Jim Hannah. All in favor none opposed. Motion carried.**

**Council member Sheila Pumphrey made a motion to approve the Special Meeting minutes for August 27, 2015 at 6:00 pm, seconded by Council Member Jim Hannah. All in favor none opposed. Motion carried.**

**Council member Sheila Pumphrey made a motion to approve the Workshop Meeting minutes for September 3, 2015 at 6:00 pm, seconded by Council Member Jim Hannah. All in favor none opposed. Motion carried.**

1. Public Hearing: To consider an application for grant assistance under 2015 Texas Capital Fund Real Estate and Infrastructure Program

Judy Langford with Langford Community Management Services stated most of the council is not use to seeing her but Margaret Hardin. The Texas Capital Fund is the process she works with so she is here tonight to talk to council about it. The Capital Fund is Community Block Grant for City’s and County’s to acquire funds for Economic Development. The applications are due on the 20th of the month and when the funds run out the funding stops for the year. The grant application requires a Public Hearing be held in order to be approved.

Jodie Sinclair stated she is a homeowner in Bandera. Her address is 903 Cypress and she is an avid supporter of Mr. Hartman’s project on Main Street. Jodie Sinclair feels she has the credentials to address this issue because from 1998 to 2005 she was the Communications Director for the Houston Downtown Management District which is a state agency. Her job was to attract people under the banner of Live, Work, and Play downtown. Ms. Sinclair promoted all of the development projects the district chose for downtown. Ms. Sinclair is happy to be here as she is tired of being the big city girl and she does know that growth is coming. To control growth by encouraging the projects that bring the most benefit and this is a one pillar economy and the pillar is a tourist economy. The hotel will bring more tourism. An added benefit is it will attract other quality projects to Bandera because it is an example of what they would like here. Ms. Sinclair wants to see this project to benefit all of the community to come to Bandera for all taxes paid here.

Ms. Darden stated she is not sure what the money is being asked for and what purpose. Suzanne Schauman replied that is a good question.

Ms. Langford stated this is a grant to the city that the monies the city will match for the project. The matching funds are the land itself so the city does not need cash out of pocket for the grant. The business has to hire employees which total $35,000 in grant funds or nine jobs. Currently, what is being looked at is the roadway potentially making the road a one-way with parking and bringing water, sewer, and other utilities to the site plus engineering and administration. Suzanne Schauman asked what is the cost to the city. Ms. Langford stated not for the grant itself but she thought the city was looking at a benefits package as far as the grant itself. Lamar Schulz stated the $3,000 is for administration of the grant writing. Suzanne Schauman stated what she is looking at states $35,000. Lamar Schulz stated it is part of the grant process. Jim Hannah asked what the timeline on any of this is. Ms. Langford replied it is rather quickly. They are hoping to make the November 20, 2015 submission deadline and find out within 2 to 4 weeks. The time could take a little bit longer because of the holiday’s but at the very least by January but hopefully in December. Tom Laxson asked about a water catchment system for the hotel. Ms. Langford replied that is for the hotel developer to decide if they want one.

1. Discussion and Possible Action on the Following Topics:
2. Consider and take action on a Resolution authorizing the submission of an application for grant assistance under the 2015 Texas Capital Fund Real Estate and Infrastructure Program

**Council member Glenn Clark made a motion to approve a resolution authorizing the submission of an application for grant assistance under the 2015 Texas Capital Fund Real Estate and Infrastructure Program, seconded by Council Member Suzanne Schauman. All in favor none opposed. Motion carried.**

1. Discussion with Legal Counsel as to the establishment of a Chapter 380 Agreement (Local Government Code) on Tax Abatement for the proposed hotel project

Habib Erkan, Jr stated he is a Senior Associate Attorney with Denton Navarro Rocha Bernal Hyde & Zech, P.C. at 2517 N Main Street, San Antonio, Texas. Mr. Erkan stated he is here today to talk to council about a Chapter 380 Agreement which is in the Texas Local Government Code. The Chapter was adopted in 1989 and actually passed an amendment to the constitution of the United States government which is to be instituted. The Chapter 380 Agreement reads…the governing body of a municipality may establish and provide for the administration of one or more programs including programs for making loans and grants of public money and providing personnel and services of the municipality, to promote state or local economic development and to simulate business and commercial activity in the municipality. Mr. Erkan stated council has both economic development to simulate economic activity they have asked for assistance in the way of grants. What typically happens in these types of transactions is the city asks for some guarantee of performance from the developer and how many jobs it is going to bring. What it is going to look like is a Best Western motel with the number of rooms and specifics will be negotiated with the developer. The added value the hotel is going to bring is in the number of jobs. Typically, what you take is the increase in the ad valorem, personal property and the sales tax. A percentage over a number of years is what the grant is. The grant does not start until the developer has a Certificate of Occupancy which is the added value or assessed on the personal property. Before council gives them the first dollar they will know what they are going to get based on the requirements in place. The number of employees needs to be agreed upon. If they do not maintain the specific number of employees the city can have it built into the agreement a claw back where the developer would not get the full amount of the grant but not be in total default. The specifications would be negotiated. A total amount is the cap and once council has reached the total number then the grant ends. Suzanne Schauman asked so you think we should set an amount instead of the 10 year abatement. Mr. Erkan replied yes as this is not really abatement but a grant. Mr. Erkan stated an abatement means the developer does not pay the taxes but in the grant you only make a payment to the developer only if they have provided what the agreement states. The developer pays the taxes, the city puts the funds into an account and then the city verifies the developer is within compliance then the city writes a check for the agreed amount. Suzanne Schauman stated this was only in response to the developer and does not apply to the businesses that occupy the retail space. Brian Black asked if the developer sells before the contract is over what happens. Mr. Erkan replied generally there is a provision in the paperwork where the city can provide the people stepping in and if they are viable or solvent as the current developers they can take over. Rebecca Gibson asked if the developer did not meet the obligations in regards to the terms set forth can the city change the amount that they received that year. Mr. Erkan replied there will be two components to their obligations one is to provide development or the increase in value to the city and it can be determined by the ad valorem tax. The other item is the number of rooms. The grant for the building does not start until they have the Certificate of Occupancy and they are in business. Then you have some money to pay the grant with. Rebecca Gibson asked about the number of employees they have to have. Mr. Erkan replied now going forward through the term of the agreement they have to have the number of employees. Rebecca Gibson asked if they do not meet the obligation of the number of employees does council forfeit those funds or are they applied to the back side of the agreement. Mr. Erkan replied that is something council needs to structure in the grant funds paid to the developer.

1. Request for closure of the Block of 11th Street between Cypress Street and Cedar Street on Saturday, January 30, 2016 between the hours of 6:00 am and Sunday, January 31, 2016 3:00 am and consideration to waive the fee

James McGroarty stated this is the 11th annual Cowboy Mardi Gras Celebration. The street closure is for safety and the Boys and Girls Club gumbo cook off. Mr. McGroarty stated he would appreciate closing the street down. Last year they generated over $4,000 for the Boys & Girls Club.

**Council member Charlotte Browning made a motion to approve closure of the Block of 11th Street between Cypress Street and Cedar Street on Saturday, January 30, 2016 between the hours of 6:00 am and Sunday, January 31, 2016 at 3:00 am and waive the fee, seconded by Council Member Glenn Clark. All in favor none opposed. Motion carried.**

1. Request to approve adoption of a new rate structure for Solid Waste Collection & Disposal Services provided by the City of Bandera

Lamar Schulz stated council has a copy of this in the packets and the need for the increase. Mr. Schulz stated he wanted to give council another city in the areas rates and they are also higher than what he is suggesting. Four years have gone by and nothing has been passed on to the consumer and last year the budget needed to be amended to cover the expenses. Lamar Schulz stated some people look at the cost billed by the vendor to the city but this does not include a utility clerk’s salary, postage, envelopes, and paper. The total cost for water, wastewater, and garbage should be collected as well. Lamar Schulz stated a residential customer will pay an additional $2.755 a month or $33.06 a year. A business owner with one toter will pay $5.44 a month more. The dumpsters are the amount above the cities costs to help offset the other costs of billing. The service should be paying for the service to the customer. Suzanne Schauman stated the $8.00 increase for the commercial dumpster is not the actual costs for the business owner but it is $27. Suzanne Schauman stated she has been advocating this for years and agrees they need to do something about it and she is not complaining. Lamar Schulz stated Bandera rates are still way under what the City of Devine is charging. The 8 yard dumpster one time per week the city charges $179 and Devine charges $230.79. For twice a week Bandera charges $314 and Devine chares $475 thus, the City of Bandera is still well below the cost and we are not gouging the customers.

**Council member Glenn Clark made a motion to approve adoption of a new rate structure for Solid Waste Collection & Disposal Services provided by the City of Bandera, seconded by Council Member Sheila Pumphrey. All in favor none opposed. Motion carried.**

**Council member Glenn Clark made a motion amending to approve adoption of a new rate effective 12/01/2015 for Solid Waste Collection & Disposal Services provided by the City of Bandera, seconded by Council Member Sheila Pumphrey. All in favor none opposed. Motion carried.**

1. BBA Representative to present financial data documenting how the HOT Taxes have been spent

Margaret Paradee stated she has retired from the BBA. Julie Conrad has taken over as the President of the BBA. Margaret Paradee stated in the past council was given a folder with all of the pictures in it but she is not going to do that anymore but put in the information from the computer. The first report in the folder is the Occupancy Fund report and the BBA gave the Mayhem on the Medina $2,000, Riverfest $2,000, Cowboys On Main $2,000, Cowboy Christmas $10,000, Celebrate Bandera $7,000, two musicals $500 each, and Wild Hog $1,000 for a total of $25,000. The BBA gave Celebrate Bandera $4,000 extra from the extra $5,000 they received. The BBA wants to give the Museum $2,000 if they have extra funds come in. The next page is the certificate of incorporation, the next page the Department of Treasury, and the next page is the Occupancy Tax. Also included are the Profit & Loss statements for the BBA. Each section of the reports has the division who was paid which includes the request for funds. Suzanne Schauman asked about Celebrate Bandera because they do not list the expenses. Margaret Paradee stated no because she was having trouble getting information out of them and they are not finished with the books as the event was just 30 days ago. Suzanne Schauman asked when will we get the information. Buck Murray replied they are working on closing the books for the event but have not paid out everything. Margaret Paradee stated this is the last time they will get a big booklet like this for Occupancy Tax because Christmas is coming and they will bring it in February. The state policy states they need to have the information reported the month following the event. Margaret Paradee stated the last page is the BBA budget for the 15-16 year which totals $19,500 and they have a note if they get an additional $2,000 they will give it to the Museum.

1. Request to approve City Park rental fees, associated operating costs, and possible changes in the rental process

Lamar Schulz stated they have discussed this before and council chose not to make any changes. Lamar Schulz was asked to bring it up again. Council may want to define how they rent certain parts of the park. Glenn Clark stated this is a great item for a workshop. It is our obligation to take care of the cities interest. When our park has the potential to make $3,000 a day and we are only charging $1,000 for the City Park. Suzanne Schauman replied she agrees and asked if anyone was opposed to having a workshop on these items. Jim Hannah replied absolutely not and he suggests waiting until the new council is seated to come back in January to discuss the park fees. Glenn Clark replied that is adequate time to address the park because the busy time is mainly from spring into the summer. Suzanne Schuman replied they can wait until January to have a workshop to discuss these items.

1. Request to approve of the 2016 City Holiday Calendar

Lamar Schulz stated the holiday calendar is the same as the counties.

**Council member Glenn Clark made a motion to approve the 2016 City Holiday Calendar, seconded by Council Member Sheila Pumphrey. All in favor none opposed. Motion carried.**

1. Request for ordinance change and recommendation from Planning & Zoning Commission for garage sale signs Article 4.05 Sale of Personal Property in the City of Bandera

Toni Kunz stated they put a workshop together to discuss the Sale of Personal Property with Glenn Clark, people from the community, and herself. They want to make it clear, concise, and enforceable by the Marshal’s Department. Suzanne Schauman stated she has a couple questions on the section 4.05.002.01 penalty - citation and the penalty to be set by Municipal Court or would a stated amount be more appropriate to discourage controversy arising from unequal fines to different individuals. Toni Kunz replied what they did was to just give a suggestion to the City Council. The Marshal picks up a sign from a garage sale and they can charge per sign. Suzanne Schauman stated she would like to see the wording not to exceed $100 or something for a class “C” misdemeanor and has a max sentence to include a fine not to exceed $500. Toni Kunz stated they looked at it like a policy change and what it should be along the lines of a recommendation to the City Council and what they can enforce. Suzanne Schauman stated there is not a set fine on anything but the misdemeanor is up to the judge. Glenn Clark stated in that section why don’t they just go with Citation and the penalty to be set by Municipal Court. Suzanne Schauman stated she agrees. Roger Roberts asked if they had a set fine or not. Suzanne Schauman replied there is not a set fine for anything in the state of Texas but a class “C” has a max of $500 but different courts set different amounts. Glenn Clark stated what they need to do is approve this as a proposal, write up, and then approved. Suzanne Schaman stated somewhere in this it stated they would be allowed to post the garage sale signs on the city bulletin board and she has a problem with doing that. It is advertising for profit and if they are going to be allowed to do that then she wants to be able to post her menu on the bulletin board for special events. Toni Kunz replied that is a good point but they wanted somewhere around town for them to post garage sale signs. Suzanne Schauman stated they have the grocery store, laundry mat, and other bulletin boards around town. Jim Hannah asked what is working and what is not working for the garage sale signs. Sylvia Colburn stated she had a garage sale this weekend and felt it was an unnecessary police presence due to the signs. They knew where she was located because of the addresses on the signs. They put up the signs the night before and then the next morning they found out it was a bad idea and the police officers show up to her house. It was more of a revenue generating idea to fine for the signs. Glenn Clark stated he agrees and this is why they came up with this draft. Roger Roberts stated he got a ticket in the mail for $360 for putting up a garage sale sign and he will be going to court tomorrow. Suzanne Schauman stated we have ordinances for this reason and they have tried to get this straightened out so there would not be this inconsistency and something everyone would know about. Roger Roberts asked Mike Armstrong what is the deal, do you enforce this all of the time. Roger Roberts was told oh, no it is intermittent and not something you enforce all of the time. Roger Roberts asked so how is anyone suppose to know what is going on. Suzanne Schauman stated they are working on this. There is a process this will need to go through before it will be on the website. Jim Hannah stated if we get other comments before the workshop can they be added or considered. Glenn Clark stated yes.

**Council member Glenn Clark made a motion to approve the proposal from the P&Z for the ordinance change, seconded by Council Member Sheila Pumphrey. All in favor none opposed. Motion carried.**

1. Request to from P&Z to advertise for new members to serve on the Planning & Zoning Commission

Glenn Clark stated currently they changed the ordinance to move to a five member board with two alternates. Toni Kunz replied yes.

**Council member Glenn Clark made a motion to approve P&Z to advertise for new members and alternates to serve on the Planning & Zoning Commission, seconded by Council Member Sheila Pumphrey. All in favor none opposed. Motion carried.**

1. Departmental Reports:

1. Permits Department Report

2. Public Works Department Reports

3. Finance Department Reports

4. Municipal Court Activity Report

5. Marshal’s Department Report

Karen Chesler stated we had just two residential and nine commercial permits. The city only received one banner and nine sign permits for the month of September 2015.

Glenn Clark asked how the training program is going or certification training going for the employees. Roy Clayton replied the training for the employee is one person is waiting for his letter to allow him to take a test and the other person took the test and has failed twice. Glenn Clark asked did he hear him correctly. One person failed. Glenn Clark asked how many opportunities are they allowed to test. Roy Clayton replied several over a period of a year. Glenn Clark asked if they are allowed to study on company time and then the city pays for the test. Glenn Clark asked at what point do we draw the line. Roy Clayton replied when they cannot pass the test but he is not going to pay a second fee for the test. Once the first payment is made from the city that is all they will pay. Sheila Pumphrey asked how all the wells are doing. Roy Clayton replied the wells are doing great. Roy Clayton stated he is going to need to pull a sample on the Indian Waters well and when they get the results back then he can let council know. Suzanne Schauman asked if we are up-to-date with the TCEQ testing. Roy Clayton stated they are going to have an inspection on November 19. Roy Clayton is excited about it because it wasn’t going to be until sometime next spring but they called and got in next week before Thanksgiving. They are going to try and get everything together before they come in. Suzanne Schauman asked about the electrical bid for the city hall and if he contacted any other electricians because they are trying to be competitive with the bids. Roy Clayton replied he did not because he has had poor local results on the wells. Lamar Schulz stated this was the guy working on the wells. Suzanne Schauman stated before we have them do the work they need to get another bid on the project.

Trinity Burnes stated this is really just a wrap up and they have most of the stuff in the report. They are still going to have a few of the end of year adjustments to catch up and a lot was submitted on September 30th. Suzanne Schauman asked just looking at the income versus revenue; we did really good collecting the revenue. Suzanne Schauman asked what goes under the heading of other taxes on the report which is down by 10 percent in collections for the year. Trinity Burnes replied she is looking at her whole sheet. Suzanne Schauman asked is this for the liquor taxes or what. Trinity Burnes stated she thought the liquor taxes and the franchise fees. Suzanne Schauman replied no the franchise fees are in another separate line on the report and it is over. Suzanne Schauman stated all in all they came out $6,000 over the expected revenue as a whole. Trinity Burnes stated she does not believe the September Sales Tax revenue is figured in because the numbers just came out on the 22nd from the Comptroller.

Judge Kaiser was not in attendance to cover. Suzanne Schauman stated she wants to point out the court for the year collected $109,199.05 in fines and she thinks this is fantastic. Lamar Schulz stated they collected about $1,500 just today.

Glenn Clark stated he just wanted to let everyone know if they missed the National Night Out they missed a good celebration. Glenn Clark stated he has not seen that many kids having fun. Glenn Clark stated Willie Smith headed up the event and he would encourage everyone to attend next year because it is going to be bigger and better. Charlotte Browning stated he did do a great job. Marshal Will Dietrich stated they did have an excellent turn out for National Night Out and his best guess was about 300 people were there at one time probably about 500 to 600 people came through all together. Compared to last year, they only had about 20 or 30 people stop by throughout the course of the evening. Everyone had a good time. Will Dietrich congratulated Deputy Smith on the achievement and challenged him to improve for next year. The Marshal’s Department received a lot of donations and Willie Smith made certificates for everyone that donated anything. Will Dietrich stated both of the new vehicles are outfitted and in service. Each vehicle is assigned to only one officer. Then they are cleaned and maintained or Marshal Dietrich knows who to blame. Will Dietrich stated they have slowed down for the year. The Marshal’s Department is getting ready for the Veteran’s Day and Mardi Gras parade. They want to have a Christmas parade in the early evening opposed to the middle of the day to keep people in town for the Shopper’s Jubilee. Marshal Dietrich stated he cannot agree to an evening parade due to the liability and safety of the people.

Suzanne Schauman stated she wants to thank Glenn Clark for his service and time spent here with the council as he will soon be moving off of council but will be on the EDC.

1. Adjourn - **Council member Glenn Clark made a motion to adjourn at 7:52 PM, seconded by Council Member Suzanne Schauman. All in favor none opposed. Motion carried.**

Attest:

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Karen Chesler John Hegemier

City Secretary Mayor