

**CITY OF GONZALES
CITY COUNCIL MEETING
JANUARY 10, 2019 MINUTES**

The City Council convened the Council meeting at 6:01 p.m., January 10, 2019, in the Council Chambers at the Gonzales Municipal Building, 820 St. Joseph Street, Gonzales, Texas.

The following members were present constituting a quorum: Mayor Connie L. Kacir, Councilmen Gary Schroeder, Tommy Schurig, Dan Blakemore and Bobby O'Neal.

Others Present: City Manager- Tim Patek, City Secretary- Kristina Vega, City Attorney- T. Daniel Santee

Staff Present: Anne Dollery, Laura Zella, Clint Hille, William Ince, Barbara Friedrich, Genora Young

Mayor Connie Kacir called the meeting to order, gave the invocation, and cited the Pledge of Allegiance and the Texas Pledge.

HEARING OF RESIDENTS

There were no residents signed up to speak.

CONSENT AGENDA ITEMS

The Consent Agenda is considered self-explanatory and will be enacted by the Council with one motion. There will be no separate discussion of these items unless they are removed from the Consent Agenda upon the request of the Mayor or Councilmember.

1.1 **Minutes** - Approval of the minutes for the December 13, 2018 Special Called Joint Meeting with GEDC, December 13, 2018 Regular Meeting & December 27, 2018 Special Called Meeting

The Mayor asked for a motion to approve the consent agenda item. Councilman O'Neal made a motion to approve the consent items. Councilman Blakemore seconded the motion. The Mayor asked for a roll call vote. Councilman Schurig, Schroeder, O'Neal, Blakemore and the Mayor all voted "aye".

PRESENTATION

2.1 Charter Review Commission Final Report

Chairman of the Charter Review Commission, Jon Such stated the committee first met on August 29th, and made up of Genora Young, James Lawrence, Joseph Kridler and Al O'Donnell and myself. Also attending was City Manager-Tim Patek, City Attorney-Charles Zech and City Secretary-Kristina Vega. I believe in front of you, you have the

proposed measures, eight measures and the eight propositions. I will just summarize it to say that the things we covered with the help of Charles pointing out that there were a number of items that were in conflict with state law so we corrected those. There were also a lot of excess language there stating a lot of the rights that the City Charter has according to state law basically we have those rights, so we simplified it quite a bit. Beyond that we also focused in on the percentage of voters that needed to approve recalls or a petition for ordinances and to change those from a percentage of the voters in the last election to a percentage of voters that are eligible to vote in the city. Beyond that there were a few incidental items that were there and I don't know if you would like me to go through it one by one or if you would like to do it.

Mayor Kacir stated I think unless someone requests, I think your summary is adequate and then if Council has questions then we'll pose those questions. At this time would it be appropriate to pose any questions to legal counsel that we may have? I had just a few.

Councilman O'Neal stated he does have one on Measure 1 the last sentence, the public squares and avenues of the City shall not be sold. Some of the city properties out in the country that we have been selling to the land owners, that's not in conflict with that is it?

Mr. Such stated there is a lot of language in there stating what rights the City did have and this was the one item that wasn't covered by state laws that was in the existing City Charter, so we discussed that point and we left that one line item in there as written.

City Attorney, Charles Zech stated that is an accurate statement. Measure 1 is essentially amendments to the City Charter where we strike a lot of language. It's redundant and unnecessary because it's a granting of rights to the city but it doesn't have to be specifically enumerated in the Charter in order for those rights to exist. This one section of Charter was not an enumeration of right but rather a prohibition on the City from taking an action which is different. That language was in there, I didn't know the history or reasons why it was in there but they had a debate about it and they made a determination that it was probably in there for good reason and it was left in there as a prohibition, a restriction on the City's rights. It is currently in the Charter and they just left it in there, so it's not an addition.

Mayor Kacir stated and I think maybe additional information, the properties that we are selling outside of the City proper would not lie within the avenues in order for us to sell them, and if they did then we could lease them but those would not be sold.

Mr. Zech stated and I don't know if you all want to hear any of the reasons and justifications for any of these. One of them I will point out that was pointed out earlier where they changed the percentages and how it was determined for someone to submit a petition to the City for either initiative, referendum or recall. Under your current

Charter the number is based on the number of people that voted in the previous election. I believe one of it is 35% of the people that voted in the last election, so from a policy perspective that number can swing very wildly from election to election. For example if it is an off presidential election year you may only have 100 people come out and vote that year, but if it is an election year you might actually have 3,000 people come out and vote. So the difference it takes to initiate a petition or to submit a recall petition the number of people necessary is based solely on how popular the previous election was. By changing that number to a percentage of the actual registered voters that is going to be a much more stable number over time. It will fluctuate a little bit from year to year but only in a very small amount, so they reduced the percentages from a larger percentage to a smaller percentage because the number is larger, but it gives you a more stable number from which to base how many signatures are necessary so there was a legitimate real policy why that change should be made to the Charter.

Mayor Kacir I just had a few I wanted to ask Mr. Zech. Under Section 3.01 under City Council Selection and term. Would there be an opportunity if it were to be the Council's pleasure to add any at-large seats to the current council. Where currently we serve by districts and the Mayor is the only one that is at-large.

Mr. Zech said sure that is certainly something, Council if they want to place it on the ballot to accomplish, can be accomplished. A couple of points, one is I don't know why you have districts in your Charter. Often time's cities have districts created in their Charter because they were sued under federal law under the voting rights act and they were forced by court order to create districts. I am not saying that happened here, but if it did then that would change my answer to the question. We would have to look to see why you have districts within your community. If it was a court order and it was imposed upon the City we would need to see what that says and what your flexibility is for doing that. Other than that, there is a variety of ways for example the city of Del Rio has districts and at-large members, so they have some that are run by district and some that are at-large. Other cities, everyone is at-large, other cities, everyone is by district. You could do that by creating two at-large and leaving three district with five Council members. You could do it by adding two Council members so that you have seven Council members and those two could be added as at-large. That's a lot of Council members for a city of your size, essentially you would have a Council member for a little over a 1,000 people, so those are just policy considerations that you need to think about. How difficult is it to have people to run for Council, would it be difficult to fill vacant seats, is a seven member Council too big and then whether or not you keep the same five and you change one or two to at-large and then you change districts, it's just purely a policy decision. Obviously if you have two at-large and three districts you would have to redistrict and combine some of the districts so that you have three instead of five districts. The typical quote, unquote district wars that cities sometimes

have in respect to moneys can sometimes be simplified. When you have two at-large that don't have the same constituents. Those are just policy considerations that you can make but it can be done, it can be placed on the ballot assuming that they weren't court imposed districting.

James Lawrence stated you brought up the at-large districts, we did address that issue in the meetings and basically decided that what we have is the best.

Mayor Kacir also stated under Section 3.02 under qualifications I know the Election Code gives five qualifications, one of those are that you can serve as long as you have either not been convicted of a felony or that you have been pardoned from a felony. Could we remove the pardoned from the felony?

Mr. Zech stated no because that is state law. State law does give us as Home Rule cities some flexibility. We can sometimes add other requirements, as long as they are not violating any other statues or constitutional provisions. It also gives us the flexibility to change two of the state law requirements and that is how long you have to reside in the city or the district and also what age you can be. But those are the only two that we have the flexibility to change that are under the state law, so you are "stuck" with the state law provision of if someone has been pardoned or excused from their felony then they can then run.

Mayor Kacir said since we are doing the Charter amendment we had rules of decorum adopted at a later time and I wondered if those would be reflected in this amendment.

Mr. Zech expressed that he does not normally recommend that you include rules of procedure and rules of decorum within your Charter. If you think about your Charter, it's much like the United States Constitution it should be set in stone unless there is some dramatic change that needs to be made. It should be framework of how your government operates not necessarily a detailed in the weeds of how you run your Council meetings and things of that nature. You can put it in there but I don't normally recommend that you do, but they can be placed in there.

Mayor Kacir stated in 4.05 City Attorney, the current Charter recites the City Attorney or such other City Attorney's selected by him or her with the approval of the City Council shall represent the City in all litigation. Could we remove the other attorney's selected by him or her? In other words if there were an occasion where the Council wanted to select special counsel, the Council would first need approval of the City Attorney to proceed before they could look at other counsel.

City Attorney Zech expressed that he would recommend that if that is the issue that it be reworded instead of just deleted as it is written. You would want to continue to give yourself the flexibility to hire special counsel if you want. It's really about do you want to

require that it get a recommendation from the City Attorney before you make that hiring. It could be reworded to do that absolutely.

Mayor Kacir stated and that was what I was asking, so it would not require if there were ever an occasion that maybe the Council and the attorney were to be in conflict then it would allow the Council that authority to seek special counsel without. I think that you have addressed all of my questions.

ACTION ITEM

3.1 Discuss, Consider & Possible Action approving the proposed amendments and any additional proposed measures to the Home Rule Charter of the City of Gonzales.

The Mayor asked for a motion. Councilman O'Neal made a motion to approve the items as reflected and the comments that were made in regards to the City Attorney to include those as well. Councilman Schroeder seconded the motion. The Mayor asked for a roll call vote. Councilman Schurig, Schroeder, O'Neal, Blakemore and the Mayor all voted "aye".

RESOLUTIONS

4.1, Mayor, Connie Kacir read Discuss, Consider & Possible Action on **Resolution #2019-1** to Determine the validity of a Petition to initiate a Rollback Election. The Mayor asked for a motion. Councilman O'Neal made a motion to approve **Resolution #2019-1** to determine the validity of a Petition to initiate a Rollback Election. Councilman Schurig seconded the motion. The Mayor asked for a roll call vote. Councilman O'Neal, Blakemore, Schurig, Schroeder and the Mayor all voted "aye."

4.2, Mayor, Connie Kacir read Discuss, Consider & Possible Action Approving **Resolution #2019-2** Authorizing the Use of Texas Heroes Square Including the Parking Lot for the Gonzales Master Gardener's Annual Spring Plant Sale on March 16, 2019. The Mayor asked for a motion. Councilman O'Neal made a motion to approve **Resolution #2019-2** Authorizing the Use of Texas Heroes Square Including the Parking Lot for the Gonzales Master Gardener's Annual Spring Plant Sale on March 16, 2019. Councilman Blakemore seconded the motion. The Mayor called for discussion. Mayor Kacir asked if they were able to secure the insurance required. City Secretary Vega stated yes they were able to provide proof of insurance on Monday. The Mayor asked for any further discussion. There being none, the Mayor asked for a roll call vote. Councilman O'Neal, Blakemore, Schurig, Schroeder and the Mayor all voted "aye".

ORDINANCES

5.1 Mayor, Connie Kacir read Discuss, Consider & Possible Action Approving **Ordinance #2019-1** Ordering a Special Election Concerning the Question of Reducing the City of Gonzales' Tax Rate for the Current Year FY 2018-2019. The Mayor pointed out that there was an updated ordinance at your desk with a modified date incorporated

in that brief. The Mayor asked for a motion. Councilman Schroeder made a motion to approve **Ordinance #2019-1** Ordering a Special Election by the qualified voters of the City of Gonzales on March 16, 2019 for the purpose of voting for or against the proposition "Reducing the tax rate in the City of Gonzales for the Current Year from .3050 to .2248. Councilman Schurig seconded the motion. The Mayor called for discussion. There being none, the Mayor asked for a roll call vote. Councilman O'Neal, Blakemore, Schurig, Schroeder and the Mayor all voted "aye".

OTHER BUSINESS-WORKSHOP

6.1 City Council will discuss and give staff direction regarding Special Event License Policy and a Street Use License Policy and associated fees.

City Attorney, Dan Santee what we have been discussing for some time and we have had this conversation briefly with Council is that as Kristina and I have worked together it has become apparent that with all the activities that the City of Gonzales is blessed to have when it comes to hosting events from outside folks coming in here and them using city facilities, closing down city streets, making use of the electric that you have down around your square, putting up stages and as we know from last discussion Hot Rods & Hatters coming here that's a big event and the existing city policies and application process is inadequate honestly for an event of that caliber and size. It doesn't address all of the concerns that I have heard expressed over time when it comes to the protection of the city through indemnity clauses and insurance and just the requirements and the checklist that the staff goes from. When you start talking about the use of city property for events there is actually more than one category that we need to discuss, so I brought it to Kristina's attention as well, sometimes there are different categories of events like the one you approved tonight, the plant sale. That is not quite the same scale as when you have the Come & Take It festival or Hot Rods and Hatters so the requirements could differ in an event such as that and the length of time is going to be shorter. By the same token you are going to have occasions where and the example that I provided Kristina and the Council would have you are going to have the need to place things in your right of way for an extended amount of time perhaps and the most common example that I have run into in other cities is monitoring wells and monitoring wells might need to go in your right of way for a variety of reasons but it is something that we also would want to require a license agreement for if you are going to do that. The other example that comes up often is sometimes with parking when you have places with limited parking, they might want to make use of city right of way in a way that basically reserves an area of right of way to a particular place. The example that I have run into before is sometimes when streets get widened or pavement gets widened, it leaves angled parking where you have actually cars that are potentially extending into the right of way and we don't want to cause a situation or liability on the city on things such as that. Those are just a couple of examples there are others where you would need or you might want to consider a street use license. The idea behind and of these though are to have a list of requirements that are standardized so that anybody that comes in to the city for any of these purposes knows up front, here is what we need from you, here is all the information that we are going to take, here is the application that you need to go through and check the appropriate boxes and here is what the City

Council is going to get and make a determination on, when this item comes before them as far as authorizing the license agreement. Any type of license agreement is you authorizing the use of city property or city facilities for someone else's purpose. Kristina was there any particular thing you wanted to touch on?

City Secretary, Kristina Vega stated we have the parades that there is no charge for the closures, there is no charge for staff to go out and put barricades up, to put cones up for runs, any things of that nature. We don't have any fees associated with the use of any of our materials, we don't have anything established, so when it takes the time from their normal duties to go out and put barricades up for everything for the square to be closed off or the streets downtown to be closed off we don't have any requirements there. As well as notification of the businesses owners, we don't require them to notify the business owners and I think that it is important that the business owners are notified well in advance that this is going to be happening and it may give them an opportunity to speak publicly about these closures, if it is going to affect their business. Like I said we don't have any fees associated with any of the types of closures, the only thing we have fees associated with is the rental of our parks or our pavilions or things of that nature, but this would help implement a policy where everyone is on the same page, everyone is treated equally, everyone goes by the same guidelines and it would be very beneficial for staff as well as the individuals downtown, the individuals that are being affected. It just gives us some guidance.

City Attorney Santee stated I am glad you mentioned that, those are one of the things that we talked about extensively about was the fact of when you close down, I have been through Gonzales when some of those streets are closed down and if you had any idea that you were going to get down to a particular business or place on some of your squares, it is impossible to do depending on what is going on. I did ask Kristina about that because in other cities what we have done is if I am going to close down a thoroughfare that your local businesses are located on, it is on me as part of the application process to go to those businesses explain the dates and times of my event and let them either object or consent to the idea that this is going to happen so that when the Council has that, you already know ahead of time with the application packet if the business owners have been told about this and number two you know if they agree to it or object to it and they are still going to have an opportunity at a Council meeting to voice any concerns. Generally, businesses are going to be in favor that are going to draw people in, but it also is an imposition on them that would not otherwise be because you are closing down the streets. The other thing that Kristina mentioned in this that is critical as well is the cost to the city, because there is a cost to the city because your employees are having to go and give their labor, time and city equipment in support of an event and there is no recovery of those costs in the permit process or license process. The cost of the license should cover that and or we need this Council to take action that says this is something that the Council deems a public purpose that is going to increase the community spirit or the Council is a sponsor of it, something like Come & Take It. We need it one way or another, we either need to recover those costs or make the Council aware of it and the Council is making the City a sponsor or cosponsor or deeming the public purpose that allows those funds to be expended.

City Secretary Vega expressed, correct me if I am wrong, but there is a possibility in the policy to establish where some of the closures could be administratively done, or done by the Chief of Police and then have some that come before Council.

City Attorney Santee stated yes that would be my suggestion. For example in a lot of cities, things such as the MLK March are done at a neighborhood level as opposed to a major thoroughfare level so they don't require the same closure of streets. Or a lot of communities have neighborhood parades around Christmas 4th of July where they just want to have a parade with golf carts or something such as that. Those are not often something that I believe need to rise to the level of City Council, so long as City Council is comfortable with having a policy in place saying here is what you have to do to do if you're going to do that and you have to have the approval of the City Manager and the Chief of Police or something such as that. That is what she is referring to on that, so if you are not having barricades or disruption of traffic to the degree that we need those things, on a local level yes there is a level that does not arise where we have to come to Council, if the Council agrees, and the policy we would bring forward at the next Council meeting would contemplate that and allow you to set that level at whatever you deem appropriate.

Mayor Kacir stated I would personally like to see staff and legal counsel work on a draft policy and bring it back on a future agenda for Council's review and approval. I think that the points that you made were salient points, they're important to our citizenry especially in notifying our downtown merchants and retailers with a standardized stipulation for the timeframe they will be noticed for the street closure so that they are well informed and we have better communication, in addition to looking at the events that do carry a heavier work order on staff where we are expending overtime to facilitate the event so that we have oversight on a fiscal standpoint on that as well.

City Attorney Santee stated that I think that all we are looking for at this time was direction that this is something that the Council is supportive of and would like to see put in a format for Gonzales before it comes back for approval.

Mayor Kacir stated I think it is good business.

STAFF/BOARD REPORTS

7.1, Financial Report for the Month of December 2018 is available to review.

7.2, City Manager, Tim Patek updated the City Council on the storage tanks at the Water Plant and the Hot Rods and Hatters Event.

CLOSED SESSION

At 6:41 p.m. the City Council moved into Closed Session.

8.1 (1) Pursuant to Section 551.071 of the Texas Government Code, the City of Gonzales will consult in closed session with its attorney to receive legal advice regarding pending or contemplated litigation, a settlement offer, or 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:

- a. In Re Estate of J. B. Wells litigation
- b. Guerra Properties Delinquent HOT funds

RETURN TO OPEN SESSION

9.1, Discuss and Consider any action resulting from Closed Session as Necessary.

The Mayor asked if there was any motion resulting from Closed Session. Councilman Blakemore made a motion to authorize the City Attorney to file a collection suit for delinquent HOT funds. Councilman O'Neal seconded the motion. The Mayor called for discussion. There being none, the Mayor asked for a roll call vote. Councilman O'Neal, Blakemore, Schurig, Schroeder and the Mayor all voted "aye".

ADJOURN

The Mayor asked for a motion to adjourn. Councilman O'Neal made a motion to adjourn and Councilman Schurig seconded the motion and the meeting adjourned at 7:01 p.m.



Kristina Vega, City Secretary

APPROVED:


