

CITY COUNCIL AGENDA

City of Big Spring
Tuesday, November 8, 2011

Notice is hereby given that the City Council of the City of Big Spring, Texas will meet in Regular Session on Tuesday, November 8, 2011, at 5:30 p.m. in the City Council Chambers located at 307 East 4th Street, Big Spring, Texas.

The City Council may discuss and/or take action on each of the following items before it and may go into Executive Session on any item listed on the agenda in accordance with Chapter 551 of the Texas Government Code.

Presentations & Public Hearings

1. Invocation & Pledge of Allegiance to the United States Flag and to the Texas State Flag Duncan
2. Proclamation "2011 Municipal Court Week" Duncan

Disposition of Minutes

3. Minutes of the Regular Meeting of October 25, 2011 5-9 Davis

Consent Items

4. Final Reading of an Ordinance Declaring Intent to Tax Tangible Personal Property in Transit Which Would Otherwise be Exempt Pursuant to Texas Tax Code 10 Walker
5. Final Reading of a Resolution Declaring the Official Intent of the City to be Reimbursed for Certain Capital Expenditures from Proceeds of a Lease Purchase Agreement and Establishing an Effective Date 11-12 Walker
6. Final Reading of an Ordinance Amending Chapter 1 of the Code of Ordinances, by Amending Article 1 Section 1-25 Entitled "Adoption of Civil Service for Firefighters and Civil Service Positions Designated" by Amending Paragraph Three to Decrease the Number of Deputy Chief Positions from Eight to Five by Attrition and to Increase the Number of Lieutenant Positions for Each Deputy Chief Position so Abolished; Providing a Severability Clause; Providing for Repeal of Conflicting Ordinances; and Providing an Effective Date 13-15 Medina
7. Acceptance of Convention and Visitors Bureau Committee Minutes for Meeting of September 7, 2011 16-17 Walker

Executive Session

- 8. **Quarterly Update - Executive Session in Accordance with Section 551.071(1) to Consult with the City Attorney Concerning Pending or Contemplated Litigation Including Proposed Settlement Agreement in *Stapp et.al v. City of Big Spring*** Duncan

- 9. **Reconvene in Open Session and Take Any Necessary Action Concerning the Executive Session Including Authorizing the Mayor to Execute Any Necessary Documents** Duncan

Routine Business

- 10. **Vouchers for 10/27/11 \$ 357,923.39 McDonald**
Vouchers for 11/03/11 \$ 688,474.71

Bids

- 11. **Award Bid for 3rd and 4th Street Water Utility Upgrade Project and Authorizing the City Manager or His Designee to Execute Any Necessary Documents** 18 Darden

- 12. **Award Bid for 14 yard Dump Truck for Street Department to Corley Freightliner** 19 Medina

- 13. **Reject all Bids Received for Fire Department Sedan** 20 Medina

- 14. **Reject all Bids Received for Police Department Sedans** 21 Medina

- 15. **Request to Purchase Fire Department Sedan from Caldwell Country of Caldwell, Texas through HGAC Purchasing Cooperative** 22 Medina

- 16. **Request to Purchase Eight Police Department Sedans from Caldwell Country of Caldwell, Texas through HGAC Purchasing Cooperative** 23 Medina

- 17. **Request to Purchase Ambulance from San Antonio Ambulance through Buyboard Purchasing Cooperative** 24 Medina

- 18. **Request to Purchase Zero-turn Mower for Parks Department from Kubota Tractor Corporation through HGAC Purchasing Cooperative** 25 Medina

- 19. **Request to Purchase Pavement Saw for Streets Department from Grainger Industrial through Buyboard Purchasing Cooperative** 26 Medina

New Business

- 20. **First Reading of a Resolution Amending the Procedures for City Council** 27-28 Sjogren

Review and Approval of Projects and Expenditures of the Big Spring
Economic Development Corporation

- | | | | |
|-----|--|-------|---------|
| 21. | First Reading of a Resolution Authorizing the City Manager or His Designee to Pay Back Wages and Damages to Current and Former Employees of the City Using the Same Time Period, Formula and Method to Calculate the Amounts Due as that Agreed to in the Recent Settlement of a Lawsuit Filed Against the City Regarding Errors in Overtime Calculation | 29-30 | Sjogren |
| 22. | Approval to Apply to the Texas Commission on Environmental Quality to Perform a Supplemental Environmental Project in Lieu of Penalties for Water and Wastewater Violations and Authorizing the City Manager or His Designee to Sign Any Necessary Documents | 31-34 | Darden |

City Manager's Report

- | | | | |
|-----|--------------------------|--|-------|
| 23. | Holiday Meeting Schedule | | Fuqua |
|-----|--------------------------|--|-------|

Council Input

- | | | | |
|-----|-------|--|--------|
| 24. | Input | | Duncan |
|-----|-------|--|--------|

Executive Session

- | | | | |
|-----|--|--|--------|
| 25. | Quarterly Update - Adjourn into Executive Session with the Big Spring Economic Development Corporation under the Provisions of Title 5, Texas Government Code, Section 551.087 to Discuss or Deliberate Commercial or Financial Information Concerning Entities that the City Seeks to Have Locate, Stay, or Expand in or Near the City and with which the City and Big Spring Economic Development Corporation are Conducting Economic Development Negotiations; and Title 5, Texas Government Code, Section 551.072 to Deliberate the Purchase, Exchange, Lease or Value of Real Property | | Duncan |
| 26. | Reconvene in Open Session and Take Any Necessary Action | | Duncan |
| 27. | Adjourn | | Duncan |

I hereby certify that this agenda was posted on the official bulletin boards at the Big Spring City Hall Building, 310 Nolan Street, Big Spring, Texas on Friday, November 4, 2011 at 3:00 p.m. In addition this agenda and supporting documents are posted on the City of Big Spring's website, www.mybigspring.com in accordance with legal requirements.



Lesa Gamble, Administrative Assistant

THE MEETING FACILITY IS ACCESSIBLE TO DISABLED PERSONS. ANY DISABLED PERSON NEEDING SPECIAL ACCOMMODATIONS OR HEARING-IMPAIRED PERSONS WISHING TO HAVE AN INTERPRETER SHOULD CONTACT LESA GAMBLE AT 264-2401. REQUESTS FOR AN INTERPRETER SHOULD BE MADE AT LEAST 48 HOURS IN ADVANCE OF THE MEETING TIME.

Agenda Removal Notice - This public notice was removed from the official posting board at the Big Spring City Hall Building, 310 Nolan Street, Big Spring, Texas on

November _____, 2011 at _____ a.m./p.m.

By: _____
City Secretary's Office

STATE OF TEXAS :
COUNTY OF HOWARD :
CITY OF BIG SPRING :

The City Council of the City of Big Spring, Texas, met in a regular meeting in the City Council Chambers located at 307 E. 4th, Big Spring, Texas, at 5:30 p.m., October 25, 2011, with the following members present:

| | |
|------------------|---------------|
| TOMMY DUNCAN | Mayor |
| CRAIG OLSON | Mayor Pro Tem |
| MARCUS FERNANDEZ | Councilmember |
| MANUEL RAMIREZ | Councilmember |
| GLEN CARRIGAN | Councilmember |
| GLORIA MCDONALD | Councilmember |
| TERRY HANSEN | Councilmember |

Same and constituting a quorum; and

| | |
|---------------|---------------------------------|
| GARY FUQUA | City Manager |
| TODD DARDEN | Assistant City Manager |
| LINDA SJOGREN | City Attorney |
| PEGGY WALKER | Finance Director/City Secretary |
| JOHN MEDINA | Human Resources Director |
| LONNIE SMITH | Police Chief |
| CARL CONDRA Y | Fire Marshall |
| TIM GREEN | Municipal Court Judge |
| JIM LITTLE | Airport Director |

PRESENTATIONS & PUBLIC HEARINGS

INVOCATION & PLEDGE OF ALLEGIANCE

Barbara Kirk-Norris, St. Mary's Episcopal Church, gave the invocation and Mayor Duncan led the Pledge of Allegiance to the American and State Flags.

PRESENTATION OF "DOING YOUR PART AWARD"

Mayor Duncan announced the "Doing Your Part Award" recipients for October, 2011 were Dale and Judy Walker at 716 Colgate. The Walkers were not present at this meeting and Councilmember Hansen agreed to take their award to them.

PRESENTATION OF “DEPARTMENT OF DEFENSE PATRIOTIC EMPLOYER AWARD”

Councilmember Fernandez presented the “Department of Defense Patriotic Employer Award” to Lonnie Smith, Police Chief, in honor of supporting the families of employees that have been called to active duty.

RECOGNIZE BOY SCOUTS, TROOP 16

Mayor Duncan recognized Boy Scout Troop 16 from Elbow who were attending the City Council meeting in order to earn a merit badge on citizenship.

PUBLIC HEARING – TAXATION OF TANGIBLE PERSONAL PROPERTY IN TRANSIT WHICH WOULD OTHERWISE BE EXEMPT PURSUANT TO TEXAS TAX CODE

Motion was made by Councilmember McDonald, seconded by Councilmember Fernandez, with all members of the Council voting “aye” to open the public hearing on taxation of tangible personal property in transit which would otherwise be exempt pursuant to Texas Tax Code.

Peggy Walker, Finance Director, gave a brief summary on the taxation of tangible personal property in transit. After a few questions from Council and no comment from the public, motion was made by Councilmember Hansen, seconded by Councilmember Ramirez, with all members of the Council voting “aye” to close the public hearing.

DISPOSITION OF MINUTES

MINUTES OF THE REGULAR MEETING OF SEPTEMBER 27, 2011

Motion was made by Councilmember Ramirez, seconded by Councilmember McDonald, with all members of the Council voting “aye” approving the regular minutes of September 27, 2011.

CONSENT ITEMS

FINAL READING OF A RESOLUTION DESIGNATING A NOMINEE FOR THE POSITION OF DIRECTOR ON THE BOARD OF DIRECTORS OF THE HOWARD COUNTY JOINT TAX APPRAISAL DISTRICT FOR THE YEARS OF 2012 AND 2013

ACCEPTANCE OF ZONING BOARD OF ADJUSTMENTS AND APPEALS MINUTES FOR MEETING OF SEPTEMBER 7, 2011

ACCEPTANCE OF CONVENTION AND VISITORS BUREAU COMMITTEE MINUTES FOR MEETING OF SEPTEMBER 7, 2011

ACCEPTANCE OF THE HOWARD COUNTY APPRAISAL DISTRICT BOARD OF DIRECTORS MINUTES FOR MEETINGS OF SEPTEMBER 14, 2011 AND SEPTEMBER 19, 2011

APPROVAL OF LATE HOMESTEAD EXEMPTION REFUNDS FOR THE MONTH OF SEPTEMBER 2011

Motion was made by Councilmember Carrigan, seconded by Mayor Pro Tem Olson, with all members of the Council voting “aye” approving the second and final reading of the above listed resolution and the above listed minutes and late homestead exemption refunds.

ROUTINE BUSINESS

VOUCHERS

Councilmember Ramirez reviewed vouchers. Motion was made by Councilmember Ramirez, seconded by Councilmember Carrigan, with all members of the Council voting “aye” approving vouchers in the amount of \$232,627.32 (9/29/11) and \$533,176.84 (10/06/11).

Councilmember Carrigan reviewed vouchers. Motion was made by Councilmember Carrigan, seconded by Councilmember Ramirez, with all members of the Council voting “aye” approving vouchers in the amount of \$629,517.97 (10/13/11) and \$1,227,451.06 (10/20/11).

NEW BUSINESS

FIRST READING OF AN ORDINANCE DECLARING INTENT TO TAX TANGIBLE PERSONAL PROPERTY IN TRANSIT WHICH WOULD OTHERWISE BE EXEMPT PURSUANT TO TEXAS TAX CODE

Motion was made by Councilmember McDonald, seconded by Councilmember Carrigan, with all members of the Council voting “aye” approving first reading of an ordinance declaring intent to tax tangible personal property in transit which would otherwise be exempt pursuant to Texas Tax Code.

FIRST READING OF A RESOLUTION DECLARING THE OFFICIAL INTENT OF THE CITY TO BE REIMBURSED FOR CERTAIN CAPITAL EXPENDITURES FROM PROCEEDS OF A LEASE PURCHASE AGREEMENT AND ESTABLISHING AN EFFECTIVE DATE

Motion was made by Councilmember McDonald, seconded by Councilmember Fernandez, with all members of the Council voting “aye” approving first reading of a resolution declaring the official intent of the City to be reimbursed for certain capital expenditures from proceeds of a lease purchase agreement and establishing an effective date.

FIRST READING OF AN ORDINANCE AMENDING CHAPTER 1 OF THE CODE OF ORDINANCES, BY AMENDING ARTICLE 1 SECTION 1-25 ENTITLED “ADOPTION OF CIVIL SERVICE FOR FIREFIGHTERS AND CIVIL SERVICE POSITIONS DESIGNATED” BY AMENDING PARAGRAPH THREE TO DECREASE THE NUMBER OF DEPUTY CHIEF POSITIONS FROM EIGHT TO FIVE BY ATTRITION AND TO INCREASE THE NUMBER OF LIEUTENANT POSITIONS FOR EACH DEPUTY CHIEF POSITION SO ABOLISHED; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE

Motion was made by Councilmember Hansen, seconded by Mayor Pro Tem Olson, with all members of the Council voting “aye” approving first reading of an ordinance amending Chapter 1 of the Code of Ordinances, by amending Article 1 Section 1-25 Entitled “Adoption of Civil Service for Firefighters and Civil Service Positions Designated” by amending paragraph three to decrease the number of Deputy Chief positions from eight to five by attrition and to increase the number of Lieutenant positions for each Deputy Chief position so abolished; providing a severability clause; providing for repeal of conflicting ordinances; and providing an effective date.

DISCUSSION AND CONSIDERATION TO APPROVE FINAL PLAT ALONG WITH APPROVAL TO VACATE AND ABANDON AN EASEMENT AND AUTHORIZING THE MAYOR TO EXECUTE ANY NECESSARY DOCUMENTS

Todd Darden, Assistant City Manager, explained a request to approve a final plat for property located in the West part of Section 7, Block 32, Township 1 South, T&P R Survey to be designated as Coronado Gardens, Lots 1-5. Motion was made by Mayor Pro Tem Olson, seconded by Councilmember McDonald, with all members of the Council voting “aye” approving a final plat along with approval to vacate and abandon an easement and authorizing the Mayor to execute any necessary documents.

APPROVAL OF A SECOND AMENDMENT TO AN INDUSTRIAL PARK LEASE AGREEMENT WITH JOHN CRANE PRODUCTION SOLUTIONS AND AUTHORIZING THE MAYOR TO EXECUTE ANY NECESSARY DOCUMENTS

Motion was made by Councilmember McDonald, seconded by Mayor Pro Tem Olson, with all members of the Council voting “aye” approving a second amendment to an industrial park lease agreement with John Crane Production Solutions and authorizing the Mayor to execute any necessary documents.

ACCEPTANCE OF BIG SPRING ECONOMIC DEVELOPMENT CORPORATION BOARD OF DIRECTORS MINUTES FOR REGULAR MEETING OF SEPTMEBER 20, 2011

Motion was made by Councilmember McDonald, seconded by Mayor Pro Tem Olson, with all members of the Council voting “aye” accepting the Big Spring Economic Development Corporation Board of Directors minutes for regular meeting of September 20, 2011.

APPROVAL OF INVESTMENT REPORT FOR THE QUARTER ENDING SEPTEMBER 30, 2011

Motion was made by Councilmember Hansen, seconded by Councilmember Carrigan, with all members of the Council voting “aye” approving the investment report for the quarter ending September 30, 2011.

CITY MANAGER’S REPORT

Gary Fuqua, City Manager, announced that the new sanitation trucks have been ordered and one should arrive by the end of November, 2011 and one by the end of December, 2011.

COUNCIL INPUT

Mayor Duncan thanked Boy Scout Troop 16 for attending the Council meeting and thanked Mayor Pro Tem Olson for filling in for him while he was gone.

Councilmember Hansen asked the citizens to please pick up all garage sale signs after they are done.

Mayor Pro Tem Olson commented that he had presented a proclamation to Major General Sturgis for his service, and wanted to acknowledge him in open session.

ADJOURN

Motion was made by Councilmember McDonald, seconded by Mayor Pro Tem Olson, with all members of the Council voting “aye” to adjourn at 5:55 p.m.

CITY OF BIG SPRING, TEXAS

Tommy Duncan, Mayor

ATTEST:

Tami L. Davis, Assistant City Secretary

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BIG SPRING, TEXAS, DECLARING ITS INTENT TO TAX TANGIBLE PERSONAL PROPERTY IN TRANSIT WHICH WOULD OTHERWISE BE EXEMPT PURSUANT TO TEXAS TAX CODE, SECTION 11.253

WHEREAS, the 82nd Texas Legislature in Special Session, enacted Senate Bill 1, to take effect on September 1, 2011, which would require a taxing unit to take action, in the required manner, after October 1, 2011, to provide for the taxation of goods-in-transit; and

WHEREAS, Texas Tax Code §11.253(j-1) as amended allows the governing body of a taxing unit, after conducting a public hearing, to provide for the continued taxation of such goods-in-transit; and

WHEREAS, the City Council of the City of Big Spring, having conducted a public hearing as required by Section 1-n (d), Article VIII, Texas Constitution, and Texas Tax Code §11.253(j-1) is of the opinion that it is in the best interests of the City to continue to tax such goods-in-transit;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BIG SPRING, TEXAS AS FOLLOWS:

THAT the goods-in-transit, as defined Texas Tax Code Section 11.253 (a)(2), as amended by Senate Bill 1, enacted by the 82nd Texas Legislature in Special Session, shall remain subject to taxation by the City of Big Spring, Texas.

PASSED AND APPROVED on first reading at a regular meeting of the City Council on the 25th day of October, 2011, with all members of the Council present voting “aye” for passage of same.

PASSED AND APPROVED on second and final reading at a regular meeting of the City Council on the 8th day of November, 2011, with all members of the Council present voting “aye” for passage of same.

Tommy Duncan, Mayor

ATTEST:

Tami L. Davis, Assistant City Secretary

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BIG SPRING, TEXAS, DECLARING THE OFFICIAL INTENT OF THE CITY OF BIG SPRING (LESSEE) TO BE REIMBURSED FOR CERTAIN CAPITAL EXPENDITURES FROM PROCEEDS OF A LEASE PURCHASE AGREEMENT AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, Lessee intends to build, construct or purchase vehicles and equipment or renovate certain facilities as more particularly described below (the Project);

WHEREAS, Lessee expects to pay certain capital expenditures in connection with the Project prior to its receipt of Lease Proceeds for such expenditures;

WHEREAS, Lessee reasonably expects it will make expenditures with respect to the Project in an amount not reasonably expected to exceed \$983,057 for which the Lessee may (or expects to) enter into a Lease Purchase Agreement with a Leasing Corporation; and

WHEREAS, Treasury Department and Internal Revenue Service Regulations do not allow the proceeds of a tax exempt borrowing to be spent on working capital;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Big Spring, Texas, as follows:

Section 1. The City Council of the City of Big Spring finds and determines that the foregoing recitals are true and correct.

Section 2. This resolution is adopted by the City Council of the City of Big Spring solely for the purpose of establishing compliance with the requirements of Section 1.150.2 Treasury Regulations. This resolution does not bind the Lessee to make any expenditures, incur any indebtedness, or proceed with the Project.

Section 3. The City Council expects the Lessee will pay certain capital expenditures in connection with the Project prior to the receipt of lease proceeds from the Project.

Section 4. The City Council of the Lessee hereby declares the Lessee's official intent to use proceeds of a Lease Agreement to reimburse itself for future project expenditures.

Section 5. Description of Project: Police Vehicles and Associated Equipment (8); Fire Department Vehicle (1); Pavement Saw (1); Dump Truck (1); Sanitation Truck (2); Zero Turn Mower (1); Ambulance (1).

Section 6. That this resolution shall take effect immediately from and after its passage upon two readings in accordance with the provisions of the Charter of the City of Big Spring.

PASSED AND APPROVED on first reading at a regular meeting of the City Council on the 25th day of October, 2011, with all members of the Council voting “aye” for passage of the same.

PASSED AND APPROVED on second and final reading at a regular meeting of the City Council on the 8th day of November, 2011, with all members of the Council voting “aye” for passage of the same.

Tommy Duncan, Mayor

ATTEST:

Tami L. Davis, Assistant City Secretary

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BIG SPRING, TEXAS, AMENDING CHAPTER 1 OF THE CODE OF ORDINANCES OF THE CITY OF BIG SPRING, BY AMENDING ARTICLE 1 SECTION 1-25 ENTITLED "ADOPTION OF CIVIL SERVICE FOR FIREFIGHTERS AND CIVIL SERVICE POSITIONS DESIGNATED" BY AMENDING PARAGRAPH THREE TO DECREASE THE NUMBER OF DEPUTY CHIEF POSITIONS FROM EIGHT TO FIVE BY ATTRITION AND TO INCREASE THE NUMBER OF LIEUTENANT POSITIONS FOR EACH DEPUTY CHIEF POSITION SO ABOLISHED; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council has determined that it is in the best interest of the City to adjust the number of Deputy Chief and Lieutenant positions within the Fire Department; and

WHEREAS, the City Council finds that the most efficient means of achieving such adjustment is by abolishing one Deputy Chief position each time a vacancy occurs in such position and adding one Lieutenant position for each Deputy Chief position so abolished until the number of positions listed in Section (3)(c) below is reached;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BIG SPRING, AS FOLLOWS:

Section 1. THAT, Chapter 1 of the Code of Ordinances of the City of Big Spring is hereby amended by amending Article 1, Section 1-25, entitled "Adoption of Civil Service for Firefighters and Civil Service Positions Designated" by amending paragraph three in order to change the number of authorized positions in the Deputy Chief and Lieutenant classifications, which section as amended shall read in its entirety as follows:

Sec. 1-25. Adoption of Civil Service for Firefighters' and Civil Service Positions Designated.

- (1) Firefighters' Civil Service under Chapter 143 of the Local Government code, V.T.C.A. is hereby put into effect by the City of Big Spring, Texas, as of October 1st, 1985.
- (2) All Employees are hereby granted the same vacation and sick leave benefits granted to firefighters under Chapter 143 of the Local Government Code, V.T.C.A., and the City of Big Spring Personnel Policies and Procedures are hereby amended to reflect these benefits.
- (3) Classification of all firefighters and the number of authorized positions in each classification shall be as follows:
 - (a) Upon the first occurrence of a vacancy in the Deputy Chief classification after November 8, 2011, the number of authorized positions in each classification shall be as follows:

| Classification | Number of Authorized Positions |
|----------------|--------------------------------|
| *Fire Chief | 1 |
| **Deputy Chief | 7 |
| Lieutenant | 14 |
| Driver | 15 |
| Firefighter | 25 |
| Total | 62 |

- (b) Upon the second occurrence of a vacancy in the Deputy Chief classification after November 8, 2011, the number of authorized positions in each classification shall be as follows:

| Classification | Number of Authorized Positions |
|----------------|--------------------------------|
| *Fire Chief | 1 |
| **Deputy Chief | 6 |
| Lieutenant | 15 |
| Driver | 15 |
| Firefighter | 25 |
| Total | 62 |

- (c) Upon the third occurrence of a vacancy in the Deputy Chief classification after November 8, 2011, the number of authorized positions in each classification shall be as follows:

| Classification | Number of Authorized Positions |
|----------------|--------------------------------|
| *Fire Chief | 1 |
| **Deputy Chief | 5 |
| Lieutenant | 16 |
| Driver | 15 |
| Firefighter | 25 |
| Total | 62 |

*Non Civil Service

**One Deputy Chief Position will be appointed

- (4) The City of Big Spring, Texas, Fire Chief is hereby authorized to appoint one person to the classification immediately below Fire Chief who shall serve at his pleasure.

Section 2. THAT, should any section, paragraph, sentence, clause, phrase or word of this ordinance be declared unconstitutional or invalid for any purpose, the remainder of this ordinance shall not be affected thereby.

Section 3. THAT, all ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4. THAT, this ordinance shall be in full force and effect beginning November 8, 2011.

PASSED AND APPROVED on first reading at a regular meeting of the City Council on the 25th day of October, 2011, with all members of the Council voting “aye for passage of the same.

PASSED AND APPROVED on second and final reading at a regular meeting of the City Council on the 8th day of November, 2011, with all members voting “aye” for the passage of same.

Tommy Duncan, Mayor

ATTEST:

Tami Davis, Assistant City Secretary

**Convention and Visitors Bureau Committee
Minutes from Wednesday, September 7, 2011
City Council Chambers**

Present: Gloria McDonald, Troy Tompkins, Jay Patel, Jan Foresyth, Debbie Wegman,
Devoun Blount

Absent: Peggy Walker, Gary Fuqua

Guests:

Gloria McDonald called the meeting to order at 4:00 p.m.

Approval of minutes

The minutes from the meeting of August 3, 2011 were reviewed. Motion was made by Jan Foresyth to approve the minutes as written. Motion was seconded by Troy Tompkins and passed unanimously.

Discussion of Follow-up Reports

- a. West Texas Disc Golf Champion's Tournament: The follow up report was presented by Debbie Wegman. The disc golf tournament had a total of 93 competitors, which is the most the tournament has ever had. There was not a host hotel but approximately 40-50 rooms were booked for this event. Approximately 78 out of the 93 participants were from out of town. This year's CVB contribution was substantially less. The funds are used to purchase trophies and t-shirts for the participants.
- b. 3rd Annual Harold Davis West Texas Charity Shoot Out: The follow up report was presented by Debbie Wegman. Mr. Roy Green was not available due to the fires near the Austin area. The committee expressed concern that this event each year has requested more and more money. The members feel that Mr. Green needs to raise more money to increase revenue. There were also some questions that the committee had about on the pre tournament promotion. Debbie Wegman would address those concerns with Mr. Green.

Other

- a. Discussion of Signage of North 87(outside of Lamesa) The committee is interested in obtaining information on land where a sign can be placed to advertise Big Spring. Mrs. Jan Foresyth suggested Bobby McDonald, a former realtor. The committee was in agreement. A motion was made by Jan Foresyth to have bobby McDonald to research the possibility of securing property to place signage advertising Big Spring and bring the information back to the committee. Motion was seconded by Marcus Fernandez and passed unanimously.
- b. Discussion of and approval of changes to DRCC Facility Use Guidelines & License: Debbie Wegman presented to the committee an addition to the contract to include the rental of the white chair covers and table skirts that were

recently purchased. There will be a fee of \$1 per chair cover plus any applicable cleaning charges. The table skirts will be \$10 each for rental. A motion was made by Troy Tompkins to approve the changes. Motion was seconded by Marcus Fernandez and passed unanimously.

CVB Coordinator Report

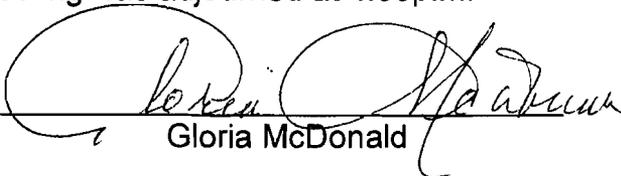
- a. Comanche Warrior Triathlon will take place this Saturday. New signs that can be placed along the bike path and run path to give recognition to sponsors were purchased.
- b. Texas Plains Trail Region conference in Post, Texas was very successful. The purpose of the region is to help promote rural tourism. They are currently working on a project named the Quanah Parker Trail which is going to highlight the path of the Comanche Indians. Giant arrows can be applied for by qualified communities and are mounted at a location chosen by the community. Debbie Wegman is planning to submit the paperwork and have one placed at the historic spring. She is also working with the Hotel Settles group on a bid to have next year's conference at the Settles Hotel.

Members Comments

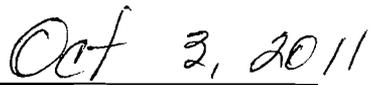
Troy Tompkins wants to make the committee aware that he has recently noticed that our entrance, specifically the north entrance have been neglected. The weeds have over taken the landscape and there is grass growing out of the sidewalks. We have let our entrances get rundown and we need to get those fix.

Next meeting is scheduled for Wednesday, October 5, 2011

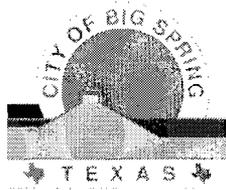
Meeting was adjourned at 4:50p.m.



Gloria McDonald



Date



**PUBLIC WORKS
MEMORANDUM**

TO: HONORABLE MAYOR AND CITY COUNCIL
MR. GARY FUQUA, CITY MANAGER

FROM: TODD DARDEN, ASSISTANT CITY MANAGER

SUBJECT: AWARD BID FOR 3RD & 4TH STREET WATER UTILITY UPGRADE PROJECT
AND AUTHORIZE THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE
ANY AND ALL NECESSARY DOCUMENTS

DATE: NOVEMBER 3, 2011

Parkhill, Smith, & Cooper issued a Request for Proposals to solicit qualifications from qualified construction companies for the water utility upgrades for the 3rd & 4th street project as designated in the specifications. Three (3) companies requested bid submittal information.

We received proposals from:

Whitewater Construction, Inc.

Representatives of Parkhill, Smith, & Cooper, Inc. evaluated the proposal based on qualifications and other factors. Whitewater Construction, Inc. was the sole bidder at \$721,740.00.

Recommendation: The staff recommends that the bid for the 3rd & 4th Street water utility upgrade project be awarded to Whitewater Construction, Inc. subject to approval of contractor qualifications by Parkhill, Smith & Cooper, Inc.



Purchasing and Material Control Memorandum

To: Honorable Mayor, City Council, City Manager

From: Paul Sotelo, Purchasing Agent

Date: November 8, 2011

Subject: Request for Bid Award for 14 Cubic Yard Dump Truck for Street Department

On Monday, October 31, 2011, the City of Big Spring accepted bids for one (1) 14 cubic yard dump truck for the Street Department. We received one (1) sealed bid from Corley Freightliner of San Angelo, TX for the amount of \$94,184.00. A bid tabulation sheet has been prepared and is attached to this memo for your consideration in making this award.

Recommendation: The staff recommends that the bid be awarded to Corley Freightliner of San Angelo, TX for the amount of \$94,184.00



Purchasing and Material Control Memorandum

To: Honorable Mayor, City Council, City Manager
From: Paul Sotelo, Purchasing Agent
Date: November 8, 2011
Subject: Request to Reject all Bids Received for Fire Department Sedan

On Monday, October 31, 2011, the City of Big Spring accepted bids for a sedan for the Fire Department. We received one (1) sealed bid in the amount of \$26,881.00 from Pollard Chevrolet. The price bid exceeds the amount budgeted for this item.

Recommendation: Since this bid exceeds the budgeted amount and the sedan can be purchased at a lower price through a purchasing cooperative, staff recommends that we reject all bids received for this item.



Purchasing and Material Control Memorandum

To: Honorable Mayor, City Council, City Manager

From: Paul Sotelo, Purchasing Agent

Date: November 8, 2011

Subject: Request to Reject all Bids Received for Eight (8) Police Department Sedans

On Monday, October 31, 2011, the City of Big Spring accepted bids for eight (8) sedans for the Police Department. We received one (1) sealed bid from Pollard Chevrolet for \$26,881.00 per unit and a total price of \$215,048.00. This amount exceeds the budgeted amount for these sedans.

Recommendation: Since the only bid received exceeds the budgeted amount for these sedans, and the vehicles can be purchased through a purchasing cooperative at a lower price, staff recommends that all bids received for these sedans be rejected.



Purchasing and Material Control Memorandum

To: Honorable Mayor, City Council, City Manager

From: Paul Sotelo, Purchasing Agent

Date: November 8, 2011

Subject: Request to Purchase One Sedan for Fire Department from Caldwell Country in Caldwell, TX, through HGAC Purchasing Cooperative

On Monday, October 31, 2011, the City of Big Spring accepted bids for one sedan for the Fire Department. The only sealed bid received was over budget; however staff was able to locate a sedan that meets the required specifications through HGAC Purchasing Cooperative for \$19,923.00 which is within the budget.

Recommendation: The staff recommends purchasing the sedan from Caldwell Country through HGAC



Purchasing and Material Control Memorandum

To: Honorable Mayor, City Council, City Manager

From: Paul Sotelo, Purchasing Agent

Date: November 8, 2011

Subject: Request to Purchase Eight Sedans for Police Department from Caldwell Country in Caldwell, TX through HGAC Purchasing Cooperative

On Monday, October 31, 2011, the City of Big Spring accepted bids for eight sedans for the Police Department. The only sealed bid received was over budget, however staff was able to locate Chevrolet Caprice sedans that meet the required specifications through HGAC purchasing cooperative for \$24,046.00 each for a total of \$192,368.00 which is within the budget.

Staff recommends purchasing the eight sedans from Caldwell Country through HGAC.



Purchasing and Material Control Memorandum

To: Honorable Mayor, City Council, City Manager

From: Paul Sotelo, Purchasing Agent

Date: November 8, 2011

Subject: Request to Purchase Ambulance from San Antonio Ambulance of San Antonio, TX, through Buyboard Purchasing Cooperative

City staff researched purchasing the necessary ambulance through available purchasing cooperatives and located a Chevrolet Diesel Type II ambulance that meets our required specifications through Buyboard purchasing cooperative for \$70,900.00 which is within the budget.

Staff recommends purchasing the Chevrolet Diesel Type II ambulance from San Antonio Ambulance through Buyboard.



Purchasing and Material Control Memorandum

To: Honorable Mayor, City Council, City Manager

From: Paul Sotelo, Purchasing Agent

Date: November 8, 2011

Subject: Request to Purchase Zero-Turn mower for Parks Department from Kubota Tractor Corporation of Torrance, CA, through HGAC Purchasing Cooperative

City staff researched purchasing the zero-turn mower for the Parks department through available purchasing cooperatives and found the best price for the Kubota ZG332LP-72 zero-turn mower that meets our required specifications through HGAC purchasing cooperative for \$12,246.00 which is within the budget.

Staff recommends purchasing the Kubota zero-turn mower from Kubota Tractor Corporation through Buyboard.



Purchasing and Material Control Memorandum

To: Honorable Mayor, City Council, City Manager

From: Paul Sotelo, Purchasing Agent

Date: November 8, 2011

Subject: Request to Purchase Pavement Saw for Street Department from Grainger Industrial through Buyboard Purchasing Cooperative

City staff researched purchasing the pavement saw for the Street department through available purchasing cooperatives and found the best price for the Husqvarna FS 520 pavement saw that meets our required specifications through Buyboard purchasing cooperative for \$4,939.20 which is within the budget.

Staff recommends purchasing the Husqvarna FS 520 pavement saw from Grainger Industrial through Buyboard.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BIG SPRING, TEXAS AMENDING THE PROCEDURES FOR CITY COUNCIL REVIEW AND APPROVAL OF PROJECTS AND EXPENDITURES OF THE BIG SPRING ECONOMIC DEVELOPMENT CORPORATION

WHEREAS, the Citizens of the City of Big Spring voted to adopt a ½ cent sales tax under Section 4A of the Texas Development Corporation Act, and created Moore Development for Big Spring, Inc. which was subsequently re-named the Big Spring Economic Development Corporation (“Big Spring EDC”) as the economic development corporation authorized to receive and expend such funds; and

WHEREAS, the City Council of the City of Big Spring is charged by state law with approving all programs and expenditures of Big Spring EDC; and

WHEREAS the City Council and Big Spring EDC wish to have open lines of communication and to establish certain procedures to facilitate the duties of each with regard to economic development for the City of Big Spring;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BIG SPRING TEXAS:

Section 1. THAT, the Board of Directors of Big Spring EDC (hereinafter “the Board”) or such person or persons that the Board shall designate to represent it, shall meet in executive session under Section 551.087 of the Texas Government Code quarterly to discuss ongoing and contemplated economic development projects that are being considered or negotiated by Big Spring EDC. The executive sessions shall be held quarterly on the first meeting of the months of July, October, January and April of each year, unless such meeting shall be canceled or rescheduled upon request by the Big Spring EDC or a member of the City Council. Any rescheduling or cancellation that will result in a lapse of more than four months since the previous such meeting must be approved by a majority vote of the City Council.

Section 2. THAT, the City Council must approve all programs and expenditures of the Big Spring EDC, other than routine administrative expenditures provided for in its annual budget, prior to any funds being expended. The City Council will perform this duty by consideration and action on each performance agreement between the Big Spring EDC and proposed fund recipients at a regular or special city council meeting. In the event that the Big Spring EDC intends to make an expenditure that does not require a performance agreement, it will submit a description of the program or expenditure to the City Council and the City Council will perform this duty by consideration and action of such item at a regular or special city council meeting.

Section 3. THAT, the minutes of meetings of Big Spring EDC shall be presented to the City Council under New Business rather than as an item on the Consent Agenda.

PASSED AND APPROVED on first reading at a regular meeting of the City Council of the City of Big Spring, Texas, on the ____ day of **November, 2011**, with all members present voting “aye” for passage of same.

PASSED AND APPROVED on second and final reading at a regular meeting of the City Council of the City of Big Spring, Texas, on the ____ day of **December, 2011**, with all members present voting “aye” for passage of same.

Tommy Duncan, Mayor

ATTEST:

Tami Davis, Assistant City Secretary

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BIG SPRING, AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO PAY BACK WAGES TO CURRENT AND FORMER EMPLOYEES OF THE CITY USING THE SAME TIME PERIOD, FORMULA AND METHOD TO CALCULATE THE AMOUNTS DUE AS THAT AGREED TO IN THE RECENT SETTLEMENT OF A LAWSUIT FILED AGAINST THE CITY REGARDING ERRORS IN OVERTIME CALCULATION

WHEREAS, the City of Big Spring discovered in late 2010 that its' method of calculating the regular rate for overtime was possibly incorrect. Over the next weeks, City staff consulted with the Department of Labor and attended various training sessions to determine the correct method of determining such rate and implemented the correct method of determining the regular rate for overtime in May of 2011. The City also continued reviewing its records to determine which current and former employees had been paid incorrectly and began calculation of amounts due to such persons; and

WHEREAS, while such review and calculations were ongoing some of the affected employees filed a lawsuit against the City concerning the incorrect payments (the "FLSA Lawsuit"); and

WHEREAS, while continuing the calculations of back pay the City discovered an additional error in calculating overtime hours under Section 7K of the Fair Labor Standards Act, which section affects primarily firefighters who work varying shifts. The City implemented the correct method of calculating overtime hours effective August 21, 2011, then proceeded to re-check its pay records in order to recalculate the back pay owed to the plaintiffs of the FLSA Lawsuit including these additional corrections; and

WHEREAS, the FLSA Lawsuit culminated in a mediated settlement agreement between the parties whereby the City agreed to pay to each plaintiff the greater of two different methods of calculating the back pay owed for back wages for specific periods of time in consideration for a release of any claims to back wages; and

WHEREAS, since discovery of the errors it has always been the intention of the City to reimburse its current and former employees for any back pay amounts it can legally pay under the Constitution and laws of the state, and the City Council finds it to be fair and equitable to offer the same terms of payment for back wages owed to current and former employees that were affected by the errors during the relevant periods but that were not parties to the FLSA Lawsuit as it agreed to pay to the Plaintiffs in the mediated settlement;

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BIG SPRING, TEXAS:

SECTION 1. THAT, the City Manager or his designee is hereby authorized and directed to determine as expeditiously as possible such back wages that are owed to every affected current or former employee of the City for the same time period and using the same method of calculation as

was used in determining the amounts paid to the Plaintiffs in the mediated settlement of the FLSA Lawsuit.

SECTION 2. THAT, once such amounts are determined, each current or former employee found to be owed back wages shall be offered payment for the designated amount in exchange for a release of claims and liability related to or arising out of the payment errors made by the City.

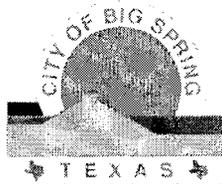
PASSED AND APPROVED on first reading at a regular meeting of the City Council on the **8th** day of **November, 2011** with all City Council Members voting “aye” for passage of same.

PASSED AND APPROVED on second and final reading at a regular meeting of the City Council on the ___ day of **December, 2011**, with all City Council Members voting “aye” for passage of same.

Tommy Duncan, Mayor

ATTEST:

Tami Davis, Assistant City Secretary



**PUBLIC WORKS
MEMORANDUM**

TO: HONORABLE MAYOR AND CITY COUNCIL
MR. GARY FUQUA, CITY MANAGER

FROM: TODD DARDEN, ASSISTANT CITY MANAGER

SUBJECT: REQUEST FOR APPROVAL TO APPLY TO THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY TO PERFORM A SUPPLEMENTAL ENVIRONMENTAL PROJECT IN LIEU OF PENALTIES FOR WATER AND WASTEWATER VIOLATIONS

DATE: NOVEMBER 4, 2011

The Texas Commission on Environmental Quality ("TCEQ") has notified the City of enforcement action on the following violations that occurred from the 2nd quarter of 2010 to May of 2011. See the letter from TCEQ attached hereto. The violations are as follows: May 2011 and August 2011 two (2) coliform samples for each of these months came back positive. April 2011 we exceeded the turbidity allowed for water distribution. 2nd, 3rd, and 4th Quarter of 2010 our averages for total trihalomethanes exceeded the allotted percentage. All of these violations were non-acute and are being addressed through changes in operation and proposed repairs and upgrades to City facilities. TCEQ sent a proposed Agreed Order for these violations but also will allow the City to perform a Supplemental Environmental Project in lieu of a penalty. We are currently working with TCEQ to determine an appropriate project that the City can perform in lieu of the assessed penalty.

I am requesting that the City Council approve submission of a Supplemental Environmental Project to the TCEQ in such form as they find acceptable to satisfy this penalty and request authorization for the City Manager or his designee to sign any and all necessary documents to complete such project.

Bryan W. Shaw, Ph.D., *Chairman*
Buddy Garcia, *Commissioner*
Carlos Rubinstein, *Commissioner*
Mark R. Vickery, P.G., *Executive Director*

RECEIVED

OCT 6 2011

CITY OF BIG SPRING
ADMINISTRATION

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

October 3, 2011

CERTIFIED MAIL - RETURN RECEIPT REQUESTED 91 7108 2133 3935 2037 8180

The Honorable Tommy Duncan
Mayor of Big Spring
310 Nolan Street
Big Spring, Texas 79720

Re: Notice of Enforcement Action
City of Big Spring; RN101389492 and RN101721249
Public Water Supply I.D. No. 1140001
Texas Pollutant Discharge Elimination System Permit No. WQ0010069003
Docket No. 2011-1007-MLM-E; Enforcement Case No. 41888
FOR SETTLEMENT PURPOSES ONLY

Dear Mayor Duncan:

The Executive Director of the Texas Commission on Environmental Quality ("Commission" or "TCEQ") is pursuing an enforcement action against the City of Big Spring for violations of the Texas Water Code and/or Commission Rules. These violations were discovered during record reviews conducted on June 1, 2011, July 5, 2011, and August 15, 2011, and documented in a letters dated June 9, 2011 and July 8, 2011, from the TCEQ Compliance Monitoring Section and Public Drinking Water Section, respectively.

Please find enclosed a proposed agreed order which we have prepared in an attempt to expedite this enforcement action. The order assesses an administrative penalty of Thirteen Thousand Fifteen Dollars (\$13,015), identifies the violations that we are addressing, and identifies specific technical requirements necessary to resolve them.

If you have any questions regarding this matter, we are available to discuss them in a conference in Austin or over the telephone. If we reach agreement in a timely manner, the TCEQ will then proceed with the remaining procedural steps to settle this matter. These steps include publishing notice of the proposed order in the *Texas Register*, and scheduling the matter for the Commission's agenda. We believe that handling this matter expeditiously could save the City of Big Spring and the TCEQ a significant amount of time, as well as the expense associated with litigation.

A copy of the order is provided for your files. Also enclosed for your convenience is a return envelope. If you agree with the order as proposed, please sign and return the original order **and** the penalty payment (check payable to "TCEQ" and referencing City of Big Spring, Docket No. 2011-1007-MLM-E) to:

The Honorable Tommy Duncan
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October 3, 2011

Financial Administration Division, Revenues
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

Should you believe you are unable to pay the proposed administrative penalty, you may claim financial inability to pay part or all of the penalty amount. Please contact us immediately to obtain a list of financial disclosure documents that must be submitted within 30 days of the receipt of this letter. These documents, once properly completed and submitted, will be thoroughly reviewed to determine if we agree with the claim of financial inability. Please be aware that if financial inability is proven to the satisfaction of staff, discussions pertaining to the penalty amount adjustment will focus only on deferral and not on waiver of the penalty amount. The Commission will make the final decision on the staff recommendation.

You may be able to perform or pay for a Supplemental Environmental Project ("SEP"), which is a project that benefits the environment, to offset a portion of your penalty. **If you are interested in performing a SEP, you must agree to the penalty amount and submit a SEP proposal within 30 days of receipt of this proposed order. For additional information about SEPs, please go to the TCEQ's web site link at <http://www.tceq.state.tx.us/legal/sep/index.html> or contact the Enforcement Coordinator listed below.**

Please note that any agreements we reach are subject to final approval by the Commission.

If we cannot reach a settlement of this enforcement action or you do not wish to participate in this expedited process, we will proceed with enforcement under the Commission's Enforcement Rules, 30 TEX. ADMIN. CODE ch. 70. Specifically, if the signed order and penalty are not mailed and postmarked within 60 days from the date of this letter, your case will be forwarded to the Litigation Division and this settlement offer will no longer be available. If you would like to obtain a copy of 30 TEX. ADMIN. CODE ch. 70 or any other TCEQ rules, you may contact any of the sources listed in the enclosed brochure entitled *Obtaining TCEQ Rules*. The enforcement process described in 30 TEX. ADMIN. CODE ch. 70 requires the staff to prepare and issue an Executive Director's Preliminary Report and Petition to the Commission.

The Honorable Tommy Duncan

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October 3, 2011

For any questions or comments about this matter or to arrange a meeting, please contact Mr. Jeremy Escobar of my staff at (361) 825-3422.

*Ms
for* Sincerely,



Susan Johnson, Manager
Enforcement Division
Texas Commission on Environmental Quality

SJ/je

Enclosures: Proposed Agreed Order, File Copy, Return Envelope, *Obtaining TCEQ Rules*,
Penalty Calculation Worksheet, Site Compliance History

cc: Mr. Jared H. Basurto, Manager, Air/Water/Waste Section, Midland Regional Office,
TCEQ
Mr. Elston Johnson, Manager, Public Drinking Water Section, MC 155