

**STATE OF TEXAS  
COUNTY OF DENTON  
CITY OF CORINTH**

On this the 2<sup>nd</sup> day of August 2018 the City Council of the City of Corinth, Texas met in Regular Session at the Corinth City Hall at 7:00 P.M., located at 3300 Corinth Parkway, Corinth, Texas. The meeting date, time, place and purpose as required by Title 5, Subtitle A, Chapter 551, Subchapter C, Section 551.041, Government Code, with the following members to wit:

**Members Present:**

Bill Heidemann, Mayor  
Sam Burke, Mayor Pro-Tem  
Lowell Johnson, Council Member  
Tina Henderson, Council Member  
Scott Garber, Council Member  
Don Glockel, Council Member

**Members Absent:**

None

**Staff Members Present:**

Bob Hart, City Manager  
Kimberly Pence, City Secretary  
Cody Collier, Director of Public Works, Park Maintenance, Recreation, and Utility Operations  
Shea Rodgers, Technology Services Manager  
Helen-Eve Liebman, Planning and Development Director  
Jason Alexander, Economic Development Corporation Director  
Curtis Birt, Lake Cities Fire Chief  
Lee Ann Bunselmeyer, Director of Finance & Administrative Services  
Chris Rodriguez, Assistant Finance Director  
Jamaine Walker, Controller  
Guadalupe Ruiz, Director of Human Resources  
Alan Upchurch, City Engineer  
Jimmy Gregg, Police Lieutenant  
Kevin Tyson, Police Lieutenant  
Melissa Cranford, Messer, Rockefeller, & Fort

**CALL TO ORDER, INVOCATION, PLEDGE OF ALLEGIANCE & TEXAS PLEDGE:**

"Honor the Texas Flag: I pledge allegiance to thee, Texas, one state under God, one and indivisible".

**Mayor Heidemann called the meeting to order at 7:00 p.m., Councilmember Garber delivered the invocation and led in the Pledge of Allegiance and Texas Pledge.**

**CITIZENS COMMENTS**

In accordance with the Open Meetings Act, Council is prohibited from acting on or discussing (other than factual responses to specific questions) any items brought before them at this time. Citizen's comments will be limited to 3 minutes. Comments about any of the Council agenda items are appreciated by the Council and may be taken into consideration at this time or during that agenda item. Please complete a Public Input form if you desire to address the City Council. All remarks and questions addressed to the Council shall be addressed to the Council as a whole and not to any individual member thereof. Section 30.041B Code of Ordinance of the City of Corinth.

No citizen comments were made.

**BUSINESS:**

1. Consider and act on an amendment to the Corinth Economic Development Corporation Bylaws.

**Bob Hart, City Manager** - the Economic Development Board reviewed the bylaws and voted 4-2 to recommend changes. The City Attorney attended the Economic Development meeting and prepared the language based on the discussions of that meeting and is also here tonight to answer any questions.

**Councilmember Glockel** - most of us on City Council has served on the Economic Development Board and we know how it works. The thrust of this whole thing as I recollect is that we feel as a Council that we were not given the information that we wanted from EDC. It was the Council's fault that the information did not flow. Had we asked the Economic Development Board to provide that information that could have been given to the Council and not violated the law but we chose to put it under the City Manager so that he could get the information to us.

I think it boils down to that was not the problem at all. The problem was that we have EDC sitting out here as an arm by itself and the city would not support EDC unless EDC was part of the click so that is what the real thrust of this is, is trying to get EDC under the control of the City Manager and not to say that is good or bad or indifferent it could work either way but it is not information that is stopping us and making this move because we are getting the information out and all we have to do is ask the EDC to give us the information.

If you want it weekly we could get it so for us to hide behind the fact that we are moving it under the City Manager so that we could have better information flow I believe is not correct. The sad part about it, the way we operate today EDC really has no assistance from the city and sometimes the information from the Planning and Zoning and so on doesn't flow. So the only way we can get it to flow is put everything under Bob Hart's name then maybe that is what we have to do but that is why I wanted to bring it to Council and let Council decide and if that is what the Council wants to do then so be it. But we hired a man under a contract and told him how he would be working and he took us at face value and the last time we talked and decided to massage his job career and the way he reports and the things he could do and we never asked him his opinion and I felt like we really left him out in the cold.

Now, I don't expect Bob Hart to fire him tomorrow but my point is he was hired under an agreement with the EDC as a board and we are failing out on him under this "we need more information excuse" and I think that is just an excuse.

**Councilmember Burke** - I support the change to the bylaws and I think it will help with information flow and I also think we have a director levels position that needs daily management and we have a bylaw situation that will make that clear. That is my reasoning and basis. I am certainly not trying to hide behind anything else.

**Councilmember Garber** - In my opinion I do share the same feelings that Councilman Burke does. We talked a lot about information flow and in my opinion that is a challenge but that is just a symptom of something that could be a larger problem. Certainly not hiding behind the information flow I think that there are other things that could be fixed and addressed and so the information flow would be a very small piece of that in my opinion.

**MOTION** made by Councilmember Burke to approve the amendment to the Corinth Economic Development Bylaws as presented. Seconded by Councilmember Garber.

**Councilmember Johnson** - back in 1998/99 the citizens, the voters of the City of Corinth decided that they needed an Economic Development Corporation. They wanted a group a corporation that was outside of the City Hall that was funded by sales tax as allowed by law that they could choose a director for and this group (City Council) would aid the Economic Development of the City and take some of the load off the city staff. That passed and the Economic Development Corporation was created. The history that goes with that was the first director had some problems with some spending issues and the City Council changed the bylaws to give the board more control over how the director was hired, who managed him or her and went forward from there.

The Board has acted over the years not only as in an advisory situation but they are also a corporation that was established by the voters of the City of Corinth. Their management and their decision making processes are all established by a vote of the public not an administrative action brought forth by this Council.

I think in doing what we are talking about doing, we circuit that vote and my suggestion would be we have all talked about how we are going to fund the fire department down the road. If this is how we are going to handle the EDC instead of playing this little administrative game let's just come back and remove the EDC by vote and push those funds, by law which we can do now, on the same election over to the Fire Department whenever that election can occur. I think this is a real sham to try and gain control of the EDC through administrative and remove the public from the situation that they wanted to create and develop and foster.

**Councilmember Burke** - the board serves at the pleasure of the Council. They are all appointed by the Council and so to say that because we are going to put the director who doesn't vote on the actions of the EDC under the day to day management of the City Manager somehow changes the function of the EDC, I think that is a sham Lowell and I think it is kind of a scare tactic and I think if you understand, as you do, how the EDC functions and how it is managed, with that argument you are just trying to scare people. Nothing about this is going to undermined day to day function of the EDC. It will function the same way it has, the same way it has for years with you on it. Because we are putting a director level position under the day to day management of a City Manager who we hire and fire, I don't see how that can act as a detriment to the function of that body or this Council or this City.

Essentially the situation is now we either don't know who manages that person or that person is managed by a volunteer board who meets once a month and that is probably not the best idea and that is the reason we need to change the bylaws so that the person who is in charge of the City has managerial authority over all the directors who affect the control of funds that develop this City and its projects and move us forward. We need one person who is ultimately responsible for the management of all its directors.

**Councilmember Johnson** - I think the job description that the Economic Development Corporation Director has that says that he is under the day to day management of the City Manager if I remember correctly so that is already done. It has worked for years and years, with previous managers and previous Economic Development Directors. It all worked before and it all worked under that same day to day operational management and we didn't have any problems. It seemed the problems occurred at this point and more recent past and that is where I am concerned about how this has come about and the discussion level ability between two bright individuals who may

not see eye to eye about the same policy and they choose not to discuss the policies between the two of them for whatever reasons so I still see this as more of a communication issue than the need to change the bylaws that are already operating in the manner that we are going to make this change. The big thing that we change is it gives the City Manager pretty much the sole authority to remove the Economic Development Director and that concerns me when he works for a board that was established by a vote.

**AYES:** Burke, Garber, Henderson

**NOES:** Johnson, Glockel

**ABSENT:** None

### **MOTION CARRIED**

2. Consider and act on an Ordinance of the City of Corinth repealing existing Chapter 39, Code of Ethics, of Title III, Administration, of the Code of Ordinances of the City and adopting a new Chapter 39, Code of Ethics, with provisions applicable to City Officials, both current and former, Vendors and Complainants; providing External Remedies for Frivolous Complaints; and providing an effective date.

**Bob Hart, City Manager** - the Ethics Commission Board has had several meetings since January along with UTA graduate Capstone students to assist in updating the existing Code of Ethics Ordinance. They have worked with the board for several months and the board was able to prepare a draft ordinance for your consideration. The City Attorney has made a number of revisions to the ordinance and this is being brought to you for your consideration tonight. This is purely a policy position on the part of the City Council how you want to govern yourselves and how you want to govern advisory boards in your role.

**Mayor Heidemann** - as I reviewed this contract with Red Flag it says the annual fee for residents is \$600 and includes 12 reports annually and \$35.00 each thereafter. Can you tell me what a residential report is?

**Bob Hart, City Manager** - as I understand it, if it is any number of calls they would not charge for that if they have to generate a report where there is a lot of background and documentation that is when the report would be gathered. Before we bring this to you for your consideration I will verify with them first.

**Councilmember Glockel** - in some areas of the proposed Ordinance it talks about family of the 1<sup>st</sup> degree and in the same ordinance in another area it says something about family of the 2<sup>nd</sup> degree. Is this written as so we are talking about 1<sup>st</sup> degree or 2<sup>nd</sup> degree relationships to family because it goes back and forth?

**Melissa Cranford, City Attorney** - Mack, the previous attorney looked at this and my educated guess was that he was trying to stay consistent with the state statute relative to these specific functions.

**Councilmember Glockel** - when we talk about the qualifications for a complaint to be processed and how that complaint flows through the City Secretary and then to the Ethics Board. If I make a complaint and I file it with the City Secretary and if it is not filled out completely it gets sent back from the City Secretary to me and it gives me a few days to refile my complaint. It states "The complainant shall have 10 business days after the date the City Secretary sends a deficiency notice to the complainant to provide the required information to the City Secretary, or the complainant is

automatically deemed abandoned and may not be processed in accordance with this Chapter. Within 5 days of the complainant being abandoned, the City Secretary shall send written notification to the complainant and the accused." We just abandoned the complaint because it was not complete but we send it to the accused? If we are going to abandon this complaint meaning we are not going to do anything with it why would we then turn around and send a copy of it back to the complainant saying we are not going to deal with you because you didn't fill it out right and then send a copy to whoever it is they are accusing?

**Melissa Cranford, City Attorney** - I believe the intent of this section is to provide sufficiency process to the complainant that his complaint was not appropriately amended and will not be pursued because of the requirements of the ordinance. Is your question why is it being sent to the accused or why are we sending it back to the complainant?

**Councilmember Glockel** - I think I understand completely that the accuser has not completed the form correctly he or she was given a second chance to do it and if they didn't complete it within 5 business days the complaint will be considered abandoned if the accuser does not fill it out correctly. So the City Secretary has the power to consider abandoned and then will send a written notice back to me making the complaint. You really don't know what I am complaining about but you are going to send it to the accused and to me that makes no sense.

**Melissa Cranford, City Attorney** - I think the intent there is to disclose that loop so that all parties are apprised that there is not an active complaint that the process has been abandoned or completed so that you don't have a question that someone filed a complaint and it was never investigated you have some documentation to establish that it was abandoned.

**Councilmember Glockel** - I totally agree on abandoning the complaint if it is not filled out correctly. I disagree with them sending it to somebody that I am complaining about. I never even completed the complaint so why process it. If it is not done correctly the complaint will be abandoned and that is where it should stop in my opinion. Don't send it to somebody else half way through the process because you don't know why you are sending it, you only have half the information that is why the complaint was abandoned. You don't want to send it to the accused if it is not complete. If there is an issue send it to the Ethics Committee and let them process it that forms with this chapter and then the accused will be notified on a legitimate reason.

**Melissa Cranford, City Attorney** - the ordinance should reflect the policy direction of the Council and so if that is a change that we need to make I would be happy to do that with the Council's direction.

**Councilmember Burke** - are you concerned that the accused would use that information on the person who made the complaint and yet the complaint does not get addressed?

**Councilmember Glockel** - a little bit of all that. If you have somebody who is making a complaint and it is half prepared and you by policy you abandon it, to me that says we are done with it and I am going to send you a letter back who put the complaint in that we are not dealing with the complaint because there is not enough information and that is where it should stop in my opinion.

**Melissa Cranford, City Attorney** - I believe again it is for transparency with regards to the process and the accused would know the status of the complaint.

**Councilmember Glockel** - if you go down to confidentiality which is another paragraph down in the ordinance it talks about a complaint that has been submitted to the City is hereby deemed

confidential until such time as the complaint is either dismissed or placed on the agenda for consideration of the Ethics Board. If the same complaint is not filled out correctly then it is no longer confidential and I don't understand that.

**Melissa Cranford - City Attorney** - if you look on paragraph J the confidentiality under this ordinance is only to the extent allowed by the Texas Public Information Act and so in the event that someone request a copy of an alleged complaint even prior to processing the City might be required to disclose that complaint under this ordinance it would be deemed confidential and so going back to your question relative to the accused of being notified of the complaint has been abandoned is purely a policy decision for the Council to make but I believe the intent of that language was to ensure transparency of due process of the application itself.

**Councilmember Glockel** - I think if the complaint is not filled out correctly and we are going to abandon it, it ought to be abandoned and not processed to anybody and cause hard feelings because if it is not filled out completely it is probably not true anyway so why should we cause all the issues that it may cause.

**Mayor Heidemann** - it states in here the City Secretary is going to have annual training as it relates to different things that are going on?

**Bob Hart, City Manager** - yes, right now the City Secretary has training on the Open Records Law and the Open Meetings Law and what we would do is training with all of the boards we would review this Ordinance and online training through TML or the Attorney General's Office and that would fall under the City Secretary to provide that training.

**MOTION** made by Councilmember Burke to approve the Ordinance with the exception of Section 39.13, Subsection H (2) to be modified to strike out the last three words "and the accused". Seconded by Councilmember Henderson.

**AYES:** Burke, Garber, Johnson, Henderson, Glockel  
**NOES:** None  
**ABSENT:** None

### **MOTION CARRIED**

#### **COUNCIL COMMENTS & FUTURE AGENDA ITEMS**

The purpose of this section is to allow each councilmember the opportunity to provide general updates and/or comments to fellow councilmembers, the public, and/or staff on any issues or future events. Also, in accordance with Section 30.085 of the Code of Ordinances, at this time, any Councilmember may direct that an item be added as a business item to any future agenda.

**Councilmember Glockel** - I would like to see the information that we requested back in May from Mr. Hart on his performance review.

**Bob Hart, City Manager** - We notified you that Chief Walthall plans to retire on August 24<sup>th</sup>. Our Controller, Jamaine Walker will be accepting a job in Dallas County. We will have a City Engineer and a Planning Manager that will be starting on August 13<sup>th</sup>. We will have a Code Enforcement Officer beginning on Monday, August 6<sup>th</sup> so we are getting the Planning and Development staff back together.

**There was no Closed Session during the Regular meeting.**

**CLOSED SESSION**

The City Council will convene in such executive or (closed session) to consider any matters regarding any of the above agenda items as well as the following matters pursuant to Chapter 551 of the Texas Government Code.

**Section 551.071.** (1) Private consultation with its attorney to seek advice about pending or contemplated litigation; and/or settlement offer; and/or (2) a matter in which the duty of the attorney to the government body under the Texas Disciplinary Rules of Professional Conduct of the State of Texas clearly conflicts with chapter 551.

**Section 551.072.** To deliberate the purchase, exchange, lease or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third person.

**a. Consider acquisition of Right-of-way at 1708 Post Oak Drive.**

**b. Consider acquisition of Right-of way at 2101 Lake Sharon Blvd.**

**Section 551.074.** To deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; or to hear a complaint or charge against an officer or employee.

**a. Marcus Mote v. Debra Walthall, Case No. 4:16-cv-00203-RC, United States District Court for the Eastern District of Texas.**

**Section 551.087.** To deliberate or discuss regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations; or to deliberate the offer of a financial or other incentive to a business prospect.

After discussion of any matters in closed session, any final action or vote taken will be in public by the City Council. City Council shall have the right at any time to seek legal advice in Closed Session from its Attorney on any agenda item, whether posted for Closed Session or not.

RECONVENE IN OPEN SESSION TO TAKE ACTION, IF NECESSARY, ON CLOSED SESSION ITEMS.

**ADJOURN:**

Mayor Heidemann adjourned the meeting at 7:45 P.M.

**AYES:** All

Meeting adjourned.

Approved by Council on the 6th day of September, 2018.

Kimberly Pence  
Kimberly Pence, City Secretary  
City of Corinth, Texas