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October 21, 2025

Comments to Bastrop City Council
Re: Proposed Ordinance 2025-8

Ladies and Gentlemen:

My name is Michele G. Gangnes, and I am a retired attorney residing in the community of Blue in Lee County. I am also a founding member and volunteer with the League of Independent Voters of Texas, a Texas non-profit and qualified 501(c)(4) organization, whose principal office is in Bastrop. I offer these comments in the latter capacity and have not been engaged as counsel for anyone connected with, or interested in, this matter.

Overview of Ordinance 2025-8

There are both procedural and substantive issues with your proposed Ordinance 2025-8 under Texas law governing the issuance of public debt in the form of Certificates of Obligation (“Certificates” or “CO”). There are deficiencies that should convince the Council that Bastrop and its constituents need a “do-over” of the ordinance.

Two of those issues that I raise here are sufficient to question the authority of the City Council to authorize issuance of any Certificates on October 21, 2025. They at least warrant delaying the vote until Council corrects its procedural errors by restarting the public notice clock with a new Notice of Intention to issue CO debt, but only after it first restructures its plan of finance as well.

I believe that both your own bond counsel and the Attorney General will agree that it is a matter of special interest to your constituents and taxpayers that the city strictly adhere to any statutory process as well as the city’s own formal process; exercise appropriate oversight over the process rather than attempt to justify its actions after the fact; and remain transparent and accountable to its constituents when they are asked to incur \$15,000,000 of public debt. The City missed the mark here, with murky but critical public notice and a failure to present a proper plan of finance for the use of CO proceeds.

Procedural (Public Notice) Defects

As far as public notice was concerned, the public has the right to *reasonably rely* on the City to properly publish any matter related to adoption of an Ordinance or other official business requiring public notice, including any Notice of Intention to issue Certificates of Obligation by an Ordinance of the City. The City had in fact updated its public notice practices and procedures as recently as October 22, 2024 in Ordinance 2024-37.

That Ordinance amended the City's Code of Ordinances to *remove* the Bastrop Advertiser and instead *designate the Elgin Courier* as the city's "official newspaper for required newspaper publications by the city". No matter where else the city might *additionally* choose to publish notices relevant to prospective City Council action related to any Ordinance, including Ordinance 2025-8, the city was obliged, at a minimum, to publish them in the Courier.

The public's reliance on this expectation was reasonable, especially for the incurrence of a form of public debt that requires the public to act swiftly or otherwise be precluded from having a public up or down vote on incurring the debt, once the City announces its intention to issue Certificates of Obligation.¹

In this case the City triggered the clock on the public's right to petition but failed to legitimately start the clock, and you should start over rather than "paper over it" as was done in the draft ordinance.²

After Ordinance 2024-37 was passed, a review of the [texaspublicnotices.com](https://www.texaspublicnotices.com) website reflects at least 50 official public notices posted in the Elgin Courier by or on behalf of the

¹ Tex. Local Gov't Code Sec. 271.049 provides in pertinent part:

NOTICE OF INTENTION TO ISSUE CERTIFICATES; PETITION AND ELECTION. (a) Regardless of the sources of payment of certificates, certificates may not be issued unless the issuer publishes notice of its intention to issue the certificates. The notice must be published:

(1) once a week for two consecutive weeks in a newspaper, as defined by Subchapter C, Chapter 2051, Government Code, that is of general circulation in the area of the issuer, with the date of the first publication to be before the 45th day before the date tentatively set for the passage of the order or ordinance authorizing the issuance of the certificates;...

(c) If before the date tentatively set for the authorization of the issuance of the certificates or if before the authorization, the municipal secretary or clerk if the issuer is a municipality... receives a petition signed by at least five percent of the qualified voters of the issuer protesting the issuance of the certificates, the issuer may not authorize the issuance of the certificates unless the issuance is approved at an election ordered, held, and conducted in the manner provided for bond elections under Chapter 1251, Government Code.

² Draft **Ordinance 2025-8** provides in pertinent part:

WHEREAS, on June 24, 2025 the City Council passed a resolution authorizing and directing the City Secretary to give notice of intention to issue the Certificates; and **WHEREAS**, the notice was published on July 2, 2025 and July 9, 2025 in *The Bastrop Advertiser*, a newspaper of general circulation in the City and a "newspaper" as defined in Section 2051.044, Government Code; and... (emphasis added)

City of Bastrop, several of which were related to Ordinances to be considered by the City Council. Even requests for bids on the Old Bridge work and a Request for Qualifications concerning the planned “golf course” were published in the Elgin Courier.

That same review of public notices published in the Bastrop Advertiser revealed publication of mostly minor public notices of auctions of storage units, probate notices, and MUD or similar notices ----and only *one* public notice in the Bastrop Advertiser related to adoption of a City Ordinance. On July 2, 2025 and repeated on July 9, 2025, the City notified the public of its intention to issue up to \$20,000,000 in public debt with Certificates of Obligation for the projects which were later included in proposed Ordinance 2025-8.

Whether a newspaper the city had earlier officially found “no longer existed” is really a “newspaper” that satisfies the spirit of the law³, and whether the latter deviation from standard city practices was by accident or design can both be argued, but the fact remains the optics are not good for Bastrop and its Council, because nothing precluded them from *also publishing in the Courier*.

The City’s suspect interpretation, *in the Recitals in Ordinance 2025-8*, of the specific notice requirements of Tex. Loc. Gov’t Code, Sec. 271.049 must fail when the facts and circumstances of this particular financing are evaluated against the backdrop of not following the city’s standard procedures which not only would have complied with Sec. 271.049, but also with the City’s own Code of Ordinances, as well as upholding *citizens’ trust* that its local government is transparent and accountable to them.

Publication in the Bastrop Advertiser was not precluded, but publication in the Elgin Courier was *required*. You need to start over and re-set the clock, because the city was in the best position to do the right thing but failed.⁴

³ **Ordinance 2024-37**, passed on October 24, 2024, had found that the Bastrop Advertiser no longer existed after its sale to the Austin American Statesman as its reason for adopting the Elgin Courier as its “official newspaper for the required publication of newspaper notices by the City”. (emphasis added) The Elgin Courier reported on the change of newspaper in early November 2024, in an article in which a City official was quoted, demonstrating the City was aware of the article prior to publication. According to that article, “... the council opted for a change to ensure the city’s notices reach a wider audience, as the Advertiser is not classified as a general circulation newspaper.” (emphasis added)

⁴ In Ordinance 2024-37, the City stated that Tex.Loc.Gov’t Code Chapter 52 addresses official newspapers for General Law cities but “is silent” on Home Rule cities. However, Section 52.013 sheds light on the Legislature’s intent for Home Rule cities to use its “official newspaper” when they publish notices related to Ordinances without charter provisions like the one in Bastrop’s Code of Ordinances. Section 52.013 provides in pertinent part:

Sec. 52.013. HOME-RULE MUNICIPALITIES.

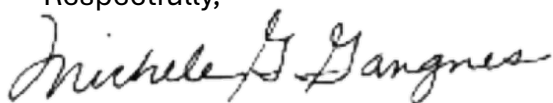
(b) If the charter of a home-rule municipality does not provide for the method of publication of an ordinance, the full text of the ordinance or a caption that summarizes the purpose of the ordinance and the penalty for

Plan of Finance Defects

In addition to procedural defects, there is also a substantive deficiency in the plan of finance for the proposed COs with respect to the individual eligibility of at least one of the proposed projects to be funded with CO proceeds.

Certificates of Obligation may only be issued in Texas by a municipality for “public works”, as defined in Sec. 271.043(A)(7-a) of the Code. See, Tex. Loc. Gov’t Code Sec. 271.045. Nowhere in that definition does “golf course” or “golf course facilities” appear as a public work. Yet, the plan of finance for the proceeds of COs to be issued under Ordinance 2025-8 explicitly includes a golf course project, without any description of location or any attempt to connect the project as a component of another public work project in the plan of finance. Without restructuring the project in Ordinance 2025-8 to make the proposed golf course project an eligible public work, construction of a golf course or golf course facilities are not public works that may be financed with the proceeds of Certificates of Obligation.

Respectfully,

A handwritten signature in cursive script that reads "Michele G. Gangnes".

Michele G. Gangnes

violating the ordinance may be published at least twice in the municipality's official newspaper. (emphasis added)