

Ordinance 2017.3.1

ORDINANCE AMENDING ORDINANCE 2017.2.1, CALLING A SPECIAL ELECTION WITH A COMBINED BALLOT PURSUANT TO SECTION 321.409 OF THE TEXAS TAX CODE TO DETERMINE WHETHER THE CITIZENS DESIRE TO ABOLISH THE CURRENT ONE HALF OF ONE PERCENT SALES AND USE TAX ALLOCATED FOR PROPERTY TAX RELIEF AND ADOPT A SALES AND USE TAX OF ONE HALF OF ONE PERCENT TO CREATE AN ECONOMIC DEVELOPMENT CORPORATION (TYPE B) PURSUANT TO LOCAL GOVERNMENT CODE, TITLE 12, IN ORDER TO UNDERTAKE PROJECTS FOR THE PURPOSE OF ECONOMIC DEVELOPMENT AS DESCRIBED IN SECTIONS 501 AND 505, TYPE B CORPORATIONS, LOCAL GOVERNMENT CODE, FORMERLY SECTION 2(11) AND SECTION 4B OF ARTICLE 5190.6 OF THE TEXAS REVISED CIVIL STATUTES; SETTING THE DATE AND THE POLLING PLACE LOCATION FOR THIS ELECTION; CONTAINING A REPEALING CLAUSE, A SAVINGS CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Development Corporation Act of 1979, formerly Article 5190.6 of the Texas Revised Civil Statutes, was codified at Title 12, Subtitle C1, Section 501 et seq., providing for the creation of economic development corporations by municipalities for the purposes specified in the applicable provisions of the Development Corporation Act; and

WHEREAS, Local Government Code Chapter 505, Type B Corporations, provides for the levy of a sales and use tax for the benefit of a Type B Corporation by eligible cities if authorized by a majority of the qualified voters of the eligible city and for the creation of Type B development corporations by municipalities that are authorized to create Type A Corporations pursuant to Chapter 504 of the Act, specifically, municipalities located in counties with populations of 500,000 or less; and

WHEREAS, the City of Flatonia is located in Fayette County, a county with a population of 500,000 or less, and is eligible under the Development Corporation Act to call for a special election to create a Type B Corporation; and

WHEREAS, the City of Flatonia has previously adopted, by election, a sales and use tax of one-half of one percent dedicated to property tax reduction; and

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WHEREAS, the City Council of the City of Flatonia has determined by ordinance 2017.2.1 that it is in the best interests of the citizens of Flatonia to establish a Type B Corporation for economic development as described in the Development Corporation Act; and

WHEREAS, the City Council of the City of Flatonia has determined by ordinance 2017.2.1 that it is in the best interest of the citizens of Flatonia to re-allocate the one-half of one percent sales tax by repealing that tax dedicated to property tax relief and adopting a sales and use tax of one-half of one percent to support economic development projects by a Type B Corporation as described in the Development Corporation Act; and

WHEREAS, due to limitations on sales and use tax under Texas law, the City of Flatonia cannot legally establish a Type B Corporation under the Act and collect sales and use taxes of one-half of one percent for the benefit of said corporation and continue collection of sales and use taxes of one-half of one percent for property tax relief; and

WHEREAS, pursuant to Section 321.409, Texas Tax Code, the City Council of the City of Flatonia has called a special election with a combined ballot for the purpose of determining if a majority of the citizens of Flatonia desire to abolish the current one-half of one percent sales and use tax dedicated to property tax relief and to adopt a one-half of one percent sales and use tax to create an economic development corporation, Type B, in order to undertake projects for the purpose of economic development as described in the Development Corporation Act, such special election to be held on May 6, 2017 at the time of the regular general election; and

WHEREAS, the City Council has determined that the wording of the proposition to be on the ballot of such special election needs to be expanded to insure that all projects permissible under law can be undertaken by the Type B corporation, in the event the voters adopt such proposition.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FLATONIA, TEXAS:

Section 1. Ordinance 2017.2.1, adopted on February 14, 2017, is hereby amended to hereafter read as set forth herein.

Section 2. The statements made in the foregoing preamble being true and correct and hereby adopted as findings of fact, and this amendment to such Ordinance 2017.2.1 reaffirms the call for a special election to be held in the City of Flatonia, on Saturday, May 6, 2017, such date being a uniform election date as defined in Section 41.001, Texas Election Code.

Section 3. The official ballots for said special election shall be prepared in accordance with the Texas Election Code so as to permit the electors to vote "For" or "Against" the proposition, with the ballots to contain such provision, markings and language as required by law, and with such proposition to be expressed substantially as follows:

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PROPOSITION

The abolition of the current one-half (1/2) of one percent sales and use tax allocated for property tax relief; and the adoption of a Local Government Code Section 505.251 sales and use tax of one-half (1/2) of one percent to undertake projects authorized by and described in Section 505 of the Development Corporation Act, including but not limited to the following: (1) land, land acquisition, buildings, equipment, facilities, expenditures, targeted infrastructure and improvements that are (1) for the creation or retention of primary jobs and found by board of directors of the Type B corporation to be required or suitable for the development, retention or expansion of manufacturing and industrial facilities, research and development facilities, military facilities, including closed or realigned military bases, transportation facilities, including airports, hangars, railports, rail switching facilities, maintenance and repair facilities, cargo facilities and related infrastructure located on or adjacent to an airport or railport facility, marine ports, inland ports, mass commuting facilities and parking facilities, sewage or solid waste disposal facilities, recycling facilities, air or water pollution control facilities, facilities for furnishing water to the public, distribution centers, small warehouse facilities capable of serving as decentralized storage and distribution centers, primary job training facilities for use by institutions of higher education and regional or national corporate headquarters facilities, (2) found by the board of directors of the Type B corporation to be required or suitable for job training offered through a business enterprise that has committed in writing to create new jobs that pay wages that are of at least equal to the prevailing wage for the applicable occupation in the local labor market area or to increase its payroll to pay wages that are at least equal to the prevailing wage for the applicable occupation in the local labor market area, (3) found by the board of directors of the Type B corporation to be required or suitable for use for professional and amateur sports, including children's sports, athletic, entertainment tourist, convention and public park purposes and events, including stadiums, ball parks, auditoriums, amphitheatres, concert halls, parks and park facilities, open space improvements, museums, exhibition facilities, and related store, restaurant, concession, and automobile parking facilities, related area transportation facilities, and any improvements that enhance any of the items described herein, (4) found by the board of directors of the Type B corporation to be required or suitable projects for the promotion of development

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and expansion of affordable housing, (5) found by the board of directors of the Type B corporation to promote or develop new or expanded business enterprises that create or retain primary jobs, including projects to provide public safety facilities, streets and roads, drainage and related improvements, demolition of existing structures, general municipally owned improvements and any improvements or facilities related to such projects and any other project the board of directors of the Type B corporation, in its discretion, determines promotes or develops new or expanded business enterprises that create or retain primary jobs, or (6) found by the board of directors of the Type B corporation to promote new or expanded business development.

FOR

AGAINST

Section 4. Election Day voting will be at the following polling place

Flatonia City Hall Council Chambers
125 E. South Main Street, Flatonia, Texas

and shall be in conjunction with general election for city council members previously called to be held on May 6, 2017, whether or not that election is subsequently cancelled in accordance with law.

Section 5. The Election shall be held in accordance with the Constitution of the State of Texas and the Texas Election Code, and all resident qualified voters of the City of Flatonia shall be eligible to vote at such election.

Section 6. Upon adoption of this Ordinance, the City Secretary is directed to immediately give notice of the election to the Texas Comptroller of Public Accounts by delivering a fully executed copy of the Ordinance to the Comptroller.

Section 7. The Mayor and City Secretary are authorized and directed to take all action necessary to comply with the provisions of the Texas Election Code, the Texas Tax Code, the Texas Local Government Code, and the City of Flatonia Code of Ordinances in carrying out and conducting the election, whether expressly authorized by this Ordinance.

Section 8. All ordinances or parts of ordinances inconsistent or in conflict with the provisions of this ordinance shall be, and the same are hereby repealed.

Section 9. The sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional, such unconstitutionality or invalidity shall not affect any of the remaining

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phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.

Section 10. This Ordinance shall be effective immediately from and after its final passage and any publication in accordance with the requirements of the City of Flatonia and the laws of the State of Texas.

PASSED AND APPROVED this 14th day of March, 2017.

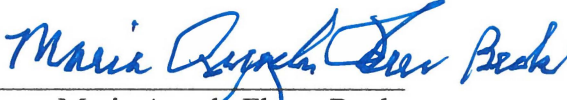
CITY OF FLATONIA, TEXAS

By: 
Bryan Milson, Mayor

ATTEST:


Melissa Brunner, City Secretary

APPROVED AS TO FORM:


Maria Angela Flores Beck,
City Attorney

