

Around Argyle – March 2020

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Bryan Livingston, Argyle Town Council Member, Place 1

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Mayor Moser asked me to provide a column this month, written from the perspective of a new member of the Argyle Town Council. I am thankful for the opportunity to serve and happy to share a few things that I have learned since being appointed.

As a citizen, I have tried to keep up with what happens at Town Hall, but there is a lot more going on behind the scenes than I thought. I knew, for example, that a long-running conflict started when Don Moser and two new members of the council were elected in 2017 with a mandate from the voters to push back against high density residential development. I was not aware of several other challenges that involve governance and transparency, and which the council is now moving to address.

After being appointed, I worked to get up to speed by studying the orientation materials provided by town staff and participating in training events for public officials sponsored by the Texas Municipal League (TML), an organization that supports small towns across the state. TML helps public officials to understand their duties and obligations under the Texas statutes. After gaining an understanding of what our town government is authorized to do under the law, a big reason for the friction we have experienced in Argyle came into focus for me.

Argyle is a Type A general law city, which means the town has an aldermanic form of government consisting of a mayor and five councilmembers. General law cities operate under model ordinances and regulations written by the Texas Legislature that define important functions of local government such as budgeting, the duties and authority of public officials, and transparency. The governments of general law cities have very little latitude to make ordinance changes that conflict with the intent of the Texas statutes unless they hold elections to adopt those changes.

As I read the Argyle ordinances, I noted what appeared to be conflicts with Type A general law. After raising the issue with my council colleagues, I was appointed to lead a subcommittee to review the ordinances. Supported by the town attorney and the interim town manager, our research showed that starting in 2010, the town's ordinances on the relationship between the mayor, council and the town staff were changed in a process that directly conflicted with state law.

The rewrite of the Argyle ordinances replaced the Type A aldermanic form of government with a council-manager, or “Chapter 25” (from the Texas Local Government Code) form of government. A Chapter 25 form of government cannot be adopted by an action of the governing body or council. Only the citizens have the power to change the form of government to council-manager, by petitioning to call an election and voting to approve it.

The shift to a manager-led government gave sweeping powers to an unelected employee of the town. Many of the controversial decisions that have created discord since are the direct result of adopting the Chapter 25 model, which encouraged town managers to make many important decisions without consulting the mayor and council.

The changes also made the town manager the budget officer for the town, bypassing the authority that mayors typically have over budget writing. For years, the Argyle mayor and council have been given a budget for review and approval by a town manager, rather than having the mayor and council at the table while the budget is being developed. I cannot think of a better formula for keeping citizens in the dark about the details of the town’s spending and priorities. Perhaps this helps to explain why our 11-square-mile town has a bond debt of more than \$6 million, which is an outlier for Texas towns of our size. The town is financially healthy at this time, but the growth in bond debt is a trend that needs attention. That is a topic for another column.

The worst effect, however, was the freedom that town managers were given to negotiate with outside parties, including developers, and to inform the town council later. Often, the town council learned about what a town manager had agreed on behalf of the town too late for a balanced review of the proposal. Citizens were even further out of the loop, leading to decisions on development and related matters that lacked popular support, including establishing three public-private partnerships in 2016. So-called P3 deals can be useful development tools for larger jurisdictions, but the two Public Improvement Districts and the Tax Increment Reinvestment Zone entities created in 2016 provide questionable benefits for a town the size of Argyle.

As many are now aware, the Argyle ordinances also included an ethics policy that did not conform with state law, and which was one of the root causes of the public conflict between councilmembers and the resulting First Amendment lawsuit filed by Councilmember Schmidt.

It is almost as if the 2010 council wanted to set up a bureaucracy that would be insulated from the will of the people expressed at the ballot box. Makes you wonder if the three-year battle over the authority of the mayor and town council triggered by the 2017 election has a deeper cause than a running disagreement over zoning and the pace of development. One thing is certain – the improperly adopted Chapter 25 ordinances hurt the town by giving town managers the authority to discount the priorities of the town council, and the citizens.

By the time this column is published, the Argyle town council will have begun deliberating on changing our ordinances to comply with state law. Once that process is complete and the ordinances properly reflect the town’s Type A general law status, the town council and the town staff will be empowered to operate and succeed as a team that is fully accountable to the citizens.