

**BRYAN CITY COUNCIL
MINUTES OF REGULAR MEETING
DECEMBER 2, 2014**

A regular meeting of the Bryan City Council was held on Tuesday, December 2, 2014, in Room 305 and the Council Chambers of the Bryan Municipal Building, a notice of said meeting having been posted at least 72 hours in advance in accordance with Section 551, Texas Government Code. Mayor Jason Bienski and Councilmembers Al Saenz, Rafael Peña, Greg Owens, Mike Southerland, Art Hughes and Chuck Konderla were present. In attendance were City Manager Kean Register, City Attorney Janis Hampton and City Secretary Mary Lynne Stratta.

1. CALL TO ORDER

The meeting was called to order at 4:04 p.m.

2. EXECUTIVE SESSION

The meeting was called into executive session at 4:05 p.m. under the provisions of Section 551, Texas Government Code, to discuss under the authority of Section 551.071, consultation with attorney – receive legal advice regarding the Traditions Master Economic Development Agreement, receive legal advice regarding the Traditions Limited Partnership Agreement, receive legal advice regarding agenda item hear citizens, receive legal advice regarding possible amendments to the reclaimed water agreement with Traditions Acquisition Partnership, Ltd., receive legal advice regarding Council ethics policy, receive legal advice regarding Chapter 380 economic development agreement salary requirements, and receive legal advice regarding pay for Councilmembers; under the authority of Section 551.072, real estate – discussion regarding possible sale, lease, conveyance and/or purchase of property in the Texas Triangle Park, central, west, east and north Bryan; under the authority of Section 551.074, personnel matters – discussion regarding duties and responsibilities of City Manager, City Secretary, City Internal Auditor and City Attorney, discussion regarding appointment of Mayor Pro Tem, and discussion regarding appointment of individual(s) to the Biocorridor Board; and under the authority of Section 551.087, economic development – discussion regarding possible economic development incentives in east, west, north and central Bryan and the Texas Triangle Park.

3. OPEN SESSION FOR ACTION FOLLOWING EXECUTIVE SESSION

The meeting was called into open session at 6:05 p.m. Councilmember Konderla moved to name Councilmember Art Hughes as Mayor Pro Tem for the next one-year period. The motion was seconded by Councilmember Owens. Councilmember Southerland moved to amend the motion by substituting Councilmember Al Saenz for Councilmember Art Hughes. The motion to amend by substitution was seconded by Councilmember Peña but failed to carry by a vote of three yeses (Councilmembers Saenz, Peña and Southerland) and four noes (Mayor Bienski and Councilmembers Owens, Hughes and Konderla). The main motion to name Councilmember Hughes as Mayor Pro Tem carried with five yeses and two noes (Councilmembers Saenz and Peña). Councilmember Konderla then moved to reappoint Councilmember Art Hughes to the Biocorridor Board and ask the Planning and Zoning Commission to recommend two Commissioners to serve on the Board. The motion was seconded by Councilmember Owens and carried unanimously.

4. INVOCATION AND PLEDGES OF ALLEGIANCE TO THE U.S. AND TEXAS FLAGS

Mr. Monty Hunt, President of the Bridge Ministries, gave the invocation and Girl Scout Troop 9044 led the pledges.

5. PROCLAMATIONS AND PRESENTATIONS

Fire Prevention Poster Contest winners were recognized.

6. HEAR CITIZENS

Ms. Debra Miller, 714 Williamson Drive, spoke about community activities available to families in Bryan over the next few weeks and encouraged citizens to donate to their favorite charity. Dr. Peter Witt, 1604 Carter Creek, spoke about a proposed sale of 36 acres located in the Traditions area.

7. REZONING REQUEST (RZ14-20)

a. Public Hearing – Rezoning Request (RZ14-20)

Mayor Bienski called for public comment regarding a proposed ordinance to amend Chapter 130, Zoning, of the City of Bryan Code of Ordinances by changing the zoning classification from a combination of Agricultural-Open District (A-O), Planned Development Mixed-Use District (PD-M), and Retail District (C-2) to Planned Development Mixed-Use District (PD-M) on 36.092 acres of land out of the John H. Jones Survey, A-26, adjoining the southwest side of South Traditions Drive, generally located southwest of its intersection with Club Drive in Bryan, Brazos, County, Texas. The public hearing closed at 6:27 p.m. with no public comments.

b. First Reading of an Ordinance – Rezoning Request (RZ14-20)

Mayor Bienski moved to approve the first reading of an ordinance to amend Chapter 130, Zoning, of the City of Bryan Code of Ordinances by changing the zoning classification from a combination of Agricultural-Open District (A-O), Planned Development Mixed-Use District (PD-M), and Retail District (C-2) to Planned Development Mixed-Use District (PD-M) on 36.092 acres of land out of the John H. Jones Survey, A-26, adjoining the southwest side of South Traditions Drive, generally located southwest of its intersection with Club Drive in Bryan, Brazos, County, Texas. The motion was seconded by Councilmember Konderla. It was opined this rezoning request did not support an existing Chapter 380 agreement relative to this property, which stated the property would be used for senior living. Planning Manager Martin Zimmermann presented information regarding the rezoning request, stating the request would divide the area into six tracts for various uses such as office, retail, single family, mixed use, multiple family living, and a conservation and wildlife area. Councilmember Southerland moved to amend the motion to deny the request. The motion was seconded by Councilmember Peña. City Attorney Hampton advised that consideration of denial should be based on zoning criteria and not on the basis of the Chapter 380 agreement relative to the property. It was opined the rezoning request did not meet the zoning criteria. Staff listed the zoning criteria relative to this rezoning request and advised the Planning and Zoning Commission unanimously recommended approval. It was reported that Bryan Commerce and Development, Inc., was the rezoning request applicant. After discussion, the motion to amend to deny the request failed by a vote of three yeses (Councilmembers Saenz, Peña and Southerland) and four noes (Mayor Bienski and Councilmembers Owens, Hughes and Konderla). The main motion carried with four yeses

(Mayor Bienski and Councilmembers Owens, Hughes and Konderla) and three noes (Councilmembers Saenz, Peña and Southerland).

8. CONSENT (AUTOMATIC APPROVAL) AGENDA

It was announced agenda items c and d would be considered separately. The remainder of the consent agenda was approved upon a motion by Councilmember Owens and a second by Councilmember Hughes, carrying unanimously.

- a. Approval of Minutes** – Workshop and Regular Meetings of November 11, 2014, and Workshop and Regular Meetings of November 18, 2014

b. Consideration- Purchase of AutoPulse CPR Devices

Consider approving the purchase of three AutoPulse mechanical cardio pulmonary resuscitation (CPR) devices for a total price of \$52,663. Source of Funds: General Fund.

e. Second and Final Reading of an Ordinance- Rezoning Request (RZ13-28)

Second and final reading of Ordinance No. 2075 of the City of Bryan, Texas, amending Chapter 130, Zoning, of the City of Bryan Code of Ordinances, to change the zoning classification from Industrial District (I) to Commercial District (C-3) on 6.13 acres of land located at the north corner of State Highway 21 East and Marino Road, being Lots 8R and 9R in the Charles (Cal) Marino Land Partition in Bryan, Brazos County, Texas.

f. Second and Final Reading of an Ordinance - Right-of-Way Abandonment (RA 14-06)

Second and final reading of Ordinance No. 2076 providing for the abandonment of the following public right-of-way, to wit: 0.17 acres of unimproved public alley rights-of-way located in Block 47 of Oak Grove Park Addition and Tabor Addition (an unrecorded subdivision), generally extending south from San Jacinto Lane (State Highway 21) between West 14th Street and North Sims Avenue on property addressed as 1407 San Jacinto Lane in Oak Grove Park Addition No. 2 in Bryan, Brazos County, Texas; authorizing the conveyance thereof to the abutting property owner and providing for the terms and conditions of abandonment and conveyance.

g. Second Reading of an Ordinance - Right-of-Way Abandonment (RA14-07)

Second and final reading of Ordinance No. 2077 providing for the abandonment of the following public right-of-way, to wit: 0.286 acre segment of unimproved public street right-of-way for Bradley Street, extending between San Jacinto Lane (State Highway 21) and North Sims Avenue adjacent to a railroad right-of-way and 1601 North Sims Avenue; authorizing the conveyance thereof to the abutting property owner and providing for the terms and conditions of abandonment and conveyance.

h. Second and Final Reading of an Ordinance – Right-of-Way Abandonment (RA14-08)

Second and final reading of Ordinance No. 2078 providing for the abandonment of the following public rights-of-way, to wit: thirty-one segments of West 28th Street right-of-way between Palasota Drive and Congress Street in Bryan, Brazos County, Texas; authorizing the conveyance thereof to the abutting property owners and providing for the terms and conditions of abandonment and conveyance.

Council then considered the items removed from the consent agenda for separate consideration.

c. Consideration – Contract for Meter Reading Services

Councilmember Southerland moved to approve the fourth year of payment for a water meter reading services contract to Alexander's, Inc., in an amount not to exceed \$150,000 (Source of Funds: Water and Wastewater Operating Budget). The motion was seconded by Councilmember Owens and carried unanimously.

d. Resolution – Coulter Airfield Business Plan

Mayor Bienski moved to adopt Resolution No. 3581 of the City of Bryan, Texas, approving and adopting the Coulter Airfield Business Plan created by R.A. Wiedemann & Associates, Inc., as the official business plan for Coulter Airfield. The motion was seconded by Councilmember Konderla. Concern was expressed about the cost and recommendations of the business plan. Economic Development Director Kevin Russell discussed the business plan and the actions to be addressed by staff. It was reported implementation of individual recommendations contained in the plan would require future Council approval. The motion carried unanimously.

9. STATUTORY AGENDA

It was announced agenda item 9 g would be considered separately. Councilmember Southerland made a motion to approve the remainder of the statutory agenda. The motion was seconded by Councilmember Hughes and carried unanimously.

a. Consideration – Purchase of a Fire Engine

Considering approving the purchase of a new Spartan fire engine from Metro Fire Apparatus Specialists, Inc., of Houston, Texas, through the Houston Galveston Area Council Texas Local Government Purchasing Cooperative for the total purchasing price of \$798,580.00. Source of Funds: Certificates of Obligation to be issued in 2016.

b. Consideration – Purchase of Ambulances and Fire Department Pool Vehicle

Consider approving the purchase of two refurbished ambulances from Frazer Limited of Houston, Texas, and one Chevrolet Suburban (Fire Department pool vehicle) from Caldwell Country Chevrolet, Caldwell, Texas, for a total purchase price for all three of \$390,942. Source of Funds: General Fund.

c. Consideration – Award of Health Plan Medical Stop Loss Insurance

Consider awarding the 2015 Health Plan Medical Stop Loss insurance to Blue Cross and Blue Shield of Texas with a projected annual cost of \$604,288. Source of Funds: Employee Benefits Fund.

d. Consideration – Contract for West 28th Street Construction Project

Consider awarding the West 28th Street Utility and Street Rehabilitation Project construction contract to Larry Young Paving, Inc., in an amount not to exceed \$3,492,422.15. Source of

Funds: 2014 Certificates of Obligation, \$2,499,405.15; Water Fund, \$557,589; Sewer Fund, \$435,428.

e. Consideration – Purchase for Phase IV of AMI

Consider authorizing the Phase IV purchase of meters and communication modules through Sensus USA, Inc., for the ongoing installation and implementation of an Advanced Meter Infrastructure (AMI) System for Water Services in an amount not to exceed \$1,000,000.00. Source of Funds: Water Services Water and Wastewater Operating Fund.

f. First Reading of an Ordinance – Right-of-Way Abandonment (RA14-09)

First reading of an ordinance providing for the abandonment of the following public right-of-way, to wit: 2,000 square feet of unimproved public alley right-of-way adjacent to Lots 4, 5, 9 and 10 in Block 10 of the Washington Heights Subdivision, extending 100 feet northeast from Red Oak Street between Madison and Wellington Avenues in Bryan, Brazos County, Texas; authorizing the conveyance thereof to the abutting property owners and providing for the terms and conditions of the abandonment and conveyance.

h. First Reading of an Ordinance – Appointment of Municipal Court Judges

First reading of an ordinance of the City Council of the City of Bryan, Texas, appointing municipal court judges for the Bryan Municipal Court of Record and setting length of term of appointment.

Council then considered the item removed from the statutory agenda for separate consideration.

g. First Reading of an Ordinance – Oil and Gas Fund

Councilmember Southerland moved to deny the first reading of an ordinance of the City of Bryan, Texas, creating and establishing a permanent oil and gas fund; directing how such fund may be accessed, and resolving other matters related thereto. The motion was seconded by Councilmember Peña. Questions and concerns were posed about the separate fund and voting requirements contained in the ordinance in order to approve the use of the monies in the fund. Mr. Register reported the fund was recommended in order to segregate oil and gas revenues so that general fund obligations would not be dependent on oil and gas revenues, which will taper off in the future. He added the oil and gas revenues could be used for any purposes the Council chooses. After discussion, the motion carried with four yeses (Councilmembers Saenz, Peña, Southerland and Hughes) and three noes (Mayor Bienski and Councilmembers Owens and Konderla).

10. REGULAR AGENDA

a. Consideration – Environmental Protection Agency Assistant Representative Appointment

Mayor Bienski made a motion to appoint Mr. Wesley Williams, BTU employee, as an Assistant Representative to the Environmental Protection Agency in compliance with the Clean Air Act and other Environmental Protection Agency Programs, as it relates to the electric utility only. The motion was seconded by Councilmember Hughes. BTU General Manager Gary Miller answered questions relative to this item. The motion carried unanimously.

b. Consideration – Fiscal Year 2015 Funding for the Bryan-College Station Convention and Visitors Bureau

Mayor Bienski moved to adopt a resolution of the City of Bryan, Texas, approving a budget for the fiscal year beginning October 1, 2014, and ending September 30, 2015, inclusive, for the Bryan-College Station Convention and Visitors Bureau (CVB) with total expenditures of \$1,904,500.25 and revenues in the combined total amount of \$1,904,500.25; and authorizing the Mayor to sign a funding agreement with the CVB to provide funding for Fiscal Year 2015 in the amount of \$238,440 (Source of Funds: Fiscal Year 2015 Hotel/Motel Tax Fund). The motion was seconded by Councilmember Hughes. Councilmember Southerland moved to amend the motion to change the funding amount for the CVB from \$238,440 to \$336,000. The motion was seconded by Councilmember Peña. The City Attorney advised that the agenda was posted with the amount of \$238,440, so to approve an amount greater than that would be a Texas Open Meetings Act violation. It was pointed out the agenda item was prepared with the amount requested by the CVB, which was \$53,590 more than the previous year funding. It was stated the Council action form indicated hotel occupancy taxes had grown considerably due largely to the CVB's efforts, and that more money would allow the CVB to bring more events to Bryan. A desire was expressed to see these hotel occupancy taxes invested in improvements to the Bryan Regional Athletic Complex instead. It was reported the staff was pursuing legislation to allow more flexibility in the use of hotel occupancy taxes for regional parks, athletic fields, etc. The motion was withdrawn. Councilmember Southerland then moved that this agenda item be considered January 13 with the amount of \$336,000 in funding to the CVB. The motion was seconded by Councilmember Saenz. The motion carried with four yeses (Councilmembers Saenz, Peña, Southerland and Hughes) and three noes (Mayor Bienski and Councilmembers Owens and Konderla).

c. Consideration – Chapter 380 Agreement with Homewood, LLC

Mayor Bienski moved to authorize the execution of a Chapter 380 development agreement between the City of Bryan and Homewood, LLC, to provide up to a \$246,319.50 interest free loan to be used for the sole purpose of constructing a new public sanitary sewer line that will serve parts of the Greenbrier Subdivision and Stonebrier Subdivision (Source of Funds: Wastewater Fund). The motion was seconded by Councilmember Konderla. Councilmember Peña moved to amend the motion to approve a prevailing wage paid to the employees at the Council's discretion. He then withdrew the motion when it was pointed out the item under consideration was a loan for a public sewer line. Mr. Russell showed a map of the area and he and Public Works Director Jayson Barfknecht answered questions relative to this agreement. After discussion, the motion carried with five yeses and two noes (Councilmembers Saenz and Hughes).

d. Resolution - Amendment to Downtown Bryan Façade Improvements Program Application Guidelines

Councilmember Hughes moved to adopt Resolution No. 3582 of the City of Bryan, Texas, amending Resolution No. 2988 adopted on May 24, 2005, by amending the submittal guidelines and creating a downtown improvements review panel for the downtown area for the purpose of the Downtown Façade Improvements Matching Grant Program. The motion was seconded by Councilmember Konderla. Special Projects Director Lindsey Guindi answered questions about the process and past funding practices. She reported staff was developing a proposed property improvement plan that would function much as the downtown façade grant program. After discussion, the motion carried unanimously.

e. Consideration – Bryan Code of Ordinances Relative to Fire Detection

Councilmember Southerland made a motion to direct the City Manager to develop an ordinance to require central reporting smoke detectors for commercial buildings over an age considered appropriate but not newer than 40 years old, for possible action at the second meeting in February 2015; said recommendation to include the ordinance and an analysis of the impact on the business community. The motion was seconded by Councilmember Peña. Concern was expressed that central reporting smoke detectors would save lives and prevent incidents such as the Knights of Columbus Hall fire. Fire Chief Randy McGregor and Fire Marshal Marc McFeron explained how central reporting operates and explained some of the issues involved with central reporting. It was reported that upgrades to older structures would have to meet state and federal standards and would be very costly to the property owners. The requirements for such a system to be monitored and the need for electrical upgrades and two dedicated phone lines were mentioned. Installers have to be licensed by the State of Texas. Mr. McFeron reported typically these systems are used in buildings where people sleep. After a lengthy discussion, it was stated the agenda item was meant to have the Fire Department look into alternatives and report back to Council; however, it was pointed out the agenda item was worded to direct the City Manager to develop an ordinance that would require central reporting smoke detectors for commercial buildings older than a certain age. It was reported the staff would need to determine how many commercial buildings were built more than 40 years ago. Questions were posed as to why the ordinance request did not address residential structures as well. Mr. McFeron summarized that while requiring these systems would assist in early fire response, the costs to the individual business owners may be cost prohibitive. He posed several questions as to how the ordinance would apply to vacant buildings, etc. It was stated that if a building is dilapidated, the owner should be required to bring the building up to code or demolish it. A lengthy discussion followed. After discussion, the motion was withdrawn with the understanding the Fire Department would report back to the Council no later than July 2015 as to options relative to commercial building age, application options, etc.

f. Consideration – Hear Citizens Agenda Item

It was stated that following executive session discussion, this item was withdrawn. The “hear citizens” introduction has already been rewritten and the City Manager will provide report to Council to follow up on items brought before the Council in “hear citizens”.

g. Consideration – Bryan City Manager Assessment

This item was withdrawn because the City Manager already has a better evaluation instrument than the one submitted with this agenda item. Mr. Register will provide an evaluation instrument that both he and the Council agree to utilize.

11. ITEMS OF COMMUNITY INTEREST

Councilmembers listed the following items of community interest: Bryan High football game against George West, Crockett Elementary School’s success in passing all state standardized tests, Chamber of Commerce agriculture breakfast, town hall meetings, attendance at the National League of Cities annual conference, Hamilton Unit graduation and Health for All’s opening ceremony. New businesses were welcomed to the community. Risk Manager Cindy Kirk was thanked for her diligence in saving the City money on stop loss insurance premiums. Councilmember Hughes was congratulated for being named as Mayor Pro Tem. Everyone was wished happy holidays.

12. ADJOURN

Without objection, the meeting adjourned at 8:20 p.m.

City Secretary Mary Lynne Stratta

Mayor Jason P. Bienski