

**BRYAN CITY COUNCIL  
MINUTES OF REGULAR MEETING  
FEBRUARY 10, 2015**

A regular meeting of the Bryan City Council was held on Tuesday, February 10, 2015, 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. Also present 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 4:54 p.m.

**2. EXECUTIVE SESSION**

The meeting was called into a closed to the public session at 4:55 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 possible tri-party agreement between Blinn College, Rivergate Church and the City, receive legal advice regarding compliance with the Texas Open Meetings Act, receive legal advice regarding Council ethics policy and complaint procedure, and receive legal advice regarding sufficiency of complaints received under Resolution No. 3478, Ethics and Conduct for Elected and Appointed Officials; 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, and 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, Council self-evaluation, and discussion regarding appointment of individuals to the Design Review Board; under the authority of Section 551.086, competitive matters – discussion regarding competitive matters related to Bryan Texas Utilities; 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 6:15 p.m. Councilmember Konderla moved to appoint the following individuals to the Design Review Board: Planning and Zoning Commissioners Leo Gonzalez and Kevin Krolczyk, architect Chris Lawrence, and builders/contractors/developers Bill Lero and Paul Levantis. The motion was seconded by Councilmember Owens and carried unanimously.

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

Pastor Travis Patterson, Three Angels Seventh-Day Adventist Church, gave the invocation and Anna Kellett, Daughters of the American Revolution and Daughters of the Republic of Texas, William Scott Chapter, led the pledges.

## **5. PROCLAMATIONS AND PRESENTATIONS**

District Engineer Catherine Hejl was recognized upon her retirement from the Texas Department of Transportation. Winners of the Best of Bryan Photo Contest were congratulated.

## **6. HEAR CITIZENS**

Mr. Larry Finch, 2201 Yellowstone Drive, spoke about police officers wearing body cameras. Ms. Helen Washington, 2300 Wilkes Street, listed some code violations she asked to be addressed. Mr. Norris Pritchard, 1809 Beck Street, spoke about public transportation options in the community. Dr. Barret Lyne, 18075 FM 974, spoke in support of agenda item 10 e. Mr. Donald Ball, 601 Woodson, spoke in opposition to agenda item 10 d. The following individuals spoke in opposition to agenda item 8 d and voiced support to changes in the notification and appeal regulations in the zoning ordinance: Mr. William Kuykendall, 1205 Sul Ross Drive; Mr. Robert Stipanovic, 1103 Esther Boulevard; Mr. Lloyd Joyce, 3924 Park Meadow; Mr. Trey Matus and Mr. Obed Matus, 3408 Old Hearne Road; Mrs. Doris Emshoff, 2314 Bristol Street; Ms. Anita Ramay, 508 East Pease; Mr. Conrad Dudek, 2301 Oxford Street; Ms. Jean Madson, 2613 Leila Court; Ms. Bonnie Nuche, 2615 Leila Court; and Dr. Peter Witt, 1604 Carter Creek Parkway.

## **7. REZONING REQUEST (RZ14-22)**

### **a. Public Hearing – Rezoning Request (RZ14-22)**

The Mayor called for public comments regarding an ordinance to amend Chapter 130, Zoning, of the City of Bryan Code of Ordinances to change the zoning classification from Agricultural-Open District (A-O) to Commercial District (C-3) on 0.519 acres of land adjoining the northwest side of West State Highway 21, north from its intersection with Carver Street, being a part of Lot 6 in the Park Heights Addition and currently addressed as 2210 West State Highway 21 in Bryan, Brazos County, Texas. The public hearing closed at 7:15 p.m. with no comments.

### **b. First Reading of an Ordinance – Rezoning Request (RZ14-22)**

Councilmember Owens moved to approve the first reading of an ordinance of the City of Bryan, Texas, to amend Chapter 130, Zoning, of the City of Bryan Code of Ordinances to change the zoning classification from Agricultural-Open District (A-O) to Commercial District (C-3) on 0.519 acres of land adjoining the northwest side of West State Highway 21, north from its intersection with Carver Street, being a part of Lot 6 in the Park Heights Addition and currently addressed as 2210 West State Highway 21 in Bryan, Brazos County, Texas. The motion was seconded by Councilmember Konderla and carried unanimously after staff answered questions.

## **8. CONSENT (AUTOMATIC APPROVAL) AGENDA**

It was announced agenda item 8 d would be removed from the consent agenda for separate consideration. Councilmember Peña made a motion to approve the remainder of the consent agenda. The motion was seconded by Councilmember Southerland and carried unanimously.

### **a. Approval of Minutes – Workshop and Regular Meetings of January 27, 2015**

### **b. Consideration – 2015 Legislative Plan**

Consider approving the City of Bryan’s 2015 Legislative Plan.

**c. Consideration – Memorandum of Understanding for Sewer Line Easements**

Consider approving a memorandum of understanding with Maria C. Ruiz for the acquisition of sewer line easements in exchange for the payoff of a demolition lien and interest of \$34,993.77, payoff of taxes due on the property of \$11,516.35, and compensation for the removal and relocation of structures on the property for \$10,000, for a total not to exceed amount of \$56,510.12. Source of Funds: Wastewater Budget.

**e. Second and Final Reading of an Ordinance – Amending Chapter 98 of the Bryan City Code of Ordinances**

Second and final reading of Ordinance No. 2085 of the City of Bryan, Texas, amending Sections 98-121 and 98-122 of Chapter 98 of the Bryan City Code of Ordinances; transferring authority to hear and act upon appeals of interpretations of and variances denied under the requirements of Chapter 98 (Signs) of the Bryan City Code of Ordinances from the Board of Sign Control and Appeals to the Zoning Board of Adjustment.

**f. Second and Final Reading of an Ordinance - Amending Chapter 50 of the Bryan City Code of Ordinances**

Second and final reading of Ordinance No. 2086 of the City of Bryan, Texas, amending Chapter 50 of the Bryan City Code, “ Health and Sanitation,” Article II, “Food Service Establishments”, Section 50-23 and 50-24, requiring closure by food establishments operating without a permit and the payment of re-inspection fees; providing procedures for the suspension and revocation of food establishment permit to include a hearing process upon the revocation of a food establishment permit and reapplication procedures to include payment of required fees and an opening compliance inspection; establishing the failure to pay required fees as grounds for a permit suspension; repealing all ordinances or parts of ordinances in conflict therewith; providing a savings clause; providing a severability clause; providing for codification; finding and determining that the meetings at which the ordinance is passed are open to the public as required by law; and providing for an effective date.

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

**d. Consideration – Receive a Recommendation from Planning and Zoning Commission Regarding Requested Changes to the Zoning Ordinance**

Deputy City Manager Joey Dunn read the summary of the recommendation from the Planning and Zoning Commission regarding proposed amendments to Chapter 130, Zoning, of the City of Bryan Code of Ordinances, concerning the appeal process, notification requirements and administrative procedures for conditional use permits and changes and amendments to the zoning ordinance. It was stated the Commission voted to not recommend the changes. It was explained this agenda item did not require Council action or approval, but allowed the Council to simply receive the report and recommendation from the Planning and Zoning Commission. Council was advised it could initiate a text amendment to the zoning ordinance.

**9. STATUTORY AGENDA**

Councilmember Konderla made a motion to approve the statutory agenda. The motion was seconded by Councilmember Owens and carried unanimously.

**a. Consideration – Contract for Miscellaneous Collection Line Rehabilitations**

Consider approving a construction contract for the 2014 Miscellaneous Collection Line Rehabilitations project to T Construction, LLC, in an amount not to exceed \$547,926.90. Source of Funds: Sewer Operating Funds.

**b. Consideration – Contract to Remove Spoil Material**

Consider approving a contract to remove spoil material from the Municipal Service Center, located at 1111 Waco Street, to Brazos Site Works in an amount not to exceed \$150,000. Source of Funds: Transportation, Water and Wastewater Operating Budgets.

**c. First Reading of an Ordinance – Fiscal Year 2015 Budget Amendment No. 1**

First reading of an ordinance of the City of Bryan, Texas, amending Ordinance No. 2063, increasing expenditure appropriations for Fiscal Year 2015 from \$379,699,397 to \$389,551,576.

**10. REGULAR AGENDA**

**a. Consideration of Councilmember Submitted Item – Scurry Park**

Councilmember Peña moved to direct the City staff to proceed with a project for the procurement of land, and the design, construction, and funding for the addition of as many parking places to Scurry Park along Madison Street that are feasible utilizing the available surrounding property, and adding at least two trash receptacles to accommodate the trash generated by park patrons. The motion was seconded by Councilmember Saenz. It was stated parking along Wellington Street and a lack of trash receptacles were problems at the park. It was also stated the Police Department needed to enforce the juvenile curfew in Scurry Park. Deputy City Manager Hugh Walker showed where the City had considered adding up to 24 parking spaces in two different areas at an estimated cost of \$65,000. It was reported an earlier neighborhood survey indicated two residents were opposed to adding parking spaces in the area. It was opined that having 100 percent resident agreement was too restrictive. It was suggested the staff perform a door to door survey to determine residents' wishes. After a lengthy discussion, Councilmember Peña withdrew his motion and then moved to add the rectangular parking area with 13 spaces on Madison Street, which does not require acquisition of land, and to add two trash receptacles to address neighborhood concerns. The motion was seconded by Councilmember Konderla. The motion carried with six yeses and one no (Councilmember Hughes).

**b. Consideration of Councilmember Submitted Item – Public Transportation in Bryan**

Councilmember Southerland moved to direct the City Manager to coordinate with Brazos Transit and the Texas A&M University bus system to improve public transportation in Bryan, said improvement to include regularly scheduled bus routes to provide service during week days until 10:00 p.m. and on weekends from 8:00 a.m. to 8:00 p.m.; and the City Manager should provide an update report by the first regular Council meeting in March 2015 and a final recommendation by the first meeting in April 2015. The motion was seconded by Councilmember Peña. Discussion followed about public transportation needs. Mr. Register expressed concern about potential costs. It was pointed out individuals possessing a Brazos Transit identification card could utilize the university bus system. It was suggested a representative from Brazos Transit be invited to present information at a future Council meeting. It was stated the agenda item was

meant for the City Manager to gather information and report back to the Council. After discussion, the motion carried unanimously.

**c. Consideration of Councilmember Submitted Item – Ordinance Committee**

It was reported the City Attorney had provided legal advice about this agenda item in closed session, and that the City had implemented a policy and procedures regarding Charter amendment implementation before Councilmember Southerland was sworn into office. The implementation was based upon the advice of expert outside legal counsel and the City's own attorneys. Councilmember Southerland moved to establish a Council committee to develop an ordinance for Council review to implement the three Charter amendments passed by the citizens in the November 4, 2014, election; this committee should be composed of Councilmembers Mike Southerland, the amendments writer, Rafael Peña, developer and circulator, and Al Saenz, developer and circulator; with staff support to be provided by the City Auditor's Office. The motion was seconded by Councilmember Peña. The City Attorney explained that all necessary documents and forms used by the City had been modified and included required language to implement the Charter amendments as they were written. It was added the City had to be ready to implement the Charter amendments upon election canvass conducted on November 18, 2014. It was opined that different individuals could interpret the Charter amendment language differently. It was also opined that the City should adhere to the advice of legal counsel. A desire was expressed that the Charter amendments not be over reaching and infringe on individuals' rights. The City Attorney advised it was not the language drafter and circulators who adopted the Charter amendments and made them law, it was the voters. She explained that when a voter enters a voting booth, they read the language on the ballot and do not have someone in the voting booth with them, advising as to what they intended the language to mean. It was also pointed out the City published an educational piece based on the attorneys' interpretations which was vetted by the Council before publication. The City Attorney advised the Council could adopt a resolution implementing a policy about this issue. After discussion, the motion failed to carry with three yeases (Councilmembers Saenz, Peña and Southerland) and four noes (Mayor Bienski and Councilmembers Owens, Hughes and Konderla).

**d. Resolution – Brazos Central Appraisal District Purchase of New Office Building**

This item was not considered at the request of the Brazos Central Appraisal District Board of Directors.

**e. First Reading of an Ordinance – Council Water Committee**

Councilmember Southerland made a motion to approve the first reading of an ordinance of the City of Bryan, Texas, amending Chapter 2, "Administration", Article II, "City Council", by adding section 2-36, "Standing Council Committees", Subsection (1) "Council Water Committee"; creating a standing Council committee to act in an advisory capacity to the full City Council on water and wastewater utility matters, to be called the "Council Water Committee"; providing for the duties and responsibilities of the committee, rules of procedure, reporting, posting requirements and appointment of members. The motion was seconded by Councilmember Peña. Questions were posed as to this committee's duties and possible impact on the Brazos Valley Groundwater Conservation Board's functions. It was also stated the Council would approve work assignments for the Committee. After discussion, the motion carried with six yeases and one no (Councilmember Owens).

## **11. COUNCIL COMMITTEE REPORTS**

Councilmember Saenz presented a report on a recent meeting of the City of Bryan/Bryan ISD Joint Committee and Councilmember Owens reported on a recent meeting of the Metropolitan Planning Organization Policy Committee.

## **12. CITY MANAGER REPORT**

Mr. Register provided a report on various capital improvement projects.

## **13. ITEMS OF COMMUNITY INTEREST**

Councilmembers listed the following items of community interest: the Big Event, town hall meeting, Lunar New Year Celebration in downtown Bryan, Economic Outlook Conference, St. Joseph School's 120<sup>th</sup> anniversary, etc. Staff was thanked for picking up tires dumped at the end of Muckleroy Street. Citizens were thanked for attending and participating in the meeting. Councilmember Peña was wished a happy birthday and was congratulated on the upcoming birth of his first child. Catherine Hejl was again congratulated upon her retirement from the Texas Department of Transportation. Dr. Barfknecht was commended on his job performance. Excitement was expressed about Sadie Thomas Pool being rebuilt. New businesses were welcomed to Bryan. The Best of Bryan Photo Contest winners were again congratulated. Council also congratulated the Jane Long Lobos seventh grade basketball team members on their 12-0 season. Texas A&M University's new president, Dr. Michael Young, was welcomed to the community.

At 8:52 p.m., the meeting was called back into executive session in accordance with Section 551, Texas Government Code, to discuss under the authority of Section 551.071, consultation with attorney – receive legal advice regarding Council ethics policy and complaint procedure, and receive legal advice regarding sufficiency of complaints received under Resolution No. 3478, Ethics and Conduct for Elected and Appointed Officials; 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 Council self-evaluation; 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.

The meeting was called into open session at 10:45 p.m. in the Council Chambers. No action was taken regarding the items discussed in executive session.

## **14. ADJOURN**

Without objection, the meeting was adjourned at 10:46 p.m.

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City Secretary Mary Lynne Stratta

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Mayor Jason P. Bienski