

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

A regular meeting of the Bryan City Council was held on Tuesday, March 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, First Assistant City Attorney Lauren Crawford and City Secretary Mary Lynne Stratta.

1. CALL TO ORDER

The meeting was called to order at 4:39 p.m.

2. EXECUTIVE SESSION

The meeting was called into executive session at 4:40 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 pending EEOC complaint and related communications, receive legal advice regarding proposed amendment to biocorridor interlocal agreement, receive legal advice regarding matters related to municipal setting designation certification and implementation; 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, Council self-evaluation, and discussion regarding appointment and employment of Presiding Municipal Court Judge and Associate Municipal Court Judge; 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 Texas Triangle Park.

3. OPEN SESSION FOR ACTION FOLLOWING EXECUTIVE SESSION

The meeting was called into open session at 5:12 p.m. and immediately recessed with the announcement the meeting would be reconvened in the same location in a few minutes. No action was taken. The meeting was reconvened in open session at 5:14 p.m. in the same location and the Council went into executive session under the same provisions of Section 551, Texas Government Code, as listed in agenda item 2 above. The meeting was called into open session at 6:14 p.m. Councilmember Owens made a motion that The Honorable Albert Navarro be appointed and employed as the Presiding Municipal Court Judge of the Bryan Municipal Court of Record effective June 1, 2015, and that The Honorable Latham Boone III be appointed as an Associate Municipal Court Judge, effective June 1, 2015; and further directed that staff prepare an ordinance for Council consideration at the next meeting accordingly. The motion was seconded by Councilmember Konderla and carried unanimously.

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

Minister Gregory Jones, Bryan Church of Christ, gave the invocation and Cub Scout Pack 802 led the pledges.

5. PROCLAMATIONS AND PRESENTATIONS

The Allen Academy football team was recognized for winning the Texas Christian Athletic League Championship. Fire Chief Randy McGregor was congratulated on being named as the Texas Fire Chief of the Year.

6. HEAR CITIZENS

Ms. Rebecca Martinez, 1007 East 28th Street; Mr. Jeff Garcia, 6013 Waldham Grove; Ms. Janie Velasquez, 5033 Cole, College Station; Mr. Ronnie Gipson, 3402 Mustang Lane, College Station; and Dr. Linda Parrish, 2604 Faulkner Drive, College Station, spoke in support of agenda item 9 a. Dr. Peter Witt, 1604 Carter Creek; Mr. Lloyd Joyce, 3924 Park Meadow; Mr. Roger Smith, 2405 Kent Street; and Ms. Anita Ramay, 508 East Pease, spoke in support of agenda item 9 c. Mr. Randy French, 4090 State Highway 6, College Station; Mr. Grant Carrabba, 3914 Esquire; and Mr. John Clark, 504 Crescent, spoke in opposition to agenda item 9 c. Mr. Sarfraz Maredia, Uber General Manager, Houston, Texas, and Mr. Craig Chick, Uber consultant, 823 Congress, Austin, Texas, asked for three modifications to agenda item 8 d. Mr. N. Jay Pritchard, 1809 Beck Street, and Mr. Bryce Durgin, 400 Nagle, College Station, expressed the need for additional public transportation routes in the community.

7. CONSENT (AUTOMATIC APPROVAL) AGENDA

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

a. Approval of Minutes – Workshop and Regular Meetings of February 10, 2015, and Workshop and Regular Meetings of February 24, 2015

b. Consideration – Contract for Yosemite Drive Drainage Improvements

Consider approving a contract for Yosemite Drive drainage improvements to Quality Construction & Transporters in an amount not to exceed \$74,297.98. Source of Funds: Drainage Fee Fund.

c. Consideration – Payment to Wellborn Special Utility District

Considering approving a payment to Wellborn Special Utility District for water transaction to City of Bryan customers acquired through a Certificate of Convenience and Necessity in an amount not to exceed \$115,000. Source of Funds: Water Operating Fund.

d. Resolution – Support of TAMU Hosting 2016 Presidential or Vice Presidential Debate

Adoption of Resolution No. 3593 of the City Council of the City of Bryan expressing support of a proposal to be submitted by Texas A&M University to host a 2016 Presidential or Vice Presidential debate; expressing the City of Bryan's willingness to provide support services to the University for such an event, especially as related to police and fire personnel.

8. STATUTORY AGENDA

It was announced agenda item 8 d would be considered separately from the statutory agenda. Councilmember Konderla made a motion to approve the remainder of the statutory agenda. The motion was seconded by Councilmember Peña and carried unanimously.

a. Consideration – Contract for Design of Highway 6 Well Collection Line

Consider approving a professional services contract for the design of the Highway 6 Well Collection line to Goodwin-Lasiter-Strong in an amount not to exceed \$219,065. Source of Funds: Water Operating Funds.

b. Consideration – Contract Amendment for Bonham Detention Pond Design

Consider approving a contract amendment for alternative detention analysis of the Bonham Detention Pond Design, part of the Old Hearne Road Reconstruction Project, with Freese and Nichols in an amount not to exceed \$10,500. Source of Funds: 2010 Certificates of Obligation.

c. Consideration – Contract Amendment-Old Hearne Road Reconstruction Project

Consider approving a contract amendment with Jones & Carter, Inc., for the additional survey and design work to include Missouri Avenue pavement rehabilitation and water line replacement and coordination with Bryan Texas Utilities for electrical conduit and street light foundation locations in an amount not to exceed \$46,000. Source of Funds: 2010 Certificates of Obligation.

e. First Reading of an Ordinance – Bryan Texas Utilities Deposit Ordinance

First reading of an ordinance of the City of Bryan repealing Ordinance No. 1952, establishing and providing for electric and water deposit requirements, deposit amounts, exemptions, types of deposits, refund of deposits, electric meter testing, service fees, and discontinuance and reconnection of service.

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

d. First Reading of an Ordinance - Amendments to Chapter 126 “Vehicles for Hire”

Mayor Bienski moved to postpone consideration of an ordinance of the City of Bryan amending Chapter 126 “Vehicles for Hire” of the Code of Ordinances, City of Bryan, Texas by revising Article II “Horse-Drawn Carriages”, revising Article III “Taxicabs”, and adding Division 5, “Transportation Network Companies” and revising Article V “Pedicabs”, until after the State legislative session since state-wide bills had been filed that would preempt city ordinances. The motion was seconded by Councilmember Konderla and carried unanimously.

9. REGULAR AGENDA

a. Consideration – Senior Advisory Committee

Councilmember Peña moved to direct staff to write an ordinance to establish a Senior Advisory Committee to advise the Bryan City Council on programs and activities for older adults. Members should be Bryan residents age 55 plus and appointed by the Bryan City Council to serve

two-year terms. The committee should meet once per month at a location provided by the City Manager. The staff result should be placed on the agenda of the first regularly scheduled meeting in April 2015. The motion was seconded by Councilmember Southerland. It was reported College Station had such a committee that reported to the College Station Parks Board. Concern was expressed that members of the Council not be appointed to a Bryan senior committee and that the committee report to the City Manager or his designee. It was also requested the committee be open to individuals age 55 and above, versus the wording of the agenda item, which would require a member to be 56. It was suggested Councilmembers submit suggestions about the proposed committee's purpose, composition, etc. Councilmember Southerland moved to amend the motion to bring suggestions forward at the workshop meeting on March 24. The motion was seconded by Councilmember Peña. After discussion, the motion to amend was rescinded. Councilmember Hughes then moved to amend the main motion that the City Manager would schedule discussion of suggestions at the first available workshop meeting. The motion was seconded by Councilmember Owens. It was requested a representative of College Station and the Brazos Valley Area Agency on Aging be present at the workshop. Concern was expressed that a deadline was necessary. After discussion, the motion to amend carried unanimously and the main motion as amended carried unanimously.

b. Consideration – Wastewater

Councilmember Southerland moved to direct the City Manager to develop a plan and procedure to sell effluent from the City of Bryan wastewater treatment plants at the best price by the second regularly scheduled meeting in April 2015. The motion was seconded by Councilmember Peña. It was reported the City currently had the option to sell wastewater. Director of Public Works Jayson Barfknecht advised the City held a bed and banks permit that could be used to convey water downstream. He advised he could research various options available to the City. He also advised a customer on the east side of Bryan was interested in using treated wastewater but the \$2 million cost of a pipeline to convey the water to his property was cost prohibitive. It was stated it was acceptable for Dr. Barfknecht to report back to Council as to options and recommendations relative to the sale of effluent. The motion carried with six yeses and one no (Councilmember Konderla).

c. Consideration - Council Initiation of Zoning Text Amendments

Councilmember Owens moved to deny a request that the City Council initiate the proposed zoning text amendments set forth below, by making the required finding that a public benefit will be derived from the consideration of the proposed text amendments to *Chapter 130, Zoning*, of the *City of Bryan Code of Ordinances*, (“the Zoning Ordinance”), and upon such finding, directing the city staff to prepare an ordinance encompassing the proposed zoning text amendments, which shall be forwarded to the Planning and Zoning Commission for a public hearing and recommendation to the City Council.

A. Proposed Amendments to Section 130-42. - Changes and amendments to zoning ordinance, districts and administrative procedures.”

1. It is proposed that Section 130-42 be amended to require an initial written notification of a requested zoning change be sent to property owners or the person(s) rendering payment for the same for city taxes, utility account holders as shown in the city's utility records, and all registered neighborhood associations located within 500 feet of the property to be affected thereby, within 14 days of a rezoning application submittal. The notice shall include the

applicant's contact information, descriptions of the existing and proposed zoning, and planning department staff contact information.”

2. It is proposed that the written notification requirements set forth in Section 130-42(e) for all public hearings of the planning and zoning commission regarding a proposed zoning district boundary change be amended so as to enlarge the required notification area from “within 200 feet” to “within 500 feet” of any property affected thereby, and to require the additional notification recipients as follows:

"Written notice of all public hearings on proposed changes in district boundaries shall be sent to all property owners or to the person(s) rendering *payment for the same* for city taxes, utility account holders as shown in the city utility records, and registered neighborhood associations located within the area of application and within ~~200~~ 500 feet of any property affected thereby..."

3. It is proposed that Section 130-42(e) be further amended to require the written notice of the public hearing before the planning and zoning commission regarding a proposed zoning district boundary change be sent to the required recipients 15 calendar days before the public hearing, rather than the current 10 calendar days.
4. It is proposed that Section 130-42(i)(4)(b) shall be amended so as to increase from 200 ft. to 500 ft. the area adjoining the area covered by the proposed zoning change, from which the twenty (20) percent requirement of subsection 4 (b) may be calculated for the purposes of filing a protest, as set forth below:

Section 130-42(i). City council consideration:

(4) Three-fourths vote. In the event a protest to a proposed change to a zoning regulation or district boundary is filed with the city secretary, duly signed and acknowledged by the owners of either:

(a) Twenty percent or more of the area of the lots or land covered by the proposed change; or

(b) “By twenty percent or more of the area of the lots or land immediately adjoining the area covered by the proposed change and extending ~~200~~ 500 feet from such area, such amendments shall not become effective except by affirmative vote of three fourths of the city council.”

B. Proposed Amendments to Section 130-33 – Conditional use permits.

1. It is proposed that Section 130-33 be amended to require an initial written notification of a conditional use permit application be sent to property owners or the person(s) rendering payment for the same for city taxes, utility account holders as shown in the city’s utility records, and all registered neighborhood associations located within 500 feet of the property to be affected thereby, within 14 days of a conditional use permit application submittal. The notice shall include the applicant's contact information, descriptions of permitted and conditional uses under the existing zoning, and the conditional use requested, and the planning department staff contact information.”
2. It is proposed that Section 130-33 (b) “Authority”, be amended to expand the required recipients and area of notification of public hearings before the planning and zoning

commission on a conditional use permit application from the existing requirement that it be sent to all “landowners within 200 feet of the subject property” to “all property owners or the person(s) rendering payment for the same for city taxes, utility account holders as shown in the city utility records, and all registered neighborhood associations located within 500 feet of the subject property .”

3. It is proposed that Section 130 -33(f) “Appeal to the City Council” be amended so as to enlarge the prescribed area in which owners of property may appeal the approval or denial of a conditional use permit, from “within 200 feet of the subject property” to “within 500 feet” of the subject property, as set forth below.

“Approval or denial of an application for a conditional use permit, may be appealed to the city council by the applicant for the permit or any owner of property located within ~~200~~ 500 feet of the subject property.”

4. It is proposed that Section 130 -33(f) “Appeal to the City Council” be amended so as to increase the time period for the applicant and property owners located within the prescribed area to file an appeal from ten calendar days after the planning and zoning commission decision to 15 calendar days after the planning and zoning commission decision, as set forth below:

“Written notice of appeal specifying the grounds for the appeal must be delivered to planning services within ~~ten~~ fifteen calendar days after the date of the planning and zoning commission’s decision.”

5. It is proposed that Section 130-33(f) “Appeal to the City Council” be amended by adding a new subsection providing requirements for a supermajority vote of the city council on a conditional use permit appeal under certain defined circumstances, to read as follows:

Supermajority Vote.

(a) “A vote of 3/4 of all of the members of the city council is required to reverse a decision of the planning and zoning commission denying a conditional use permit.”

(b) “Should 20% of the landowners located within 500 feet of the subject property file a written protest within 15 calendar days of the decision of the planning and zoning commission approving a conditional use permit, the protest shall be processed as an appeal and an affirmative vote of ¾ of all of the members of the city council is required to uphold the decision of the planning and zoning commission approving the conditional use permit. The failure of the applicant to obtain an affirmative ¾ vote of all of the members of the city council to uphold the planning and zoning commission’s approval of a conditional use permit shall result in a reversal of the decision of the planning and zoning commission and the permit shall be denied.”

- C. Notifications. It is proposed that a section be added to the zoning ordinance providing that all required written notifications shall be on 8.5 x 11 inch paper and mailed in a standard legal size envelope.

The motion was seconded by Councilmember Hughes. Concern was expressed this proposal would negate the function of the Planning and Zoning Commission and that a majority vote of Council on these issues had worked well since 1989; and that under the proposal, two members of the Council could deny any of the issues coming before the Council. It was suggested the pending update to the Comprehensive Plan may address some of these issues. Discussion followed about balancing neighborhood concerns with property rights, development rights, etc. It was opined extending the protest area to 500 feet was a major change. After discussion the motion to deny carried with four yeses (Mayor Bienski and Councilmembers Owens, Hughes and Konderla) and three noes (Councilmembers Saenz, Peña and Southerland).

10. COUNCIL COMMITTEE REPORTS

Councilmember Peña provided a report on a recent City of Bryan/Bryan ISD Joint Committee meeting and Councilmember Hughes reported on a recent BTU Board meeting.

11. CITY MANAGER REPORT

Mr. Register did not provide a report.

12. ITEMS OF COMMUNITY INTEREST

Councilmembers listed the following items of community interest: Bryan Animal Center's excellent report from an unannounced State inspection, Voices for Children annual banquet, First Friday in downtown Bryan, town hall meetings, West 28th Street improvements, Habitat for Humanity dedications, Rudder High School girls basketball team success, Allen Academy championship, Texas Reds Festival, etc. Condolences were expressed at the passing of Craig Browne, a long time Bryan resident. Kudos were extended to the Information Technology and Water Department employees for their efforts. Chief McGregor was again congratulated on his recent honor.

At 8:40 p.m., the meeting was reconvened in executive session 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 proposed amendment to biocorridor interlocal agreement; 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 – 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 Texas Triangle Park.

The meeting was called into open session at 9:15 p.m. No action was taken regarding the items discussed in executive session.

13. ADJOURN

Without objection, the meeting adjourned at 9:15 p.m.