

**BRYAN CITY COUNCIL  
MINUTES OF REGULAR MEETING  
APRIL 14, 2015**

A regular meeting of the Bryan City Council was held on Tuesday, April 14, 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, Art Hughes, Mike Southerland and Chuck Konderla were present. Councilmember Greg Owens was absent. City Manager Kean Register, City Attorney Janis Hampton and City Secretary Mary Lynne Stratta were in attendance.

**1. CALL TO ORDER**

The meeting was called to order at 4:12 p.m.

**2. EXECUTIVE SESSION**

The meeting was called into executive session at 4:13 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 statutory annexation requirements, receive legal advice regarding constitutional issues relative to signage in public rights-of-way and on public property, receive legal advice regarding matters related to municipal setting designation certification and implementation, receive legal advice regarding hangar leases at Coulter Airfield, receive legal advice regarding skate park design and build contract; 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, and Council self-evaluation; 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 6:07 p.m. No action was taken regarding the items discussed in executive session.

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

Pastor Kenneth Hall, Fairview Baptist Church, gave the invocation and Brownie Troop #9014 led the pledges.

**5. HEAR CITIZENS**

Mrs. Dorothy Hernandez, 1300 Glade, College Station, spoke in support of agenda item 11 c.

## **6. FIRST PUBLIC HEARING – OWNER-REQUESTED ANNEXATION (ANNEX 15-01)**

Mayor Bienski called for public comment regarding a petition of an area landowner requesting annexation of 2.032 acres of vacant land out of Maria Kegans Survey, Abstract No. 28, adjoining the southeast side of Elmo Weedon Road approximately 825 feet to 1,050 feet north from its intersection with State Highway 30/F.M. 158 in Brazos County, Texas. (*PRIMERA AUDIENCIA PUBLICA – ANEXIÓN PEDIDA POR DUEÑOS - Recibir comentario público con respecto a una petición de un dueño del área buscando la anexión de 2.032 acres de terreno vacante del Maria Kegan Survey, Abstract No. 28 contiguo al lado sureste del camino Elmo Weedon aproximadamente 825 a 1,050 pies al norte desde su intersección con la carretera estatal 30/F.M. 158 dentro el condado de Brazos, Texas.*) No one spoke regarding this agenda item. The public hearing closed at 6:16 p.m.

## **7. HEALTH AND WELLNESS AREA PLAN**

### **a. Public Hearing – Bryan Health and Wellness Area Plan**

Mayor Bienski called for public comment regarding a resolution of the City Council of the City of Bryan adopting the Bryan Health and Wellness Area Plan. Mr. Tim Ottinger, St. Joseph Health System, spoke in support of this agenda item and about the components of the plan. No other citizens spoke and the public hearing closed at 6:19 p.m.

### **b. Resolution – Bryan Health and Wellness Area Plan**

Mayor Bienski moved adoption of Resolution No. 3596 of the City Council of the City of Bryan adopting the Bryan Health and Wellness Area Plan. The motion was seconded by Councilmember Southerland. Concern was expressed that people's property rights be respected and it was commented that property values in the area would probably increase. The motion carried with all present voting aye.

## **8. REZONING (RZ14-16)**

### **a. Public Hearing – Rezoning Request (RZ14-16)**

Mayor Bienski called for public comment regarding an ordinance of the City Council of the City of Bryan to amend Chapter 130, Zoning, of the City of Bryan Code of Ordinances, by changing the zoning classification from Residential District-5000 (RD-5) to Planned Development-Business District (PD-B), subject to development requirements specified herein, on 0.844 acres of land out of the Stephen F. Austin League No. 9, A-62, adjoining the north side of West 28<sup>th</sup> Street between Thompson Street and Graham Drive, and currently addressed as 1520 West 28<sup>th</sup> Street in Bryan, Brazos County, Texas. Mr. Joe Schultz, the engineer and agent representing the land owner, was present to answer any questions. Councilmember Southerland moved to suspend the rules to allow the Councilmembers to ask questions. The motion was seconded by Councilmember Peña and carried with all present voting aye. Mr. Schultz answered questions for the Council. There were no other comments and the public hearing closed at 6:26 p.m.

### **b. First Reading of Ordinance- Rezoning Request (RZ14-16)**

Councilmember Peña moved to approve the first reading of an ordinance of the City Council of the City of Bryan to amend Chapter 130, Zoning, of the City of Bryan Code of Ordinances, by changing the zoning classification from Residential District-5000 (RD-5) to Planned Development-Business District (PD-B), subject to development requirements specified herein, on

0.844 acres of land out of the Stephen F. Austin League No. 9, A-62, adjoining the north side of West 28<sup>th</sup> Street between Thompson Street and Graham Drive, and currently addressed as 1520 West 28<sup>th</sup> Street in Bryan, Brazos County, Texas. The motion was seconded by Councilmember Konderla and carried unanimously.

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

It was announced agenda item 9 c would be considered separately at the request of two Councilmembers. Councilmember Peña moved to approve the remainder of the consent agenda. The motion was seconded by Councilmember Southerland and carried with all present voting aye.

- a. Approval of Minutes** – Workshop and Regular Meetings of March 10, 2015, Special Meeting of March 13, 2015, and Workshop and Regular Meetings of March 24, 2015

- b. Consideration – Brazos Valley Recycling Waste Haulers Permit**

Consider approving a renewal agreement to permit Brazos Valley Recycling to conduct commercial roll-off and compactor services along with the collection of organic and non-organic recyclables from commercial and residential customers within the city of Bryan.

- d. Second and Final Reading of an Ordinance – Appointment of Municipal Court Judges**

Second and final reading of Ordinance No. 2090 of the City Council of the City of Bryan appointing a presiding municipal court judge and an associate municipal court judge effective June 1, 2015, for the Bryan Municipal Court of Record and setting length of term of appointment.

- e. Second and Final Reading of an Ordinance – Amending Chapter 122 “Utilities”, Section 122-231 “Industrial Discharge Limits”**

Second and final reading of Ordinance No. 2091 of the City Council of the City of Bryan amending Section 122-231, “Industrial Discharge Limits” of Chapter 122, Utilities, Article IV, Division 5, of the City of Bryan Code of Ordinances, replacing pollution discharge concentrations for Plant No. 2, Still Creek Wastewater Treatment Plant.

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

- c. Consideration – 2015 Texas Reds Steak and Grape Festival Funding Agreement**

Mayor Bienski moved to approve an agreement between the City of Bryan and the Downtown Bryan Association (DBA) for the City of Bryan to provide funding for expenses and support services associated with the 2015 Texas Reds Steak and Grape Festival to be held in Downtown Bryan September 26-27, 2015, in an amount not to exceed \$110,000 (Source of Funds: Fiscal Year 2015 Hotel Occupancy Tax Funds, General Fund and Enterprise Funds for certain in-kind City services). The motion was seconded by Councilmember Konderla. Discussion followed about the history of funding provided to DBA for the conduct of Texas Reds. Councilmember Saenz moved to suspend the rules to allow DBA Executive Director Sandy Farris to answer questions. Councilmember Southerland seconded the motion, which carried with all present voting aye. Mrs. Farris explained the source of \$5,000 and \$2,000 grants DBA had received for the event. Concern was expressed about the amount of dollars being provided to DBA for the event relative to the number of attendees. Concern also was expressed that other events and festivals were not receiving the same amount of support from the City. Mrs. Farris stated DBA

promotes downtown Bryan year round. She said that Texas Reds is supported by hotel occupancy taxes because it promotes tourism. She added feedback from festival goers and Councilmembers resulted in a planned increase of \$75,000 in expenses for the 2015 festival, however, she said the projected loss for 2015 is \$20,000. It was pointed out Texas Reds from its inception was the City's signature event to promote and showcase Bryan. City Attorney Hampton clarified the State law regarding use of hotel occupancy taxes. It was opined that Texas Reds funding was an investment in the arts. The desire to break even or make money on future Texas Reds festivals was expressed. It was also stated the City invests in several quality of life programs, facilities and events that do not make money. Councilmember Peña moved to extend the limits of debate to allow each Councilmember an additional time to speak on the motion. The motion was seconded by Councilmember Saenz but failed to carry with a vote of three yeses (Councilmembers Saenz, Peña and Southerland), three noes (Mayor Bienski and Councilmembers Hughes and Konderla) and one absent (Councilmember Owens). The main motion carried with four yeses (Mayor Bienski and Councilmembers Saenz, Hughes and Konderla), two noes (Councilmembers Peña and Southerland) and one absent (Councilmember Owens).

## **10. STATUTORY AGENDA**

Agenda items 10 c and 10 f were removed from the statutory agenda for separate consideration at the request of two Councilmembers. Councilmember Konderla made a motion to approve the remainder of the statutory agenda. The motion was seconded by Councilmember Hughes and carried with all present voting aye.

### **a. Consideration – Donation Agreement - 719 Fairview**

Consider approval of a donation agreement to accept the donation of a foreclosed property and grant funds to demolish or rehabilitate the vacated structure located at 719 Fairview from Wells Fargo Bank. Funding Source: Proceeds from donation or Community Development Block Grant Fiscal Year 2015 Budget.

### **b. Consideration – Upgrades to Council Chambers Technology**

Consider approval of a contract with Data Projections, Inc., for upgrades of the Council Chambers technology to refresh and enhance audio and video components and improve the functionality of the system in an amount not exceed \$152,975.94. Source of Funds: Public, Education, Governmental (PEG) Fund.

### **d. Consideration – Assign Interest for Oil and Gas Lease**

Consider authorizing the Mayor to sign a consent to assign interest document for Anadarko E&P Onshore LLC, concerning an oil and gas lease dated July 31, 1990, between the City of Bryan and Coastal Management Corporation.

### **e. Resolution – Support of Application for Vote Centers**

Adoption of Resolution No. 3597 of the City Council of the City of Bryan indicating its support of Brazos County's application to the Texas Secretary of State to establish election day county-wide polling places, or vote centers, in lieu of individual precinct polling places for all future elections. Funding Source: City Secretary Election Budget.

### **g. Resolution – Amending Single Family Housing Home Builders Incentive Program**

Adoption of Resolution No. 3598 of the City Council of the City of Bryan repealing Resolution No. 3540; approving an amended program under Texas Local Government Code Chapter 380 to provide economic incentives to encourage new home construction; and authorizing the City Manager to enter into agreements to provide incentives to qualified new home builders.

**h. Resolution – Parade of Homes Rebate Grant Program**

Adoption of Resolution No. 3599 of the City Council of the City of Bryan establishing a revised program under Texas Local Government Code Chapter 380 to provide economic incentives in the form of a rebate of entry fees for the bi-annual Bryan-College Station Home Builders Association (BCSHBA) Parade of Homes to promote and encourage new home construction within the city of Bryan.

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

**c. Consideration – Sadie Thomas Pool Contract**

Councilmember Peña moved to award a pool design and build contract for a new pool with bath house at the Sadie Thomas Park to Sunbelt Pools, Inc., in an amount not to exceed \$950,000.00 (Source of Funds: General Fund). The motion was seconded by Councilmember Southerland. A comment was shared that the entire City Council had previously directed the staff to move forward with obtaining bids to build a new Sadie Thomas Pool. It was also stated the pool was not expected to make money. The motion carried with all present voting aye.

**f. Resolution – Golf Fees**

Councilmember Bienski moved to adopt Resolution No. 3600 of the City Council of the City of Bryan authorizing the City Manager, or his or her designee, to establish or adjust golf fees; setting maximum fees; allowing for adjustments related to weather conditions, special events, tournament play, promotional campaigns, annual pass discounts, senior/student discounts, and competitive market conditions. The motion was seconded by Councilmember Konderla. Councilmember Southerland moved to amend the main motion to change the golf cart fee per person from \$15 per round to \$12 per round. The motion was seconded by Councilmember Peña. Deputy City Manager Hugh Walker advised the resolution before the Council was not to set the golf cart fees at \$15 currently, but to allow the staff the flexibility to change the cart fees up to \$15 in the future should the market so dictate. After discussion, the motion to amend failed to carry with three yeses (Councilmembers Saenz, Peña and Southerland), three noes (Mayor Bienski and Councilmembers Hughes and Konderla) and one absent (Councilmember Owens). It was pointed out the staff currently had the ability to raise green fees but had not done so. It was stated the staff works closely with golfers on these issues before any decisions were made. The main motion carried with all present voting aye.

**11. REGULAR AGENDA**

**a. Resolution – Lease/Purchase Agreement or Purchase of Golf Cart Fleet**

Councilmember Konderla moved to adopt Resolution No. 3601 of the City Council of the City of Bryan authorizing a lease-purchase agreement between the City of Bryan, PNC Equipment Finance, LLC, and E-Z-GO, a Textron Company, for a new golf cart fleet at the Travis B. Bryan Municipal Golf Course in an amount not to exceed \$226,298.40 or \$56,574.60 per year, which

includes the trade-in value of the current fleet and will include a one-time expenditure of \$26,000 for the related expansion of the golf cart storage pavilion (Source of Funds: General Fund). The motion was seconded by Councilmember Peña. It was clarified the resolution called for a lease-purchase arrangement. After discussion, the motion carried with all present voting aye.

**b. Resolution – Downtown Bryan Association “Save the Queen” Donor Recognition Brick Program**

This item was not discussed or considered.

**c. First Reading of an Ordinance – Bryan Senior Advisory Committee**

Councilmember Peña made a motion to approve the first reading of an ordinance of the City Council of the City of Bryan amending Chapter 2, Article III of the City of Bryan Code of Ordinances by enacting Division 16, “Bryan Senior Advisory Committee”, establishing an advisory committee for senior citizens in the City of Bryan. The motion was seconded by Councilmember Southerland. Mayor Bienski moved to amend the motion to provide that the committee would report to the Parks and Recreation Advisory Board, as in College Station. The motion was seconded by Councilmember Konderla and, after discussion of the merits of the reporting structure, carried with four yeases (Mayor Bienski and Councilmembers Peña, Hughes and Konderla), two noes (Councilmembers Saenz and Southerland) and one absent (Councilmember Owens). The main motion as amended carried with all present voting aye.

**d. Consideration - Ambulance Rates and Write-offs**

Councilmember Southerland moved to direct staff to restudy the ambulance rates and write-offs in light of the “City of Bryan Report of Annual Ambulance Collections and Rates” he submitted, dated December 16, 2014, and the actual billing system; and return the results by the last meeting of May 2015. The motion was seconded by Councilmember Peña. Fire Chief Randy McGregor and Chief Finance Officer Joe Hegwood answered questions regarding ambulance rates and billings. Mr. Register indicated he and Chief McGregor would visit with the billing company to determine what could be done to address customer concerns and adjust billings to reflect payments made by insurance companies, Medicare, Medicaid, etc. Mr. Southerland withdrew his motion with no objection.

**12. COUNCIL COMMITTEE REPORTS**

Councilmember Saenz provided a report on a recent meeting of the Brazos County Board of Health and Councilmember Konderla reported on a recent City of Bryan/Bryan ISD Joint Committee meeting.

**13. CITY MANAGER REPORT**

Mr. Register did not provide a report.

**14. ITEMS OF COMMUNITY INTEREST**

Councilmembers listed the following items of community interest: Dining in the Dark banquet, Vietnam Memorial service, town hall meetings, Public Health Week proclamation, Habitat for Humanity home dedications, Celebrity Golf Classic events, Civil War Memorial dedication, Upper Burton Creek Neighborhood Association meeting, Single Member District Four meeting, etc. Mrs.

Marjorie Morris was wished a happy 90<sup>th</sup> birthday. J.J. and Cherry Ruffino were congratulated for being recognized by the Community Foundation for their philanthropic activities.

At 8:20 p.m., the meeting was called back into executive session to discuss 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 skate park design and build contract; and 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, and Council self-evaluation.

The meeting was called into open session at 8:51 p.m. No action was taken regarding the items discussed in executive session.

**15. ADJOURN**

Without objection, the meeting adjourned at 8:52 p.m.

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City Secretary Mary Lynne Stratta

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Mayor Jason P. Bienski