

**BRYAN CITY COUNCIL
MINUTES OF REGULAR MEETING
AUGUST 25, 2015**

The Bryan City Council held a regular meeting on Tuesday, August 25, 2015, in Room 305 and the Council Chambers of the Bryan Municipal Building. A notice of said meeting was 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. Deputy City Manager Hugh Walker, City Attorney Janis Hampton and City Secretary Mary Lynne Stratta were in attendance.

1. CALL TO ORDER

The meeting was called to order at 4:29 p.m.

2. EXECUTIVE SESSION

The meeting was called into executive session at 4:30 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 legal issues concerning the content of Council presentation submittals, receive legal advice regarding BioCorridor Interlocal Agreement between the City of Bryan and City of College Station, receive legal advice regarding Sensus USA, Inc., contract, receive legal advice regarding the regulation of personal care homes, assisted living facilities and care providers, receive legal advice regarding sign regulations, and receive legal advice regarding the establishment of guidelines and criteria for tax abatement; under the authority of Section 551.072, real estate – discussion regarding possible sale, lease, conveyance and/or purchase of property in north, central, west and east Bryan; under the authority of Section 551.074, personnel matters – discussion regarding appointments to the BTU Board, and Council self-evaluation; and under the authority of Section 551.087, economic development negotiations – discussion regarding possible economic development incentives for prospects in central, east and west Bryan.

3. OPEN SESSION FOR ACTION FOLLOWING EXECUTIVE SESSION

The meeting was called into open session at 6:21 p.m. Councilmember Peña made a motion to authorize the City Manager to exercise the City of Bryan's priority right to purchase the former Texas Department of Transportation (TxDOT) Bryan District Headquarters property and to come back at the next meeting with a resolution to ratify same. The motion was seconded by Councilmember Konderla and carried unanimously.

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

Pastor Kenneth Hall, Fairview Baptist Church, gave the invocation and Boy Scout Troop 743 led the pledges.

5. PROCLAMATIONS AND PRESENTATIONS

The Texas Public Power Association Distinguished Service Award was presented to Vicki Reim, BTU Division Manager. The MCCi Excellence Award was presented to Municipal Court,

Information Technology and City Secretary staff for the Municipal Court document management project. The Dishman Park Neighborhood Association was welcomed as the newest member of the City's Neighborhood Association Partnership Program. Bryan residents Billy and Lina Rice were recognized for competing in the Tour Divide. Rudder High School Future Farmers of America students were recognized for honors received at the 87th Annual FFA State Convention.

6. HEAR CITIZENS

Mrs. Debra Miller, 714 Williamson Drive, spoke about a variety of City related topics and thanked City staff for their hard work.

7. ORDINANCE – REZONING REQUEST (RZ15-14)

a. Public Hearing – Rezoning Request (RZ15-14)

Mayor Bienski called for public comment regarding an ordinance of the City of Bryan, Texas, amending Chapter 130, Zoning, of the City of Bryan Code of Ordinances, by changing the zoning classification from Multiple-Family District (MF) to Planned Development-Housing District (PD-H), subject to development requirements specified herein, on 1.123 acres of land adjoining the southeast side of Natalie Street, south of its intersection with Boyett Street, being Lots 2R, 3R, 4R, 5R and 6R in Block 1 of the Hyde Park Addition in Bryan, Brazos County, Texas. Ms. Debra Boyett, 4003 Settlers Way, expressed concern about access to the area when development construction begins. Councilmember Owens moved to suspend the rules to allow the applicant's representative, Ms. Veronica Morgan, to answer questions. The motion was seconded by Councilmember Peña and carried unanimously. Planning Manager Martin Zimmermann explained the City would be extending Clay Street from Wellborn Road to Boyett Street within the next 12 months, providing another outlet to the area. Ms. Boyett indicated this relieved her concerns. The public hearing closed at 7:05 p.m. with no additional comments.

b. First Reading of an Ordinance – Rezoning Request (RZ15-14)

Councilmember Peña moved to approve the first reading of an ordinance of the City of Bryan, Texas, amending Chapter 130, Zoning, of the City of Bryan Code of Ordinances, by changing the zoning classification from Multiple-Family District (MF) to Planned Development-Housing District (PD-H), subject to development requirements specified herein, on 1.123 acres of land adjoining the southeast side of Natalie Street, south of its intersection with Boyett Street, being Lots 2R, 3R, 4R, 5R and 6R in Block 1 of the Hyde Park Addition in Bryan, Brazos County, Texas. The motion was seconded by Councilmember Owens and carried unanimously.

8. PUBLIC HEARING – FISCAL YEAR 2016 BUDGET

Mayor Bienski requested public comments regarding the proposed Fiscal Year 2016 budget beginning October 1, 2015, and ending September 30, 2016, both dates inclusive, with expenditures in the combined total amount of \$390,264,409 and revenues in the combined total amount of \$373,062,394. Convention and Visitors Bureau President Shannon Overby asked for additional funding in Fiscal Year 2016 for increased marketing efforts. Mr. Chris Dyer, Arts Council of the Brazos Valley, asked for increased funding for his organization. Mr. Dan Eichler, President of the Brazos Valley Lodging Association, asked the Council to increase funding to the CVB. Mr. Joshua Abrahamson, representing the Easterwood Airport fixed base operator, requested \$50,000 from the City to market Easterwood Airport ridership and to attempt to attract Delta Airlines service, through Atlanta, to the airport. No one else spoke and the public hearing closed at 7:18 p.m.

9. CONSENT (AUTOMATIC APPROVAL) AGENDA

Councilmember Peña moved to approve the consent agenda. The motion was seconded by Councilmember Konderla and carried unanimously.

- a. Approval of Minutes** – Workshop and Regular Meetings of July 28, 2015, and Workshop and Regular Meetings of August 4, 2015

b. Consideration – Price Agreement for Auto Parts

Consider approving participation in an existing price agreement for automotive and truck replacement parts, shop equipment and services from NAPA Auto Parts through the Brazos Valley Council of Governments Cooperative Program – Purchasing Solutions Alliance (PSA) contract, in a not to exceed amount of \$100,000. Source of Funds: General and Enterprise Funds.

c. Consideration – Blanket Purchase Orders for Purchase of Tires

Consider approval of four (4) blanket purchase orders (BPO's) with local vendors (in Bryan and College Station) for the purchase of new tires in a not to exceed amount of \$180,000. Source of Funds: General and Enterprise Funds.

d. Consideration – Rejection of Sole Proposal – PCI Compliance

Consider rejecting the sole proposal received in response to Request for Proposals #15-048 for payment card industry (PCI) compliance services from Vaco Risk Solutions of Memphis, Tennessee, and Houston, Texas.

e. Consideration – Annual Price Agreement for Chlorine Gas

Consider approving an annual price agreement for the purchase of chlorine gas with Brenntag Southwest, Inc., of Houston, Texas, in the amount of \$146,415. Source of Funds: Water and Wastewater Budgeted Funds.

f. Consideration – Engineering Contract Amendment – Bryan Cemetery Expansion Project

Consider approval of an engineering contract amendment with Don Durden, Inc., d/b/a Civil Engineering Consultants for the Bryan Cemetery Expansion Project, City Project Number 572-D5-1303, for the not to exceed amount of \$6,500. Source of Funds: Cemetery Trust Fund.

g. Consideration – Flexible Base Material Contract

Consider approving a contract with Conner's Crushed Stone for Type A/Grade 1 flexible base material in a not to exceed amount of \$196,300. Source of Funds: Transportation and Drainage (General) Fund.

h. Consideration – Contract with Terracon Consultants, Inc.

Consider an extension of a Professional Services contract with Terracon Consultants, Inc. for geotechnical engineering, materials testing and construction inspection services in the not to

exceed amount of \$100,000. Source of Funds: Various funds including but not limited to Drainage, Transportation, Bond, General, Water and Sewer Funds.

i. Consideration – Contract with Bryan Emergency Physicians

Consider authorizing a three-year contract with Bryan Emergency Physicians for medical control and continuing education for Bryan Fire Department EMS and Brazos County 911 priority medical dispatch, in a not to exceed annual amount of \$80,000 during the contract period. Source of Funds: Fire Department (General) Fund.

j. Resolution – Investment Policy

Adoption of Resolution No. 3622 approving the investment policy for the City of Bryan, Texas, in accordance with the Public Funds Investment Act.

k. Second and Final Reading of an Ordinance – Repealing and Replacing Chapters 62 and 130 of the Bryan Code of Ordinances

Second and final reading of Ordinance No. 2110 of the City of Bryan, Texas, repealing and replacing Chapter 62, Land and Site Development, and Chapter 130, Zoning, of the Bryan Code of Ordinances; correcting internal conflicts, inconsistencies, ambiguities, scrivener's errors, formatting mistakes and other technical irregularities of a non-substantive nature, to make the ordinances easier to use, less prone to misinterpretation and confusion, and more legally defensible; providing for a penalty; providing for publication.

l. Second and Final Reading of an Ordinance – Amending Chapters 38 and 130 of the Bryan Code of Ordinances

Second and final reading of Ordinance No. 2111 of the City of Bryan, Texas, amending Chapter 38, Environment, of the Bryan Code of Ordinances, by adding a new Section 38-2, Article I, and a new Article III, clarifying the definition of residential outdoor storage; permitting residential outdoor storage only in certain areas and under certain conditions; and amending Chapter 130, Zoning, of the Bryan Code of Ordinances, by removing regulations concerning residential outdoor storage.

m. Second and Final Reading of an Ordinance – Rezoning Request (RZ15-13)

Second and final reading of Ordinance No. 2112 of the City of Bryan, Texas, amending Chapter 130, Zoning, of the City of Bryan Code of Ordinances, by changing the zoning classification from Agricultural – Open District (A-O) to Retail District (C-2) on 10.58 acres of land out of the Maria Kegan Survey, currently addressed as 10099 State Highway 30 and adjoining the northeast side of State Highway 30, approximately two-tenths of a mile southeast from its intersection with Elmo Weedon Road in Bryan, Brazos County, Texas.

n. Second and Final Reading of an Ordinance – Right-of-Way Abandonment (RA15-02)

Second and final reading of Ordinance No. 2113 of the City of Bryan, Texas, providing for the abandonment of the following public right-of-way, to wit: approximately 0.095 acre of public street rights-of-way for West 31st Street and South Parker Avenue, adjoining the south and west sides of Block 114 of the Bryan Original Townsite at the northeast corner of South Parker

Avenue and West 31st Street in Bryan, Brazos County, Texas; authorizing the conveyance thereof to the abutting property owner.

o. Second and Final Reading of an Ordinance – Amending Chapter 50 of the Bryan Code of Ordinances

Second and final reading of Ordinance No. 2114 amending Chapter 50, Article III entitled “Mobile Food Establishments”, of the Bryan Code of Ordinances; amending times and locations where mobile food vending is permitted.

10. STATUTORY AGENDA

It was announced agenda item 10 f would be removed from the statutory agenda for separate consideration. The remainder of the statutory agenda was approved per a motion by Councilmember Owens and a second by Councilmember Konderla, carrying unanimously.

a. Consideration – State Highway 21 East Sanitary Sewer Extension Project Construction Contract

Consider approving and authorizing the Mayor to execute a construction contract for the State Highway 21 East Sanitary Sewer Extension Project, City Job No. 411-D4-1025, to Elliott Construction, L.L.C., in the not to exceed amount of \$2,044.093. Source of Funds: Sanitary Sewer Fund.

b. Consideration – Purchase of Solid Waste Truck Chassis and Half-Pack Body

Consider approving the purchase of one (1) 2016 Mack chassis from Grande Truck Center (San Antonio, Texas) and one (1) Heil 28-yard half-pack body from Heil of Texas (Houston, Texas) for the total purchase price of \$264,505, through the Texas Local Government Purchasing Cooperative (HGAC), HGAC Contract HT06-14. Source of Funds: Solid Waste Fund.

c. Consideration – Interlocal Agreement with Brazos County

Consider authorizing the Mayor to execute an interlocal agreement with Brazos County, Texas, to cost participate in the construction of waterline improvements associated with the proposed Brazos County Fleet Maintenance Facility, for the not to exceed amount of \$29,516, to improve waterline infrastructure and provide increased fire protection in the area.

d. Consideration – Memorandum of Agreement Relative to Easterwood Airport Financial Contributions

Consider authorization for the Mayor to execute a Memorandum of Agreement between the City of Bryan and Texas A&M University (TAMU) regarding the City of Bryan’s financial contribution to Easterwood Airport operations in the amount of \$65,400 for Fiscal Year 2015 and \$70,456 for Fiscal Year 2016. Source of Funds: General Fund.

e. Resolution – Agreement with Texas Department of Transportation Relative to State Highway Closings for the 2015 Texas Reds Steak and Grape Festival

Adoption of Resolution No. 3623 of the City Council of the City of Bryan, Texas, approving and authorizing the Mayor to execute an agreement with the State of Texas, through the Department

of Transportation, to close State highways associated with the 2015 Texas Reds Steak and Grape Festival.

g. First Reading of an Ordinance – Owner Requested Annexation (Annex 15-02)

First reading of an ordinance of the City of Bryan, Texas, annexing 8.259 acres of land out of the Zeno Phillips League, A-45, adjoining the northeast side of Autumn Lake Drive, generally east from its intersection with Mountain Wind Loop in Brazos County, Texas, and being adjacent and contiguous to the present corporate limits of the City of Bryan, Texas; finding that all necessary and required legal conditions have been satisfied; describing the territory annexed and providing a service plan therefor; obligating the property situated therein to bear its pro rata part of taxes levied; providing rights and privileges as well as duties and responsibilities of inhabitants and owners of said territory. *(Primera lectura de una ordenanza de la Ciudad de Bryan, Texas, anexando 8.259 acres de terreno de la Liga de Zeno Phillips, A-45, lindando con el noreste de Autumn Lake Drive, generalmente del este de su intersección con Mountain Wind Loop en el condado de Brazos, Texas, y siendo adyacente y contiguo a los límites corporativos presentes de la Ciudad de Bryan, Texas; encontrando que todas las condiciones legales necesarias y requeridas han sido satisfechas; la descripción del territorio anexado y proporcionar un plan de servicio para ello; obligando la propiedad situada allí para llevar su parte proporcional de impuestos gravados; proporcionar derechos y privilegios, así como deberes y responsabilidades de los habitantes y dueños de dicho territorio.)*

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

f. Resolution – Brazos Valley Solid Waste Management Agency (BVSWMA) Fiscal Year 2016 Budget

Mayor Bienski moved to suspend the rules to allow BVSWMA Executive Director Bryan Griesbach to answer questions. Concern was expressed that third parties were not being charged enough to use the landfill. Clarification was provided regarding budgeted figures versus actual expenses and revenues. Councilmember Owens moved to adopt Resolution No. 3624 of the City of Bryan, Texas, approving a budget for the fiscal year beginning October 1, 2015, and ending September 30, 2016, both dates inclusive, for the Brazos Valley Solid Waste Management Agency, Inc., with total expenditures of \$8,846,718 and revenues in the combined total amount of \$7,195,750. The motion was seconded by Councilmember Konderla and carried unanimously.

11. REGULAR AGENDA

a. Consideration – Vote on Tax Rate Proposal

Mayor Bienski moved to vote to place a proposal to adopt a property tax rate of \$0.62999 per \$100 of assessed valuation on the regular agenda of the September 15, 2015, special Council meeting and the regular agenda of the September 22, 2015, regular Council meeting; and to schedule public hearings on the proposed tax increase on September 8, 2015, and September 15, 2015. The motion was seconded by Councilmember Owens. It was announced the tax rate being considered was the same as the current tax rate. Councilmember Southerland moved to substitute \$.612 for \$.62999. The motion was seconded by Councilmember Peña. Discussion followed about the merits of adopting the current tax rate of \$.62999 versus the tax rate of \$.612. Chief Finance Officer Joe Hegwood advised adopting the tax rate of \$.612 would lower the expected increase from additional new properties and increased valuations from \$937,000 to approximately \$300,000. He reminded Council of its commitment to add firefighters every year until 35

firefighters had been hired to man each fire truck with four personnel. Mr. Hegwood said the proposed budget included funding for six new firefighters, three new police officers and an additional code enforcement officer. He said adopting a lower tax rate would require an evaluation of the commitment of adding fire personnel to have four per truck since the action would lower the revenue stream moving forward. Questions followed about what should be cut from the budget should the lower rate be adopted and the expected draw down of the fund balance of \$5 million. Mr. Walker added the proposed budget included \$500,000 for increased parks funding and \$500,000 to repair the Bryan Aquatic Center, as well as funds to build the new Sadie Thomas pool. After a lengthy discussion of the impact of the two proposed tax rates, the motion to amend by substituting \$.612 for \$.62999 failed to carry with Councilmembers voting as follows: Mayor Bienski – yes, Councilmember Saenz – no, Councilmember Peña – no, Councilmember Owens – no, Councilmember Southerland – yes, Councilmember Hughes – no, Councilmember Konderla – no. The main motion to adopt the current tax rate of \$.62999 carried with Councilmembers voting as follows: Mayor Bienski – yes, Councilmember Saenz – yes, Councilmember Peña – yes, Councilmember Owens – yes, Councilmember Southerland – no, Councilmember Hughes – yes, and Councilmember Konderla – yes.

b. Consideration – Bryan Regional Athletic Complex (BRAC) Development Plan

Councilmember Peña moved to direct staff to develop a plan to add new needed sporting facilities in the Bryan Regional Athletic Complex (BRAC). The plan development should incorporate any suggestions/ideas from Texas A&M University parks experts. It should also include estimated costs of development, potential hotel occupancy tax (HOT) funding and the impact on usage from Bryan citizens and out of town visitors. The report should be provided by the last regularly scheduled meeting in September 2015, being September 22, 2015. The motion was seconded by Councilmember Southerland. Discussion followed about the desire for added fields at BRAC to be built using HOT funds, which would be reimbursed over five years from increased HOT funds collected. Concern was also expressed that the due date associated with this item was not realistic. Concern was also expressed that additional HOT revenues generated by additional fields may not be enough to reimburse the cost of the fields over the five-year period allowed by law. It was stated staff planned to emulate College Station's tracking system to track HOT funds collected for this purpose. It was mentioned that BRAC was probably the only amenity in Bryan that would qualify for HOT funding for expansion. After discussion, the motion carried with six yeases and one no (Councilmember Konderla).

c. Consideration – Ambulance Rates and Write-offs

Councilmember Southerland moved to postpone for two months consideration, discussion and possible action to direct staff to follow City Ordinance Sec. 42-9 – Fire Department to charge the cost of certain emergency and rescue services within the response area of the Bryan Fire Department and to reimburse residents that were charged in error during the past five years. The motion was seconded by Councilmember Peña. It was stated there was misunderstanding about this ordinance, and the goal of the agenda item was to reduce costs for the uninsured or eliminate those fees all together. It was clarified this item would be considered at the October 27, 2015, Council meeting. The motion carried unanimously.

At this time, Mayor Bienski announced there would be additional action from executive session discussion. Mayor Bienski moved to reappoint Mr. Ben Hardeman and Mr. Bentley Nettles to the BTU Board. The motion was seconded by Councilmember Konderla. Councilmember Peña moved to postpone consideration until he could see the list of all qualified applicants. The motion was seconded by Councilmember Saenz. It was explained that per ordinance, the BTU Board

recommended possible appointees to the Board and the Council could either accept those recommendations or ask for other names to be brought forward. City Attorney Hampton stated the BTU Board does not have term limits. The motion to postpone failed to carry with two yeses (Councilmembers Saenz and Peña) and five noes (Mayor Bienski and Councilmembers Owens, Southerland, Hughes and Konderla). Concern was expressed that citizens not serve on too many boards and committees and that more diversity was needed on these panels. It was pointed out the BTU Board unanimously recommended these two individuals be reappointed. The technical aspects and skill sets for each position on the BTU Board were mentioned. Councilmember Saenz moved to divide the question to vote on the two individuals separately. The motion was seconded by Councilmember Peña. After discussing the merits of voting separately on the two nominees, the motion to divide the question failed with three yeses (Mayor Bienski and Councilmembers Saenz and Peña) and four noes (Councilmembers Owens, Southerland, Hughes and Konderla). It was opined term limits should be applied to the BTU Board. After discussion, the main motion carried with five yeses (Mayor Bienski and Councilmembers Owens, Southerland, Hughes and Konderla), one no (Councilmember Saenz) and one abstention (Councilmember Peña).

12. CITY MANAGER REPORT

Mr. Walker provided a report on various capital improvement projects. Sympathy was expressed at the passing of former Bryan City Manager David Watkins.

13. COUNCIL COMMITTEE REPORTS

Reports were not provided.

14. ITEMS OF COMMUNITY INTEREST

Councilmembers listed the following items of community interest: animal ordinance meeting, Parkway Circle Homeowners Association meeting, economic outlook luncheon, Brazos Valley Food Bank fund raiser, town hall meetings, Habitat for Humanity home dedications, summer concert series downtown, Queen Theatre brick fundraising project, Bryan ISD Hall of Honor banquet, Games of Texas, Seed Sumo demonstration, Amigos de Valle de Brazos luncheon, etc. Condolences were extended to the David Watkins family and Mr. Watkins' accomplishments were listed. The Public Works staff was congratulated on a job well done regarding a water leak at Sul Ross School. The Dishman Park Neighborhood Association was welcomed to the City's Neighborhood Association Partnership Program. Recipients of award were again congratulated.

15. ADJOURN

Without objection, the meeting was adjourned at 8:54 p.m.

City Secretary Mary Lynne Stratta

Mayor Jason P. Bienski