

**BRYAN CITY COUNCIL  
MINUTES OF REGULAR MEETING  
NOVEMBER 24, 2015**

The Bryan City Council held a regular meeting on Tuesday, November 24, 2015, in Room 305 and the Council Chambers of the Bryan Municipal Building. A notice of the 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, Ben Hardeman and Buppy Simank were present. Also 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 4:24 p.m.

**2. EXECUTIVE SESSION**

The meeting was called into executive session at 4:25 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 sign ordinance, receive legal advice regarding compliance with the Chapter 380 agreement with Kalon Biotherapeutics, L.L.C., and receive legal advice regarding residential conservation district zoning; under the authority of Section 551.072, real estate – discussion regarding possible sale, lease, conveyance and/or purchase of property in central, north and west Bryan and on unimproved Coulter Airfield property; under the authority of Section 551.074, personnel – discussion regarding duties and responsibilities of City Manager, City Attorney, City Internal Auditor and City Secretary, Council self-evaluation, and discussion regarding appointment of Mayor Pro Tem; and under the authority of Section 551.087, economic development – discussion of possible economic development incentives for prospects in north, west, central and east Bryan.

**3. OPEN SESSION FOR ACTION FOLLOWING EXECUTIVE SESSION**

The meeting was called into open session at 6:02 p.m. Mayor Bienski moved to appoint Councilmember Greg Owens as Mayor Pro Tem for the next year. The motion was seconded by Councilmember Hardeman. Councilmember Peña moved to amend the motion by substituting Councilmember Mike Southerland's name instead of Councilmember Greg Owens' name. The motion was seconded by Councilmember Saenz. After discussion, the motion to amend failed to carry with a vote of three yeses (Councilmembers Saenz, Peña and Southerland) and four noes (Mayor Bienski and Councilmembers Owens, Hardeman and Simank). The main motion naming Councilmember Owens as Mayor Pro Tem carried unanimously.

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

Reverend Ted Foote, Jr., First Presbyterian Church, gave the invocation. Girl Scout Troop #9145 led the pledges.

**5. PROCLAMATIONS AND PRESENTATIONS** - The 2015 State of the City Report compiled by the Communications and Marketing Department was shared.

## 6. HEAR CITIZENS

Ms. Jenna Anding, 705 Hasselt, College Station, spoke in opposition to agenda item 8 g.

## 7. PUBLIC HEARING - REZONING REQUEST (RZ15-17)

### a. Public Hearing – Rezoning Request (RZ15-17)

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 Agricultural – Open District (A-O) to Retail District (C-2) on 42.59 acres of land out of John H. Jones Survey, Abstract No. 26, and adjoining the southeast side of State Highway 47 north from Raymond Stotzer Parkway in Bryan, Brazos County, Texas. No citizens spoke and the public hearing closed at 6:35 p.m.

### b. First Reading of an Ordinance – Rezoning Request (RZ15-17)

Mayor Bienski 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 Agricultural – Open District (A-O) to Retail District (C-2) on 42.59 acres of land out of John H. Jones Survey, Abstract No. 26, and adjoining the southeast side of State Highway 47 north from Raymond Stotzer Parkway in Bryan, Brazos County, Texas. The motion was seconded by Councilmember Southerland and carried unanimously.

## 8. CONSENT (AUTOMATIC APPROVAL) AGENDA

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

### a. Approval of Minutes – Workshop and Regular Meetings of November 10, 2015, and Special Meeting of November 13, 2015

### b. Consideration – Annual Contract for Ready Mix Concrete

Consider approving an annual contract for Ready Mix Concrete with Boyd Ready Mix, Inc., in the amount of \$76,000 and Martin Marietta in the amount of \$19,000, for a total amount not to exceed \$95,000. Source of Funds: Streets and Drainage Operating Budget.

### c. Consideration – Blanket Purchase Order for Fire and Police Radio Replacement

Consider approving a Blanket Purchase Order with Motorola for the replacement of Fire and Police Department mobile and portable radios due to the Intent-to-Cancel Notice from Motorola concluding support for the City's mobile and portable radios effective December 31, 2018, in an amount not to exceed \$400,000. Source of Funds: General Fund.

### d. Consideration – Contract for Asbestos Abatement and House Demolition for Fire Station 2

Consider awarding a construction contract for asbestos abatement and house demolition at six (6) locations on Maloney Avenue and Lawrence Street, the future location of Fire Station 2, to Inland Environments, Ltd., in an amount not to exceed \$59,744. Source of Funds: 2010 Bond Funds.

**e. Second and Final Reading of an Ordinance– Rezoning Request (RZ15-12)**

Second and final reading of Ordinance No. 2125 of the City of Bryan, Texas, amending 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), Retail District (C-2), Industrial District (I), and Planned Development – Housing District (PD-H), to Planned Development – Mixed Use District (PD-M), subject to development requirements specified herein, on 164.28 acres of land out of Stephen F. Austin League No. 9, A-62, Hezekiah Jones Survey, A-145, and James McMillen Survey, A-176, adjoining the southwest side of North Harvey Mitchell Parkway (FM 2818) between West State Highway 21 and Sandy Point Road in Bryan, Brazos County, Texas.

**f. Second and Final Reading of an Ordinance – Rezoning Request (RZ15-19)**

Second and final reading of Ordinance No. 2126 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 Residential District - 5000 (RD-5) on 7.75 acres of land out of the Stephen F. Austin Survey, Abstract No. 62, and adjoining the north side of the 2500 block of Beck Street, approximately 1,000 feet east from its intersection with Suncrest Street and currently addressed as 2502 Beck Street in Bryan, Brazos County, Texas.

**g. Second and Final Reading of an Ordinance – Rezoning Request (RZ15-18)**

Second and final reading of Ordinance No. 2127 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 4.675 acres of vacant land out of Maria Kegans League, Abstract No. 28, and adjoining the northeast side of State Highway 30 between Winding Creek Road (private road) and Cole Lane, in Bryan, Brazos County, Texas.

**h. Second and Final Reading of an Ordinance – Right-of-Way Abandonment (RA15-03)**

Second and final reading of Ordinance No. 2128 of the City of Bryan, Texas, providing for the abandonment of the following public right-of-way, to wit: approximately 0.105 acres (4,574 square feet) of public street rights-of-way for East 23<sup>rd</sup> Street and North Washington Avenue, adjoining the south and east sides, respectively, of Block 11 in the Bryan Original Townsite, at the northwest corner of East 23<sup>rd</sup> Street and North Washington Avenue 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.

**i. Second and Final Reading of an Ordinance – Tax Reinvestment Zone 32**

Second and final reading of Ordinance No. 2129 of the City of Bryan, Texas, to create and designate Reinvestment Zone 32 pursuant to Chapter 312, Texas Tax Code.

**9. STATUTORY AGENDA**

Councilmember Peña moved approval of the statutory agenda. The motion was seconded by Councilmember Southerland and carried unanimously.

**a. Consideration – Phase IV Advanced Meter Infrastructure Purchase**

Consider authorizing the purchase of meters and communications modules through Sensus USA, Inc., for the ongoing installation and implementation of Phase IV of an Advanced Meter Infrastructure (AMI) system for Water Services in an amount not to exceed \$350,000. Source of Funds: Water and Sewer Fund Balance.

**b. Consideration – Bryan City Cemetery Expansion Project**

Consider awarding a construction contract for the Bryan City Cemetery Expansion Project to CLM Energy Service, L.L.C., in an amount not to exceed \$1,139,858.58. Source of Funds: Cemetery Fund and Transportation Fee Fund.

**c. Consideration – Contract for Design of South College Avenue Phase 1 Project**

Consider approving an engineering design contract for road construction of South College Avenue from Villa Maria to Sulphur Springs Road and construction of sidewalks along South College Avenue from Villa Maria Road to Inlow Boulevard with Brinkley & Barfield, Inc., in an amount not to exceed \$689,961.25. Source of Funds: General Fund reimbursed by future bonds.

**d. Resolution – Reimbursement for Design of South College Phase 1 Project**

Adoption of Resolution No. 3639 of the City Council of the City of Bryan, Texas, expressing official intent of the City of Bryan to reimburse \$689,961.25 of City of Bryan, Texas, capital expenditure. Source of Funds: General Fund to be reimbursed by future bonds.

**e. First Reading of an Ordinance – Amending Chapter 118, Section 55 “Schedule of Maximum Speed Limits”**

First reading of an ordinance of the City of Bryan, Texas, amending Chapter 118, Section 55, “Schedule of Maximum Speed Limits” of the City of Bryan Code of Ordinances by revising speed zones on Farm to Market Road 2818; providing for a penalty, providing for publication; and providing an effective date.

**f. First Reading of an Ordinance – Annexation (ANNEX 15-03)**

First reading of an ordinance of the City of Bryan, Texas, annexing 152.8 acres of land out of the John H. Jones Survey, Abstract No. 26, located generally south of Texas State Highway 47, southwest from its intersection with HSC Parkway and adjoining the northeast side of Jones Road 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 152.8 hectáreas de terreno de la encuesta John H. Jones, Resumen No. 26, situado generalmente al sur de Texas State Highway 47, sudoeste de la intersección con HSC Parkway y junto a la parte noreste del camino Jones Road 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.*)

## **10. REGULAR AGENDA**

### **a. Consideration – Presentation on Storm Water Management**

City Engineer Paul Kaspar presented information about storm water management, flooding locations and grant opportunities. He discussed the components of the City's drainage system. He described types of flooding and factors that led to flooding in Bryan. He spoke about the City's responsibilities relative to flooding in certain areas, such as public drainage easements, regional detention ponds, public storm sewer or on public owned property, including streets. He also discussed the impact of development, design standards, storm water master plan and flood mitigation plan, detention ponds, the National Flood Insurance Program, community rating system, and removal of structures from repeat hazard areas. Mr. Kaspar showed the areas of Bryan located in the floodplain. He advised there were 28 properties in Bryan with repeated flood losses; of those, 7 were classified as severe repetitive loss properties. He gave examples of areas that would qualify for the federal buyout program. Council indicated staff should proceed with seeking federal dollars to assist with the buyout of the four repetitive loss properties Mr. Kaspar felt would qualify, if so desired by the individual property owners. He advised the City could match the buyout dollars at 25 percent with the federal government contributing 75 percent. He said if the City did buy out any of the properties, the sites would belong to the City in perpetuity, and could be used as green spaces or pocket parks. He indicated he would place a resolution on the December 15 agenda for Council consideration.

### **b. Consideration – Tax Abatement and Chapter 380 Economic Development Program Agreement for Lubrizol Specialty Products, Inc.**

Mayor Bienski moved to approve a Tax Abatement Agreement and a Chapter 380 Economic Development Program Agreement, pursuant to Chapter 312 and Chapter 380 of the Texas Local Government Code, with Lubrizol Specialty Products, Inc., for the expansion of their business located within the Brazos County Industrial Park in Bryan, Texas, and authorizing the Mayor to execute the agreement providing an eight-year ad valorem property tax abatement starting at 100% and reducing to 10% in the eighth year based on Brazos Central Appraisal District valuations on new real and personal property (Source of Funds: Future property tax revenues from value added within Tax Reinvestment Zone 32). The motion was seconded by Councilmember Hardeman. Discussion followed about salary and benefits for Lubrizol employees. The motion carried unanimously.

### **c. Consideration – Bryan Regional Athletic Complex Renovations Phase I (Agenda item submitted by two Councilmembers)**

Councilmember Peña moved to direct staff to start Bryan Regional Athletic Complex (BRAC) renovations Phase I as soon as possible and that the Council approve the \$500,000 in hotel occupancy tax (HOT) funds allocated for parks to be used for BRAC Phase I construction. Funding of \$100,000 has been budgeted to BRAC in the current budget. If this item is approved, the staff should return a report on the plan of construction to the Council by the last meeting in December 2015. The motion was seconded by Councilmember Saenz. Mayor Bienski moved to postpone consideration until all super park location possibilities had been exhausted. The motion was seconded by Councilmember Hardeman. It was stated there were several possibilities that may be available to the City for the location of a super park. Concern was expressed that there were not enough HOT funds to do both the BRAC project and build a new super park. It was stated the Council should determine which options for a possible super park were available and

determine a time frame for a decision to be made on that matter. It was opined the Council should know more about possible super park locations in the first quarter of 2016. City Manager Register and Deputy City Manager Hugh Walker reminded Council of a previous presentation about suggested phases and costs for BRAC expansion and improvement. It was stated each phase of BRAC expansion was estimated to cost around \$4 million. Mr. Register recommended a design contract to determine the design cost for the project. Concern was expressed that there not be an open time frame to make a decision about possible BRAC expansion, and the second meeting in February was suggested as a deadline to make this determination. After discussion of possibilities for a new super park that may exist, Mayor Bienski withdrew his motion to postpone. He said he would continue to work with property owners as to possibilities for a super park location. Councilmember Southerland moved to amend by postponing consideration and directing the City Manager to provide an estimated design cost for BRAC by the second meeting in February 2016. The motion was seconded by Councilmember Hardeman. The motion carried unanimously. The main motion as amended carried unanimously.

**d. Consideration – Underground Utilities**

This item submitted by two Councilmembers was not considered.

**e. Consideration – City Website to Include All Economic Development Agreements (Agenda item submitted by two Councilmembers)**

Councilmember Peña moved to direct staff to add to the City of Bryan’s website, on the opening page of the site in the economic development section, the following agreements that are allowed to be released to the public in accordance with the Public Information Act, formerly known as the Open Records Act, located at Chapter 552 of the Government Code:

1. Amended and Restated Agreement of Limited Partnership of Bryan/Traditions, L.P., a Texas Limited Partnership,
2. Amended and Restated Master Economic Development Agreement (Traditions Project),
3. Second Amendment to Agreement for Delivery and Use of Reclaimed Water (pertaining to the Traditions Project),
4. Any and all economic development agreements.

The motion was seconded by Councilmember Saenz. It was reported all active Chapter 380 agreements and tax abatement agreements were already on the City’s website under the “transparency” section, including any Traditions agreements in these categories. Comments supporting transparency and the great success of the Traditions project followed. It was also opined that transparency was not lacking. The motion carried unanimously.

**f. Consideration – Amend City Council Action Taken on an Appeal of the Planning and Zoning Commission’s Denial of Requests for Variances to Chapter 62, Land and Site Development, Article VI, “Access and Off-Street Parking” on PV15-12 (Agenda item submitted by two Councilmembers)**

Councilmember Southerland moved to amend the action by the City Council on agenda item 12 b on November 10, 2015, of an appeal of the Planning and Zoning Commission’s decision to deny requests for variance to standards of Article VI, “Access and Off Street Parking” of the minimum 275-foot drive separation distance and 50-foot driveway throat depth generally required on properties along major arterial streets to allow a new driveway with a driveway throat depth of 36 feet to be located within 132 feet of East 29<sup>th</sup> Street on property located at 2305 East Villa Maria

Road, at the southeast corner of the intersections of East Villa Maria Road and East 29<sup>th</sup> Street, being Lot 1, Block 1 of the Villa Maria Gulf Service Subdivision in Bryan, Brazos County, Texas, by overturning the denial or non-consideration or error by the Planning and Zoning Commission's action. The motion was seconded by Councilmember Peña. It was opined the Planning and Zoning Commission had erred in its action relative to this item. The City Attorney advised there was not a process for reconsideration, and that the Planning and Zoning Commission failed to take any action on the throat depth issue as its motion on the subject failed. She described the sequence of events at said meeting of the Commission. She also said the Commission had scheduled the item for consideration at its next meeting; however, if Councilmembers felt the Commission did not address this item in a reasonable time, the Council could take action. She recommended a future ordinance amendment to define a reasonable time frame. Pros and cons of referring the item back to the Commission were mentioned. After discussion, the motion carried with six yeases and one no (Councilmember Hardeman).

## **11. COUNCIL COMMITTEE REPORTS**

Mayor Bienski provided a report on recent meetings of the Brazos Valley Solid Waste Management Agency Board of Directors and the Bryan-Brazos County Economic Development Foundation Board of Directors.

## **12. CITY MANAGER REPORT**

Mr. Register provided an update on various capital improvement projects.

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

The following items of community interest were listed: Queen Theatre brick sales project, Holiday Magic, downtown Christmas parade, comprehensive plan meeting, Habitat for Humanity home dedications, downtown "sip and shop" event, Lights On, "We Mean Business Saturday" wishing the Bryan Vikings good luck in regional football competition, etc. Councilmembers Simank and Hardeman were congratulated upon their election to Council. The Communications and Marketing Department staff was complimented on the 2015 State of the City Report. The City Secretary office staff was thanked for their hard work. Citizens were wished a safe and happy holiday season.

## **14. ADJOURN**

Without objection, the meeting adjourned at 8:40 p.m.

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City Secretary Mary Lynne Stratta

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Mayor Jason P. Bienski