

**BRYAN CITY COUNCIL
MINUTES OF REGULAR MEETING
JANUARY 26, 2016**

The Bryan City Council held a regular meeting on Tuesday, January 26, 2016, 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 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 3:31 p.m.

2. EXECUTIVE SESSION

The meeting was called into executive session at 3:32 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 amendments to the rules of the Brazos Valley Groundwater Conservation District, receive legal advice regarding Traditions Chapter 380 Program and the Amended and Restated Reclaimed Water Agreement, receive legal advice regarding procedures for appointment and removal of board, committee, and commission members, receive legal advice regarding residential neighborhood conservation ordinance; 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; under the authority of Section 551.074, personnel – discussion regarding duties and responsibilities of City Manager, City Attorney, City Internal Auditor and City Secretary, and Council self-evaluation; under the authority of Section 551.086, competitive matters – discussion regarding BTU competitive matter; and under the authority of Section 551.087, economic development negotiations – discussion regarding 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 5:36 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

Dr. David Toback, Congregation Beth Shalom, gave the invocation and Boy Scout Troop 977 led the pledges.

5. PROCLAMATIONS AND PRESENTATIONS

The 2015 Brazos Valley Christian Home Educators Association Mustang 6-Man Football Texas

Christian Athletic League Division I State Champions was recognized for the team's many accomplishments. Texas A&M University students encouraged citizens to sign up for the Big Event.

6. HEAR CITIZENS

Mrs. Deborah Miller, 714 Williamson, spoke about a YMCA traffic study and an independent audit regarding the Traditions project components. Mr. Tom Hilde, 2515 Oak Circle, expressed concern about the traffic impact of a possible YMCA on the current Blinn College campus.

7. CONSENT (AUTOMATIC APPROVAL) AGENDA

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

- a. Approval of Minutes – Special Meeting of January 7, 2016**
- b. Consideration – Amendment to Interlocal Agreement with Brazos County for Joint Public Safety Records Management System**

Consider approval of a First Amended and Restated Interlocal Cooperation Agreement providing for the operation and maintenance of the TriTech Inform Records Management and Field Based Reporting System in a multi-agency configuration between the City of Bryan and Brazos County.

- c. Consideration – Purchase of Network Storage Expansion Units**

Consider approving the purchase of network storage expansion units from Carahsoft in the amount of \$65,492.00. Source of Funds: General Fund.

- d. Consideration – Fiscal Year 2016 Vehicle and Equipment Purchases**

Consider approving multiple purchase orders for the purchase of new vehicles and equipment as planned and budgeted for purchase in fiscal year 2016 for an estimated amount not to exceed \$1,474,974.48. Source of Funds: General Fund and Enterprise Fund.

8. STATUTORY (AUTOMATIC APPROVAL) AGENDA

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

- a. Consideration – Sterling Northgate Oversize Participation Agreement**

Consider authorizing the Mayor to execute a development agreement to cost participate in the construction of a waterline for Sterling Northgate with the developer, Sterling – A&M Northgate L.L.C., to better accommodate a proposed multi-family development in an amount not to exceed \$88,548.00. Source of Funds: Water Operating Fund.

- b. Consideration – Extension of Cement Stabilized Sand Contract**

Consider approving an extension of an annual price agreement for cement stabilized sand to Brazos Paving, Inc., in an amount not to exceed \$104,962.50. Source of Funds: Transportation, Water and Wastewater Operating Budgets.

c. Resolution – Local Area Traffic Management

Adoption of Resolution No. 3643 of the City Council of the City of Bryan, Texas, authorizing the City Manager or designee to develop and administer policies and procedures for the Local Area Traffic Management (LATM) Program. Source of Funds: Transportation Fee, General Fund or Bond Funds.

d. Resolution – Tax Increment Reinvestment Zone (TIRZ) 10 Annual Report

Adoption of Resolution No. 3644 of the City Council of the City of Bryan, Texas, approving the fiscal year 2015 annual report on the status of Tax Increment Reinvestment Zone Number Ten, and authorizing the City Manager to submit the annual report to the other taxing jurisdictions which participate in the reinvestment zone, and to the State Comptroller, as required by State law.

e. Resolution – Tax Increment Reinvestment Zone (TIRZ) 19 Annual Report

Adoption of Resolution No. 3645 of the City Council of the City of Bryan, Texas, approving the fiscal year 2015 annual report on the status of Tax Increment Reinvestment Zone Number Nineteen, and authorizing the City Manager to submit the annual report to the other taxing jurisdictions which participate in the reinvestment zone, and to the State Comptroller, as required by State law.

f. Resolution - Tax Increment Reinvestment Zone (TIRZ) 21 Annual Report

Adoption of Resolution No. 3646 of the City Council of the City of Bryan, Texas, approving the fiscal year 2015 annual report on the status of Tax Increment Reinvestment Zone Number Twenty-one, and authorizing the City Manager to submit the annual report to the other taxing jurisdictions which participate in the reinvestment zone, and to the State Comptroller, as required by State law.

g. Resolution – Tax Increment Reinvestment Zone (TIRZ) 22 Annual Report

Adoption of Resolution No. 3647 of the City Council of the City of Bryan, Texas, approving the fiscal year 2015 annual report on the status of Tax Increment Reinvestment Zone Number Twenty-two, and authorizing the City Manager to submit the annual report to the other taxing jurisdictions which participate in the reinvestment zone, and to the State Comptroller, as required by State law.

9. REGULAR AGENDA

a. Consideration – Appointments to BioCorridor Board and Brazos Valley Veterans Memorial Board

Councilmember Hardeman moved to appoint Dennis Goehring to the Brazos Valley Veterans Memorial Board. The motion was seconded by Councilmember Owens. Councilmember Southerland moved to substitute Bernie Acre for Dennis Goehring. The motion was seconded by Councilmember Peña. It was reported the Board had requested City Manager Register to serve on the Board. Councilmember Southerland moved a secondary amendment to substitute Kean Register for Bernie Acre. The motion was seconded by Councilmember Simank and carried unanimously. The primary amendment as amended to substitute Kean Register for Dennis

Goehring passed with six yeases and one no (Councilmember Hardeman). The main motion as amended to appoint Kean Register to this panel carried unanimously. Mayor Bienski moved to appoint Councilmember Hardeman to the Biocorridor Board. The motion was seconded by Councilmember Owens and carried unanimously.

b. Consideration –Traditions Project Financial Information

Two Councilmembers placed this agenda item to discuss, consider and possibly provide direction to staff regarding Traditions Project financial documentation as addressed in the January 20, 2016, meeting between staff and Councilmembers. Mr. Register reported the staff met with Councilmember Southerland and could not come to an agreement on the costs of the Traditions project. He pointed out the City is audited every year by an outside auditing firm, and that the numbers provided by staff were the audited numbers. Assistant Chief Finance Officer Will Smith said three questions had been posed to staff: 1) What did the Traditions project cost? 2) How much did the general fund contribute? and 3) Will the project generate enough funds to reimburse the general fund? Mr. Smith explained that governmental entities are required to use Governmental Standards Accounting Board rules and Generally Accepted Accounting Principles, and must use fund accounting. He said fund accounting was vastly different than what you see in private business. He explained that when a governmental entity sells bonds to fund a project, and that money is spent on the project, you do not count the money twice since it is the same money. The difference would be interest expenses incurred relative to the bonds. Staff reported City staff accounting of Traditions project costs indicate the City had spent approximately \$34.5 million on the project to date, while Councilmember Southerland's figures indicated the total cost to date was \$73 million. It was opined that some figures had been counted twice in Councilmember Southerland's calculations. It was also opined that staff was not interpreting costs correctly.

Several observations about discrepancies between Councilmember Southerland's accounting of Traditions project costs and City staff and external auditor figures were shared. Mr. Register also shared historical costs and transactions of the project. It was pointed out the City's Chief Finance Officer and Assistant Chief Finance Officer were both Certified Public Accountants. Concern was expressed about the City's contractual obligation to provide Traditions up to 500,000 gallons of effluent per day, which must be supplemented with potable water if enough effluent was not processed by the west side wastewater treatment plant on given days. It was pointed out that effluent held no value at the time the City entered into these contracts many years ago, and the City had just recently received its first offer for effluent. It was pointed out only 10 percent of the City's effluent was processed at the west side plant. Staff was encouraged to find buyers of the other 90 percent of the effluent being discharged at the other wastewater treatment plants. It was also opined that the effluent and potable water provided since the inception of the reclaimed water agreement with Traditions had value.

Mr. Register explained that figures contained in the City's annual budgets are projections; these figures will not equal the exact costs of projects and purchases. He advised that he was very confident an outside auditor would confirm the staff's figures. He again stated the City's investment in the Traditions project was \$35.4 million with \$10 million coming from the general fund, and noted these were audited figures. He added the Traditions TIRZ was now paying its own debt. It was stated that some Councilmembers had used an old spreadsheet prepared by a former City employee, which showed the City's investment at \$46 million, as a starting point to derive the \$73 million figure. Chief Finance Officer Joe Hegwood explained that particular report contained costs both inside and outside the TIRZ, not just within the Traditions TIRZ. He also advised that when the City issues debt to fund a project, you cannot count the amount of the bonds and the costs of the project as it was the same money (except for interest on the bonds). He

said if you do this, it doubles the actual numbers. Governmental fund accounting was again explained. Discussion followed about the reclaimed water agreement.

Mr. Register offered to pay for an outside auditor from his own pocket if the City's figures were wrong if Councilmembers who have different figures would agree to pay the outside auditor from their own pockets if their figures were wrong. A lengthy discussion followed about previous land transactions, infrastructure expenditures, revenues, the reclaimed water agreement, etc. It was stated the success of the Traditions development was the reason the cost of properties in that area had risen.

A detailed list of transactions relative to the Traditions project from 1999 until the present was given. It was opined that Traditions Acquisition Partnership (TAP) had been an excellent partner for the City in the endeavor and that TAP had invested millions into the community and infrastructure. As to land sales in the Traditions development, it was reported the City's share of lot sales was approximately 35 percent while the City's share of parcel sales was 75 percent. Return on investment figures projected into the future were requested. Mr. Hegwood responded that several million dollars in revenues after 2013 had gone directly to the general fund. Mr. Hegwood added that auditors look at historical records.

It was reported that infrastructure the City had extended to the area was now serving wide development in the west side of Bryan. It was opined that long term, Traditions would be a great investment for the City. It was also opined that the City would not have the Health Science Center and Biocorridor without Traditions. Concern was again expressed about the precedent set by the City renegeing on contracts it had entered into in good faith.

c. Consideration - Traffic Study Around Blinn College

Two Councilmembers added this agenda about possible action to direct staff to perform a traffic study and analysis on the traffic in and around Blinn College and that traffic anticipated with the location of a YMCA at the 29th and Villa Maria campus; said study should show the amount of congestion experienced currently and the traffic congestion added with a YMCA located on campus, with the results of the traffic study and analysis to be presented to the Council no later than June 2016. It was reported the City had not been involved in discussions about placing a YMCA on the current Blinn campus. It was reported that zoning would allow a YMCA on the existing campus location. Director of Public Works Jayson Barfknecht added that through the site development review process, the City could determine infrastructure needs should the YMCA come about at that location. It was reported the plan was to have the Blinn students pay an extra fee to support the YMCA, and that it could be used by the general public as well as students.

d. Consideration – Council Special Committee

Councilmember Owens moved to deny this agenda item submitted by two Councilmembers to form a special Council committee consisting of Councilmembers Ben Hardeman, Rafael Peña and Mike Southerland; the purpose of the special committee would be to renegotiate the City of Bryan water contract with Traditions Acquisition Partnership, L.P.; and the City Manager shall assign City staff as needed, with the results of the negotiations returned to the Council in closed session (as allowed by law) no later than March 2016. The motion to deny was seconded by Councilmember Simank. Concern was expressed again about the City renegeing on contractual obligations. It was also stated this item was about renegotiation, not termination of the contract. It was stated that the City's Traditions partner was cognizant that if the City was in a water

shortage situation with water rationing, the City would not be able to supplement effluent with potable water. It was again mentioned that only 10 percent of the City's effluent goes through the west side wastewater treatment plant. The other 90 percent of the effluent comes from other wastewater treatment plants. Staff was encouraged to find buyers of the other 90 percent of the effluent since there is now a market for effluent that didn't exist in the early years of the Traditions reclaimed water agreement. Councilmember Hardeman moved the previous question, with a second by Mayor Bienski, but the motion failed to carry with four yeses (Mayor Bienski and Councilmembers Owens, Hardeman and Simank) and three noes (Councilmembers Saenz, Peña and Southerland). Concern was again expressed that Bryan not be known as a city that alters contracts after entering into them in good faith. It was opined this would cause possible investors and developers to question the stability of an investment in a partnership with the City. After discussion, the motion to deny carried with four yeses (Mayor Bienski and Councilmembers Owens, Hardeman and Simank) and three noes (Councilmembers Saenz, Peña and Southerland).

10. CITY MANAGER REPORT

Mr. Register gave a report on various capital improvement projects. He also congratulated Bryan Police Lieutenant Shareon Gideon on her 30 years with the City and thanked her for her service.

11. ITEMS OF COMMUNITY INTEREST

Councilmembers mentioned the following items of community interest: new press box at Merrill Green Stadium, Martin Luther King Day march, town hall meetings, downtown Shakesbeer pub crawl and art fair, the Big Event, and an I-14 Gulf Coast Strategic Alliance meeting. The Bryan High School wrestling team was congratulated on a fine season.

12. ADJOURN

Without objection, the meeting was adjourned at 8:09 p.m.

City Secretary Mary Lynne Stratta

Mayor Jason P. Bienski