

**BRYAN CITY COUNCIL
MINUTES OF REGULAR MEETING
MAY 24, 2016**

The Bryan City Council held a regular meeting on Tuesday, May 24, 2016, 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, Greg Owens, Mike Southerland, Ben Hardeman and Buppy Simank were present. Councilmember Rafael Peña joined the meeting at 5:46 p.m. In attendance were City Manager Kean Register, City Attorney Janis Hampton and Assistant City Secretary Christina Cabrera.

1. CALL TO ORDER

The meeting was called to order at 4:01 p.m.

2. EXECUTIVE SESSION

The meeting was called into executive session at 4:01 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 requiring the attendance of City staff at town hall, community, and homeowner/neighborhood association meetings at which a Councilmember is in attendance in an official capacity and is addressing issues of City business that may come before the City Council, and receive legal advice regarding City Council authority to conduct or direct investigations; under the authority of Section 551.072, real estate – discussion regarding possible sale, lease, conveyance and/or purchase of property in east and west Bryan; under the authority of Section 551.074, personnel matters – discussion of duties and responsibilities of City Attorney; and under the authority of Section 551.087, economic development – discussion regarding economic development incentives for a possible project in east Bryan.

3. OPEN SESSION FOR ACTION FOLLOWING EXECUTIVE SESSION

The meeting was called into open session at 5:46 p.m. No action was taken regarding the items discussed in executive session.

4. INVOCATION AND PLEDGE OF ALLEGIANCE

Pastor Cris Ledezma, House of God–Casa de Dios, gave the invocation and Colonel Kevin J. O’Neill, U.S. Army, Retired, led pledges of allegiance to the U.S. and Texas flags.

5. PROCLAMATIONS AND PRESENTATIONS

The 2016 State Champion Rudder High School men’s gymnastics team members were congratulated.

6. HEAR CITIZENS

Mr. Ricardo Diaz, CHI St. Joseph Regional Health Center, thanked the City for its support in their endeavor to build a new emergency room and trauma center in Bryan. Ms. Dimple Wilson Suseberry, 1404 Conroy Street, thanked the Council for improvements to the Castle Heights neighborhood and

noted she could see a difference in the area. Mr. Raul Santana, 104 South Sterling, expressed his appreciation for the West 26th Street improvements project and voiced his opposition to recording town hall meetings. Mr. John Miller and Mrs. Debra Miller, 714 Williamson, spoke regarding Councilmember residency issues and transparency. Mr. Robert Rose, 3201 Walnut Creek Court, spoke regarding Texas Commission on Environmental Quality Air Quality Permit Number 20006. Ms. Jan Gertson, 2707 Flannigan Street, spoke about recent Council discord and encouraged Councilmembers to work together to put politics and differences aside.

7. CONSENT (AUTOMATIC APPROVAL) AGENDA

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

a. Approval of Minutes – Workshop and Regular Meetings of April 26, 2016

b. Consideration – Amendment to Waste Haulers Agreement with Brazos Valley Recycling

Consider approving an amendment to a waste haulers agreement to allow Brazos Valley Recycling to conduct recycling collections on the same days the City provides residential trash and brush/bulky services.

c. Consideration – Tri-Party Agreement for Residential Reconstruction at 1012 Hall Street

Consider the approval of a tri-party agreement for demolition and reconstruction of a single-family residential dwelling with handicap accessibility at 1012 Hall Street, with the homeowner household and Quality Works Construction in the amount of \$104,800 and a note with the homeowner household in the amount of \$106,863.32. Source of Funds: HOME Funds.

d. Second and Final Reading of an Ordinance – Rezoning Request (RZ16-02)

Second and final reading of Ordinance No. 2148 of the City of Bryan, Texas, amending Chapter 130, Zoning, of the City of Bryan Code of Ordinances, by a new development plan for a Planned Development-Mixed Use District (PD-M), subject to development requirements specified herein, on 20.61 acres of land adjoining the west side of Groesbeck Street between Palasota Drive and Richard Street, being north of the intersection with Richard and Groesbeck Streets, and being Lot 1 in Block 1 of Save Our Streets Subdivision, as well as 11.67 acres of land out of the Zeno Phillips Survey, A-45, in Bryan, Brazos County, Texas.

e. Second and Final Reading of an Ordinance – Rezoning Request (RZ16-04)

Second and final reading of Ordinance No. 2149 of the City of Bryan, Texas, amending Chapter 130, Zoning, of the City of Bryan Code of Ordinances, by changing the zoning classification from Industrial District (I) to Residential District-5000 (RD-5) on 9.081 acres of land out of the Stephen F. Austin League No. 9, A-62, located at 2509 West 28th Street, generally southeast of the intersection of Cunningham Lane and West 28th Street, and being the proposed Cunningham Oaks Subdivision Phase 3 in Bryan, Brazos County, Texas.

f. Second and Final Reading of an Ordinance – Rezoning Request (RZ16-07)

Second and final reading of Ordinance No. 2150 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-7000 (RD-7) on 14.869 acres of land out of the John Austin League, A-2, wrapping around the north and west side of the intersection of Thornberry and Austin Estates Drive in Bryan, Brazos County, Texas.

g. Second and Final Reading of an Ordinance – Right-of-Way Abandonment (RA16-02)

Second and final reading of Ordinance No. 2151 of the City of Bryan, Texas, providing for the abandonment of the following right-of-way, to wit: 2.81 acres of undeveloped public street rights-of-way for East Dodge Street and East 33rd Street, between East 32nd Street and East Pease Street as well as South Ennis Street and South Coulter Drive, respectively, lying adjacent to Blocks 30 through 33 of the Philips Addition 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.

8. STATUTORY (AUTOMATIC APPROVAL) AGENDA

Item 8 e was removed from the statutory agenda for separate consideration. Councilmember Owens moved to approve the remainder of the statutory agenda. The motion was seconded by Councilmember Simank and carried unanimously after discussion.

a. Consideration – Letter Agreement with Texas A&M Engineering Extension Service for Paramedic Training

Consider approving a letter agreement authorizing a one-time payment of \$52,800 to the Texas A&M Engineering Extension Service (TEEX) for paramedic training for 12 Bryan Fire Department employees. Source of Funds: General Fund.

b. Consideration – Blanket Purchase Order with Threshold Land Services, Inc.

Consider approving a professional services contract for land and easement acquisition services for various City of Bryan projects with Threshold Land Services, Inc., in the form of a blanket purchase order in an amount not to exceed \$350,000. Source of Funds: Various Funds.

c. Consideration – Renewal of Microsoft Enterprise Agreement

Consider approving a three-year enterprise agreement with Microsoft in a total amount not to exceed \$255,316 and a one-time increase to the current enterprise agreement to reflect the City's current licensing count in the amount of \$58,461. Source of Funds: General Fund.

d. Consideration – Contract for St. Joseph Hospital Area Improvements

Consider awarding the construction contract for St. Joseph Hospital Area Improvements Project to Larry Young Paving, Inc., in an amount not to exceed \$2,648,101.75. Source of Funds: Certificates of Obligation, Various Enterprise Funds and BTU Funds.

f. Resolution – Atmos Energy Corporation 2016 Rates

Adoption of Resolution No. 3656 of the City Council of the City of Bryan, Texas, approving a change in the rates of Atmos Energy Corporation, Mid-Tex Division, as a result of a settlement with the Atmos Texas Municipalities under the rate review mechanism and finding the rates set by the attached tariffs to be just and reasonable.

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

e. Consideration – Contract for West 26th Street Improvements Project

City Engineer Paul Kaspar gave a presentation regarding the West 26th Streets Improvements Project including an overview and history of the project. Staff was thanked for their hard work on this project, especially to preserve the trees along the street. Discussion followed regarding the time line for the project. Councilmember Saenz moved to award the construction contract for the West 26th Street Improvements Project to Larry Young Paving, Inc., in an amount not to exceed \$5,590,729 (Source of Funds: Certificates of Obligation and Various Enterprise Funds). The motion was seconded by Councilmember Simank and carried unanimously.

9. REGULAR AGENDA

a. Consideration – Appointment of an Individual to the Texas Municipal Power Agency Board of Directors

The Mayor called for nominees for the appointment of one individual to the Texas Municipal Power Agency (TMPA) Board of Directors for a two-year term beginning in July 2016. City Manager Kean Register, relayed that current TMPA Board Member David Bairrington wished to be reappointed to the Board. Councilmember Southerland moved to reappointment Mr. David Bairrington to the TMPA Board of Directors for a two-year term beginning in July 2016. The motion was seconded by Councilmember Saenz and carried unanimously.

b. Consideration – Appointment of an Individual to the Bryan-Brazos County Economic Development Foundation, Inc., Board of Directors

The Mayor called for nominees for the appointment of one individual to the Bryan-Brazos County Economic Development Foundation, Inc., (BBCEDF) Board of Directors for a two-year term beginning June 1, 2016. Councilmember Southerland nominated Ms. Nancy D. Johnson. Councilmember Simank nominated Councilmember Ben Hardeman. Nominations were closed upon a motion by Mayor Bienski and a second by Councilmember Southerland, which carried unanimously. Based upon a poll of each Councilmember, Councilmember Ben Hardeman was appointed to the BBCEDF Board with four affirmative votes (Mayor Bienski and Councilmember Owens, Hardeman Simank) and three members (Councilmembers Saenz, Peña and Southerland) voting affirmatively for Ms. Johnson.

c. Consideration – Conveyance of Four Tracts of Land to Bryan/Traditions, L.P.

Mayor Bienski moved to approve the conveyance of four tracts of land comprised of 0.563 acres, 1.56 acres, 7.6 acres and 8.6 acres out of the J. H. Jones Survey, A-26, from Bryan Commerce and Development, Inc., (BCD) to Bryan/Traditions, L.P., as parcels for future development within the Traditions and Atlas Town Center developments in Bryan, Brazos County, Texas, and authorizing the Mayor to execute general warranty deeds and other documents contemplated and required to carry out the conveyances in a form approved by the City Attorney. The motion was seconded by Councilmember Hardeman. Councilmember Peña moved to amend the main motion by including the condition that the minimum price per square foot be set at \$5.00 for the 8.6 acre and 7.6 acre tracts. Councilmember Saenz seconded the motion. City Attorney Hampton pointed out this amendment would be a violation of the City's partnership contract, so would not be allowable. Councilmember Peña withdrew his motion to amend. Deputy City Manager Joey Dunn answered

questions and clarified this was a conveyance to a partnership in which Bryan Commerce and Development (BCD) received proceeds. He added the City would also receive a share of taxes as outlined in the BioCorridor Interlocal Agreement. Council discussion continued regarding the possible sales price of the two tracts. Councilmember Southerland moved to postpone consideration until receiving a report from the partner on the exact details of the transaction. Councilmember Peña seconded the motion. Council discussed the merits of postponement. The motion to postpone failed to carry with a vote of three ayes (Councilmembers Saenz, Peña and Southerland) and four nays (Mayor Bienski and Councilmembers Owens, Hardeman and Simank). Discussion followed about setting a minimum price for the sale of the tracts. The main motion to approve the conveyance of the tracts carried with a vote of four ayes (Mayor Bienski and Councilmembers Owens, Hardeman and Simank) and three nays (Councilmember Saenz, Peña and Southerland).

d. Consideration – Backup Sound Recording of Bryan City Council Meetings

Council then discussed the following agenda item submitted by two Councilmembers:

Discussion, consideration, and possible action to direct staff to:

1. Review the video recording procedures used during the May 10, 2016, Council meeting that left part of the voice recording of Councilmembers Saenz’s speech inaudible and provide a report of the review to the Council by the first meeting in June.
2. Provide a backup voice recording of the Council meetings and maintain the voice recording on file until the Council video has been reviewed for completeness and posted to the City website. Show the May 10, 2016, Council video for demonstration of the issue during Councilmember Saenz’s speech. The process shall be in place by the next Council meeting.

The importance of capturing all comments from Councilmembers was stressed. Chief Information Officer Bernie Acre explained City staff was surprised by the situation and was not prepared to censor profanity as this had never happened before during a Council meeting. He added that training would be provided so that should a similar situation occur in the future, staff would be better prepared to mute the offensive language. Council discussion followed regarding the technicalities of recording Council meetings with a delay mechanism. The recording of the incident was played at Council’s request. Council discussion continued. It was opined taxpayer money should not be spent on acquiring technology to mitigate another incident or provide a secondary recording mechanism. An apology was offered for the use of the offensive language that brought about the attempt to mute the live feed of the Council meeting where the profanity occurred. (Councilmember Owens left the meeting at 7:19 p.m. during the discussion of this item.) The Council reached a consensus to move forward from this incident without implementing backup recordings or investing in new equipment.

10. CITY MANAGER REPORT

The City Manager did not provide a report.

11. ITEMS OF COMMUNITY INTEREST

Councilmembers listed the following items of community interest: Clara B. Mounce Public Library English as a Second Language Program graduation ceremony, the Hispanic Forum Scholarship Gala, town hall meetings, a recent phone scam aimed at BTU customers, the grand opening of Sadie Thomas Pool, future Castle Heights Park pavilion, etc. Congratulations were extended to CHI St. Joseph on

their new facilities and to Bubba Bean and Jayson Barfknecht for their work in the Castle Heights neighborhood. Local high school graduates were also congratulated.

12. ADJOURN

Without objection the meeting adjourned at 7:29 p.m.

City Secretary Mary Lynne Stratta

Mayor Jason P. Bienski