

**BRYAN CITY COUNCIL  
MINUTES OF REGULAR MEETING  
SEPTEMBER 13, 2016**

The Bryan City Council held a regular meeting on Tuesday, September 13, 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 Greg Owens, Mike Southerland, Ben Hardeman, Al Saenz and Buppy Simank were present. Councilmember Rafael Peña was absent. 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 3:17 p.m.

**2. EXECUTIVE SESSION**

The meeting was called into executive session at 3:18 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 EEOC matters, receive legal advice regarding code of ethics and conduct for elected and appointed officials and complaint procedure, receive legal advice regarding sufficiency of complaint received under Resolution No. 3478, Code of Ethics and Conduct for Elected and Appointed Officials, receive legal advice regarding groundwater issues, receive legal advice regarding Convention and Visitors Bureau funding agreement, receive legal advice regarding legal issues related to the water and wastewater certificates of convenience and necessity for approximately 410 acres located north of F.M. 158 approximately 700 feet east of Copperfield Drive and approximately 1,100 feet west of Dansby Lane, situated within the J.W. Scott League, and receive legal advice regarding proposed amendments to the towing ordinance; under the authority of Section 551.072, real estate – discussion regarding possible sale, lease, conveyance, and/or purchase of property in west Bryan; under the authority of Section 551.074, personnel matters – discussion of duties and responsibilities of City Secretary and City Internal Auditor; and under the authority of Section 551.087, economic development – discussion regarding economic development prospects in north, east and west Bryan.

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

The meeting was recessed at 5:10 p.m. with the announcement the meeting would be reconvened in open session in the Council Chambers at 5:45 p.m.

The meeting was reconvened in open session at 5:45 p.m. in the Council Chambers. No action was taken regarding the items discussed in executive session.

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

The invocation was given by Reverend G. H. Jones III and the pledges of allegiance to the U.S. and Texas flags were led by Mr. Charles Opersteny, American Legion Post 159.

## **5. PROCLAMATIONS AND PRESENTATIONS**

The Mayor and Council congratulated the City's Communications and Marketing staff for winning two awards from the Texas Association of Municipal Information Officers (TAMIO), including the top award in the state for the City of Bryan State of City Report, and two national awards from the City-County Communications and Marketing Association (3CMA) for the Let It Flow Water Quality Report and Water Conservation Game.

## **6. HEAR CITIZENS**

Mr. Raul Santana, 104 South Sterling, spoke about the Fiestas Patrias event held the previous weekend. Mr. John Miller, 714 Williamson Drive, spoke about the September 6, 2016, Council meeting and street flooding. Mrs. Debra Miller, 714 Williamson Drive, commented on Councilmember actions during the September 6, 2016, Council meeting.

## **7. SECOND PUBLIC HEARING – TAX RATE**

Mayor Bienski called for public comment regarding a proposal to adopt a property tax rate of \$0.629990 per \$100.00 assessed valuation, increasing the total tax revenues from properties on the tax roll in the preceeding tax year by 5.12% (percentage by which proposed tax rate exceeds lower of rollback tax rate or effective tax rate as calculated under Tax Code, Chapter 26). (Note: This proposal does not increase the current tax rate of \$0.629990.) The public hearing closed at 6:07 p.m. with no comments from the public.

## **8. REZONING REQUEST RZ16-12**

### **a. Public Hearing – Rezoning Request RZ16-12**

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 Commercial District (C-3) on 1.989 acres of land adjoining the south side of East State Highway 21, southwest from its intersection with Wallis Road, currently addressed as 6086 East State Highway 21 in Bryan, Brazos County, Texas. The public hearing closed at 6:09 p.m. without public comment.

### **b. First Reading of an Ordinance – Rezoning Request RZ16-12**

Councilmember Hardeman 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 Commercial District (C-3) on 1.989 acres of land adjoining the south side of East State Highway 21, southwest from its intersection with Wallis Road, currently addressed as 6086 East State Highway 21 in Bryan, Brazos County, Texas. The motion was seconded by Councilmember Saenz and carried with all present voting aye.

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

Item 9 s was removed from the consent agenda for separate consideration at the request of two Councilmembers. Councilmember Hardeman moved to approve the remainder of the consent agenda. Councilmember Owens seconded the motion, which carried with all present voting aye.

- a. **Approval of Minutes** – Workshop Meeting of August 2, 2016 and Workshop and Regular Meetings of August 16, 2016.

b. **Consideration – Annual Price Agreement for Code Enforcement Mowing**

Consider approving an annual price agreement for lot mowing and clearing with Grassmasters of Bryan, Texas, in the amount of \$57,761.70. Source of Funds: Code Enforcement Operating Fund.

c. **Consideration – Fiscal Year 2017 Blanket Purchase Order to Office Max**

Consider approval of a blanket purchase order (BPO) to Office Max for the purchase of office supplies and related equipment and services by all City departments through an interlocal cooperative purchase agreement with the Brazos Valley Council of Governments Purchasing Solution Alliance (PSA) in an amount not to exceed \$70,000 for Fiscal Year 2017. Source of Funds: Various Departmental Budgets and Funds.

d. **Consideration – Annual Maintenance and Support Agreement for Public Safety Software**

Consider approval of annual public safety software support and maintenance for Tiburon, Inc., (a Tritech Company) in the amount of \$129,517, with the City of Bryan's portion being \$71,792. Source of Funds: General Fund.

e. **Consideration – Purchase of Police Vehicles**

Consider authorizing the purchase of two police vehicles and equipment for the Police Department for a total amount not to exceed \$82,755.66. Source of Funds: General Fund.

f. **Consideration – Approval of Price Agreement for Hot Mix Paving Material**

Consider approving a price agreement for hot mix paving material with Knife River – South of Bryan, Texas, for a one-year period in an amount not to exceed \$95,000. Source of Funds: Transportation and Drainage General Fund.

g. **Consideration – Contract Extension for Demolition of Substandard Structures**

Consider approving the third extension of an annual contract with Jeffery Bailey Trucking, Inc., of Bryan, Texas, for the demolition of structures and related services in an amount not to exceed \$100,000. Source of Funds: General Fund.

h. **Consideration – Annual Maintenance Agreement for Sungard Public Sector**

Consider approving an annual maintenance agreement with Sungard Public Sector application in the sum of \$102,328.24. Source of Funds: General Fund.

i. **Consideration – Annual Price Agreement for the Purchase of Chlorine**

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

**j. Consideration – Blanket Purchase Order for Wireless Services**

Consider approving the purchase of wireless and cellular services and related equipment through Verizon Wireless, L.L.C., and AT&T Mobility with an estimated expenditure not to exceed \$150,000. Source of Funds: General and Enterprise Funds.

**k. Consideration – Environmental Research Institute (ESRI) Annual Maintenance**

Consider approving a three-year maintenance agreement with Environmental Systems Research Institute (ESRI) for the Geographic Information System (GIS) software utilized by all departments at the City in a total amount of \$153,000. Source of Funds: General Fund.

**l. Consideration - Blanket Purchase Orders for Computer Purchases**

Consider authorizing blanket purchase orders for desktop and notebook computers and related purchases with Southern Computer Warehouse in the amount of \$200,000, Dell Inc., in the amount of \$200,000, and Austin Ribbon & Computer Supplies, Inc., in the amount of \$200,000. Source of Funds: Various Funds.

**m. Consideration – Brazos County Health District Fiscal Year 2017 Budget and Funding**

Consideration of the Brazos County Health District Fiscal Year 2017 proposed budget in the amount of \$4,237,531, with the City of Bryan’s funding amount being \$326,500. Source of Funds: General Fund.

**n. Consideration - Turkey Creek Land Dedication and Easement**

Consider authorizing the Mayor to execute the necessary documents to convey four trail easements and one deed for three tracts of land along Turkey Creek to the Turkey Creek Conservation and Recreation Preserve for a trail network that will connect Harvey Mitchell Parkway (F.M. 2818) to State Highway 47.

**o. Resolution – Brazos County Emergency District Fiscal Year 2017 Budget**

Adoption of Resolution No. 3676 of the City Council of the City of Bryan, Texas, approving the budget of the Brazos County Emergency Communications District for Fiscal Year 2017 in the amount of \$4,383,804. Source of Funds: General Fund.

**p. First Reading of an Ordinance – Amending Chapter 50, Health and Sanitation, Article II, “Food Service Establishments”, Section 50-21 “Food Service Sanitation Ordinance Adopted”**

First reading of an ordinance of the City of Bryan, Texas, amending Chapter 50, Health and Sanitation, Article II, “Food Service Establishments”, Section 50-21, “Food Service Sanitation Ordinance Adopted” of the City of Bryan Code of Ordinances to update citations to regulations as modified by the Texas State Department of Health Services.

**q. Second and Final Reading of an Ordinance – Chapter 130, Zoning, Text Amendments**

Second and final reading of Ordinance No. 2167 amending Chapter 130, “Zoning”, of the City of Bryan, Code of Ordinances, by amending Article 1, “General”, Section 130-3 “Definitions”,

removing unnecessary definitions, revising definitions of “home occupation,” “multifamily (residential) development or dwelling,” “occupancy” and “single-family dwelling unit” and to add definitions of “detached dwelling unit with no more than two unrelated persons,” “detached dwelling units with no more than four unrelated persons,” “guest,” “multi-family dwelling unit,” “occupant,” “related persons,” “second family,” “single-family detached dwelling unit,” “single-family attached dwelling unit,” “tenant” and “unrelated persons” and by amending Article 2, “Zoning Districts”, Section 130-31 to make a grammatical correction and to clarify the permitting of a second family on a temporary basis and by amending Article 3 “Other Regulations,” Section 130-34, by adding subsection (p) to establish prima facie proof of occupancy and to amend Chapter 62, “Land and Site Development,” Section 62-1 “General Definitions” to revise the definition of “multifamily (residential) development or dwelling”; providing for penalty, providing for publication and providing an effective date.

**r. Second and Final Reading of an Ordinance – Temporary Moratorium on Any Permits or Licenses for the Installation of Above-Ground Wireless Communications Facilities**

Second and final reading of Ordinance No. 2168 of the City of Bryan, Texas, implementing a temporary moratorium on the submission, acceptance, processing, and approval of any application for any permit or license for the installation of above-ground wireless communications facilities in the public right-of-way or on public or private property.

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

**s. Second and Final Reading of an Ordinance – Fiscal Year 2017 Budget**

Mayor Bienski moved to approve the second and final reading of Ordinance No. 2169 of the City of Bryan, Texas, approving and adopting a budget for the fiscal year beginning October 1, 2016, and ending September 30, 2017, inclusive, with expenditures in the combined total amount of \$394,794,815, appropriating funds for the maintenance and operation of the various departments, activities and improvements of the City; appropriating funds for the payment of debt obligations in accordance with applicable contracts and laws; providing that expenditures for said fiscal year shall be made in accordance with said budget and authorizing the City Manager to make certain transfers of funds. The motion was seconded by Councilmember Owens. After discussion about possible future budget amendments, the motion carried with all present voting aye.

**10. STATUTORY (AUTOMATIC APPROVAL) AGENDA**

Councilmember Hardeman moved to approve the statutory agenda. Councilmember Owens seconded the motion. The motion carried with all present voting aye, with the exception that Councilmember Simank abstained from the vote as it related to agenda item 10 j only.

**a. Consideration – City of Bryan- Brazos County Economic Development Foundations, Inc., Fiscal Year 2017 Funding**

Consider approving an interlocal agreement between the City of Bryan-Brazos County Economic Development Foundation, Inc. (BBCEDF), City of Bryan and Brazos County that provides funding for Fiscal Year 2017 in the amount of \$327,822 for operational costs. The City of Bryan’s share of funding is \$163,911. Source of Funds: General Fund.

**b. Consideration – Purchase of Grass/Brush Fire Truck**

Consider approving the purchase of a new grass/brush fire truck from Chastang Ford through the Houston-Galveston Area Council, a Texas Local Government Purchasing Cooperative, for the total purchase price of \$187,500. Source of Funds: General Fund.

**c. Consideration – Water Meter Purchase Agreement**

Consider authorizing the purchase of meters and communication modules through Sensus USA, Inc., for the ongoing installation, implementation and expansion of an Advanced Meter Infrastructure (AMI) system in an amount not to exceed \$225,000. Source of Funds: Water and Sewer Fund Balance and Water Operating Fund.

**d. Consideration – Blanket Purchase Orders of Information Technology Infrastructure**

Consider approving a blanket purchase order (BPO) for the purchase of information technology infrastructure equipment, services, and support from NWN Inc., in the amount of \$100,000 and Netsync, Inc., in the amount of \$150,000. Source of Funds: General Fund.

**e. Consideration – Blanket Purchase Order with Motorola for Fire and Police Radio Replacement**

Consider approving a blanket purchase order (BPO) 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 in an amount not to exceed \$400,000. Source of Funds: General Fund.

**f. Consideration – Brazos County Emergency Communications District Dispatch Services**

Consider approving an agreement with the Brazos County Emergency Communications District (911 District) to provide emergency communications dispatching services to the City of Bryan for Fiscal Year 2017 in the amount of \$1,755,670. Source of Funds: General Fund.

**g. Resolution – Community Housing Development Organization (CHDO) Funding Agreement with Elder Aid**

Adoption of Resolution No. 3677 of the City Council of the City of Bryan, Texas, approving a contract for the allocation of Home Investment Partnership Program Funds to Elder Aid, Inc., a qualified community housing development organization, in the total amount of \$84,787.90 and authorizing the Mayor to execute the contracts. Source of Funds: 2014 and 2015 CHDO HOME Set Aside Funds.

**h. Resolution – Recognizing Bryan Firefighters Association as Bargaining Agent**

Adoption of Resolution No. 3678 of the City Council of the City of Bryan, Texas, recognizing the Bryan Firefighters Association, Local 1204 of the International Association of Firefighters (IAFF), as the sole and exclusive bargaining agent for all firefighters employed by the City of Bryan, Texas, excluding the head of the Fire Department (e.g., Fire Chief) and excluding employees of the Bryan Fire Department exempt under Section 142.108 (b) of the Texas Local Government Code.

**i. Resolution – Texas Municipal Power Agency Power Sales Contract**

Adoption of Resolution No. 3679 of the City Council of the City of Bryan, Texas, regarding the City’s option to extend the term of its power sales contract with Texas Municipal Power Agency (TMPA), as amended, and direction to the City Manager, or his designee, to provide written notice of this election to TMPA.

**j. Resolution – Fiscal Year 2017 Downtown Bryan Association Budget and Funding**

Adoption of Resolution No. 3680 of the City Council of the City of Bryan, Texas, approving a budget for the fiscal year beginning October 1, 2016, and ending September 30, 2017, inclusive, for the Downtown Bryan Association with total expenditures of \$664,398 and revenues in the combined total of amount of \$685,047 and authorizing the Mayor to sign an annual funding agreement in the amount of \$275,000. Source of Funds: Fiscal Year 2017 Hotel Occupancy Tax Fund and General Fund.

**k. Resolution – Fiscal Year 2017 Bryan-College Station Convention and Visitors Bureau Budget and Funding**

Adoption of Resolution No. 3681 of the City Council of the City of Bryan, Texas, approving a budget for the fiscal year beginning October 1, 2016, and ending September 30, 2017, inclusive, for the Bryan-College Station Convention and Visitors Bureau with total expenditures of \$2,809,163.95 and revenues in the combined total amount of \$2,679,379.83 and authorizing the Mayor to sign a funding agreement to provide funding for Fiscal Year 2017 in the amount of \$331,964. Source of Funds: Hotel Occupancy Tax Fund.

**11. REGULAR AGENDA**

**a. Consideration – Appointment of an Individual to the Brazos Valley Solid Waste Management Agency (BVSWMA) Board**

Councilmember Owens made a motion to appoint Councilmember Buppy Simank to the Brazos Valley Solid Waste Management Agency Board of Directors for a full three-year term beginning on October 1, 2016. The motion was seconded by Councilmember Hardeman and passed with all present voting aye.

**b. Consideration – Appeal of Bryan Planning and Zoning Commission’s Denial of PV16-13**

Council considered an appeal of the Bryan Planning and Zoning Commission’s decision to deny a request for variance to the standards of Bryan City Code of Ordinances Chapter 62, “Land and Site Development”, Article IV, “Building Setbacks and Lot Standards”, specifically a request for a 6.5 foot variance to the minimum 7.5 foot side building setback generally required on properties zoned Residential District - 5000 (RD-5), to allow the proposed installation of a carport to extend within one foot from the west side property line on property at 3723 Ravenwood Drive, located approximately 90 feet northeast of the intersection of Knight Drive and Ravenwood Drive, being Lot 2 in Block 22 of the Wheeler Ridge Subdivision - Phase 6 (Case No. PV16-13). Planning Manager Martin Zimmermann presented an overview of the Bryan Planning and Zoning Commission’s decision and recommendation to Council. Council discussion followed regarding the details of the variance request. Councilmember Owens moved to uphold the Bryan Planning and Zoning Commission’s decision to deny a request for variance, Case No. PV16-13. The motion was seconded by Councilmember Hardeman. The appellant, Mr. John Gardner, then

presented his case to Council, including addressing the Planning and Zoning Commission's concerns regarding emergency vehicle access and other outbuildings on the surrounding properties. Mr. Gardner opined his carport would not negatively impact the neighborhood. Mr. Zimmermann pointed out granting this variance would impact possible future development on the neighboring properties, while upholding setbacks helps preserve neighborhood integrity. The motion to uphold the Planning and Zoning Commission's decision and deny the request for variance, Case No. PV16-13, passed with four ayes (Mayor Bienski and Councilmember Owens, Saenz and Simank), one nay (Councilmember Southerland) and one absent (Councilmember Peña).

**c. First Reading of an Ordinance – Tax Rate for Tax Year 2016 (Fiscal Year 2017)**

Councilmember Hardeman moved to approve the first reading of an ordinance of the City of Bryan, Texas, fixing the tax levy of the City of Bryan, Texas, for the taxable year 2016 at \$0.629990 per \$100 of assessed valuation, being \$0.448172 per \$100 valuation for General Fund maintenance and operations and \$0.181818 per \$100 valuation for the payment of principal and interest on General Obligation Debt, which is effectively a 5.12% increase in the tax rate; and said increase being additional revenues from increased property valuations on the tax roll. The motion was seconded by Councilmember Simank. The motion carried with the Councilmembers voting as follows: Mayor Bienski – yes, Councilmember Saenz - yes, Councilmember Owens – yes, Councilmember Hardeman – yes, Councilmember Southerland – no, and Councilmember Simank – yes. Councilmember Peña was absent.

**d. Consideration – Tour of New Development City Wide**

Councilmember Owens moved to direct the City Manager to direct staff to conduct a tour, guided by staff, to visit the sites of new developments within the City of Bryan after the November 8, 2016, election. The motion was seconded by Councilmember Simank. The motion passed with all present voting aye.

**e. Consideration – Tour of Capital Improvement Projects in Currently Approved CIP**

Councilmember Owens moved to direct the City Manager to direct staff to conduct a bus tour, guided by staff, of the projects currently in the approved five-year Capital Improvement Plan after the November 8, 2016, election. The motion was seconded by Councilmember Hardeman. The motion carried with all present voting aye.

**f. Consideration – Tour of North Downtown**

Councilmember Owens moved to direct the City Manager to direct staff to conduct a tour of the north downtown area to showcase areas to be developed with an explanation of planned developments on each block under development consideration, to be conducted after the November 8, 2016, election. The motion was seconded by Councilmember Simank and carried with all present voting aye.

**12. CITY MANAGER REPORT**

Mr. Register expressed condolences to the family of former Bryan Police Chief Joe Ellisor upon his passing. He welcomed firefighters to the meeting and recognized Firefighter Mitch Moran.

**13. ITEMS OF COMMUNITY INTEREST**

Councilmembers mentioned the following items of community interest: upcoming Texas Reds Steak and Grape Festival, Buffalo Soldier statue unveiling at Veteran's Park, free game day parking in Downtown Bryan, Habitat for Humanity home dedications, upcoming town hall meetings, Fiestas Patrias and a senior citizen luncheon. Citizens were encouraged to apply for service on City boards, committees and commissions. Mr. Tom Wilkinson was congratulated on 25 years of service with the Brazos Valley Council of Governments. Staff was congratulated on the progress of the West 28<sup>th</sup> Street reconstruction project. City Secretary Mary Lynne Stratta and her staff were congratulated again for their achievements in communications and marketing the City of Bryan.

**14. ADJOURN**

The meeting was adjourned without objection at 6:55 p.m.

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City Secretary Mary Lynne Stratta

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Mayor Jason P. Bienski