

**BRYAN CITY COUNCIL
MINUTES OF REGULAR MEETING
SEPTEMBER 27, 2016**

The Bryan City Council held a regular meeting on Tuesday, September 27, 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, Rafael Peña, Greg Owens, Ben Hardeman and Buppy Simank were present. Councilmember Mike Southerland was absent. Also present were Deputy City Manager Hugh Walker, City Attorney Janis Hampton and City Secretary Mary Lynne Stratta.

1. CALL TO ORDER

The meeting was called to order at 4:55 p.m.

2. EXECUTIVE SESSION

The meeting was called into executive session at 4:56 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 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; under the authority of Section 551.072, real estate – discussion regarding possible sale, lease, conveyance, and/or purchase of property in north and west Bryan; under the authority of Section 551.074, personnel matters – discussion of duties and responsibilities of 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, IF NECESSARY

The meeting was called into open session at 5:55 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

The invocation was given by Monsignor John Malinowski, CHI St. Joseph Regional Health Center, and the pledges to the U.S. and Texas flags were led by veterans John and Gerry Hince, American Legion Post 159.

5. PROCLAMATIONS AND PRESENTATIONS

Dr. Jim Mazurkiwetz introduced a musical performance by Tekla Klebetnica from Poland. Mayor Bienski presented the musicians with gifts and thanked them for visiting Bryan. Mayor Bienski presented proclamations establishing Bryan Police Department Appreciation Day and recognizing Fire Prevention Week.

6. HEAR CITIZENS

Mr. Gary Welch, 4880 Austin's Creek Drive, asked for a refund of interest and penalty on a late tax payment. Mr. John Miller, 714 Williamson, recommended the City have extra computers in case Councilmembers needed a replacement while theirs was repaired. He also referred to a letter he received from Councilmember Hardeman. Mrs. Debra Miller, 714 Williamson, referred to agenda items 11 b and 11 c and expressed her concern the Council spend taxpayer money wisely.

7. REZONING REQUEST RZ16-14

a. Public Hearing – Rezoning Request RZ16-14

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 Agricultural – Open District (A-O) to Industrial District (I) on 1.83 acres of land adjoining the northwest side of Charles Avenue between Clarks Lane and Drillers Drive, being Lot 4 in Block 1 of Parkwood Estates Subdivision – Phase 2, and currently addressed as 4031 Charles Avenue in Bryan, Brazos County, Texas. The public hearing closed at 6:41 p.m. without comment from the public.

b. First Reading of an Ordinance – Rezoning Request RZ16-14

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 Industrial District (I) on 1.83 acres of land adjoining the northwest side of Charles Avenue between Clarks Lane and Drillers Drive, being Lot 4 in Block 1 of Parkwood Estates Subdivision – Phase 2, and currently addressed as 4031 Charles Avenue in Bryan, Brazos County, Texas. The motion was seconded by Councilmember Simank. Planning Manager Martin Zimmermann provided information about the rezoning request and answered questions from Councilmembers. Councilmember Peña moved to suspend the rules to allow the applicant to speak. The motion was seconded by Councilmember Owens and carried with all present voting aye. The applicant, Ms. Lori Acarto, 2112 Meadowbrook Drive, confirmed she owned a towing company and pointed out the company's storage area would be surrounded by a six-foot fence and vehicles would not be visible per State licensing requirements. She also mentioned her business was located next to the Carrabba Industrial Park. Council discussion followed regarding the appropriateness of the zoning for the area. City Attorney Janis Hampton reminded Council that the proposed zoning designation included an approved list of uses and questions regarding the specifics of the fencing were not pertinent. The motion carried with four yeses (Mayor Bienski and Councilmembers Owens, Hardeman and Simank), two noes (Councilmembers Saenz and Peña) and one absent (Councilmember Southerland).

8. REZONING REQUEST RZ16-15

a. Public Hearing – Rezoning Request RZ16-15

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 Multiple-Family District (MF) on 6.17 acres of vacant land out of the John H. Jones Survey adjoining the northeast side of State Highway 47, approximately 1,500 feet to 1,900 feet southeast of its intersection with West Villa Maria Road in Bryan, Brazos County, Texas. The public hearing closed at 6:48 p.m. without comment from the public.

b. First Reading of an Ordinance – Rezoning Request RZ16-15

Councilmember Owens 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 Multiple-Family District (MF) on 6.17 acres of vacant land out of the John H. Jones Survey adjoining the northeast side of State Highway 47, approximately 1,500 feet to 1,900 feet southeast of its intersection with West Villa Maria Road in Bryan, Brazos County, Texas. The motion was seconded by Councilmember Simank. Mr. Zimmermann answered questions for the Council. The motion carried with all present voting aye.

9. CONSENT (AUTOMATIC APPROVAL) AGENDA

Councilmember Hardeman moved to approve the consent agenda. The motion was seconded by Councilmember Owens. The motion carried with all present voting aye, with the exception that Councilmember Simank abstained from the vote as it related to agenda item 9 o only.

a. Approval of Minutes –Workshop and Regular Meetings of August 23, 2016, Special Meeting of September 6, 2016, and Workshop and Regular Meetings of September 13, 2016, and Special Meeting of September 20, 2016.

b. Consideration – 2017 Plan Year Extension of Medical and Dental Health Plan

Consider approving the 2017 plan year extension of the medical and dental health plan administrator and provider network agreement with Blue Cross and Blue Shield of Texas with an estimated annual cost of \$524,566. Source of Funds: Employee Benefits Fund.

c. Consideration – Fiscal Year 2017 Extension of Excess Liability Insurance

Consider approving the Fiscal Year 2017 extension of the City’s excess liability insurance to Illinois Union Insurance Company in the annual amount of \$210,486. Source of Funds: Self-Insurance Fund.

d. Consideration – Fiscal Year 2017 Extension of Employee Group Life, AD&D and Employee Group Long Term Disability Insurance

Consider approving the 2017 plan year extension of employee group life insurance, accidental death and dismemberment insurance, and employee group long-term disability insurance to Mutual of Omaha with an estimated combined annual cost of \$233,104.

e. Consideration – Fiscal Year 2017 Extension of Excess Workers’ Compensation Insurance

Consider approving the Fiscal Year 2017 extension of the City’s excess workers’ compensation insurance to Midwest Employers Casualty in the annual amount of at \$188,193. Source of Funds: Self Insurance Fund.

f. Consideration – Fiscal Year 2017 Equipment Breakdown/Boiler Machinery Insurance

Consider approving the Fiscal Year 2017 extension of the City’s equipment breakdown/boiler machinery insurance to Liberty Mutual Insurance Fire Insurance Company in the estimated annual amount of \$264,292. Source of Funds: Various Funds.

g. Consideration – Fiscal Year 2017 Extension of Property Insurance

Consider approving the Fiscal Year 2017 extension of the City’s property insurance to the Texas Municipal League – Intergovernmental Risk Pool in the estimated annual amount of \$185,330. Source of Funds: All Funds.

h. Consideration – Fiscal Year 2017 Miscellaneous Blanket Purchase Order Requests

Consider authorizing the following blanket purchase orders for Fiscal Year 2017 that are exempt from the competitive bidding process as described in Texas Local Government Code, Chapter 252.022, and other expenditures for interlocal contracts or fees mandated by State law that are greater than \$50,000: Atmos Energy - \$125,000, Brazos Valley Solid Waste Management Agency - \$1,600,000, Texas Commission on Environmental Quality (Wastewater Discharge Permit Fee) - \$110,000, Texas Commission on Environmental Quality (Water System Operating Fee) - \$70,000, Brazos Valley Groundwater Conservation District - \$225,000, and Documation, Inc., \$80,000. Source of Funds: Various Funds.

i. Consideration – Annual Electrical Supplies Blanket Purchase Order

Consider approving the third extension of three separate blanket purchase orders for the annual price agreement for electrical supplies with Crawford Electric, Dealers Electrical Supply, and Elliott Electric for a total amount not to exceed \$80,000. Source of Funds: Water, Wastewater and General Funds.

j. Consideration – Tri-Party Agreement for Demolition and Reconstruction at 807 Dansby Street

Consider approving a tri-party agreement for demolition and reconstruction of a single family residential dwelling with handicap accessibility at 807 Dansby Street, with the homeowner household and project contractor, Quality Works Construction, Inc., in the amount of \$83,435 and a note with the homeowner household in the amount of \$85,603.79. Source of Funds: HOME Funds.

k. Consideration – Contract for Right-of-Way Mowing Services

Consider approving a contract for right-of-way mowing services with Rios Tree Service in an amount not to exceed \$462,042.84. Source of Funds: General Fund.

l. Consideration – Contracts for Pool and Wastewater Chemicals

Consider approving two contracts for the purchase of swimming pool and wastewater treatment chemicals to Poolsure in an amount not to exceed \$27,020 and Leslie’s Pool Service in an amount not to exceed \$30,292. Source of Funds: General and Enterprise Funds.

m. Resolution –Fiscal Year 2017 RAMP Grant for Coulter Airfield

Adoption of Resolution No. 3682 of the City Council of the City of Bryan, Texas, authorizing the Mayor to approve submission and acceptance of a grant for Routine Airport Maintenance Program (RAMP) at Coulter Airfield for Fiscal Year 2017, in an amount not to exceed \$50,000 and authorizing compliance with the grant terms.

n. Resolution – Easement Release - ER16-02

Adoption of Resolution No. 3683 of the City Council of the City of Bryan, Texas, authorizing the Mayor to execute the release of the following public utility easement segments, to wit: two segments of a 15-foot wide public utility easement that extends generally northeast from Thornberry Drive, northwest from its intersection with Ambrose Court along the rear (north) property lines of Lots 1-2 and 4-5 in Block 1 of Austin’s Colony Subdivision – Phase 12A, Bryan, Brazos County, Texas, said easement sections being 130.55 feet long and 0.045 acres in size and 233.11 feet long and 0.079 acres in size, respectively.

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

Second and final reading of Ordinance No. 2171 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.

p. Second and Final Reading of an Ordinance – Rezoning Request RZ16-12

Second and final reading of Ordinance No. 2172 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.

q. Second and Final Reading of an Ordinance – Fiscal Year 2016 Budget Amendment 3

Second and final reading of Ordinance No. 2173 of the City of Bryan, Texas, amending Ordinance 2162; increasing expenditure appropriations for Fiscal Year 2016 from \$405,207,542 to \$408,833,542.

10. STATUTORY (AUTOMATIC APPROVAL) AGENDA

Councilmember Owens moved to approve the statutory agenda. The motion was seconded by Councilmember Simank and carried with all present voting aye.

a. Consideration – Airport Improvement Plan Phase II Construction Matching Funds

Consider approving the expenditure of local matching funds as part of a grant through the Texas Department of Transportation Aviation Division for the Airport Improvement Plan Phase II Construction Project at Coulter Airfield in the estimated amount of \$85,500. Source of Funds: General Fund.

b. Consideration – Contract for 2016 Street Maintenance – Seal Coat

Consider awarding a construction contract for 2016 Street Maintenance Seal Coat Project to Fuquay, Inc., in an amount not to exceed \$502,704. Source of Funds: Transportation Fee.

c. Consideration - Second Extension of Concrete Curb, Gutter and Flatwork Contract

Consider approval of the second extension of an annual contract for concrete curb, gutter and flatwork with Brazos Site Works in an amount not to exceed \$617,860. Source of Funds: General, Water, and Wastewater Funds.

d. Consideration – Legal Services for Mathews and Freeland, L.L.P.

Consider authorizing the Mayor to execute the second amendment to the Fiscal Year 2016 Legal Services Agreement with Mathews and Freeland, L.L.P., to increase the total not-to-exceed amount to \$250,000 and further authorizing the Mayor to execute an agreement for legal services for Fiscal Year 2017 with Mathews and Freeland, L.L.P., for representation of the City of Bryan in connection with the ground water district, Texas Commission on Environmental Quality, and other water law-related matters in an amount not to exceed \$250,000. Source of Funds: Water and Wastewater Operating Budget.

e. Consideration – Amendment 3 to South College Improvements Design Contract

Consider approving amendment three to the Binkley & Barfield, Inc., design contract for South College Road Reconstruction (Villa Maria Road to Sulphur Springs Road) and South College Avenue Sidewalks (Villa Maria Road to Inlow Boulevard) for the not to exceed amount of \$189,000. Source of Funds: General Fund to be reimbursed by future bond funds.

f. Consideration – Contract for Municipal Office Building ADA Modifications

Consider awarding a construction contract for Municipal Office Building Americans with Disabilities Act (ADA) Modifications to VOX Construction, L.L.C., in an amount not to exceed \$324,014.72. Source of Funds: General Fund - FY2016 and FY2017 Budgets.

g. Resolution – Texas Parks and Wildlife Local Park Grant Program Application for Edgewater Park

Adoption of Resolution No. 3684 of the City Council of the City of Bryan, Texas (“Applicant”), designating certain officials as being responsible for, acting for, and on behalf of the “Applicant” in dealing with the Texas Parks and Wildlife Department (“Department”), for the purpose of participating in the Local Park Grant Program (“Program”); certifying that the applicant is eligible to receive program assistance, certifying that the applicant matching share is readily available; and dedicating the proposed site for permanent (or for the term of the lease for leased property) public park and recreational uses. Source of Funds: Single Member District 5 Parkland Fund.

h. Resolution – Advanced Funding Agreements (AFA) for Highway Safety Improvement Program Projects

Adoption of Resolution No. 3685 of the City Council of the City of Bryan, Texas, authorizing the City Manager to execute advance funding agreements with the State of Texas, acting by and through the Texas Department of Transportation, for the City to pay for the construction of Highway Safety Improvement Program Projects. The total construction costs to the City for both on-system and off-system improvements is \$207,547.10. Source of Funds: Transportation Fee.

11. REGULAR AGENDA

a. **Consideration – Appointment of an Individual to the Bryan-College Station Convention and Visitors Bureau Board of Directors**

Councilmember Owens moved to reappoint Councilmember Hardeman to the Bryan-College Station Convention and Visitors Bureau Board of Directors for a two-year term beginning October 1, 2016. The motion was seconded by Councilmember Simank and carried with all present voting aye.

b. **Consideration – Conveyance of Three Tracts to Bryan/Traditions, L.P.,**

Mayor Bienski moved to approve the conveyance of three tracts of land, comprised of 5.191 acres, 1.42 acres, and 0.052 acres out of the J. H. Jones Survey, A-26, from Bryan Commerce and Development, Inc., to Bryan/Traditions, L.P., for infrastructure development within Phase 101 of the Traditions Subdivision in College Station, 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 Owens. Deputy City Manager Joey Dunn advised Council these tracts were needed for infrastructure necessary to file a plat for the sale of 8.6 acres previously conveyed by the City. He reminded Councilmembers they had already approved the infrastructure to be constructed at the expense of the developer. He also stated that Bryan Commerce and Development would realize revenues of 35 percent or an estimated \$700,000 from the sale of the land. Mr. Dunn went over the depiction of the final plat and answered more questions regarding the development of the 8.6 acres. It was pointed out that the agenda item was regarding conveyance of tracts necessary for the extension of South Traditions Drive, a median and a detention pond. The motion carried with five yeases (Mayor Bienski and Councilmembers Saenz, Owens, Hardeman and Simank), one no (Councilmember Peña) and one absent (Councilmember Southerland).

c. **Consideration – Conveyance of 9.804 Acres to Bryan/Traditions, L.P. For Atlas Town Center**

Mayor Bienski moved to approve the conveyance of 9.804 acres out of the J. H. Jones Survey, A-26, from Bryan Commerce and Development, Inc., to Bryan/Traditions, L.P., for development of an apartment complex west of Atlas Pear Drive adjacent to Atlas Town Center within Phase 32 of the Traditions Subdivision in Bryan, Brazos County, Texas, and authorizing the Mayor to execute a general warranty deed and other documents contemplated and required to carry out the conveyance in a form approved by the City Attorney. The motion was seconded by Councilmember Owens. The motion carried with five yeases (Mayor Bienski and Councilmembers Saenz, Owens, Hardeman and Simank), one no (Councilmember Peña) and one absent (Councilmember Southerland).

12. CITY MANAGER REPORT

The Deputy City Manager did not provide a report.

13. ITEMS OF COMMUNITY INTEREST

Councilmembers mentioned the following items of community interest: upcoming town hall meetings, Red Cross smoke alarm program, and the tour of the Traditions development. Citizens were encouraged to register to vote and remember local races would appear at the bottom of the ballot. The success of the 10th Annual Texas Reds Steak and Grape Festival was mentioned, and

Downtown Bryan Association Executive Director Sandy Farris and staff were congratulated on their accomplishment. Appreciation was expressed to all staff and departments in the City of Bryan who assisted with the festival, including the Bryan Police Department and the Bryan Fire Department. Union Pacific Railroad was thanked for offering train rides and being the festival title sponsor. Tekla Klebetnica, was complimented on the special performance and wished safe travels. The City staff were thanked for all they do. The men and women of the Bryan Police Department were thanked for what they do for the safety of the community. It was stated that everyday should be Bryan Police Department and Bryan Fire Department Appreciation Day.

14. ADJOURN

Without objection the meeting was adjourned at 7:05 p.m.

City Secretary Mary Lynne Stratta

Mayor Jason P. Bienski