

**BRYAN CITY COUNCIL
MINUTES OF REGULAR MEETING
OCTOBER 11, 2016**

A regular meeting of the Bryan City Council was held on Tuesday, October 11, 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 (arrived at 1:30 p.m.) and Councilmembers Greg Owens, Mike Southerland, Ben Hardeman and Buppy Simank were present. Councilmember Al Saenz joined the meeting at 6:00 p.m. Councilmember Rafael Peña was absent. 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 1:15 p.m.

2. EXECUTIVE SESSION

The meeting was called into executive session at 1:18 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 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 taxpayer property tax penalty refund requests; 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 – annual performance review of Municipal Court Judge, City Manager, City Attorney, City Secretary and City Internal Auditor; discussion relative to City of Bryan Code of Ethics and Conduct Complaint filed on June 9, 2016, against City Councilmember Rafael Peña, and discussion on City of Bryan Code of Ethics and Conduct Complaints filed on August 18, 2016, and on September 29, 2016, against City Councilmember Al Saenz; discussion of appointment of BTU Board Chair, and discussion regarding appointments to quasi-judicial boards including Board of Adjustment and Appeals, Building and Standards Commission, Civil Service Commission, Commissioners of Housing Authority, Historic Landmark Commission, Planning and Zoning Commission and Zoning Board of Adjustment; 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 called into open session at 5:50 p.m. Councilmember Owens made a motion to renew the City Manager's employment contract for a five-year period in accordance with his performance evaluation. The motion was seconded by Councilmember Simank and carried with five ayes and two absent (Councilmembers Saenz and Peña).

Councilmember Owens made a motion to approve board, committee and commission appointments for terms beginning January 1, 2017, as follows: reappoint Paul Turney as Chair of the BTU Board; reappoint Wade Zimmer and appoint Glenn Jones to the Board of Adjustment and Appeals; reappoint

G. H. Jones III and Bill Richard Ravey and appoint Paul Torres and Darryl Massey as regular members of the Building and Standards Commission, and appoint Joe Patranella and John Meli as alternates on the Building and Standards Commission; reappoint Perian Bishop and Shelly Cain to the Commissioners of Housing Authority; ratify the City Manager's reappointment of Edward G. Smith to the Civil Service Commission; reappoint Mark Ojah, Eva Read-Warren and Dan Betto to the Historic Landmark Commission; reappoint John Bush and Robert Swearingen and appoint Paul Torres to the Planning and Zoning Commission; and reappoint Josh Isenhour and James Carter and appoint Craig Regan as members of the Zoning Board of Adjustment, and appoint Darryl Massey and Wyleta Way as alternate members of the Zoning Board of Adjustment. The motion was seconded by Councilmember Simank and carried with five ayes and two absent (Councilmembers Saenz and Peña).

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

Pastor Chris Liotta, River Gate Church, gave the invocation and Blair Fannin, George Nelson and Mervin Peters of the William Joel Bryan Chapter, Sons of the Republic of Texas, led the pledges.

5. PROCLAMATIONS AND PRESENTATIONS

The local Texas Amateur Athletic Federation State of Texas summer track finalists were recognized for their accomplishments.

6. HEAR CITIZENS (Approximately 6:00 p.m.)

Mr. George Lewis, 1201 Clark Street, and Mrs. Dimple Wilson Suseberry, 1404 Conroy, requested the creek in Castle Heights neighborhood be cleaned out to help prevent flooding. Ms. Suseberry added she and her neighbors do not want the city to buy out their homes because of flooding issues. Downtown Bryan Association Executive Director Sandy Farris spoke in support of the adoption of the comprehensive plan (agenda item 7). Ms. Jessica Horvatta, 2310 Wayside Drive, requested local area traffic management devices be installed on her street. Ms. Jane Miller, 4030 Charles Avenue, spoke in opposition to rezoning request RZ 16-14. Ms. Laurel Walsh, 3000 Westwood Main, expressed concern about her experience with a general contractor whose work at her property was red tagged by building inspectors. She asked he not be granted permits in the future. Ms. Sharon Catalina, 2205 Echols, spoke regarding agenda item 10 b, right-of-way abandonment. Councilmember Saenz joined the meeting at 6:00 p.m. during this agenda item.

7. 2016 COMPREHENSIVE PLAN

a. Public Hearing – 2016 Comprehensive Plan, “Blueprint 2040”

Planning Manager Martin Zimmermann gave an overview of the proposed 2016 Comprehensive Plan. He listed the names of former Planning and Zoning Commissioners and other individuals that would be added to the list of acknowledgements in the plan. Consultants with Freese and Nichols reviewed the procedure followed to gather extensive public input in the development of the plan. Elements of the plan were highlighted and 13 priority action items were listed. Mayor Bienski opened the public hearing. Ms. Sharon Anderson, 2304 Cindy Lane, suggested modifications or notations relative to agricultural open land and manufactured housing. She added a maintenance code needed to be enforced. Mr. Spencer Clements, Atlas Pear Drive, thanked the City staff and consultants for their hard work on the project. He added he was a citizen member of the committee and advised a great deal of work was put into the development of the plan. Mr. Raul Santana, 104 South Sterling, felt additional citizen input should have been sought. Mr. Andrew Nelson, 720 North Rosemary, also complimented City staff and the consultants for several months of hard work, and advised many citizens with varying perspectives were heavily involved in the plan development, which provided a good vision for the City. Mr. Bobby Gutierrez, 404 North Haswell, thanked the Council for funding and support to have the

comprehensive plan updated. He advised the proposed plan addressed major needs going forward for many years. The public hearing closed at 6:45 p.m. with no other comments.

b. First Reading of an Ordinance – 2016 Comprehensive Plan, “Blueprint 2040”

Councilmember Hardeman moved to approve the first reading of an ordinance of the City of Bryan, Texas, adopting the 2016 Comprehensive Plan, entitled “Blueprint 2040” as the City’s Comprehensive Plan. The motion was seconded by Councilmember Owens. Questions were posed about the area around the RELIS campus. Consultant Wendy Shabay advised the area around the campus was non-residential so no parks were recommended for that area. She advised the RELIS campus was a prime area for annexation. She also thanked the staff for their incredible work on the project. After discussion, the motion carried with all present voting aye.

8. REZONING REQUEST RZ16-16

a. Public Hearing – Rezoning Request RZ16-16

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 Office District (C-1) on 5.5 acres of land out of the Stephen F. Austin Survey No. 9, Abstract 62, adjoining the southwest side of West Martin Luther King, Jr., Street between Dean Street and Harlem Road and currently addressed as 1401 West Martin Luther King, Jr., Street in Bryan, Brazos County, Texas. The public hearing closed at 6:51 p.m. with no comments from the public.

b. First Reading of an Ordinance – Rezoning Request RZ16-16

Councilmember Simank 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 Office District (C-1) on 5.5 acres of land out of the Stephen F. Austin Survey No. 9, Abstract 62, adjoining the southwest side of West Martin Luther King, Jr., Street between Dean Street and Harlem Road and currently addressed as 1401 West Martin Luther King, Jr., Street in Bryan, Brazos County, Texas. The motion was seconded by Councilmember Hardeman and carried with all present voting aye.

9. CONSENT (AUTOMATIC APPROVAL) AGENDA

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

a. Approval of Minutes – Workshop and Regular Meetings of September 27, 2016

b. Consideration – Blanket Purchase Order for Bryan Freightliner

Consider approving a blanket purchase order for Bryan Freightliner, the sole source original equipment Freightliner service parts provider in the Brazos Valley, in an amount not to exceed \$100,000. Source of Funds: General Fund and Enterprise Funds.

c. Consideration – Extension of Parks Landscape Maintenance Contracts

Consider approving the first extension of annual contracts for parks maintenance landscape services to Green Team, Inc., Grassmasters Landscape and Irrigation and Roots Landscaping, L.L.C., for a total amount of \$734,059. Source of Funds: General Fund.

d. Consideration – Extension of Agreement for Purchase of Diesel and Unleaded Fuel

Consider approving an extension of a price agreement with Brenco Marketing Corporation for diesel and unleaded fuel to be used in all City of Bryan and BTU vehicles. Source of Funds: Warehouse Fund.

e. Consideration – Merchant Card Services Agreement

Consider approving an agreement with BB&T Financials to provide comprehensive merchant card services for the City of Bryan including credit verification, point-of-sale transactions, and phone and internet transactions for an initial term of three years in a total amount not to exceed \$165,000. Source of Funds: Various Department Budgets.

f. Second and Final Reading of an Ordinance – Rezoning Request RZ16-14

Second and final reading of Ordinance No. 2174 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.

g. Second and Final Reading of an Ordinance – Rezoning Request RZ16-15

Second and final reading of Ordinance No. 2175 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.

h. Consideration – Cell Tower Moratorium Waiver Requests

Consider a request by Crown Castle for a waiver of the temporary moratorium on the installation of above-ground wireless communication facilities under Ordinance No. 2168 for pending applications to permit minor upgrades and the replacement of existing antennas with newer ones for its customers on existing wireless telecommunication towers located at 101 East 31st Street and on 1246 #A East Villa Maria Road.

10. STATUTORY (AUTOMATIC APPROVAL) AGENDA

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

a. Consideration – Tax Penalty Refund

Consider requests for the waiver of penalty and interest payments on property tax payments on June 2015 tax year payments.

b. First Reading of an Ordinance – Right-Of-Way Abandonment RA16-06

First reading of an ordinance of the City of Bryan, Texas, providing for the abandonment of the following public rights-of-way to wit: approximately 2,039 square feet of public street rights-of-way for West 23rd Street and North Parker Avenue adjoining the north and west sides of Block 121 of the Bryan Original Townsite at the southeast corner of North Parker Avenue and West 23rd Street, and the north half of a 20-foot wide alley right-of-way that extends east from North Parker Avenue between West 23rd and West 24th Streets, being a total of 0.06 acres (2,614 square feet) of

land in Bryan, Brazos County, Texas; authorizing the conveyance thereof to the abutting property owner; providing for the terms and conditions of abandonment and conveyance.

11. REGULAR AGENDA

a. First and Only Reading of an Ordinance – Waterworks and Sewer System Revenue Bonds, New Series 2016A

Councilmember Southerland moved to adopt the first and only reading of Ordinance No. 2176 of the City of Bryan, Texas, authorizing and ordering the issuance of the City of Bryan, Texas, Waterworks and Sewer System Revenue Bonds, New Series 2016A and enacting other provisions incident and related thereto; awarding the bid for the bond sale to Fidelity Capital Markets at an interest rate of 2.64 percent. The motion was seconded by Councilmember Simank and carried with all present voting aye.

b. First and Only Reading of an Ordinance – Waterworks and Sewer System Revenue Bonds, New Series 2016B

Councilmember Hardeman moved to adopt the first and only reading of Ordinance No. 2177 of the City of Bryan, Texas, authorizing and ordering the issuance of City of Bryan, Texas, Waterworks and Sewer System Revenue Bonds, New Series 2016B, and enacting other provisions incident and related thereto; awarding the bid for the bond sale to the Texas Water Development Board at an interest rate of 2.17 percent. The motion was seconded by Councilmember Owens and carried with all present voting aye.

c. Consideration – Appointments to Advisory Boards and Committees

This item was not discussed or considered.

d. Consideration – Chapter 380 Economic Development Agreement for Clay Street Townhomes

Councilmember Hardeman moved to approve a Chapter 380 Economic Development Agreement with Rock Pad, L.L.C., associated with the Clay Street Townhomes (Source of Funds: Transportation Fee and future property tax revenues). The motion was seconded by Councilmember Simank and carried with all present voting aye.

e. Consideration – Fire Department Staffing

Two Councilmembers submitted this agenda item asking the City Manager to provide an update regarding the City's current status and future plans to increase Fire Department staffing to four firefighters to a truck. Mr. Register reported staffing to go to four-man crews on all trucks was at 50 percent, with 9 additional firefighters being added this year. He added the City was on track to meet the Council resolution committing to four-man truck staffing.

f. Consideration – Speed Devices on Highland Street

Councilmember Southerland moved to direct the City staff to take action as necessary to install speed control devices on Highland Street by November 30, 2016. The motion was seconded by Councilmember Saenz. It was pointed out Highland Street residents had not submitted an application for local area traffic management (LATM) devices, and that 30 applications had been received from various neighborhoods in accordance with the Council adopted resolution establishing the program. Council was also advised that 11 of the LATM applications were listed to be funded this fiscal year. Public Works Director Jayson Barfknecht offered to evaluate the

Highland Street situation to determine its urgency relative to the other 30 applications that had been received. Councilmembers were agreeable to that plan and the motion was withdrawn.

g. Consideration – Policies and Procedures for Voluntary Buyouts

Councilmember Southerland moved to direct the City staff to take the necessary action(s) to allow the Bryan City Council to adopt the draft “Policies and Procedures for Voluntary Buyouts” to be effective November 1, 2016, with the exception that on page two (2), General Eligibility Requirements, item one (1) be deleted and also delete any reference to a requirement for FEMA loss claims. The motion was seconded by Councilmember Saenz. The two Councilmembers who submitted this item remarked that some homeowners could not afford insurance on their homes, and they believed the City should offer a buyout program for their homes if flooded. Mr. Register reminded Council the City had a program to assist with buyout of repetitive flood loss homes that appeared on the Federal Emergency Management Agency (FEMA) list of repetitive loss properties. He was advised the purpose of the agenda item was to offer City buyouts of properties without insurance and not on the FEMA list of repetitive loss properties. Concern was expressed that taxpayers who pay for homeowner insurance should not have to pay to buy out homes where the owners willingly choose not to have homeowner insurance. It was stated the City of Bryan was not in the insurance business and should not be. Discussion followed about the role of the City to address flooding through infrastructure and mitigation projects. The lack of easements for the City to access property to mitigate flooding issues was listed as a problem in the City’s efforts to address flooding issues. It was opined the proposed program appeared to be punishment to those taxpayers who do pay for homeowner insurance on their homes. Concern was also expressed that this program was not funded in the budget, the amount of funds needed was unknown, and the total impact on taxpayers was also not known. Concern was also expressed that if the City implemented such a program, FEMA may choose not to assist with future buyouts of repetitive flood loss homes. Council was reminded that FEMA had approved funding to buy out four repetitive loss homes in Bryan with assistance from the City. Questions were posed as to how the City would determine the actual damages to a home and fair market value. After discussion, the motion failed to carry with one yes (Councilmember Southerland), five noes and one absent (Councilmember Peña).

A short recess was taken from 7:21 p.m. until 7:30 p.m., when the Council reconvened in open session in the same location.

h. Consideration – Flood Mitigation and Stormwater Master Plan

Councilmember Southerland moved to direct the City staff to take the necessary action(s) to move projects funded by the Drainage Utility Fee in years 2017 thru 2020 to Fiscal Year 2017 with associated funding and construction. The motion was seconded by Councilmember Saenz. The Council again discussed flooding in the City and the challenges faced by the City to mitigate those concerns. Mr. Register advised the reason that flood mitigation projects are projected out in the Capital Improvement Plan was to actually have the money from the drainage fee fund to fund the projects. He stated if the City had the money it would do all the projects now. A presentation by the City Engineer was requested in the near future regarding what had been done in recent years to mitigate flooding, what is planned in this fiscal year, and what projects are projected to be funded in 2018-2020. Possible funding sources and prioritizing capital projects were discussed. Staff was asked to schedule a workshop presentation on the subject in the next 30 days and that the presentation also address the agenda item listed below. All Councilmembers agreed to this and the motion was withdrawn.

i. Consideration – Channel Cleaning

Council agreed to hear a staff presentation on this item in conjunction with the presentation associated with the agenda item above.

12. CITY MANAGER REPORT

Mr. Register did not provide a report.

13. ITEMS OF COMMUNITY INTEREST

The following items of community interest were listed: town hall meetings, board and committee applications, Brazos Valley Cares fundraiser for veterans, Boonville Heritage Days, Texas Horseshoe Pitchers State Championship, elementary school dictionary program, etc. Councilmember Southerland was wished well with his recovery from surgery.

14. ADJOURN

Without objection, the meeting adjourned at 7:52 p.m.

City Secretary Mary Lynne Stratta

Mayor Jason P. Bienski