

MINUTES OF THE REGULAR MEETING OF THE
CITY COUNCIL
CITY OF BEE CAVE
May 27, 2014

STATE OF TEXAS §

COUNTY OF TRAVIS §

Oath of Office to newly elected Mayor and Council Members

The oath of office was administered to the newly elected Mayor and Council Members: Mayor Caroline Murphy and Council Members Bill Goodwin, Marie Lowman and Tom Matzen.

Present:

Caroline Murphy, Mayor
Michelle Bliss, Council Member
Bill Goodwin, Council Member
Kara King, Council Member
Marie Lowman, Council Member
Tom Matzen, Council Member

City Staff:

Frank Salvato, City Manager
Travis Askey, Assistant City Manager
Kaylynn Holloway, City Secretary
Patty Akers, City Attorney
Katherine Griffin, Director of Finance
Vincent Montez, Police Lieutenant
Lindsey Oskoui, Director of Planning and Development
Giancarlo Patino, City Engineer
David Theriault, Systems Analysis

Call to Order and Announce a Quorum is Present

With a quorum present, the regular meeting of the Bee Cave City Council was called to order by Mayor Murphy at 6:03 p.m. on Tuesday, May 27, 2014 in the Council Chambers of the City of Bee Cave City Hall, 4000 Galleria Parkway, Bee Cave, Texas.

Pledge of Allegiance

Discuss and consider action on the selection of the Mayor Pro Tem.

MOTION: A motion was made by Mayor Murphy, seconded by Council Member Bliss, to select Council Member Goodwin as Mayor Pro Tem.

The vote was taken on the motion with the following result:

Voting Aye: Mayor Murphy, Council Members Bliss, Goodwin, King, Lowman and Matzen
Voting Nay: None
Absent: None

The motion carried.

Citizen Comments

Maureen Appling, 13105 Roundtop Circle, stated that she opposes the Council granting anymore variances.

Bernadette Johnson, 17706 Linkview Dr., stated that she was representing the Friends of the Library and invited everyone to a June 10th reception to meet and greet the City Council.

Carrell Killebrew, 5410 Great Divide, commented on the results of the Citizen Survey. He asked the Council to not grant anymore variances.

Consent Agenda

- A. Consider approval of minutes of the Regular meeting conducted on May 13, 2014.
- B. Consider approval of the monthly financial and investment reports. (April)

MOTION: A motion was made by Council Member King, seconded by Mayor Pro Tem Goodwin, to approve the consent agenda.

The vote was taken on the motion with the following result:

Voting Aye: Mayor Murphy, Mayor Pro Tem Goodwin, Council Members Bliss, King, Lowman and Matzen
Voting Nay: None
Absent: None

The motion carried.

Discuss and consider action on a Bee Cave Comprehensive Plan Update Citizen Survey Report.

Steve Spillette of Community Development Strategies reviewed the results of the comprehensive plan preparatory survey. The City received 376 responses.

John Colman, 5201 Great Divide, commented that the most illuminating thing out of the survey was the lack of participation and the older age groups excessive representation.

City Manager Frank Salvato stated that the next step is for the staff to prepare a request for qualifications for the comprehensive plan update.

Discuss and consider action on Revision #2 of the Site and NPS plan for Lots 1A through 1E, Block A (Bee Cave Senior Living) Mountain Laurel, located at 14058 Bee Cave Parkway.

City Engineer Giancarlo Patino presented this item. The approved plans depicted a retaining wall along the western perimeter of the development outside a “no disturbance zone” which serves as a buffer/screening to the residents of The Heights in Falconhead. Revision #2 modifies the approved retaining wall from a mechanically stabilized earth mortared rock wall to an exposed rock cut with a 3 foot high mortared rock wall at the base. The applicant will add landscaping along the wall

Danny Miller with LJA Engineering described the project revision. He requested two amendments to the maintenance agreement. In # 2 change the word “prevent” to “minimize or reduce” degradation. In # 7 change 30 days to 90 days for the opportunity to cure a failure.

MOTION: A motion was made by Mayor Pro Tem Goodwin, seconded by Council Member Lowman, to approve the Revision #2 of the Site and NPS plan for Lots 1A through 1E, Block A and the maintenance agreement as amended.

The vote was taken on the motion with the following result:

Voting Aye: Mayor Murphy, Mayor Pro Tem Goodwin, Council Members Bliss, King, Lowman and Matzen

Voting Nay: None

Absent: None

The motion carried.

Public hearing, discussion and possible action on Ordinance No. 204, an amendment to the existing zoning from Agriculture District (A) to Single-Family Rural Residential District (SF-RR) for the following properties:

5.060 acres situated in the Wiley D. B. Smith Survey No 808, Abstract No. 699, Travis County, Texas, as described in documents numbered 2006143382 and 2007091714 of the official public records of Travis County, Texas,

0.526 acres situated in the Wiley D. B. Smith Survey No 808, Abstract No. 699, Travis County, Texas, as described in document no. 2006040843 of the official public records of Travis County, Texas,

0.062 acre portion of Lot 1, Block A, Gorman Subdivision, a subdivision of record in document no. 200800130 of the official public records of Travis County, Texas, and

0.347 acre portion of Lot 2, Block A, Replat Cutter Ridge Ranch, a subdivision of record in document no. 201000157 of the official public records of Travis County, Texas.

Mayor Murphy opened the public hearing at 7:30 p.m.

There being no person wishing to give public testimony, the public hearing was closed at 7:31 p.m.

Planning and Development Director Lindsey Oskoui presented this item. At this time staff is requesting that only the last two tracts (.062 acres and .347 acres) be rezoned.

Staff heard from the owner of the 5 acre tract (tract (1)), John Kratzer, regarding land uses and agriculture exemptions from the Travis County Central Appraisal District. He expressed concern that a change of zoning may cause his ag-exempt status to change. Staff received confirmation from the Central Appraisal District (TCAD) that a change in zoning will not affect his ag-exempt status.

MOTION: A motion was made by Council Member King, seconded by Council Member Bliss, to approve Ordinance No. 204 rezoning .062 and .347 acres to Single-Family Rural Residential.

The vote was taken on the motion with the following result:

Voting Aye:	Mayor Murphy, Mayor Pro Tem Goodwin, Council Members Bliss, King, Lowman and Matzen
Voting Nay:	None
Absent:	None

The motion carried.

Public hearing, discussion and possible action on Ordinance No. 205 rezoning from PD-TC to PD-TC (Planned Development District with a base district of Town Center) for Park at Bee Cave, Lot 1, Block A, Estates Center II, as recorded in document no. 200100013 of the official public records of Travis County, Texas, establishing a concept plan, development standards, and land uses, including senior housing, office, hotel, restaurant, and retail.

Mrs. Oskoui described this project. The Planning and Zoning Commission unanimously recommended denial citing insufficient detail to ascertain whether the proposed project satisfied Planned Development District and Town Center criteria. The applicant first filed a letter to appeal the denial and then filed a letter requesting that the City Council postpone consideration of this item.

Mayor Murphy opened the public hearing at 7:51 p.m.

Mr. Killebrew referred back to the survey results stating that this project goes against everything in the comprehensive plan.

Adrian Overstreet, Managing Partner of the Hill Country Galleria, stated that developers in the City are held to a standard but this applicant wants to have special treatment. He opposed the approval of this project.

Mike Murphy, 4010 Lockwood Bend, commented on the lawsuit involving the property. He said that normally when you negotiate a deal the City will try to drive them toward our ordinances. This is not happening with this project. It is triple the density and over the allowable impervious coverage. He commented that it would be easier to list the ordinances that the developer has agreed to follow then to list the ones he wants variances to.

Mr. Colman commented that placing sunset dates on agreements that the City made 10 or 15 years ago makes a lot of sense. He asked the Council to consider what the equity is in this deal. The developer is asking for significant variances in terms of building heights, density and setbacks. He stated that he fails to understand what the benefit is to the City by allowing all of the variances.

There being no other person wishing to give public testimony, the public hearing was closed at 8:04 p.m.

Executive Session:

The City Council closed the Open Session at 8:16 p.m. to convene in Executive Session on the above item in the Conference Room.

At this point in the meeting, Mayor Murphy publicly announced that a closed, executive session would be held on the above item and identified the section of the Open Meeting Law under which the meeting would be held.

Open Executive Session. Executive session in accordance with the Texas Government Code, Section 551.071 - Consultation with Attorney. The Council adjourned into the Conference Room for the executive session.

The City Council closed the Executive Session at 8:38 p.m. and reconvened in Regular Session in the Council Chambers.

MOTION: A motion was made by Mayor Murphy, seconded by Council Member King, to deny approval of Ordinance No. 205.

The vote was taken on the motion with the following result:

Voting Aye: Mayor Murphy, Mayor Pro Tem Goodwin, Council Members Bliss, King, Lowman and Matzen
Voting Nay: None
Absent: None

The motion carried.

Discuss and consider authorizing staff to hire a consultant to update the Non-Point Source Pollution ordinance and Technical Construction Standards & Specifications (TCSS) Manual; including but not limited to the Environmental, Drainage, and Transportation sections.

City Engineer Giancarlo Patino presented this item. Even though the City of Bee Cave Non-Point Source Pollution control ordinances set out specific parameters for development of impervious cover and pollutant removal efficiency; the approved best management practices (BMP's) or water quality controls measures are based on the criteria found in the Technical Construction Standards and Specifications (TCSS) manual which references the City of Austin Land Development Code (LDC), Environmental Criteria Manual (ECM), and the Lower Colorado River Authority, Non-point Source Pollution Control Technical Criteria Manual, Third Edition.

City staff has been receiving Site/NPS development applications that incorporate innovative best management practices that are not approved by the entities referenced in the City of Bee Cave TCSS manual. In the past, the City has reviewed a specific innovative best management practice and approved it based on the scientific literature/reports, monitoring agreement and maintenance agreement (Jellyfish and Sorbative Media).

Two options have been taken into consideration in order to consider and approve the innovative best management practices (BMP):

1. The City of Bee Cave hires a consultant either currently under contract with the City or via a "Request for Proposals" (RFP) to initiate, construct, and establish its own criteria manuals for all sections of the TCSS, update the code of ordinances and ultimately removes any references to City of Austin or LCRA's codes/manuals.
2. The City of Bee Cave hires a consultant either currently under contract with the City or via a "Request for Proposals" (RFP) to research/study innovative best management practices (currently not approved by other entities), writes/sets policies, yet still using other entities criteria manuals as referenced in the TCSS for approved BMP's. This option would still trigger amending portions of the NPS ordinance and TCSS manual but not to the extent of #1 above.

Mr. Murphy reported on the city's history and drafting of the NPS ordinance.

Mr. Killebrew commented that the current context is not the same as the context that drove the creation of NPS ordinances. To some degree the City has used the impervious cover/NPS ordinances as a proxy for managing density in the City. So this particular issue is extremely

important to meeting the desires of the citizens with regard to what kind of density the City has around it.

Danny Miller of LJA Engineering encouraged the Council to involve other engineering firms because they have to interpret the ordinances.

MOTION: A motion was made by Mayor Pro Tem Goodwin, seconded by Council Member King, to approve Option # 2.

The vote was taken on the motion with the following result:

Voting Aye: Mayor Murphy, Mayor Pro Tem Goodwin, Council Members Bliss, King, Lowman and Matzen
Voting Nay: None
Absent: None

The motion carried.

Discuss and consider action on an appointment to the Economic Development Board.

MOTION: A motion was made by Council Member King, seconded by Mayor Pro Tem Goodwin, to appoint John Colman to the Economic Development Board, Position 1.

The vote was taken on the motion with the following result:

Voting Aye: Mayor Murphy, Mayor Pro Tem Goodwin, Council Members Bliss, King, Lowman and Matzen
Voting Nay: None
Absent: None

The motion carried.

Discuss and consider action on appointments to the Planning and Zoning Commission including appointment of a Chair and Vice Chair.

Mayor Pro Tem Goodwin nominated Amy Winebright to Position 1.
Council Member Matzen nominated Monty Parker to Position 2.
Council Member Lowman nominated Jack McCool to Position 5.
Mayor Murphy nominated Jaime Beaman to Position 6
Consensus of the Council nominated Jim Norman to Position 7.

Jack McCool was appointed as Vice Chair and Jim Norman was reappointed as the Chair.

The nominations were unanimously approved by the City Council.

Discuss and consider action to authorize the City Manager to contract for an economic feasibility consultant to assist City with review of applications associated with the Backyard and Terrace projects.

The Staff and City Council discussed this item and requested that it be placed on the first Council agenda in June.

Executive Session:

The City Council closed the Open Session at 10:27 p.m. to convene in Executive Session on the above item in the Conference Room.

At this point in the meeting, Mayor Murphy publicly announced that a closed, executive session would be held and identified the section of the Open Meeting Law under which the meeting would be held.

Open Executive Session. Executive session in accordance with the Texas Government Code, Section 551.072 – Deliberation regarding real property; and Section 551.071 - Consultation with Attorney in which the Attorney has a duty to the City under the Texas Disciplinary Rules of Professional Conduct that clearly conflicts with the provisions of the Open Meetings Law. The Council may adjourn into the Conference Room for the executive session.

- Consultation with attorney regarding interpretation of amended and restated Masonwood Development Agreement regarding building permits.
- Consultation with attorney regarding authority of city to annex property in the Extra Territorial Jurisdiction.
- Consultation with attorney regarding CCNG/Spanish Oaks Development Agreement.
- Consultation with attorney regarding approving Planned Development Districts and granting future variances.
- Consult with City Attorney regarding authority of city to implement a moratorium on development.
- Consult with City Attorney regarding potential liability of news media for slander of city officials.

Council Member Bliss left the meeting at 11:22 p.m. and Council Member King left the meeting at 11:55 p.m.

The City Council closed the Executive Session at 12:12 a.m. and reconvened in Regular Session in the Council Chambers.

Adjournment

MOTION: A motion was made by Mayor Pro Tem Goodwin, seconded by Council Member Lowman, to adjourn.

The vote was taken on the motion with the following result:

Voting Aye: Mayor Murphy, Mayor Pro Tem Goodwin, Council Members Lowman and Matzen
Voting Nay: None
Absent: Council Members Bliss and King

The motion carried.

The City Council adjourned the meeting at 12:12 a.m.

PASSED AND APPROVED THIS _____ DAY OF _____, 2014.

Caroline Murphy, Mayor

ATTEST:

Kaylynn Holloway, City Secretary