

MINUTES OF THE REGULAR MEETING OF THE
CITY COUNCIL
CITY OF BEE CAVE
DECEMBER 9, 2014

STATE OF TEXAS §
COUNTY OF TRAVIS §

Present:

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

City Staff:

Travis Askey, Interim City Manager
Kaylynn Holloway, City Secretary
Patty Akers, City Attorney
Gary Miller, Chief of Police
Lindsey Oskoui, Planning & Development
MD Hossain, EIT
David Theriault, IT

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 6:00 p.m. on Tuesday, December 9, 2014 in the Council Chambers of the City of Bee Cave City Hall, 4000 Galleria Parkway, Bee Cave, Texas.

Pledge of Allegiance

Citizen Comments

Veronica Putney, 13308 Overland Pass, encouraged the Council to follow the Comprehensive Plan. The developers do not care about Bee Cave.

John Colman, 5201 Great Divide, commented that we have seemed to have lost sight of the Comprehensive survey that was done last year. He asked the Council to consider bringing that to the agenda at some point in the future.

Consent Agenda

- A. Consider approval of minutes of the Regular meeting conducted on November 25, 2014.
- B. Proclamation recognizing the Bee Cave Public Library as a Star Library.

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

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 the Site and NPS Pollution Control Plan for the Bella Colinas Amenity Center located approximately at 15801 SH-71 West.

MD Hossain, EIT, reported on this item.

MOTION: A motion was made by Council Member King, seconded by Mayor Pro Tem Goodwin, to approve Site and NPS Pollution Control for the Bella Colinas Amenity Center subject to the posting of fiscal security in the amount of \$180,953.30

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 the Site and NPS Pollution Control Plan for the Lakeway Dermatology located at 3464 S. Ranch Road 620.

Mr. Hossain reported on this item.

The Council asked questions about the signage and the trail system.

MOTION: A motion was made by Council Member Bliss, seconded by Council Member King, to approve the Site and NPS Pollution Control Plan for the Lakeway Dermatology with the exclusion of the signage that was depicted on the elevations.

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 Ordinance No. 226, an ordinance annexing into the city limits approximately 127.982 acres of land generally located North of Bee Cave Parkway including the West Travis County Public Utility Agency Effluent Storage Pond and Wastewater Treatment Plant and a portion of the Balcones Canyon Land including approval of a service plan.

Planning and Development Director Lindsey Oskoui presented this item.

MOTION: A motion was made by Mayor Pro Tem Goodwin, seconded by Council Member King, to approve Ordinance No. 226 annexing into the city limits approximately 127.982 acres of land.

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 Development Agreement with Cecil Perkins related to 43.4222 acres of agricultural, wildlife or timber exempt land, more or less, generally located West of Hamilton Pool Road and Southwest of the current city limits.

MOTION: A motion was made by Mayor Murphy, seconded by Council Member Bliss, to approve the Development Agreement with Cecil Perkins related to 43.4222 acres of agricultural, wildlife or timber exempt land.

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 Development Agreement with Meissner Living Trust related to 36.694 acres of agricultural, wildlife, or timber exempt land generally located East of Hamilton Pool Road and Southwest of the current city limits.

MOTION: A motion was made by Mayor Murphy, seconded by Council Member Matzen, to approve the Development Agreement with Meissner Living Trust related to 36.694 acres of agricultural, wildlife, or timber exempt land.

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 Development Agreement with Kelly and Douglas Warriner related to 12.85 acres of agricultural, wildlife or timber exempt land generally located West of Hamilton Pool Road and Southwest of the current city limits.

MOTION: A motion was made by Council Member Bliss, seconded by Council Member King, to approve on a Development Agreement with Kelly and Douglas Warriner related to 12.85 acres of agricultural, wildlife or timber exempt land.

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 Ordinance No. 227, an ordinance annexing into the city limits approximately 191.4338 acres of land generally located East and West of Hamilton Pool Road and Southwest of the current city limits including approval of a service plan.

MOTION: A motion was made by Council Member King, seconded by Council Member Matzen, to approve Ordinance No. 227 annexing into the city limits approximately 191.4338 acres of land.

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. 211 regarding a comprehensive plan amendment of Plate 8-1, the Future Land Use Map, from Mixed Use to Office for Lots 1 and 2, Block A, a Final Plat of Planet Earth Music Subdivision, City of Bee Cave, Travis County, Texas, as recorded in document number 20100097 of the official public records of Travis County Texas.

Public hearing, discussion and possible action on Ordinance No. 212 regarding a zoning change request from Planned Development District – Retail (PD-R), as set out in Ordinance 09-01, as amended, to Planned Development District – Office (PD-O) for Lots 1 and 2, Block A, a Final Plat of Planet Earth Music Subdivision, City of Bee Cave, Travis County, Texas, as recorded in document number 20100097 of the official public records of Travis County Texas. (Also known as Backyard at Bee Cave Movie Studio Project)

These items were opened together for consideration.

Ms. Oskoui reported on the above items. The 35.141 acre property, located on Bee Cave Parkway west of Central Park, is zoned Planned Development District – Retail (PDD-R). The current ordinance provides a concept plan and development standards for a 7,500 person music venue, hotel, parking, and related services. The applicant is requesting to replace rather than modify this PDD.

Mayor Murphy opened the public hearing on Ordinance No. 211 at 7:27 p.m.

Sage Johnston, 5191 Avispa, opposed the development in the City. The traffic congestion is already a real problem.

Sheila Leech, High Canyon Pass, stated that she was concerned about the density of the project and also the lights, sound and traffic.

Terri Mitchell, 5400 Great Divide, stated that she opposed the granting of any variances and the proposed splash pad.

Joann Taylor, 5005 Great Divide, stated that she was worried about the quality of life and traffic. She asked the Council to vote no on any variances.

Kirk Wright, Adirondack Summit, stated that he believes the project is the right type of growth for Bee Cave. It will bring professionals to the area. The traffic problems are caused by home development. Movie studios bring a new diversity.

Carroll Killebrew, 5410 Great Divide, opposed the development of the Backyard. He asked the Council to keep the density down and to not grant variances.

Randy Colman, 5201 Great Divide, opposed the granting of any variances. She asked the Council to review the Comprehensive Plan.

Frances Killebrew, 5410 Great Divide, opposed the development of the project because of the density and that it is not in compliance with the codes.

Karen Phillips, 13404 Byrds Nest, commented that in her view the project is an economically risky project. It could lead to bankruptcy and then what would the project become. The buildings are not attractive.

Maura Eurick, Hamilton Pool Road, opposed the development of the project because the rules are being broken.

Karen Winslow, 5600 Stagetop Circle, opposed the development of the project and the granting of any variances.

D. Sullivan, 5600 Stagetop Circle, opposed the development.

Gigi Miller, Arts Foundation, stated that she supported the project and liked the creativity.

Veronica Putney, stated that she liked art but the buildings are not art. She also did not like the hotel being built in the Galleria.

Mayor Murphy closed the public hearing at 8:10 p.m. and reopened the regular session.

Steve Metcalfe, Attorney for the applicant, reviewed the project and fielded numerous questions from the Council.

Co-Owners Chris Milam and John Paul Dejoria spoke on the project and answered questions. Mr. Milam stated that the project would be managed by professionals. Past owner Tim O'Connor will serve as an Executive Consultant but will no longer be managing the venue.

Roy Bechtel, Landscape architect also spoke on the project.

Mayor Murphy commented that the Council has to live with the entitlements that are already associated with this property based on grandfathering provisions or based on ordinances that have passed. In 2009, when the current ordinance on this property was debated and voted on, the community was very supportive. So now the Council has an opportunity to greatly improve on what could go on the site. This property will be developed and this gives us an opportunity to have more certainty in terms of the quality of development that would go on this project and to get it closer to compliance with the things that are important to us in 2014 that perhaps were not as well talked about in 2009.

Mayor Murphy opened the public hearing on Ordinance No. 212 at 11:06 p.m.

Mr. Killebrew spoke about the impervious coverage requirement and the building size. He suggested that they lower the buildings 12 feet and scale the hours of operation.

Mike Murphy, 4010 Lochwood Bend, stated that he supported the project and Mr. Milam. In the past he has met the needs that the Council requested him to meet. He complied with ordinances that he did not have to comply with by law and he kept all of his promises. The project will improve the development agreement that is in place now.

Mr. Colman stated that the Hill Country Indoor brought something unique to the community. The Backyard does not offer that uniqueness with the offices and movie studios so it has to come from keeping the Backyard music venue alive. Live Nation will not be community minded so the types of venues that are allowed will need to be defined.

Chad Bockius, 4116 Hookbilled Kite, thanked the Council for working with the developers and the residents. He stated that he would like to have offices here but not more retail. He said the pros outweigh the cons on this project. The concept of building an identity around art should be embraced.

Mayor Murphy closed the public hearing at 11:26 p.m. and reconvened in regular session.

Heather Page, Texas Film Commission, commented that Texas is a top destination for feature film and television production and # 2 in video gaming. She stated that she supported the project and the jobs it produces.

The Council recessed the meeting at 12:41 a.m. and reconvened at 12:48 p.m.

The Council discussed the ordinance and the contents in detail and asked numerous questions of the applicant. Amendments were made as follows:

Exhibit C – Planned Development Standards

II. A. (10) Strike – Provided however, this limitation shall not apply to the property boundary with the City's Central Park.

Add - In the event that noise limits exceed 85 decibels when measured at the property line of the Project, sound controls shall include equipment that will automatically reduce the sound produced at the music venue below 85 decibels. Logs shall be kept by the developer that tracks the noise produced at the venue and the City shall have access to review the logs.

(12) Revised to read - Live outdoor music shall cease to be played within the Music Venue by 10:30 pm on Sunday through Thursday, and by 11:30 pm on Friday and Saturday unless a Sunday falls on a three day weekend and in such case then 11:30 on Sunday. Amplified (but not live music) may continue to be played with a decrease in volume following the live music, but shall cease to be played by 11:30 p.m. on Sunday through Thursday, and by 12:30 a.m. on

Friday and Saturday unless Sunday falls on three day weekend in which case amplified music may be played until 12:30am on Sunday.

F. (6) Add – A minimum of 20 spaces shall be reserved for use by public utilizing the City Park.

G. (1) Delete - the word *lighted* from tennis courts

(4) Delete – (and if the tennis courts are lighted) Developer shall extend underground electric service to the tennis courts.

IV. C. (7) Delete - (*lighted*)

F. (8) Add – Trails shall be up to 10 feet to provide for pedestrian connectivity to be considered for approval in conjunction with Site Plan.

(14) Change City Administrator to City Manager

(16) Change 2nd sentence in paragraph to - Exhibit “E” may be amended from time to time by mutual agreement of the City and the Project Owner and shall be considered for amendment whenever events within the music venue exceed 25 events each year without the need to amend this Zoning Ordinance.

Other exhibits were amended to reflect the changes in the Development Standards.

MOTION: A motion was made by Council Member Matzen, seconded by Mayor Murphy, to approve Ordinance No. 212 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.

MOTION: A motion was made by Mayor Murphy, seconded by Mayor Pro Tem Goodwin, to approve Ordinance No. 211 amending the Future Land Use Map

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. 213 regarding a comprehensive plan amendment of Plate 8-1, the Future Land Use Map, from Retail, Town Center, and Public/Semi Public to Mixed Use for Lots 1, 2, 4, and 5, Block B, of the Amended Final Plat of the Hill Country Galleria of Lots 1-8 and 10-26, Block A, Lots 1-3 and 5-8, Block B, and Lot 1, Block A, City of Bee Cave, Travis County, Texas, as recorded in document number 200700378 of the official public records of Travis County Texas.

Public hearing, discussion and possible action on Ordinance No. 214 regarding a zoning change request from Retail (R) to Planned Development District – Mixed Use (PD-MU) for Lots 1, 2, and 4, Block B, of the Amended Final Plat of the Hill Country Galleria of Lots 1-8 and 10-26, Block A, Lots 1-3 and 5-8, Block B, and Lot 1, Block A, City of Bee Cave, Travis County, Texas, as recorded in document number 200700378 of the official public records of Travis County Texas. and a zoning change request from Planned Development District – Town Center (PD-TC), as set out in Ordinance 05-03-08-A, as amended, to Planned Development District – Mixed Use (PD-MU) for Lot 5, Block B, of the Amended Final Plat of the Hill Country Galleria of Lots 1-8 and 10-26, Block A, Lots 1-3 and 5-8, Block B, and Lot 1, Block A, City of Bee Cave, Travis County, Texas, as recorded in document number 200700378 of the official public records of Travis County Texas. (Also known as Terrace at Bee Cave Mixed Use Project)

These items were opened together for consideration.

Ms. Oskoui reported on these items. The 19.52 acre property, located on Bee Cave Parkway west of the Hill Country Galleria and east of RR 620, is zoned Retail (R) and Planned Development District – Town Center (PD-TC) (Lot 5 only). Lot 5 is part of the Hill Country Galleria PDD and this proposal seeks to remove it from that project and include it in this new project.

Mayor Murphy called the public hearing to order at 1:39 a.m.

Mr. Killebrew stated that he opposed the height of the buildings and the traffic problems this project will cause.

Adrian Overstreet, Hill Country Texas Galleria, stated that he had come to an agreement with the Terrace Partners on the shared easement document for the office drive.

The public hearing closed at 1:44 a.m.

Mayor Murphy opened the public hearing on Ordinance No. 214 at 1:45 a.m.

Mr. Killebrew stated that he was opposed to housing that is not single family detached and that he was opposed to the Council granting any variances.

Shelton Weeks, representing the Hill Country Galleria, asked the Council to review the project carefully. He highlighted areas of concern like the building square footage and density.

The public hearing closed at 1:58 a.m.

Mr. Milam spoke on this project and fielded numerous questions from the Council.

Members of the Council were concerned about the benefits to the residents, increased traffic, height of buildings and the condos. Some members stated that they could support the project if the height of the buildings were lowered.

Mr. Milam agreed to lower two of the buildings and sink one of the garages.

The following changes were made to Exhibit C – Planned Development Standards:

II. B. Change to read - Office Building 7 shall be authorized with the same uses and heights and subject to the same requirements applicable to Office Building 5; provided however, that the building height of Building 7 shall be two story and no more than 35 feet.

D. (1) Add - The Parking Garage shall not exceed thirty five (35) feet in height and the first level of the garage shall be constructed below grade.

(3) Change to read - Parking Garage (Building 6) structure height shall be measured in accordance with the City's Code of Ordinances and shall be allowed, subject to the requirements set out in subsection (1) above, the maximum height and number of levels described in the Building Information Plan, Exhibit "B".

G. (1) Change from 3 units to – “limits buyer to a maximum of one (1) unit”

III. A. Change to read - Office Building 1 shall be authorized with the same uses and heights and subject to the same requirements applicable to Office Building 5; provided however, that the building height of Building 1 shall be two story and 35 feet.

IV. F. (5) Add sentence - Trails on both sides of Bee Cave Parkway shall be designed and constructed by Developer up to 10 feet in width to provide pedestrian connectivity to adjoining property. The exact location and design of the trails shall be considered for approval in conjunction with Site Plan approval.

(21) Add sentence - The exact location of the traffic signal and the associated drive way cut into the condo portion of the Project as it is depicted in the Concept may be modified if such relocation is moved to accommodate access by adjoining landowners and the Developer and is approved at Site Plan.

Other exhibits were amended to reflect the changes in the Development Standards.

MOTION: A motion was made by Mayor Pro Tem Goodwin, seconded by Council Member Matzen, to approve Ordinance No. 214 with the amendments and additions to the PDD and

with Buildings 1 and 7 lowered from 47 feet to 35 feet (code compliant) and to sink the east parking garage (#6) a level.

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: Council Members Bliss and King
Absent: None

The motion carried 4-2.

MOTION: A motion was made by Mayor Murphy, seconded by Council Member Bliss, to approve Ordinance No. 213 amending the future land use map.

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.

Executive Session:

The City Council closed the Open Session at 3:26 a.m. to convene in Executive Session 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 551.074 - Personnel 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.

- A. Consultation with Attorney regarding proposed legislation regarding the West Travis County Public Utility Agency.
- B. Personnel – to deliberate the appointment, employment, evaluation, reassignment, or duties of a public officer or employee. (City Manager and Interim City Manager)

The City Council closed the Executive Session at 3:48 a.m. and reconvened in Regular Session in the Council Chambers.

B. Personnel:

MOTION: A motion was made by Mayor Murphy, seconded by Council Member King, to approve an employment agreement for the position of City Manager between the City of Bee Cave and Travis Askey.

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 Resolution No. 2014-06 concerning West Travis County Public Utility Agency's proposed legislative agenda.

MOTION: A motion was made by Mayor Murphy, seconded by Mayor Pro Tem Goodwin, to approve Resolution No. 2014-06 as presented.

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.

Adjournment.

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

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.

The meeting adjourned at 3:50 A.M.

PASSED AND APPROVED THIS _____ DAY OF _____, 2015.

Caroline Murphy, Mayor

ATTEST:

Kaylynn Holloway, City Secretary