

MINUTES OF THE REGULAR CITY COUNCIL MEETING
CITY OF BEE CAVE
APRIL 12, 2011

STATE OF TEXAS §

COUNTY OF TRAVIS §

Present:

Jack McCool, Mayor Pro Tem
Chad Bockius, Council Member
Bob Dorsett, Jr., Council Member (arrived at 6:07 p.m.)
Bill Goodwin, Council Member
Mike Murphy, Council Member

Absent:

Caroline Murphy, Mayor

City Staff:

Frank Salvato, City Administrator
Travis Askey, Deputy City Administrator
Patty Akers, City Attorney
Kaylynn Holloway, City Secretary
Giancarlo Patino, Engineer Associate
Russell Pancoast, Police Chief
Stephen Myrick, Building Official
Kevin Arnold, 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 Pro Tem McCool at 6:00 p.m. on Tuesday, April 12, 2011 in the Council Chambers of the City of Bee Cave City Hall, 4000 Galleria Parkway, Bee Cave, Texas.

Pledge of Allegiance

Citizen Comments

There were not any citizen comments at this time.

Consent Agenda.

- A. Consider approval of minutes of the Regular meeting conducted on March 22, 2011 and Special Session conducted on April 4, 2011.
- B. Discuss and consider action on Ordinance No. 80, an ordinance annexing 13.941 acres out of the J. Beck Survey No. 91, and being part of the 234.807 acres conveyed to Spillman Group, LTD (Gateway to Falconhead).

MOTION: A motion was made by Council Member Bockius, seconded by Council Member Murphy, to approve the Consent Agenda items.

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

Voting Aye: Mayor Pro Tem McCool, Council Members Bockius and
Murphy
Voting Nay: None
Absent: Council Member Dorsett
Abstain: Council Member Goodwin

The motion carried 3-0.

Public hearing, discussion and possible action on Ordinance No. 81, a zoning amendment to the existing Ladera Ranch Planned Development District relating to the expiration provision set out in Section 11 of Ordinance No. 71 and a relocation of the entrance on Bee Cave Parkway including request for city to waive a portion of the zoning amendment fees.

Mayor Pro Tem McCool opened the public hearing at 6:04 p.m.

With no public comments at this time, the public hearing closed at 6:04 p.m.

Council Member Dorsett arrived at 6:07 p.m.

City Administrator Frank Salvato stated that the applicant is requesting an amendment to Ordinance No. 71 to remove the expiration provision set out in Section 11 and preventing the zoning from reverting back to Planned Development SF-A. The applicant is also requesting approval of the relocation of the entrance road onto Bee Cave Parkway in order to prevent an interference with the water quality pond on the Skaggs tract.

MOTION: A motion was made by Council Member Bockius, seconded by Council Member Murphy, to approve Ordinance No. 81 which includes the above stipulations and to only pay the actual cost of the fees associated with this zoning request.

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

Voting Aye: Mayor Pro Tem McCool, Council Members Bockius, Dorsett,
Goodwin and Murphy
Voting Nay: None
Absent: None

The motion carried 5-0.

Discuss and consider action on a Chapter 380 Agreement with Taylor Morrison of Texas, Inc. for construction of Bee Cave Parkway Phase IIIB.

Mr. Salvato reported that City Attorney Patty Akers has drafted a 380 agreement with Taylor Morrison for Council consideration. Taylor Morrison has agreed to remit to the City \$400,000 for the construction of the Bee Cave Parkway Phase IIIB. They also agree to pay \$400,000 in up-front development/permit fees. The Economic Development Board has tentatively agreed to reimburse the City the \$400,000 in development/permit fees over a four-year period at \$100,000 per year.

Taylor Morrison has placed \$800,000 in escrow. The 380-agreement currently requires them to remit the \$800,000 to the City before the Council awards the bid for construction and/or adopts the ordinance issuing the bonds. The City's proposed schedule has the Council awarding the bid and adopting the bond issuance ordinance on June 28th. Taylor Morrison does not want to remit the check until July 1st.

Taylor Morrison is also asking for a date in the agreement whereby the City will issue a notice to proceed.

Adib Khoury and Tim Towell with Taylor Morrison spoke to the Council regarding this item.

After a lengthy discussion on this item, the Mayor Pro Tem called for a motion.

MOTION: A motion was made by Council Member Dorsett, seconded by Council Member Bockius, to approve the Chapter 380 Agreement with Taylor Morrison with two clarifications, one that the City will agree to issue the notice to proceed no later than October 31, 2011 and that Taylor Morrison's money would go hard on July 1, 2011.

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

Voting Aye: Mayor Pro Tem McCool, Council Members Bockius and Dorsett
Voting Nay: Council Members Goodwin and Murphy
Absent: None

The motion carried 3-2.

Discuss and consider action on granting a special event permit for the Backyard at Bee Cave including update on construction progress.

Mr. Salvato reported that the Backyard at Bee Cave is requesting that the City Council issue a special event permit beginning April 15th 2011. The Backyard's second special event permit expired on November 30, 2010. Staff has noted that little or no progress has been made on the outstanding issues.

Will Hodgson and Gregg Henry of the Backyard spoke during this item and presented their plans for construction progress at the site and a projected completion schedule.

The City Council closed the Open Session at 7:44 p.m. to convene in Executive Session in the Conference Room related to this item.

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

Executive session in accordance with the Texas Government Code, 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 City Council closed the Executive Session at 7:59 p.m. and reconvened in Regular Session in the Council Chambers.

After more discussion, Mayor Pro Tem McCool called for a motion.

MOTION: A motion was made by Council Member Murphy, seconded by Council Member Dorsett, to approve the temporary special event permit for the Backyard at Bee Cave until June 30, 2011 with the following conditions: the VIP area must be brought to code prior to the first event and any subsequent event or it will not be used; the bathrooms will be brought to code prior to the first event and any subsequent event or they will not be used; the artist compounds will be brought to code prior to the first event and any subsequent event or they will not be used; the water quality pond must be repaired and the silt fencing must be maintained; additionally, prior to the first show, the City Administrator has the authority to review this code status and make a determination whether or not the venue is ready for the first show; furthermore, he has the authority to revoke this permit at any time that he finds it necessary, for any reason, and to prohibit the use of any portion of the venue if it does not meet code and these conditions.

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

Voting Aye: Mayor Pro Tem McCool, Council Members Dorsett and Murphy
Voting Nay: Council Members Bockius and Goodwin
Absent: None

The motion carried 3-2.

Discuss and consider action on appointing a Committee to review proposals and scoring matrix from Architectural/Engineering Design services for the City Hall Building.

Mr. Salvato requested that one or two members of the City Council agree to serve on the Committee to review the proposals from the Architectural/Engineering companies.

Council Members Goodwin and Murphy volunteered.

Discuss and consider action to seek request for proposals for construction manager-agent.

Mr. Salvato recommended that the Council consider using a Construction Manager-Agent to coordinate review and make recommendations on cost effective repairs to the City Hall building.

MOTION: A motion was made by Council Member Murphy, seconded by Council Member Bockius, to authorize the City Staff to seek request for proposals for construction manager-agent with the findings that this type of selection methodology will provide the best value to the City.

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

Voting Aye: Mayor Pro Tem McCool, Council Members Bockius, Dorsett,
Goodwin and Murphy
Voting Nay: None
Absent: None

The motion carried 5-0.

Discuss and consider action on appointing one or more Municipal Court Associate Judges.

MOTION: A motion was made by Council Member Goodwin, seconded by Council Member Murphy, to appoint Donna Beckett and Belinda Herrera to serve as Associate Municipal Judges in the City of Bee Cave.

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

Voting Aye: Mayor Pro Tem McCool, Council Members Bockius, Dorsett,
Goodwin and Murphy
Voting Nay: None
Absent: None

The motion carried 5-0.

Discuss and consider action on the following:

- a. **Petition for creation of the Coalition of Central Texas Utilities Development Authority.**
- b. **Resolution approving the Bylaws, the Articles of Incorporation, and the initial directors named in the Articles of Incorporation of the Coalition of Central Texas Utilities Development Authority.**
- c. **Interlocal Cooperation Agreement regarding the Coalition of Central Texas Utilities Development Authority.**

MOTION: A motion was made by Council Member Murphy, seconded by Council Member Goodwin, to approve Resolution No. 2011-01 accepting the petition, approving the Articles of Incorporation and By-laws for the creation of the Coalition of Central Texas Utilities Development Authority.

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

Voting Aye: Mayor Pro Tem McCool, Council Members Bockius, Dorsett,
Goodwin and Murphy
Voting Nay: None
Absent: None

The motion carried 5-0.

MOTION: A motion was made by Council Member Murphy, seconded by Council Member Goodwin, to approve the Interlocal Cooperation Agreement regarding the creation and operation of the Coalition of Central Texas Utilities Development Authority.

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

Voting Aye: Mayor Pro Tem McCool, Council Members Bockius, Dorsett,
Goodwin and Murphy
Voting Nay: None
Absent: None

The motion carried 5-0.

Executive Session

The City Council closed the Open Session at 8:59 p.m. to convene in Executive Session in the Conference Room.

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

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.

- A. LCRA Rate Case litigation
- B. Consultation with attorney regarding litigation with Browning Construction Company, Freese & Nichols, Inc. and subcontractors for construction of city hall including settlement offer
- C. Consultation with attorney regarding litigation filed against City and Reit Management & Research Trust by Rod-Ave, L.P.
- D. Consultation with attorney regarding litigation relating to the TCEQ’s Executive Director’s petition that recommends that land within the jurisdiction of the City be included in a ground water district within the Hill Country Priority Groundwater Management Area.
- E. Consultation with City Attorney regarding franchise fee owed by City of Austin Energy.
- F. Consultation with City Attorney regarding acquisition of LCRA water/wastewater systems including items related to the creation of the Coalition of Central Texas Utilities Development Authority.

The City Council closed the Executive Session at 9:28 p.m. and reconvened in Regular Session in the Council Chambers.

Adjournment

MOTION: A motion was made by Council Member Murphy, seconded by Council Member Bockius, to adjourn.

The City Council adjourned the Regular Session at 9:29 p.m.

PASSED AND APPROVED this 26th day of April, 2011.

Caroline Murphy, Mayor

ATTEST:

Kaylynn Holloway, City Secretary
[SEAL]