

MINUTES OF THE SPECIAL CITY COUNCIL MEETING
CITY OF COLLEGE STATION
OCTOBER 6, 2010

STATE OF TEXAS §
 §
COUNTY OF BRAZOS §

Present:

Nancy Berry

Council:

John Crompton
Jess Fields
Dennis Maloney
Katy-Marie Lyles
Dave Ruesink

City Staff:

Sherry Mashburn, City Secretary

1. Call to Order and Announce a Quorum is Present

With a quorum present, the Special Meeting of the College Station City Council was called to order by Mayor Nancy Berry at 4:15 p.m. on Wednesday, October 6, 2010 in the Wellborn Community Center, 4119 Greens Prairie Road W., College Station, Texas.

2. Presentation, possible action, and discussion regarding issues related to the request from Citizens for Wellborn for consent to incorporate.

Mayor Berry thanked Wellborn for hosting the meeting and stated that the City of College Station City Council wanted to help make Wellborn the kind of community its citizens want it to be.

Jane Cohen, Citizens for Wellborn said it is important to have an open discussion of all possibilities and began the presentation. She reported that the initial Wellborn request to preserve historic Wellborn was in February 2010. The city requested a meeting; however, it was not received until just before the date, and there was no time to get people together. She felt the meeting request was a publicity gimmick just before the election and did not appreciate it. The initial request was never responded to. There was another petition that 1,500 College Station residents signed, requesting to let Wellborn vote. City staff said this was a Wellborn petition, but it was not.

Ms. Cohen reported that she had done an Open Records Request, and City Attorney Cargill said it was a phony demand. She asserted that College Station did not comply with state law. Her complaints regarded Mr. Cargill's memo, dated February 23, referencing two ordinances that she has not seen; Adam Flaco's letter to the State Attorney General; and the transcript of the March 30 meeting. She also noted that Mayor Berry gave a directive to Council to not respond. An incorrect email address was used in a response; and therefore no response was given to the College Station citizens who presented the petition. She complained that the City Attorney remarked to the Wellborn attorney that Wellborn incorporation would only happen over his dead body, and the City Planner had stated that, as a City Planner, he would never recommend allowing incorporation. She was told that the City did not respond because Wellborn was suing the City and stated that Wellborn was not suing the City. She reported that three different groups have approached her about recall petitions, but she told them that she could not do that.

A brief overview was given about historic Wellborn. The railroad gave three acres for a cemetery and church, and in 1868 the post office was established. Wellborn was platted and recorded at the county courthouse in 1894. Wellborn has been here for many years, and they do not want to see it wiped off the map. At one time, the community had 400 people, but those numbers declined when the railroad moved north to Bryan. They are proud of their community and want to keep it as Wellborn, Texas.

Regarding College Station's response to the 1,500 College Station signatories on the petition, there is a fundamental constitutional issue at stake. They disagree with the Chief Justice that heard the Writ of Mandamus and feel there should not be any jurisdiction of any kind where elected officials can put into place rules over those who cannot vote. It was noted that, as a Council, the City can dictate procedure and policy, but Wellborn residents cannot vote. Legally, the City does not have to grant the citizens of Wellborn anything, morally, they should. The people who live in Wellborn deserve the right to vote on whether or not they want to incorporate. It is not certain this would pass if taken to a vote once the obligations become known. However, if such a vote was held, then Wellborn would go away feeling they had been given a chance for their say. Otherwise, there will forevermore be rancor against College Station. There needs to be that debate on whether to incorporate or not. They want to pursue this in order to preserve the historical identity of Wellborn. Otherwise, sometime in the future, Wellborn will no longer exist. They want to protect and conserve the resources they have acquired that allow them to live the way they want to live. It has been said they don't want to pay taxes. That reason is wrong; if they incorporate, they will have to pay taxes. It was noted that in a month, there will be the biggest upheaval in the history of the United States because the politicians have ignored the wishes of the people. This election will come down as a referendum on whether or not they have been listening to the people. They cannot ignore the people who have elected them. Council was asked what it was they are so afraid of that they will not allow this request to go forward. If there is a real threat, then maybe it can be worked through. There is a question of fairness to allow people to exercise their fundamental right to vote.

Citizens for Wellborn asserted that the map is not a College Station decision. Staff has said that Wellborn is not a community, and the county judge would not order the election. It was stated that the map extends beyond the core area with residents spread out over an area connected by county roads with five miles between residents. They reported that state law only gives College

Station the right to decide whether the citizens are allowed to vote on this. Only if the City Council approves an ordinance granting the election, can the Wellborn residents vote. They asserted that they are not impeding roads, and they are not in a flood plain. State law requires a minimum of 201 residents within a 2 square mile area with an application signed by at least 50 qualified voters. Communities with a population of 2,001 – 4,999 are limited to four square miles in the initial incorporation.

Regarding extraterritorial jurisdiction (ETJ) statutes, Chapter 42 of the Local Government Code, states the purpose of the ETJ is to allow a city to promote and protect the general health, safety, and welfare of persons residing in and adjacent to the city. The 2010 Texas Republican Party platform says that annexation proceedings should guarantee that the residents of an annexation may vote on the annexation and voters of the jurisdiction proposing the annexation must authorize the proposal. This is a prime example of our representatives saying people have right to vote on their future.

This request provides some advantages to College Station. It encourages College Station to develop in College Station and not in the ETJ; it balances the city codes so developers will build in College Station (College Station is built out at 62%). Homes that will be annexed must have a \$400,000 valuation to break even on providing services, and in fact will cost College Station residents. Excessive annexation by College Station dilutes services – emergency, fire and police – creating a health and safety issue for all city residents. What is historical is the lifestyle they have in Wellborn, and the greatest advantage is for us to be good neighbors. It will save taxpayers money; improve the gateway to College Station more quickly; improve the reputation of College Station by doing what's right; improve the desirability of the overall community to prospective businesses; and increase community pride. Staff says Wellborn is incorrectly playing on the sympathies of College Station residents, and the citizens of Wellborn are not including their own. Residents of other cities know this is a bad idea, and College Station residents will pay. In cases like Wellborn, those residents should be given the chance to vote. Council was asked if they want to be the poster child for bad cities during the 2011 legislative session? Wellborn is prepared to let state senators and representatives know they will testify against cities as a whole and College Station in particular.

They handed out a draft ordinance, adapted from other cities that have done this. They reiterated the City is not being asked to vote on Wellborn's incorporation; the City is being asked to allow the democratic process to proceed.

Mayor Berry stated that the voices of Wellborn are being heard. Their desire is same as the City's; we want to make sure Wellborn stays Wellborn and protect their rural way of life. The City also wants to preserve the physical integrity and history of Wellborn, and protect their resources. She noted that the petition was not a question of whether the signatures were valid; it was a question of whether a petition was the way to proceed. She asked rhetorically, what do we need to do, and answered we can do any kind of zoning they want (like a Wellborn historical district); we can have building codes; whatever they don't have in the county, they can do in the city. The Mayor reiterated that the City and Wellborn have the same goals and what needs to be discussed now is the vehicle to achieve those goals.

Citizens for Wellborn stated they have not seen an alternative map consistent with state law that will allow them to vote. Councilmember Fields asked them to come up with their own alternatives to preserve Wellborn. There is no perfect win-win given the different perspectives. He asked if the ability to request a non-annexation agreement an alternate option. No changes in the fundamental land use can occur or the land is automatically annexed. The response was that Citizens for Wellborn would like to see the City prepare an document outlining those alternatives. The Mayor asked what other vehicles might be out there. She also said the options could be a menu selection – one from column A, two from column B, etc.

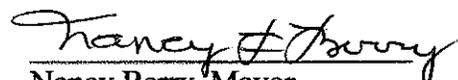
The Mayor was asked what is it about the Wellborn incorporation that the City fears. The Mayor responded, if all their objectives are met, then what is it they fear about College Station annexation? They replied that annexation would ultimately result in the dissolution of Wellborn. They stated they trust the group at the table today, but they don't know who is coming down the road.

Councilman Maloney pointed out that Wellborn has changed drastically since 1970; they cannot stop growth. He presented several options for consideration: 1) have a historic district with as draconian requirements as needed; 2) form an HOA and have as strict or as lax rules as they want; 3) create an historic overlay; 4) create development corridors to manage growth; and 5) have a non-annexation agreement that lasts forever until they decide to change the land use.

No action was taken by the City Council.

3. Adjournment

MOTION: There being no objection, Mayor Berry adjourned the Special Meeting of the College Station City Council at 5:40 p.m. on Wednesday, October 6, 2010. The motion carried unanimously.


Nancy Berry, Mayor

ATTEST:


Sherry Mashburn, City Secretary