MINUTES OF THE REGULAR CITY COUNCIL MEETING
CITY OF COLLEGE STATION
OCTOBER 25, 2010

STATE OF TEXAS §
§
COUNTY OF BRAZOS §

Present:

Nancy Berry

Council:

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

City Staff:

David Neeley, Assistant City Manager
Carla Robinson, Interim City Attorney
Sherry Mashburn, City Secretary
Tanya McNutt, Deputy City Secretary

Call to Order and Announce a Quorum is Present

With a quorum present, the Regular Meeting of the College Station City Council was called to order by Mayor Nancy Berry at 7:05 p.m. on Monday, October 25, 2010 in the Council Chambers of the City of College Station City Hall, 1101 Texas Avenue, College Station, Texas 77842.

1. Pledge of Allegiance, Invocation, consider absence request.

- **Presentation and Recognition of Capt. Greg Rodgers upon completion of the Executive Fire Officer Program.**

Chief R.B. Alley recognized Captain Greg Rodgers upon his completion of the prestigious Executive Fire Officer Program. He is one of 2,900 across the nation, and the third from College Station.

- **Citizen Comments**

Alston, Thoms, 224 Rustic Oaks, invited everyone to the Hot Rocks Cookoff. It is open to the public this Friday mid-afternoon through Sunday mid-afternoon. He invited all to come watch various experiments and Native American cooking techniques.

Jerry Cooper, 602 Bell Street, stated his concern with the erosion of older neighborhoods. Everything seems to favor turning them into rental neighborhoods. He suggested reform of the zoning laws for R1-Single Family. The first classification would be for owner-occupied homes with rules the same as those in the current ordinance. The second classification would be for commercial and rental properties. The rules could address the number of people living in homes, the number of parking spaces, safety requirements for multiple-tenant homes, and maintenance requirements.

Arthur Wright, 1008 Holt Street, stated if the Council enacts everything just mentioned by Mr. Cooper, then they will have done away with the free market system. He asked Council to please consider the impact to everyone.

CONSENT AGENDA

2a. Presentation, possible action, and discussion of minutes for August 12, 2010 Workshop and Regular meeting, August 16, 2010 Special meeting and October 14, 2010 Workshop and Regular meeting.

2b. Presentation, possible action, and discussion regarding approval of a real estate contract in the amount of $265,000 between the City of College Station (Buyer) and Debra Lynn Boyett (Seller) for the purchase of Lot One (1), Block Eighteen (18), W. C. Boyett Estate Partition, also known as 502 Boyett Street.

2c. Presentation, possible action, and discussion regarding the approval of a construction contract (11-013) with Brazos Paving in the amount of $4,174,508.86 for the Barron Road Widening Phase 2 Project.

2d. Presentation, possible action and discussion on the second reading of a franchise agreement with Liquid Environmental Solutions for the collection of food waste for the purpose of recycling.

2e. Presentation, possible action and discussion on the second reading of a franchise agreement amendment with Texas Commercial Waste to add the collection of food waste for the purpose of recycling to its agreement.

2f. Presentation, possible action, and discussion on approval of the 2010 Property Tax Roll in the amount of $24,323,278.70.

2g. Presentation, possible action and discussion to approve Fiscal Year 2010-2011 expenditures for the Brazos County Health Department in the amount of $351,500.

2h. Presentation, possible action and discussion on a resolution stating that the City Council has reviewed and approved the City's Investment Policy, Broker-Dealer List and Investment Strategy.

2i. Presentation, possible action and discussion on a funding agreement between the City of College Station and the Keep Brazos Beautiful for FY11 in the amount of $50,240.

2j. Presentation, possible action and discussion on approving the budget of the Arts Council of Brazos Valley; and presentation, discussion and possible action on a funding agreement between the City of College Station and the Arts Council of Brazos Valley for FY11 in the amount of $200,000 for Affiliate funding.

2k. Presentation, possible action, and discussion on a Construction Services Contract with Elliot Construction, Ltd. in the amount of $3,792,932.70 for the construction of the Southwood 5-7 Utility Rehabilitation Project.

2l. Presentation, possible action, and discussion regarding approval of a resolution authorizing staff to award professional services contract #11-036 with Dunham Engineering in the amount of $50,000 for engineering services to rehabilitate the three million gallon ground storage reservoir.

2m. Presentation, possible action, and discussion regarding the monthly report on irrigation water use at City of College Station facilities and properties.

2n. Presentation, possible action, and discussion regarding approval for the participation in the Brazos County Area 2011 Orthoimagery Project, consisting of area agencies contributing to a large area and detailed purchase of aerial imagery, and authorization for the City's portion of the project, not to exceed $97,000, expensed to Kucera International Inc. in reference to the state contract.

2o. Presentation, possible action, and discussion on a HOME Tenant Based Rental Assistance (TBRA) Agreement between the City of College Station and Twin City Mission.

2p. Presentation, possible action, and discussion on a resolution approving a contract for the grant of federal HOME Community Housing Development Organization Set-Aside funds with EMBRACE Brazos Valley in the amount of $198,607.50 for construction of affordable housing.

2q. Presentation, possible action, and discussion regarding the renewal of an annual blanket purchase order with Boundtree Medical L.L.C. for $65,000.00 for EMS supplies.

2r. Presentation, possible action, and discussion regarding approval for the agreement with ESRI on their Small Government Enterprise Licenses Agreement that will change the method for licensing city use of ESRI mapping software at a maximum cost of $132,000 over three years.

2s. Presentation, possible action, and discussion on the third reading of a ten (10) year franchise agreement with the City of Bryan for retail sale of electricity within the City of College Station and certificated to Bryan by the Public Utility Commission of Texas.

2t. Presentation, possible action, and discussion on an ordinance amending Chapter 10, Section 3E (2)(i)(15), of the College Station Code of Ordinances changing the posted speed limit on the section of Dexter Drive from 30 mph to 25 mph.

2u. Presentation, possible action and discussion regarding the approval of the FY 2010 Chapter 59 Asset Forfeiture Audit reporting form for the College Station Fire Department.

Item 2b was pulled from the Consent Agenda.

MOTION: Upon a motion made by Councilmember Crompton and a second by Councilmember Lyles, the City Council voted six (6) for and none (0) opposed, to approve the Consent Agenda, less item 2b. The motion carried unanimously.

(2b)MOTION: Upon a motion made by Councilmember Crompton and a second by Councilmember Ruesink, the City Council voted four (4) for and two (2) opposed, with Councilmembers Fields and Lyles voting against, to approve a real estate contract in the amount of $265,000 between the City of College Station (Buyer) and Debra Lynn Boyett (Seller) for the purchase of Lot One (1), Block Eighteen (18), W. C. Boyett Estate Partition, also known as 502 Boyett Street. The motion carried.

REGULAR AGENDA

1. Public Hearing, presentation, possible action, and discussion regarding the development of a residential rental property inspection program.

At approximately 7:40 p.m. Mayor Berry opened the Public Hearing.

Celica Goode-Haddock, 5560 Timberwood, representing Decent Affordable Safe Housing (DASH), stated their concern that something be done with unsafe housing. They feel most landowners are doing a good job. They would like see a group of interested people, including staff, DASH, and owners of rental properties sit together and discuss this before it goes forward.

Devon Daniel, College Station resident, agrees with the city inspection program because it helps make housing better.

Lynne Powell, 2501 Texas Avenue South, owner of a property management company, said they manage over 700 properties, and they already inspect their properties. This program does not help them one bit. The City still does not contact them; the property owner is notified, and by time they hear about it, they have to deal with a fine. She is totally against this program as a manager and an owner.

Michael Luther, 614 Welsh, stated that neighborhood integrity goes far beyond what many think matters. He asked what is the difference between four family members or four non-related persons under one roof and the civil engineering load this creates. What is being asked for must go forward if College Station is to maintain the beautiful place it has always been.

Doug Pederson, 1507 S. College Avenue, Bryan, owner of Twin City Properties, stated that maintaining property is huge when speaking of rental properties. There are life-safety elements: smoke detectors, carbon monoxide detectors, HVAC inspections, operational doors and windows. He feels there is 96% compliance already. There are already laws in place by the

State of Texas that cover the landlord's duty to repair or remedy any conditions that affect health and safety. The Texas Property Code, Chapter 92, requires rental property owners to install and inspect smoke detectors. There are tools available through the Texas Apartment Association (TAA) Redbook. 88-90% of the local providers are members of the TAA. The TAA lease contract covers security devices, residence safety, etc., and the TAA Inventory and Condition form provides a checklist for safety related items. Other forms include Lead Hazard Information and Disclosures, Asbestos Addendum and the Mold Information and Prevention addendum. The City already has the UDO, International Property Maintenance Code, and the Code of Ordinances, Chapter 1, Provisions for Penalty of Provisions and Chapter 7, Health and Safety. We already have all the tools; we do not need a redundant program. He suggested his Pederson Point Plan. This is a point system. There would be no fees; when the code is violated, then a point is assigned to it with hefty fine. When all points are gone, then the owner loses the right to operate. We can already assess a $2,000 per incidence fine for those 2% that are not compliant.

Bethany Owens, 2311 Morningside, Bryan, rental property owner and manager, reported she is designated as a certified apartment manager and supervisor and serves on professional boards. The Apartment Association adheres to a strict code of ethics. They want to provide a decent living environment for tenants. There are already laws that standardize what must be provided to residents. The City should focus efforts on those that do not. Its time is best served in cooperative efforts against substandard housing. They care about the community and would like to focus on those at fault. She donated a copy of the Redbook to the City.

Rosemarie Selman, 4275 Oak Lake Drive, stated her 100% agreement with Mr. Pederson and Bethany Owens.

Paul Morris, 1511 Wayfarer, stated his agreement with Mr. Pederson and Ms. Owens.

Frank Sheppard, 1403 Angelina Circle, stated his agreement with Mr. Pederson and Ms. Owens.

Dudley Smith, 1810 Shadowwood, owns and operates eight rental units with Harry and Judy Jones. He voiced his opposition to any move (by code, regulation, etc.) for inspecting rental properties. He asserted that the Redbook is emphatic about rules and regulations. He has not seen any benefit from the registration program. His daughter and her family live in a nice home he owns and has registered. However, his next door neighbor has four unrelated persons living there. It is not registered because the owner resides there with three friends. He is concerned with where the inspection program would stop. What is the basis? Who pays for it? What properties get captured? Are all rentals included regardless of age? He had specific questions for smoke alarm inspections; e.g. types and numbers in a 1,000 square foot home; where they should be placed; who checks the batteries, etc. He noted there is already a regulation for locks, keyless dead bolts and peep holes. He hopes that everyone recognizes that college students constitute the major rental population in College Station. He stated the students are highly selective and highly mobile; they are the economic engine that drives the economy of this town.

Robert Aueryt, 14695 Highway 30, stated that the City doesn't need to be in the rental inspection business. He has improved the City of College Station, and asked that the City leave him alone. The current proposal for inspections will result in tremendous legal liability for the City. We

should stay out of the quality control business. Most rental property owners do a good job on what they do; the City should pick on those that don't.

Scott Bowen, 2525 Arbor Drive, Bryan, stated his opposition to rental inspections. It is a violation of privacy and search and seizure laws. Fees will be passed on to the renters. Don't tell us what is safe, and what we are doing wrong. He has worked out things with his landlord, and the City did not have to get involved.

Kevin O'Neill, 1816 Brothers Blvd, #3, does not own any rental property and thinks this is a dopey idea.

Brad Corrier, 724 Plum Hollow, agreed with what was said by Doug Pederson. Everyone appreciates the safety concern of tenants, and there are state laws addressing these issues. The solution to the 4% of bad apples is to advertise to the tenants that the City can inspect the property free of charge. He asked, statistically, where is our problem? How many houses have burned down; how many have died from carbon monoxide poisoning? What is the percentage of landlord-neglected properties versus owner-occupied homes? He often sees the City proposing a solution when there is no problem.

Susan Irza, 605 Summerglen, reported there is rental property in her neighborhood. The City needs to remember these are businesses and need to be seen for what they are. They are ways to make money for those that do not live there. We live here and have to put up with the fact that oftentimes the properties are not maintained. The four things staff has outlined are good, but we also need to look at the roof, if the walls are sound, fire extinguishers, and pest control (rodent and insect infestations). If we allow self-reporting, it needs to be with a statistically appropriate program of random inspections by the City. She suggested we look at comparable cities with large universities so we aren't re-inventing the wheel all by ourselves. She asked if staff has looked at the report from the Center for Disease Control; they have a nice piece on rental properties. She reported that the State of Washington has just passed a state law requiring periodic rental inspections.

Sherry Ellison, 2705 Brookway Drive, reported she grew up in apartments and duplexes. As a college student, she lived in apartments. Co-workers have spoken of their problems getting repairs. She supports independent city health inspections. The owner would gain from such inspections because plumbing or electrical problems will be detected before they cause greater problems. Renters worry they will be blamed even they have not caused a problem. Rent might be increased or their contract not be renewed. Independent inspections would insure these repairs would be made.

Arthur Wright, 1008 Holt, said he has been in the rental business over 40 years and doesn't know anyone that has these scroungy homes we are talking about. If a tenant is in HUD housing, they are inspected every year, and they have been criticized for the hoops they must jump through. We don't need one more layer of people complaining to landlords. There are a lot of helicopter parents reporting problems because students don't have time to report to the landlord. He also noted the Redbook is updated every two years when laws change.

Buck Prewitt, 2302 Scotney Court, remarked that staff spoke to fifteen other cities and asked if they have same ratio of rental property to owner-occupied property. He also noted there is a $15 charge whether it is one unit or 100 units. The registration fee is not equitable. Regarding annual inspections, an owner of 100 units will have to have qualified, licensed inspectors. We are just adding costs, and when those become a substantial amount, then it will be passed on.

John Ellison, 2705 Brookway Court, stated as a homeowner, he has noticed rental property in his neighborhood is not as well maintained on the outside. He worries about how it is on inside. Improper maintenance can result in fires, floods, and unsanitary conditions. Aluminum wiring is in older homes and needs to be inspected yearly. As the father of two children who went to college and rented apartments, in one apartment maggots were crawling in the refrigerator. In another, when the toilet was flushed, a brown ooze came up in the tub. People usually do not see the unit they are renting; they view the model. As a teacher, he comes into contact with lots of students. Students do not complain because when they do, they are offered the ability to shut up or go find another apartment. He noted that rental maintenance companies get a finder's fee every time they rent an apartment; this becomes a ploy to make money. He would like to see a good solid inspection that looks for major safety items.

Swiki Anderson, 1805 Hondo, noted that an all-electric unit will not create carbon monoxide. No one has addressed who is going to pay for all this. If a tenant wants an inspection, they can get one. He resents the $15 fee.

Robert Striker, 2501 Antietam, spoke in favor of health and safety inspections of rental properties. He has witnessed the ebb and flow of real estate values over the years. There is evidence of owner-occupied property decreasing in value when it converts to rental. There is an obvious lack of curb appeal, and a general degradation of appearance and asset value affects everyone. The owner occupant in the neighborhood suffers the biggest loss of value, but there is a cash savings to the landlord investor each year in depreciated values. The value of property should be protected by whatever means possible, including limiting the number of unrelated tenant occupants, strict code enforcement, and registration of properties to include health and safety inspections that address the internal integrity of the rental property. The condition of the inside has a greater impact on the property value than the external appearance. We need to ensure a standard of occupancy that protects property value.

Jim Murphrey, 1015 Francis, stated his opposition to the inspection program. Any intervention the City does will take away citizen rights or invade the privacy of people. Control leads to more taxes, fees and fines. Control and collection of money is addictive. Does the city have the staff to do the kinds of inspections needed? He urged Council to review their role and stick with leadership and services, and not control and interference. A good approach is through education of the lease contract. Turn responsibility over to the tenant.

Tom Morgan, 1115 San Jacinto, Austin, General Counsel for the Texas Association of Realtors, applauded the City for looking at tenant safety. They do not take any position, but support the efforts of the local association to work with the City.

Jack Mullen, 2811 Adrienne Drive, said he is not a tenant or landlord, but asked that the City not punish the many for the ills of the few. He reiterated that we use current remedies. He urged the City to educate, not legislate. Use Twitter, newspaper articles, etc. to educate people on how to get their problem solved.

Don Jones, 804 Berry Creek, pointed out this issue was investigated thoroughly in 2004 by a task force charged with investigating neighborhood integrity. They voted 17-3 against a rental inspection program; however, they did vote for the rental registration program.

Charles Wilding, 4912 Augusta Circle, reported he has rental properties that he has made nice for tenants. He also purchased an historic home that was owner occupied and had graffiti inside and pigs outside. He does not want to make slumlord homes. Other homes in the area cannot be fixed because of city regulations and was told by staff that the City does not take property tax into consideration when permitting.

Ed Berry, 3803 Park Village Court, Bryan, representing the local Association of Realtors, stated his support of what Mr. Pederson and Mr. Corrier said earlier.

Barry Brannon, 3901 Windwood Circle, said he is already charged a registration fee for four duplexes. He wants to know who will do the inspections. He received a letter congratulating him on his nice yard. That's because he pays to have his yards mowed. He doesn't own hundreds of duplexes, only four. The City needs to focus on getting out of our hair. We don't need any more information. His tenants call him when there is a problem. They have his cell number, and he is available 24-7. He takes care of his property and so does everyone else as well.

A.C. Vinzant, 901 Glade, suggested utilizing the letter that goes out with the utility bill to educate people on the process. It should include the number for code enforcement. He also recommended posting notices of violations in common areas.

Henry Wittner, 2508 Raintree, stated his support of the inspection program. He said the City is collecting $100,000 in registration fees and only paying $10,000 for basic inspections. This needs more discussion. They will not find every problem every time, but they will find some. If repair costs drive up the rent, then there is a severe problem with the property.

There being no further comments, the Public Hearing was closed at 9:14 p.m.

MOTION: Upon a motion made by Councilmember Crompton and a second by Councilmember Lyles the City Council voted six (6) for and none (0) opposed, to charge a task force (comprised of Mr. Pederson plus his recommendation, Ms. Owens plus her recommendation, DASH, and staff) to identify the means of insuring the safety of the four items. The motion carried unanimously.

2. Public Hearing, presentation, possible action, and discussion on an ordinance amending Chapter 10, of the College Station Code of Ordinances to remove parking on various streets in the Southside neighborhoods to improve emergency vehicle access.

At approximately 9:54 p.m. Mayor Berry opened the Public Hearing.

Rodney Hill, 119 Lee, reported emergency vehicles have problems entering the street. The two-hour parking works very well. He supports the proposal.

Linda Harvell, 504 Guernsey, reported they are surrounded on three sides by students who are very social. Parking becomes a problem with the accessories that come with the rental property. Owners need to take responsibility for providing adequate parking for their rental property. She thanked the City for the good job of working with them.

Mike Newman, 211 Lee, thanked the City for the tremendous job they've done on the study, emphasizing safety. No parking on the east side and two-hour parking on west side is a perfect plan.

Sallie McGehee, 311 Lee, stated that parking on both sides is a traffic hazard. There is a parking hazard on both ends of the street; emergency vehicles have difficulty coming in.

Donna Hanna-Calvert, 1004 Hereford, encouraged the Council to implement the plan. She has been concerned for many years that emergency vehicles would not be able to enter with parking on both sides of the street. Parking on only one side of the street will help a great deal.

Mike Wheeler, 1003 Timm Drive, said it is essential for fire and police to enter. This will need to be extended throughout College Station. He is concerned with trash pick-up in five years. If they cannot access the garbage, it is left. He is also concerned with mail delivery. He is strongly in favor of rental registrations and inspections.

Jerry Cooper, 602 Bell Street, asked about parking being on the opposite side of the sidewalks. He asked that Planning and Development work on regulations for paving the areas in front of the homes so that it does not appear like parking lots.

Mike Luther, 614 Welsh, stated there must be accessibility to support resident safety. Emergency vehicles cannot get in due to traffic contamination. He noted that with parking on only one side of the street, the problem for the rental units will double. The civil engineering infrastructure for the area will only support so much.

Scott Bowen, 2525 Arbor Drive, Bryan, reported the student senate passed an emergency bill regarding the impact this plan will have on the students. The City is trying to apply a one-size-fits-all for the entire neighborhood. In extreme cases, it may make it difficult for students to live in these neighborhoods. He asked why cul-de-sacs are not included in this. He also noted that students did not appear to be included in the discussions. He asked Council to table this item to allow for more discussion with the students.

Jeanette, McMahon, 600 Park Place, reminded the Council that students live there two years tops, whereas she is a permanent resident. The students have to grow up and take responsibility, and consider their neighbors.

There being no further comments, the Public Hearing was closed at 10:18 p.m.

MOTION: Upon a motion made by Councilmember Maloney and a second by Councilmember Fields, the City Council voted six (6) for and none (0) opposed, to adopt the ordinance amending Chapter 10, of the College Station Code of Ordinances to remove parking on various streets in the Southside neighborhoods to improve emergency vehicle access, and to limit parking as proposed by staff. The motion carried unanimously.

3. Presentation, possible action, and discussion regarding awarding a contract to HDR Engineers for $55,600 to study City-wide impact fees, to give City Council the option of implementing impact fees, if they so desire.

MOTION: Upon a motion made by Councilmember Crompton and a second by Councilmember Maloney, the City Council voted four (4) for and two (2) opposed, with Mayor Berry and Councilmember Fields voting against, to award a contract to HDR Engineers for $55,600 to study City-wide impact fees. The motion carried.

4. Presentation, possible action, and discussion regarding selection of applicants to various Citizen Boards and Committees.

This item was postponed to the November 10 meeting.

5. Presentation, possible action, and discussion to consider Citizens of Wellborn petition to incorporate.

This item was not discussed.

6. Adjournment.

There being no further business, Mayor Berry adjourned the regular session of the College Station City Council at 10:37 p.m. on Monday, October 25, 2010.

Nancy Berry, Mayor

ATTEST:

Sherry Mashburn, City Secretary