

MINUTES OF THE REGULAR CITY COUNCIL MEETING
CITY OF COLLEGE STATION
NOVEMBER 10, 2010

STATE OF TEXAS §
 §
COUNTY OF BRAZOS §

Present:

Nancy Berry

Council:

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

City Staff:

Glenn Brown, City Manager
David Neeley, Assistant City Manager
Kathy Merrill, 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 7:09 p.m. on Wednesday, November 10, 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.

• **Citizen Comments**

Micah Flippen, 1003 Hemingway, reported that he owns a stone quarry. If someone were hit in the head by one of his stones and was offered Advil, that person would take it. But would we want it already in our water? There is a drug already in the tap water; it is a drug called fluoride. Recent research says that fluoride is not good, and there is a connection between fluoride and bone cancer. There is a serious risk in causing cancer in people. In 2006 the American Dental

Association advised parents that the fluoride levels were not safe for infants. If we simply stop fluoridation nationwide, we can prevent cancer for 250,000. Neither Bryan, Wellborn, Austin, and other cities, put fluoride in their water. 80% of Europe is not fluoridated.

Michael Giyanani, 912 Crystal Dove, spoke regarding neighborhood streets. They are only allowed to park on one side of the street; this is unjust to homeowners who cannot park in front of their homes. The roads are built too narrowly, and wider streets will increase property value.

Dr. Leigh Turner, 3301 Triple Bed, spoke against the Wellborn annexation. She disagrees this is necessary for College Station's growth. 39% of the land in College Station is not developed and not fulfilling its tax potential. The projection is that it will take 30-40 years to build out. If Wellborn incorporates, then it will not affect College Station's growth. They want to vote. Decisions are being made by people that do not represent Wellborn or understand Wellborn.

Bonita Simpson, 15097 Royder, recited Psalms, "God hates all workers of iniquity". What the City is doing is pure evil and morally wrong. She asked to be allowed to vote on the incorporation of Wellborn, Texas. Her grandparents are buried in the historical cemetery. She finished with a quote, "The wicked will not go unpunished".

Elizabeth Terry, 5344 Stousland, stated that she understood from the Mayor that Wellborn had the right to self-determination and even signed the petition. She asked what happened to change her mind. The Council said they had a problem with the map. She is not married to the map; the map is negotiable. If the Council is concerned with Wellborn, then how can they consider annexation of the very heart and soul of Wellborn? The Post Office cannot remain if they are annexed. She asked the Council to not absorb Wellborn into College Station like the Shilo community. She noted that overlays don't protect people's rights; they control what people can do on their own property. She stated that a dictatorship refers to autocratic, absolute rule. She asked the Council to veto annexation and give the Wellborn citizens the constitutional right to decide what is best for their community.

Charles Terry, 5344 Stousland, reported that he homeschooled his children with conservative principles. If Wellborn is annexed, his children will not be able to ride on the rural streets, and their way of life will not be there anymore. A petition signed by 1,500 constituents was lawful and viable. That is why Harvey Cargill left so abruptly. He stated that the Council is thumbing its nose at its constituents, and the electorate will return the government to government by the people and for the people.

Margie Boyd, 5245 Straub, noted that the Council says annexing Wellborn is for the good of College Station. She asked how does the Council know that? How does the Council know the wishes of the people without their vote? She asked the Council to make sure it is representing all of the citizens of College Station.

Jane Cohen, 3655 McCullough, stated that Wellborn is asking for the right to vote on their own future. Citizen for Wellborn followed the Local Government Code requirements by presenting a petition. They had no response to that petition. She is still awaiting results of an open records request. There was also an initiative petition signed by College Station residents. A suit was

filed in an attempt to have this issue decided, and they hoped it would be on the November 2 ballot. She asked the Council to not penalize Wellborn for following the law. The Mayor met with a Wellborn individual and drew lines for a map. She met with the Mayor on Sunday, and now this is on the agenda. She reported that Mayor White had said that Wellborn would not be annexed for another twenty years. It is not even in the annexation plan until later. She understood Wellborn might have to compromise on the map to vote on incorporation. She requested the Council to either vote against annexation or table the item to allow time for more negotiation. Wellborn wants to be good neighbors.

Carol Fountain, 14380 Cheyenne, said all she is asking for is the right to vote. Being in ETJ, her constitutional right to vote has been taken away. She has been disenfranchised because of where she lives. She asked the Council to let her decide her own fate.

Fred Bouse, 811 Plum Hollow, reported he purchased land in Wellborn many years ago and lived there 25 years in his own private park. Those were the best years of their lives. He sold part of the land to his son so the family could enjoy that same lifestyle. If annexation is carried out, then College Station regulations like 150' lots with 30' rooftops will apply in Wellborn. They will have to satisfy College Station restrictions if they want to build. These regulations are not appropriate for a rural area. It is inconceivable that the City wants to ruin the lifestyle of a 150-year old community. Annexation is being forced on residents without a vote. 1,500 College Station residents also wanted Wellborn to vote. As a College Station citizen, he finds it appalling that the City won't allow its own citizens to vote.

Lynn Ruoff, 3733 McCullough, reported she moved from College Station to Wellborn for a rural lifestyle. Some made a conscious decision to live in College Station. She asked how would we react if Bryan wanted to annex us? The difference is that Bryan does not have the right to annex College Station like College Station does for Wellborn. A legal right does not make it moral.

Dale Holecek, 13922 IGN Road, said he doesn't want annexation for two reasons. He referenced Aspen Heights and stated that he was told the City had no control over it after it was mapped. College Station is pursuing unbridled growth doesn't have the tools to control it which further decreases property values. He asked the Council to consider that unbridled growth and the lack of tools to control growth, as evidenced, by Aspen Heights, affect the property devaluation of area residents.

Linda Hale, 4042 Cody, reported that 72 years ago a new town was incorporated at College Station. During those years, there may have been disputes, but they have to be worked through. During this time, the Wellborn community has experienced renewal and growth. If it right for College Station to incorporate 72 years ago, then why can't Wellborn incorporate today. Why can't we share a border with one another. The Council sees this as an easy and expedient course, but it is not morally right. Wellborn is a community, and descendants of the original citizens live there today. She asked the Council to allow residents a say to remain rural or be annexed and to have a voice.

Rick Young, 5250 Hidden Acres, presented the proposed map and stated the idea was College Station was trying to expand too fast. He reported he has been in a lawsuit the past three - five

years because of flooding from the development that has been allowed to proceed. The new administration doesn't deal with the issues; they just grab more land. There is sewage across the property and TCEQ violations. When TCEQ investigated, they discovered sewage in the creek. He asked the Council to close that plant down, and give his property back. He asked the Council to not try to steal more from Wellborn residents.

Greg Taylor, 15796 IGN Road, asked the Council, as they consider the Wellborn issue, to remember the veterans from Wellborn that have given much to protect our rights such as freedom, democracy and the right to vote. How can the City consider not allowing Wellborn to vote on incorporation or unilaterally annex the area? This action was not trumpeted from the rooftops, and the article was buried on page five. When zoning changes are proposed, notices are prominently posted for anyone to see, but not in the ETJ when appropriating property. No notice has been posted in the area of this action tonight. What is so important for College Station that the basic right to vote is disregarded?

Karen Hall, 5918 Hwy 21 East, noted that moral issues have been raised regarding the Wellborn annexation. The City has a legal responsibility for services if it annexes the area. If annexed, full municipal services, including sewer, must be in place within two-and-a-half years of annexation. There must be a service plan. She plans to submit an open records request to see how much these services will cost College Station citizens to service the area. She warned against becoming the Leona Helmsley of local law. If the City decides to annex, she asked that we please honor the oath to follow the state laws regarding services.

Becky Pruitt, 501 Hereford, remarked there is a different aspect of the community that benefits from federal funds and referenced the George Bush Library. She noted there was an election for him.

CONSENT AGENDA

2a. Presentation, possible action, and discussion of minutes for August 17 & 18, 2010 Special Budget Workshop Meetings and October 25, 2010 Workshop and Regular Council Meeting.

2b. Presentation, possible action, and discussion regarding approval of a resolution authorizing staff to award professional services contract #11-044 with Prime Controls in the amount of \$72,430.00 for Professional Services Rehabilitating Water Wells 1, 2, 3, & 5 Motor Control Centers.

2c. Presentation, possible action and discussion regarding the renewal agreement for outsourcing the printing and mailing of Utility bills, late notices and inserts for an estimated annual expenditure of \$230,000 to Xpedient Mail.

2d. Presentation, possible action, and discussion on a bid award for the annual agreement for various electrical items and electric meters to be stored in inventory as follows: Techline \$567,959.50; TEC \$101,774.50; TransAmerican Power Products, Inc. \$85,550.00;

KBS \$51,880.50; Stuart C. Irby \$23,735.60 and HD Supply \$3,425.00. Total estimated annual expenditure is \$834,334.10.

2e. Presentation, possible action, and discussion regarding a resolution awarding the bid and approval of a construction contract (Contract Number #11-035) with Orion Construction in the amount of \$51,690.00 for a new Playground at John Crompton Park.

2f. Presentation, possible action and discussion on the third and final 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.

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

2h. Presentation, possible action, and discussion on a deductive change order to the Construction Contract 09-307 with Doughtie Construction Company, Inc. for a credit in the amount of \$38,592.00, for the construction services of Areas 5 & 6 Utilities & Lift Station.

2i. Presentation, possible action, and discussion renewing the Annual Contract for Janitorial services for all City offices for an annual expenditure of \$198,343.44.

2j. Presentation, possible action, and discussion regarding a change order to the design contract (Contract No.07-263) with Mitchell and Morgan in the amount of \$4,240.00 for the Nantucket Gravity Sewer Line project.

2k. Presentation, possible action, and discussion on a participation agreement between the City of College Station and the Estate of Gary Seaback for the extension of Victoria Avenue to William D. Fitch Parkway.

MOTION: Upon a motion made by Councilmember Fields and a second by Councilmember Lyles, the City Council voted seven (7) for and none (0) opposed, to approve the Consent Agenda. The motion carried unanimously.

REGULAR AGENDA

1. Public hearing, presentation, possible action, and discussion regarding an Ordinance amending Chapter 12, "Unified Development Ordinance," Section 4.2, "Official Zoning Map," of the Code of Ordinances of the City of College Station, Texas, specifically rezoning 3.957 acres from A-O Agricultural Open and P-MUD Planning Mixed Use District to PDD Planned Development District for hotel, multi-family, office, and general commercial uses, for 1502 Texas Avenue South, generally located on the west side of Texas Avenue South, south of Milliff Road.

At approximately 8:55 p.m. Mayor Berry opened the Public Hearing.

Lloyd Smith, 1609 Armisted, reported that Redmond Terrace Acres is a historical part of College Station. However, it has narrow streets with parking on both sides and becomes one-way traffic. His research says streets need to be 31' to get a fire truck through. Several years ago, the residents signed a petition and went through negotiations. They agreed they have no problem with the development if there are concessions for traffic, such as making Milliff one way. The redevelopment of Redmond redirected a huge amount of traffic back through the neighborhood. They want to preserve the neighborhood and want to make it safe; currently there are no sidewalks, and it has narrow streets. He reiterated they want to see Milliff changed to a one-way street. He noted the Comprehensive Plan says the City will protect the neighborhoods.

Jason McAllister, 636 San Mario Court, spoke on the viability and long term success of the development. The retail space as shown is a very viable project. This location is in center of a defined retail corridor. However, the setback requirement and relocating parking to the rear takes that viability away. Customers are about convenience, and the tenants are about location. He opined that the owner could rent in the \$19-\$22 range with parking requested. The stabilization period is projected at 18 months, given the location.

Bob Sanders, 214 Redmond, believes the neighborhood supports this project. The developer needs to decide on the parking location, not the City.

Vernie Bodden, 4402 Edinburgh Place, stated that a tremendous amount of money has been invested in this tract. If they lose the access point, it will affect their ability to acquire respectable tenants. Texas Avenue frontage has marketability.

There being no further comments, the Public Hearing was closed at 9:20 p.m.

MOTION: Upon a motion made by Councilmember Lyles and a second by Councilmember Fields, the City Council voted seven (7) for and none (0) opposed, to approve the PDD, including a four-foot buffer for parking and two access points on Texas Avenue. The motion carried unanimously.

MOTION: Upon a motion made by Councilmember Crompton and a second by Councilmember Maloney, the City Council voted seven (7) for and none (0) opposed, to make Milliff one-way from Redmond to the bridge. The motion carried unanimously.

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

The following appointments were made:

Cemetery Committee: Dick Birdwell, Weldon Kruger (Chair), Shaundell Feast, Sara Mirza, Randy Matson, Bahman Yazdani

Construction Board of Adjustments and Appeals: Frank Cox, Richard Dabney (Chair), Oran Mikeal, Arthur Pinto

Design Review Board: Katy Jackson, Jason Kinard, Alan King, Bill Mather, Steven Schloss, Scott Shafer (Chair)

Historic Preservation Committee: Patricia Cleere, Linda Harvell, Susan Irza (Chair), Elizabeth Vastano

Medical Corridor Advisory Committee: John Anderson, Rodney Bailey, Bobby Bains, James Battenhorst, Carol Bode, Sharon Bond, Patricia Cleere, Ruth Cohen, Angela Clendenin, Alcia Dorsey, Eleanor Ebanks, Chuck Ellison, Ed Hard, Anne Hazen, Rajesh Harry Kissoon, Shane Lechler, James Mason, Nick McGuire, Jim Morgan, Timothy Ottinger, Doug Phillips, Sheila Rinard, Marsha Sanford, Juli Schulz, Jon Turton, Kirsten Walker, Ben White, Don Young. The committee will elect the chair.

BVSWMA, Inc. Board of Directors: Mayor Nancy Berry

Zoning Board of Adjustment: move Jim Davis up to committee, Paul Marvin as alternate

3. Public hearing, presentation, possible action, and discussion regarding an Ordinance amending Chapter 12, "Unified Development Ordinance," Section 4.2, "Official Zoning Map," of the Code of Ordinances of the City of College Station, Texas, specifically rezoning 1.04 acres from A-O Agricultural Open to C-1 General Commercial generally located at 2270 Greens Prairie Road West.

At approximately 9:35 p.m. Mayor Berry opened the Public Hearing.

There being no comments, the Public Hearing was closed at 9:38 p.m.

MOTION: Upon a motion made by Councilmember Fields and a second by Councilmember Lyles, the City Council voted seven (7) for and none (0) opposed, to adopt the ordinance amending Chapter 12, "Unified Development Ordinance," Section 4.2, "Official Zoning Map," of the Code of Ordinances of the City of College Station, Texas, specifically rezoning 1.04 acres from A-O Agricultural Open to C-1 General Commercial generally located at 2270 Greens Prairie Road West. The motion carried unanimously.

4. Public Hearing, presentation, possible action, and discussion approving an ordinance vacating and abandoning a 5,666 square foot, 20-foot wide public utility easement, which is located on Lots 3 & 4 of the Valley Park Center Subdivision according to the plat recorded in Volume 7675, Page 282 of the Deed Records of Brazos County, Texas.

At approximately 9:40 p.m. Mayor Berry opened the Public Hearing.

There being no comments, the Public Hearing was closed at 9:41 p.m.

MOTION: Upon a motion made by Councilmember Maloney and a second by Councilmember Fields, the City Council voted seven (7) for and none (0) opposed, to adopt the ordinance vacating and abandoning a 5,666 square foot, 20-foot wide public utility easement, which is located on Lots 3 & 4 of the Valley Park Center Subdivision according to the plat recorded in Volume 7675, Page 282 of the Deed Records of Brazos County, Texas. The motion carried unanimously.

5. Presentation, possible action, and discussion regarding annexation of portions of the College Station ETJ, southwest of the City limits including properties located on the west and east sides of FM2154, generally referred to as the Wellborn area.

MOTION: Upon a motion made by Councilmember Crompton and a second by Councilmember Maloney, the City Council voted five (5) for and two (2) opposed, with Councilmembers Fields and McMillan voting against, to initiate annexation proceedings for the Wellborn area as defined by the map provided by the City Manager. The motion carried.

Executive Session

In accordance with the Texas Government §551.074-Personnel, the College Station City Council convened into Executive Session at 10:35 p.m. on Wednesday, November 10, 2010 in order to continue discussing matters pertaining to:

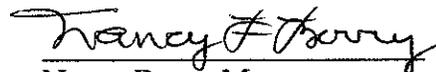
- Deliberation on the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer; to wit: Council self-evaluation
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The Executive Session adjourned at 10:54 p.m. on Wednesday, November 10, 2010.

No action was required from Executive Session.

6. Adjournment.

MOTION: There being no further business, Mayor Berry adjourned the Regular Meeting of the City Council at 10:56 p.m. on Wednesday, November 10, 2010.


Nancy Berry, Mayor

ATTEST:


Sherry Mashburn, City Secretary