

5/21/2013 - Minutes

**A. CALL TO ORDER**

**B. INVOCATION**

In the absence of a chaplain, the City Council observed a moment of silence.

**C. PLEDGE OF ALLEGIANCE**

**D. ROLL CALL**

**Members of the Buda City Council:**

Mayor Todd Ruge, Mayor Pro Tem Bobby Lane, and Councilmembers Ron Fletcher, Wiley Hopkins, Jose Montoya, George Haehn, and Eileen Altmiller

**City Council Members Absent:**

None

**City Staff Present:**

City Manager Kenneth Williams, City Attorney Erin Higginbotham, City Secretary Danny Batts, Assistant City Manager Brian LaBorde, Finance Manager Sidonna Foust, City Engineer Stanley Fees, Public Works Director Mike Beggs, Police Sergeant Brandon Hale, Library Director Melinda Hodges, Parks and Recreation Director Andy Czimskey, Tourism Director Lysa Gonzalez, and Executive Assistant Isabel Fernandez.

**E. RECOGNITION**

**E.1. PROCLAMATION - MEMORIAL DAY**

*Mayor Ruge presented the Memorial Day proclamation to representatives of Kyle/Buda VFW Post 12058.*

**F. PUBLIC COMMENTS**

Vincent Lecca, representing the Cullen Country HOA, stated that their organization believed that the parkland dedication fee paid for the newly platted section of Cullen Country should be utilized to provide a shade structure for the existing park in Cullen Country.

Jim Hollis, representing Buda Masonic Lodge, requested the use of the Council Chambers for the presentation of the lodge's community builder award.

**G. CONSENT AGENDA**

The items on the consent agenda were considered routine and were approved by one motion. Councilmember Montoya moved to approve the items on the consent agenda. Mayor Ruge seconded the motion, which carried unanimously.

**G.1. APPROVAL OF AN AGREEMENT WITH THE HAYS COUNTY DISTRICT ATTORNEY'S OFFICE REGARDING DISPOSITION OF FORFEITURES GENERATED BY THE BUDA POLICE DEPARTMENT**

*Approved by consent.*

**G.2. APPROVAL OF THREE NEW CHAPTERS INTO THE OPERATING POLICY MANUAL FOR THE BUDA POLICE DEPARTMENT**

*Approved by consent.*

**G.3. APPROVAL OF A RESOLUTION AUTHORIZING THE MAYOR TO SUSPEND THE EFFECTIVE DATE OF AN APPLICATION BY CENTERPOINT ENERGY ENTEX, SOUTH TEXAS DIVISION TO INCREASE RATES UNDER THE GAS RELIABILITY INFRASTRUCTURE PROGRAM FOR FORTY-FIVE (45) DAYS AND AUTHORIZING THE CITY TO CONTINUE TO PARTICIPATE IN A COALITION OF CITIES KNOWN AS THE ALLIANCE OF CENTERPOINT MUNICIPALITIES.**

*Approved by consent.*

**G.4. APPROVAL OF THE MINUTES OF THE CITY COUNCIL MEETING OF 04/30/2013**

*Approved by consent.*

**G.5. APPROVAL OF THE MINUTES OF THE CITY COUNCIL MEETING OF 5/7/2013**

*Approved by consent.*

**H. PRESENTATION**

**H.1. PRESENTATION REGARDING A POST-EVENT REPORT ON THE LOUISIANA SWAMP THING & CRAWFISH FESTIVAL HELD APRIL 6, 2013 IN BUDA CITY PARK.**

*Lysa Gonzales, Tourism Director, introduced this item to the City Council. French Smith, owner of Roadway Events and organizer of the event, presented the item to the City Council and stated that the event generated 164 hotel room rentals*

over the course of the event. In response to questions from City Council, he stated that he was unable to commit at this time to continuing to hold the event in the City of Buda, and further stated that such a decision would be made closer to next year's event.

No action was taken by the City Council.

## **H.2. PRESENTATION AND DISCUSSION REGARDING AN UPDATE FROM THE BARTON SPRINGS/EDWARDS AQUIFER CONSERVATION DISTRICT**

John Dupnik with the Barton Springs Edwards Aquifer Conservation District presented this item to the City Council. He gave a general overview of the purpose of the district and the scope of its activities, highlighting the district's role in regulating water withdraws from the Edwards Aquifer and in planning for future water needs.

No action was taken by the City Council.

## **H.3. PRESENTATION AND DISCUSSION ON THE CAPITAL IMPROVEMENT PROJECTS FOR WATER AND WASTEWATER SERVICES AND DRAINAGE IMPROVEMENTS TO THE OXBOW SUBDIVISION.**

City Engineer Stanley Fees introduced this item to the City Council. Graham Moore with LAN presented this item to the Council. He stated that the Oxbow subdivision had been listed in the City's CIP plan for several years to have water and wastewater services extended into the subdivision, and that the extension of these lines was listed in the current CIP for FY 13-14. Mr. Moore briefly discussed the history of the Oxbow subdivision, noting that it had been annexed in 1981 in accordance with a voluntary annexation petition filed by residents eager to avoid annexation by the City of Austin. He further noted that residents of the area had been afforded the full range of City services funded by city taxes, but that water and wastewater services had not been extended to the area because of resident opposition to subscribing to the City's utility system and paying to associated connection fees and monthly service charges. He went on to explain that the City's water and waste water services were not funded by tax revenue and had to depend on user fees to be financially self sufficient.

After the presentation, Mayor Ruge read a letter from David Patterson in favor of extending water, but not wastewater, to the Oxbow subdivision at no additional costs to area residents.

Freddie Alonzo then stated that he had been a tax paying resident of the area for 35 years and felt that the City had provided very little value for those tax dollars. He further stated that he felt that the City should extend water/wastewater utility services to the area and allow subdivision residents to connect to the City's water and wastewater services for no additional cost.

Larry Larkin stated that he was surprised to find out that any improvements to the area had been added to the CIP without consulting the area residents. He further stated that at least 25 subdivision families were opposed to any extension of City utilities to serve the area.

Jim Hollis stated that he felt the state law required the City to provide water and wastewater services to the subdivision. He further stated that since he felt the City should have provided the system when the area was annexed, the residents of the subdivision should be allowed to connect to the system for the same amount it would have cost them at the time of annexation in 1981.

After the discussion, it was the consensus of the City Council that staff should survey the residents of Oxbow subdivision and ascertain whether the residents supported the extension of water and wastewater utilities to the area.

## **I. REGULAR AGENDA ITEMS**

- I.1. DELIBERATION AND POSSIBLE ACTION ON THE APPOINTMENT AND/OR RE-APPOINTMENT OF FOUR (4) LIBRARY COMMISSION MEMBERS FOR THE CITY OF BUDA.**
- I.2. DISCUSSION AND DIRECTION TO STAFF REGARDING AN UPDATE ON THE JACKSON TYLER NORRIS MEMORIAL SKATE PARK PROJECT.**

Stanley Fees, City Engineer, presented this item to the City Council. He stated that the City had received bids for the skate park projects, but all bids had come in over the approved budget. The City then proceeded to negotiate with the lowest bidder to modify the scope of the project, primarily by reducing the scale of the planned park, shifting responsibility for site preparation to the Public Works Department, and by utilizing an existing structure for a restroom to serve the project. After considering these changes, staff was able to present two options to the City Council for consideration to

complete the project within the approved budget: Option number one left the foot print of the functional portion of the park intact, but reduced and modified the memorial portion of the park. Option Number 2 reduced the functional portion of the park but left the memorial portions unchanged from the original plan.

After the presentation, Jesse Crouse stated that he had help initiate the skate park project and was in favor of preserving the functional portions of the skate park.

Cody Beornson stated that he also had helped initiate the skate park project and further stated that too many delays had plagued the project. He encouraged the City Council to proceed with construction of the functional portions of the park, and address the memorial portions at a later date when funds became available.

Brogan Foley stated that he also helped initiate the skate park project and had been waiting for construction to begin since the initial funding was approved three years ago. He encouraged Council to proceed with construction on the function portions of the park and address the memorial portions at a later date when funds became available.

Tommy Poer stated that she had been excited when the park was first approved and hoped the City would find the funds to complete the park soon.

Tom Crouse stated that a lot of time had passed since the project was initially approved and funding allocated. He stated that the City should proceed with construction of the functional portions of the park soon and explore the possibility of utilizing HOT taxes for any funding shortfalls.

After the discussion, it was the consensus of the City Council that the City should move forward with Option 1, providing for completion of the functional portions of the park as originally designed while incorporating a reduced presence for the memorial portion.

**I.3. DELIBERATION AND POSSIBLE ACTION ON APPROVAL OF A RESOLUTION AUTHORIZING AND DIRECTING STAFF TO PROVIDE FOR PUBLIC HEARING NOTIFICATION, PREPARE A SERVICE PLAN AND INITIATE ANNEXATION PROCEEDINGS ON APPROXIMATELY 14 ACRES OF LAND LOCATED ALONG THE WEST SIDE OF FM 1626 APPROXIMATELY 1,200 FEET NORTH OF ITS INTERSECTION WITH FM 967.**

Kelim Warren, Planner, presented this item to the City Council. He stated that the areas identified in the annexation were previously thought to be inside the City Limits, but due to a mapping error had actually not been annexed. He further stated that the City Council had expressed a desire to move forward with annexing the area at a previous City Council meeting.

After the presentation, Councilmember Fletcher moved to approve the item. Councilmember Altmiller seconded the motion, which carried unanimously.

**I.4. DELIBERATION AND POSSIBLE ACTION ON APPROVAL OF A RESOLUTION AUTHORIZING AND DIRECTING STAFF TO PROVIDE FOR PUBLIC HEARING NOTIFICATION, PREPARE A SERVICE PLAN AND INITIATE ANNEXATION PROCEEDINGS ON APPROXIMATELY 5.05 ACRES OF LAND LOCATED AT 2122 GREEN MEADOWS LANE, BEING LOT 4 OF GREEN CORNER COMMERCIAL SUBDIVISION SECTION 1, BLOCK A.**

Kelim Warren, Planner, presented this item to the City Council. He stated that the owner of the property wished to connect to City utilities, and had requested voluntary annexation in order to facilitate obtaining the services.

After the presentation, Councilmember Altmiller moved to approve the item. Councilmember Montoya seconded the motion, which carried unanimously.

**I.5. DELIBERATION AND POSSIBLE ACTION ON THE SECOND READING OF AN ORDINANCE AMENDING ARTICLE 14.03 OF THE CODE OF ORDINANCES REGARDING THE SALE OF FIREWORKS BY ESTABLISHING AN AMORTIZATION PROCESS FOR FIREWORKS SALES FACILITIES FOLLOWING ANNEXATION.**

Brian LaBorde, Assistant City Manager, presented this item to the City Council. He stated that this ordinance would allow certain retail fireworks establishments to continue in operation for 90 days after annexation, and had been approved on first reading at the previous Council meeting.

After the presentation, Rose Marie Shelton spoke in opposition to the ordinance and stated that she felt that the City should enforce the City's fireworks ordinance as written.

Councilmember Altmiller stated that she felt the Council had been mistaken not to extend the prohibition on fireworks sales 5,000ft from the City limits as allowed by state law, and felt that the Council should revisit the issue.

Councilmember Haehn stated that he had reconsidered the pros and cons of allowing the 90 day extension and decided that the Council's approval of the ordinance on first reading had been a mistake. He then inquired of City Attorney Higginbotham about the correct procedure for disapproving the ordinance. She stated that anything short of four affirmative votes for approval would result in the failure of the item.

Mayor Ruge then made a motion to approve the ordinance on second reading. Councilmember Altmiller seconded the motion, which failed on the following roll call vote: AYES- None, NAYS- Ruge, Fletcher, Hopkins, Montoya, Haehn, Altmiller, Lane

## **J. EXECUTIVE SESSION**

The City Council convened in executive session at 9:15 p.m. The Council returned from executive session at 9:55 p.m. and took action as described below.

**J.1. PURSUANT TO GOVERNMENT CODE 551.071 AND 552.072, THE CITY COUNCIL WILL MEET IN CLOSED SESSION TO DELIBERATE THE ACQUISITION OF REAL PROPERTY FOR THE GARLIC CREEK FORCE MAIN PROJECT AND TO SEEK THE ADVICE OF THE CITY ATTORNEY ON LEGAL ISSUES RELATED TO SAID LAND ACQUISITION, INCLUDING CONTEMPLATED EMINENT DOMAIN PROCEEDINGS.**

**J.2. DISCUSSION AND ACTION ON ITEMS DISCUSSED IN CLOSED SESSION.**

**J.3. 1. AUTHORIZE THE CITY MANAGER TO EXECUTE CONTRACT WITH FRANK A CULLEN, NANCY J. LOGAN AND CHARLES P. CULLEN FOR THE ACQUISITION OF EASEMENT RIGHTS FOR THE GARLIC CREEK FORCE MAIN PROJECT AS DISCUSSED IN EXECUTIVE SESSION.**

*Mayor Pro Tem Lane moved to approve this item. Councilmember Altmiller seconded the motion, which carried unanimously.*

**J.4. 2. AUTHORIZE THE CITY MANAGER TO EXECUTE CONTRACT WITH NANCY J. LOGAN AND JESSE F. LOGAN FOR THE ACQUISITION OF EASEMENT RIGHTS FOR THE GARLIC CREEK FORCE MAIN PROJECT AS DISCUSSED IN EXECUTIVE SESSION.**

*Mayor Pro Tem Lane moved to approve this item. Councilmember Hopkins seconded the motion, which carried unanimously.*

**J.5. 3. AUTHORIZE THE CITY MANAGER TO EXECUTE CONTRACT WITH SHERRINEL G. CULLEN AND CHARLES P. CULLEN FOR THE ACQUISITION OF EASEMENT RIGHTS FOR THE GARLIC CREEK FORCE MAIN PROJECT AS DISCUSSED IN EXECUTIVE SESSION.**

*Mayor Pro Tem Lane moved to approve this item. Councilmember Montoya seconded the motion, which carried unanimously.*

## **K. STAFF REPORTS**

### **K.1. CITY MANAGER'S REPORT**

*City Manager Kenneth Williams updated the Council on the following topics:*

*1. Brian LaBorde, Assistant City Manager, provided Council with an update on the City's efforts to secure the passage of several bills before the legislature.*

*2. Announced that Joyce Cowan, Hays County Elections Administrator, would be available for a discussion on the November, 2012 elections at the next Council meeting.*

*3. Reminded Council that a budget retreat was scheduled for May 22, 2013.*

## **L. CITY COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS**

None

## **M. ADJOURNMENT**

There being no further business to come before the Council, Mayor Pro Tem Lane moved to adjourn the meeting. Councilmember Montoya seconded the motion, which carried unanimously.

I certify that the above minutes were approved by the City Council of the City of Buda on 06/04/2013.

Danny S. Batts II, City Secretary