

Council Minutes January 8, 2013

STATE OF TEXAS §

COUNTY OF TARRANT §

CITY OF BEDFORD §

The City Council of the City of Bedford, Texas, met in Work Session at 5:30 p.m. and Regular Session at 6:30 p.m. in the Council Chambers of City Hall, 2000 Forest Ridge Drive, on the 8th day of January, 2013 with the following members present:

Jim Griffin	Mayor
Michael Boyter	Council Members
Chris Brown	
Jim Davisson	
Patricia Nolan	
Sherri Olsen	
Roy W. Turner	

constituting a quorum.

Staff present included:

Beverly Griffith	City Manager
David Miller	Deputy City Manager
Stan Lowry	City Attorney
Michael Wells	City Secretary
Kelli Agan	Technical Services Manager
Roger Gibson	Police Chief
Eric Griffin	Deputy Police Chief
Les Hawkins	Deputy Police Chief
Tom Hoover	Deputy Director of Public Works
John Kubala	Public Works Director
Mirenda McQuagge-Walden	Managing Director of Community Services
Jacquelyn Reyff	Planning Manager
Bill Syblon	Development Director

WORK SESSION

Mayor Griffin called the Work Session to order at 5:30 p.m.

- **Review and discuss items on the regular agenda and consider placing items for approval by consent.**

Council discussed placing the following items on consent: 2, 7 and 8.

- **Presentation by Robert Hinkle and Lara Kohl, NTE, regarding the S.H. 183 expansion.**

Lara Kohl of NTE presented an update on the S.H. 183 expansion. She stated that the project is on track to be complete by June of 2015. The project covers 13.5 miles starting at I35W, across six cities and ending at the 121/183 interchange. The project involves 117 companies and employs 1,200 people. \$596M has been spent and 44.6% of the construction has been completed as of the end of December. A big portion of the work has been utility relocation, which has been a struggle since the utility owners are mainly responsible for moving them. In 2012, there was an average of 260 lane closures a month. They are preparing to open the new eastbound frontage road from Bedford Road to Forest Ridge Drive. They have opened the new westbound main lanes between Central Drive and Bedford Road. They demolished half of the Brown Trail Bridge a month ago and have moved traffic over to the new portion of

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the bridge. They are nearing completion and are ahead of schedule on the new Hurstview Bridge. She discussed the reconfiguration of the eastbound 183 and northbound 121 exits. She displayed pictures showing the progress made at Brown Trail and Bedford Road. She also gave an update on activity on the west segment of the project.

Ms. Kohl gave information on the "Beat the Traffic" application that can be downloaded free off their website and which can be used not only for the corridor but state-wide. She also gave information on the project's website, the twice-a-week email alerts, their Facebook and Twitter pages, their telephone hotline and their information center in North Richland Hills.

In response to a question from Council, Ms. Kohl stated that there are two different types of signs. The first are small, rectangular business driveway signs and the variable message signs that indicate lane or ramp closures. In response to a question from Council, Police Chief Roger Gibson stated that the Department is pleased with NTE's response to their needs. Their biggest problem is getting to major accidents due to the traffic. Ms. Kohl stated that the pylons east of the 121/183 split are going to be for ramps that will cross over the main lanes and to the managed lanes.

Managing Director of Community Services Mirenda McQuagge-Walden introduced Rebecca Asher who is the new Marketing Specialist. Ms. Asher has several years experience in marketing including at the Star-Telegram. Deputy City Manager David Miller introduced Tom Hoover who is the new Deputy Director of Public Works and will be taking over for Public Works Director John Kubala when he retires next Tuesday. Mr. Hoover has worked as the public works director in Keller and Lake Dallas and has his own engineering firm.

Mayor Griffin adjourned the Work Session at 5:55 p.m.

EXECUTIVE SESSION

To convene before the Regular Session, if time permits, in the conference room in compliance with Section 551.001 et. Seq. Texas Government Code, to discuss the following:

- a) Section 551.071, consultation with the City Attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter re: Allied Waste Contract.**
- b) Pursuant to Section 551.087, deliberation regarding economic development negotiations relative to Block A, Lot 1A, Bedford Plaza Addition.**
- c) Pursuant to Section 551.087, deliberation regarding economic development negotiations relative to Block, Lot 2 Stonegate Shopping Center Addition, Block, Lot D Shady Oaks East Addition, and Bedford Forum Addition.**

Council convened into Executive Session pursuant to Texas Government Code Section 51.071, consultation with the City Attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter re: Allied Waste Contract, Section 551.087, deliberation regarding economic development negotiations relative to Block A, Lot 1A, Bedford Plaza Addition and Section 551.087, deliberation regarding economic development negotiations relative to Block, Lot 2 Stonegate Shopping Center Addition, Block, Lot D Shady Oaks East Addition, and Bedford Forum Addition at approximately 5:59 p.m.

Council reconvened from Executive Session at 6:37 p.m. Council did not finish the Executive Session and will convene again at the end of the meeting.

Council convened into Executive Session at 8:17 p.m.

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Council reconvened from Executive Session at 8:50 p.m. Any necessary action to be taken as a result of the Executive Session will occur during the Regular Session of the Bedford City Council Meeting.

REGULAR SESSION 6:30 P.M.

The Regular Session began at 6:42 p.m.

CALL TO ORDER/GENERAL COMMENTS

Mayor Griffin called the meeting to order.

INVOCATION (Pastor Dan Mendoza, Oasis Community Worship Center)

Pastor Dan Mendoza of Oasis Community Worship Center gave tonight's invocation.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was given.

OPEN FORUM

Nobody chose to speak under tonight's Open Forum.

CONSIDER APPROVAL OF ITEMS BY CONSENT

Motioned by Councilmember Turner, seconded by Councilmember Brown, to approve the following items by consent: 2, 7 and 8 and 9 with the change in the seventh year of the performance amount to \$1.65M.

Motion approved 7-0-0. Mayor Griffin declared the motion carried.

COUNCIL RECOGNITION

1. Announcement of Holiday Decorating Contest Winners.

Managing Director of Community Services Mirenda McQuagge-Walden announced the winners of the Holiday Decorating Contest. Nine homes participated in the contest this year and a lot of positive feedback was received from people who submitted their ballots. The first component of the contest was the general vote ballot:

3rd Place: 2513 Barr Drive – the Svitak family
2nd Place: 2321 Caldwell Drive – the McMillan Family
1st Place – 2900 Magnolia Court – Mr. Berger

The second component was the Council favorite:

3rd Place – 1700 Berwickshire Court
2nd Place – 2713 Cedar Springs Court– Jay and Tammy Hoyer
1st Place – Magnolia Court – Mr. Berger

The Glenbrook HOA was the overwhelming favorite. They were represented by Gene Luck, chair of their Christmas Committee. 81 homes from the HOA participated.

APPROVAL OF THE MINUTES

- 2. Consider approval of the following City Council minutes:**
 - a) December 11, 2012 regular meeting**

This item was approved by consent.

PERSONS TO BE HEARD

3. The following individual has requested to speak to the Council tonight under Persons to be Heard.

- a) Doug Deere, 2008 Memphis Drive, Bedford, Texas 76021 – Requested to speak to the Council regarding lowering the speed limit to 20 MPH or installing speed bumps on Memphis Drive.**

Mr. Deere did not attend tonight's meeting.

NEW BUSINESS

4. Public hearing and consider an ordinance to rezone the property known as Tract 1, Abstract 1537, Garrett Teeter Survey, 3901 Central Drive, Bedford, Texas from Planned Unit Development (PUD), Medium-Density Single-Family Attached District (MD-4) to Planned Unit Development (PUD), Medium-Density Residential – Single-Family Detached District (MD-3). The property is generally located south of Cheek Sparger Road and west of Central Drive. (Z-226)

Planning Manager Jacquelyn Reyff presented information regarding this ordinance. This item was published in the December 11 edition of the Star-Telegram. The property is currently zoned as PUD MD-4, which was approved in 2006 and platted; however, it was never filed with Tarrant County and nothing was ever built. This item is to downsize the zoning to PUD MD-3. The property has seen numerous proposals over the years. There is a 100-year flood plain towards the north and west sides of the property, including a 40-foot drainage easement. Under the proposed rezoning, the density would go from 8.43 units per acre down to 4.95 units per acre. The number of houses would drop from 68 to 40. The maximum lot area is going from 3,000 square feet to 5,000 square feet. The minimum lot area is going from 2,500 square feet to 4,000 square feet. The minimum unit size is going from 1,500 square feet to 1,600 square feet. The front yard setback would go from 10 feet to 22 feet. They are proposing 10 feet side yards with eight feet on one side and two feet on the other. There are specific design standards for MD3. It allows for minimum flooring area of not less than 1,250 square feet while the applicant is proposing 1,600 square feet. Parking would be two spaces per unit for a total of 80 spaces. Ingress and egress would be along Central Drive. The streets would be public. In discussions with engineering, the applicant and Public Works, it was decided not to include a six foot screening fence as a barrier between the neighborhoods due to possible effects on the flood plain. The proposed lot coverage meets the requirements of the Zoning Ordinance. In regards to landscaping, 40 trees would be provided, one for each lot in the front yard along with additional trees over what was initially presented to the Planning and Zoning Commission. Existing trees on the site would have to be removed so the applicant would not receive credits towards reduced landscaping. The sidewalks would be five feet wide and made of concrete with a broom finish. The visibility triangles meet the standards except for "Street C". The applicant is requesting variances to include: the visibility for "Street C" to be 15 feet by 15 feet; two foot side yard maintenance easements; a 31 foot right of way with a 9.5 foot utility easement adjacent to right of way on each side street; and to not include the six-foot masonry wall. At the time of platting, drainage and engineering would have to meet City ordinances. The Comprehensive Plan shows this area to be residential so this proposal is not in conflict with the Plan. The Planning and Zoning Commission approved this item at their December 13, 2012 meeting by a vote of 5-0-0 with the addition that trees be added to cul-de-sac north of the property, which the applicant has done on the Landscape Plan. Stipulations included in the ordinance are: a minimum floor area of not less than 1,600 square feet; a minimum lot size of not smaller than 4,000 square feet; and that the bylaws of the homeowner's association be provided to the City before the issuance of permits.

In answer to questions from Council, Ms. Reyff stated that the two parking spaces are in the driveway. In regards to the reduced visibility triangle on "Street C", Ms. Reyff stated that this is something the

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applicant can ask for under a PUD. In working with the applicant and the Fire Marshal, it was decided this was the best solution based on the design. If the visibility triangle was increased, it would reduce the lot size. Eddie Eckart of Goodwin and Marshall, the engineer for the project, stated that the reduction only shows up when you get internal to the subdivision. For visibility, two right-hand turn lanes were added.

Mayor Griffin opened the public hearing at approximately 7:02 p.m.

Tony Comparin, 3842 Brookside Drive – Mr. Comparin expressed concerns if they raise the property with fill dirt, that water would get higher and create more runoff. This might cause flooding which would devalue homes including his. He asked how high they would be putting the fill dirt. He understood that trees would have to be taken down; however, he requested that if possible trees could be put out by the curb. He also requested that whatever fencing that is eventually put up around the development be made uniform.

Bill Reily 3805 Edgewater Drive – Mr. Reily expressed his concerns that smaller lots and smaller homes would reduce the resale and value of the area he lives in.

Mayor Griffin closed the public hearing at 7:10 p.m.

Mr. Eckart stated that they did a flood study, which is currently under review by the City's consulting engineer Dick Perkins. They did check the finished elevations of the neighbors to make sure they are out of the flood plain and they are. He stated that the development would not be impacting the flood plain any more or less than any of the properties around them. They will be making some slight improvements to the channel on their side of the creek to make the water flow through as quickly as possible and they are not increasing the flood plain on anybody's property. He stated that the flood study is not approved at this standpoint. They would have to bring in fill dirt, which would kill off trees so they have to come down. He did measure their land plan versus where trees currently are and it looks like they will be able to leave a buffer in between Cheek Sparger and where the homes are. They have not done a tree survey but they will do everything they can do to save trees outside of the development's limits and the fill area. In regards to the screening requirements, they felt it was not a great value for specific screening on the south and west boundary lines based on the channels that are there. All the present homes currently have privacy fences and the development is 100 feet away from the Brookwood Hills property.

In response to questions from Council, Mr. Eckart stated that there are trees being planted outside of the floodplain. The projected price point for the homes is in excess of \$300,000. In regards to the maintenance of the channel, there is a 40-foot drainage easement that is currently maintained by the City. In regards to the reason behind the two-foot and eight-foot side yards, Mr. Eckart explained that in discussions with the Fire Marshal they cannot have eaves that hang over into other people's property. The ten foot would be maintained and usable by the eight-foot owner so it still acts like zero lot line along with a fire wall. Architecturally, it allows for eaves on that side of the house. They also did not want to go with five-foot side yards due to the size of air conditioning units. In regards to fencing, he stated that a uniform fence would not add value to the property or their neighbors and allows the homeowners to choose the type of fencing they want. There will be a wrought iron screening fence along Cheek Sparger but not along the west or south property lines. There was discussion that language could be placed in the HOA bylaws regulating the type of materials and colors of the fence while the height of the fences would be regulated by the Fence Ordinance. Mr. Eckart stated that in meeting with the City of Colleyville, they indicated that they would not need additional right of way for the roundabout. Regarding the size of the houses, he stated that they wanted to give people the flexibility to buy a smaller home and that the minimum size is 500 feet over standard zoning. They would be raising the property between two and three feet. In regards to visibility with the roundabout, the median will stay so traffic cannot make left turns. The walking trail along Cheek Sparger will remain and there are three entrances and exits to the property. There was discussion that if something happens with engineering, drainage or permitting and the PUD has to be amended, that it would have to come back to Council for approval.

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(Based on an inquiry from Council about the minutes for this item, specifically regarding fencing, an addendum has been added with a verbatim transcript of that portion of that dialogue)

Motioned by Councilmember Turner, seconded by Councilmember Davisson, to approve an ordinance to rezone the property known as Tract 1, Abstract 1537, Garrrett Teeter Survey, 3901 Central Drive, Bedford, Texas from Planned Unit Development (PUD), Medium-Density Single-Family Attached District (MD-4) to Planned Unit Development (PUD), Medium-Density Residential – Single-Family Detached District (MD-3) with the additions to the bylaws homeowner's association as discussed.. The property is generally located south of Cheek Sparger Road and west of Central Drive.

Motion approved 7-0-0. Mayor Griffin declared the motion carried.

5. Public hearing and consider an ordinance to rezone a portion of the property known as Lot 3, Block 1, Parkwood Village Addition, located at 217 Harwood Road, Suite 222, Bedford, Texas, specifically for the operation of a Children's Day Care Center (Brighter Horizons Academy) from Heavy Commercial (H) to Heavy Commercial/Specific Use Permit/Children's Day Care Centers. The property is generally located north of Harwood Road and west of Brown Trail. (Z-232)

Ms. Reyff presented information regarding this ordinance. This item was published in the December 19 edition of Star-Telegram. It is to operate a day care center at the location. The landscaping is from a previous development and does not have to be brought into compliance with the Zoning Ordinance if shown deficient per Section 5.6.J. The parking remains from a previous development and is in compliance as proposed per Section 5.2.A (3) of the Zoning Ordinance. The applicant is proposing a play area behind the lease space, which is currently fenced off by chain-link fence. Play areas cannot be located within 50 feet of residents and this area would be 55 feet from the nearest property to the north. The hours of operation would be 5:00 a.m. to 11:00 p.m. The center would accommodate children from four months to 13 years and have a pre-school curriculum for children three and four years old. They would have a staff of 10 people. The Comprehensive Plan shows the property to be commercial so the proposed use will not be in conflict. The item was approved by the Planning and Zoning Commission at their December 13, 2012 meeting by a vote of 5-0-0.

In answer to questions from Council, Ms. Reyff stated that the play area is a hard surface and that it is surrounded by the chain-link fence with bollards abutting the parking area.

Mayor Griffin opened the public hearing at 7:40 p.m.

Nobody chose to speak at tonight's public hearing.

Mayor Griffin closed the public hearing at 7:40 p.m.

Motioned by Councilmember Boyter, seconded by Councilmember Davisson, to approve an ordinance to rezone a portion of the property known as Lot 3, Block 1, Parkwood Village Addition, located at 217 Harwood Road, Suite 222, Bedford, Texas, specifically for the operation of a Children's Day Care Center (Brighter Horizons Academy) from Heavy Commercial (H) to Heavy Commercial/Specific Use Permit/Children's Day Care Centers. The property is generally located north of Harwood Road and west of Brown Trail. (Z-232)

Motion approved 7-0-0. Mayor Griffin declared the motion carried.

6. Consider an ordinance amending Chapter 18 – Animals of the City of Bedford Code of Ordinances by repealing it in its entirety and replacing it with a new Chapter 18 – Animals; providing a penalty clause; providing a severability clause; and declaring an effective date.

Deputy Police Chief Les Hawkins presented information regarding this ordinance. He stated that a vast

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majority of changes to the ordinance were the relocation of several sections for it to flow smoother and it was updated to be more current with State law. Some items were added to definitions and all were moved to the front of the ordinance for easy reference. The Animal Control Board was combined into the Animal Shelter Advisory Board with the addition of two members and the number of meetings was increased to six a year. The section on fierce and dangerous animals was patterned off of State law in regards to investigations. It would now be a requirement that an animal be spade/neutered and receive a rabies vaccination prior to adoption unless they pay a refundable deposit on top of the adoption fee. A local vet has offered to do low cost spay/neuter and rabies vaccination. Adoption costs would go up but be comparable to surrounding cities.

In answer to questions from Council, Deputy Chief Hawkins stated that adequate shelter deals with the section of the ordinance regarding the care and treatment of animals and is intended for animals that are kept outside on a continuous basis. There was discussion on the definition of "enclosure" and chickens being allowed per the ordinance. In regards to the 30 day timeframe to register a fierce or dangerous animal, Deputy Chief Hawkins stated that it was based on State law; the ordinance could be more restrictive but there is a requirement for the owners to make improvements to their fencing. In order to have the animal back, the owner has to agree to certain requirements about securing the animal. There was discussion regarding acreage being defined as open ground; how Animal Control responds to animal attacks; and concerns over punishing animals for the actions of their owners. City Attorney Stan Lowry advised that clarifying what is meant by "enclosure" to mean something other than the yard or property itself in order to alleviate the concerns of Council. Deputy Chief Hawkins explained to Council that another change to the ordinance added after it was sent to Council initially was clarifying that the representative from an animal welfare organization on the Animal Shelter Advisory Board is not required to be a resident of the City.

Motioned by Councilmember Olsen, seconded by Councilmember Nolan, to approve an ordinance amending Chapter 18 – Animals of the City of Bedford Code of Ordinances by repealing it in its entirety and replacing it with a new Chapter 18 – Animals; providing a penalty clause; providing a severability clause; and declaring an effective date with the agreed amendment to add the definition of enclosure of the definitions.

Motion approved 7-0-0. Mayor Griffin declared the motion carried.

7. Consider a resolution authorizing the City Manager to enter into the second year of a three year contract with B&B Wrecker Services, Inc. to provide towing for City initiated tows.

This item was approved by consent.

8. Consider a resolution authorizing the City Manager to renew a lease agreement with ONSTAGE relative to the Trinity Arts Theater located within the Bedford Boys Ranch Park.

This item was approved by consent.

9. Consider a resolution of the City Council of the City of Bedford, Texas approving an amendment to the Economic Development Program Agreement, pursuant to Chapter 380 of the Texas Local Government Code and the City's Economic Development Incentive Policy and Program, with Pappas Restaurants Inc.

This item was approved by consent with the amendment.

10. Report on most recent meeting of the following Boards and Commissions:

- ✓ **Animal Shelter Advisory Board - Councilmember Olsen**

Councilmember Olsen reported that the first meeting of the newly combined Board will be tomorrow.

- ✓ **Beautification Commission – Councilmember Turner**

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Councilmember Turner reported that the Commission had an unusual December meeting. They are working on revamping the beautification along Harwood Road.

✓ **Community Affairs Commission - Councilmember Boyter**

Councilmember Boyter stated he was looking forward to the new members joining the Commission. They are working towards an outreach meeting that encompasses residents and businesses. They are continuing their efforts on Shop Bedford First and Bedford Open for Business.

✓ **Cultural Commission - Councilmember Nolan**

Councilmember Nolan reported that the Commission is in the process of putting together a “state of the union” address to the Council to be presented within the next month or so.

✓ **Library Board – Councilmember Brown**

No report was given.

✓ **Parks & Recreation Board - Councilmember Davisson**

Councilmember Davisson reported that the dog park was approved at the last meeting by HEB ISD and that the Board is moving forward with that project.

✓ **Senior Citizen Advisory Board - Councilmember Turner**

Councilmember Turner reported that the next meeting of the Board is January 21.

✓ **Teen Court Advisory Board - Councilmember Olsen**

Councilmember Olsen reported that the Board met last Thursday and they are getting ready for all of the things they need to do this spring. They elected officers and appointed subcommittees. The scholarship subcommittee will meet this Thursday. The next meeting of the Board is scheduled for February.

11. Council member reports

Councilmember Nolan invited everybody to the Bedford Library Foundation’s Mardi Gras event on February 9. There will be celebrity waiters and the entertainment will be from “Old Blue Eyes”.

12. City Manager/Staff Reports

City Manager Beverly Griffith reported that on Friday, January 11, the Old Bedford School will be holding a classic movie night with “The Good, the Bad and the Ugly.” On Saturday, January 19 at 7:00 p.m., the Old Bedford School will be hosting a murder mystery dinner.

13. Take any action necessary as a result of the Executive Session

Item #9 was discussed in Executive Session and approved as amended during the Regular Session.

ADJOURNMENT

Mayor Griffin adjourned the meeting at 8:53 p.m.

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Jim Griffin, Mayor

ATTEST:

Michael Wells, City Secretary