

Council Minutes April 23, 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 23rd day of April, 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
Cliff Blackwell	Administrative Services Director
Roger Gibson	Police Chief
Russell Hines	Building Official
Tom Hoover	Public Works Director
Mirenda McQuagge-Walden	Managing Director of Community Services
Jackie Reyff	Planning Manager
Bill Shelton	Public Works Superintendent
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: 4,7,8,10,11 and 12.

Administrative Services Director Cliff Blackwell presented information regarding Item #7 and #8. These items were tabled at the February 26 Council meeting. Council's concerns were brought back to the Teen Court Advisory Board and language was added regarding the qualifications and tenure of student advisors. The new language states that a student advisory board member must either reside in Bedford, Euless, or Hurst, or attend an HEB ISD school and the student board member also must be between 14 and 19 years of age. A mission statement was added to the bylaws that reads, "Provide counsel to the Teen Court to guide and support students and parents, and positively connect with the community." In answer to a question from Council, Mr. Blackwell stated that private school students are included under the residency provision.

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Mr. Blackwell presented information regarding Item #10, which addresses the selection of an alternate judge to preside over the municipal court in the absence of the presiding judge. The last time this issue was discussed was in 1996 when Don Davidson was appointed alternate judge. Mr. Davidson was never used and the City has since lost contact with him. Judge Tim Murphy is considering being out of town for a teaching event within the next month and appointing an alternate judge requires a resolution of the governing body. According to the City's Code of Ordinances Sections 42.31 and 42.68, the municipal court judge may call upon a replacement and in addition, shall select two plea and two trial dockets to be presided over by the alternate judge. Staff is recommending a fee schedule of \$350 per docket based on the presiding judge's annual salary.

Public Works Director Tom Hoover presented information regarding Item #11, which is for the replacement of a truck that was severely damaged in an accident. Insurance totaled the truck and gave the City \$9,350. The Department is currently using Unit 210 as a backup, which is about 20 years old and is a high maintenance type of truck. The truck being replaced is used to do meter rereads for utility billing which involves a lot of miles and short stops. Therefore, staff is recommending going to a smaller truck in order to be more energy efficient. The total impact with the insurance payment is \$14,297. In answer to questions from Council, Mr. Hoover stated that the person driving the truck will also perform repairs to meters and will carry tools and parts in the truck. Further, some of the larger meters are in vaults requiring it to carry a ladder as well. The mileage on Unit 210 is approximately 164,000 miles.

Mr. Hoover presented information regarding Item #12. Tarrant County requested that the City participate in a joint effort for West Nile mosquito surveillance and response. This is something the City is currently doing on its own. The County started this program to get more entities involved. There will be permanent traps set in fixed locations with one floater and the County will provide all of the equipment. The City will count the mosquitoes, put them in a container for freezing and one sample a week will be sent to the County who will check for the virus. To date, this year, there have been no positive tests. The City is currently sending in mosquitoes to the Health Department and this program would save the City money as they would not have to buy the traps. In answer to questions from Council, Mr. Hoover stated the County determined that five samples across the City were enough. In regards to increased education, he stated that the Department has provided a lot of information at homeowner association meetings and there will be a presentation at the Senior Center. In regards to having a plan in place and being more proactive, he stated that the City has already started treatment and cleaning up of low-lying areas. He further discussed limitations with the use of larvacide and fish.

Mayor Griffin adjourned the Work Session at 5:45 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) Pursuant to Section 551.087, deliberation regarding economic development negotiations relative to "Project Oatmeal".**
- b) 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: Bedford Forum Addition development regulations.**
- c) Pursuant to Section 551.074: personnel matters – annual performance review of the City Manager.**
- d) Pursuant to Section 551.072, to deliberate the purchase, exchange, lease or value of real property – Block 2 Lot 4, Bedford Lake Addition.**

Council convened into Executive Session pursuant to Section 551.087, deliberation regarding economic development negotiations relative to "Project Oatmeal", Section 551.071, consultation with the City

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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: Bedford Forum Addition development regulations, Section 551.074: personnel matters – annual performance review of the City Manager and Section 551.072, to deliberate the purchase, exchange, lease or value of real property – Block 2 Lot 4, Bedford Lake Addition at 5:47 p.m.

Council reconvened from Executive Session at 6:29 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 10:17 p.m.

Council reconvened from Executive Session at 11:15 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 6:34 p.m.

CALL TO ORDER/GENERAL COMMENTS

Mayor Griffin called the meeting to order.

INVOCATION (Dr. Timothy Pierce, Woodland Heights Baptist Church)

Dr. Timothy Pierce of Woodland Heights Baptist Church gave tonight's invocation.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was given.

OPEN FORUM

Nobody chose to speak during tonight's Open Forum.

CONSIDER APPROVAL OF ITEMS BY CONSENT

Motioned by Councilmember Brown, seconded by Councilmember Turner, to approve the following items by consent: 4,7,8,10,11 and 12.

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

COUNCIL RECOGNITION

1. Proclamation declaring May 2013 as Motorcycle Safety Awareness Month in the City of Bedford.

Mayor Griffin read a proclamation declaring May 2013 as Motorcycle Safety Awareness Month in the City of Bedford. Members of the Patriots Motorcycle Club were on hand to accept the proclamation.

2. Proclamation recognizing the week of April 21–27, 2013 as National Crime Victims' Rights Week.

Mayor Griffin read a proclamation recognizing the week of April 21–27, 2013 as National Crime Victims' Rights Week. Police Chief Roger Gibson and Crime Victims' Coordinator Lucy Amphay were on hand to accept the proclamation. Chief Gibson stated that Ms. Amphay represents the cities of Hurst, Euless

and Bedford and is an integral part of what all three cities try to accomplish, particularly in regards to domestic violence and repeat victimization. He stated that he is proud of her and others in her capacity.

3. Employee Service Recognition

The following employee received recognition for dedicated service and commitment to the City of Bedford:

William Shelton, Public Services – 5 years of service

APPROVAL OF THE MINUTES

4. Consider approval of the following City Council minutes:

- a) April 4, 2013 special meeting**
- b) April 9, 2013 regular meeting**

This item was approved by consent.

PERSONS TO BE HEARD

5. Gary Morlock, 2910 Wayside Drive, Bedford, Texas - Requested to speak to the Council regarding the Community Affairs Outreach Meeting on “School Safety” to be held on Tuesday, May 7, 2013.

Gary Morlock, 2910 Wayside Drive – Mr. Morlock currently serves on the Community Affairs Commission as Secretary. The purpose of the presentation was to review the next Commission sponsored event, an outreach meeting on May 7 regarding school safety. He thanked Rebecca Asher, the Marketing Specialist, for the pamphlet for the event. The two speakers will be Steven Chapman, the new superintendent for HEB ISD, and Technical Sergeant Randy Gardner representing the Police Department. The event will be held at 7:00 p.m. on May 7 at the old library and will be open to residents, businesses and faith-based organizations. This event was featured in the Bedford Connection and the flyer was handed out at the Energy Smart Expo the previous weekend. He stated that the event was organized after the school shooting in Newtown and that Bedford residents should expect an update from the School District and the Police Department on school safety enhancements. Last Tuesday, the School District approved a \$300,000 package for safety recommendations including safety upgrades at schools. He, Chairperson Steve Grubbs and Ms. Asher met with Mr. Chapman and his staff to confirm the meeting agenda and the promotion plan. Ms. Asher will be promoting the event on social media and doing a press release. He stated that the meeting is an opportunity to review school safety plans and recommendations with residents and that the Commission is excited to coordinate the meeting. He thanked Council liaison Councilmember Boyter and staff liaison Deputy City Manager David Miller.

OLD BUSINESS

6. Public hearing and consider an ordinance amending the City of Bedford Zoning Ordinance, Ordinance No. 2275, by amending Section 4.17 “CSED” Cheek-Sparger Entrance District; by amending Section 4.18 “HC” Highway Corridor Overlay District; by removing all references to the “CSED” Cheek-Sparger Entrance District from the Zoning Ordinance; by amending the official Zoning Map of the City of Bedford to designate the expanded “HC” Highway Corridor Overlay District; providing a revised Zoning Map illustrating the change in district as attachment “A”; providing attachment “B” being the text amendments to the Zoning Ordinance; providing a severability clause; providing a penalty and enforcement clause; and providing an effective date. (Tabled at the March 26, 2013 Council Meeting)

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Planning Manager Jacquelyn Reyff presented information regarding this ordinance. She first discussed the Development Department's efforts to contact the public. In February, they notified over 1,200 property owners for the Planning and Zoning Commission meeting on February 28. They were contacted by 51 people and during the meeting, 11 people signed up to speak and seven people spoke. During the Council meeting on March 26, four people spoke. On April 4, the Department sent a courtesy letter to the seven people who had spoken at the February 28 Commission meeting. The Department further scheduled a meeting at the Old Bedford School, which was attended by 42 people. Audience concerns included eminent domain, which cannot be used to take peoples' homes per the City Charter, taking residential homes off of the Overlay District Map, and that having homes in the District would decrease property values. Information on the District was included on the City's website and published in the newspaper.

Ms. Reyff and Development Director Bill Syblon presented information showing a side-by-side comparison of the changes to the ordinance. (A copy of this presentation is available in the City Secretary's Office.) Significant changes included the following:

- Section 4.18.D Prohibited Uses – passenger bus terminal was stricken.
- Section 4.18.F Height and Area Regulations – language was stricken that gave relief to businesses for the taking of right-of-way; however, language was put back in regarding 30 foot front yard setbacks.
- Section 4.18.G Parking Regulations and Traffic Circulation – language was added to grant staff the ability to bring an item to the Planning and Zoning Commission even if cross access was unable to be made due to the taking of right-of-way. Further changes include that the traffic circulation plan shall identify vehicular and pedestrian connectivity.
- Section 4.18.H Landscaping and Screening Regulations – landscaping requirements for residential properties was removed.
- Section 4.18.I Development Standards – language was added allowing for additional signage during construction periods. Language was also added that drive-throughs for banks and financial offices shall be at the rear of the property.
- Section 4.18.K – Non-Conforming Situations – this item was created in 1998 and would require properties to come into compliance with the standards by 2003. This language was taken out and language added referencing existing language in Section 2.3 of the Zoning Ordinance.
- Section 4.18.L Underlying Residentially Zoned Districts – language regarding maintenance agreements was removed as it would be more efficient to enforce these requirements through Code Enforcement as opposed to a contractual agreement.

In answer to a question from Council regarding maintenance agreements, it was stated that through Code Enforcement practices, a property could be cited for not being in compliance with landscape requirements. There was discussion regarding if removing the maintenance agreement would remove the City's intention that it has high expectations and send a message that the City is serious with properties coming into compliance with regulations. City Attorney Stan Lowry stated that this language was removed by his suggestion and that it would be better to have an ordinance provision than a contractual agreement, which would have to be enforced as a breach of contract. There was discussion regarding current buildings not having to come into compliance with the Overlay; adding language to change what is currently out there that the Council does not like; not dictating to businesses that are currently there to change the way they look; looking long-term; redevelopment; and issues related to businesses coming into compliance if they make any change to their building.

Planning Consultant Dan Boutwell presented information regarding Section 2.3, Nonconformities of the City's Zoning Ordinance. He stated that this situation deals with non-conforming structures and if somebody comes in and enlarges the footprint of the building, they would need to come into compliance with the ordinance. If it were not physically able to come into compliance, it would need to get a variance on area requirements. Variances cannot be given on land uses. If a building is destroyed or adds a room, it would lose its legal non-conforming status. In answer to questions from Council, Mr. Boutwell stated that zoning goes with the land, not with the occupant. He stated that the landscape ordinance

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speaks to the maintenance of landscape, irrigation systems and plants; if plants die, they have to replace them according to the original landscape plan. In the Overlay District, each site would be required to have a landscape plan. In answer to a question from Council on whether a building would have to comply with the Overlay District if it were destroyed and rebuilt on the same footprint, it was stated that if it was destroyed by 50% or more, it would have to comply with the new standards.

Mayor Griffin opened the public hearing at 7:18 p.m.

Bob Archer 724 Kentwood Circle – Mr. Archer stated that it was important that before Council voted, that they hear a summary of concerns. At the meeting on Friday, City staff did a good job of explaining some of the background and clarifying people's concerns particularly regarding eminent domain. He stated that every communication has been misleading in that it states this Overlay District does not apply to residential. Residential is affected by this ordinance and that the area above Queens Way is strictly residential. He understood the purpose of the District for enhancing the appearance of Bedford, attracting businesses and tax revenue. Where he lives is 1,000 feet from the highway, and the northern extension of the District is 1,200 feet, from the highway and is not visible from the highway. A scenario was discussed at the meeting on Friday that if the area was included in the District, then they and the City would be protected in that, if a developer does come in and wants to rezone it commercial, they have to comply with the new standards. His neighborhood is not along the highway and this ordinance puts them in a more visible way. The reason his neighborhood was included in the District was because it was part of the long-term Bedford land use plan. He stated that associating the words "Highway Corridor Overlay" was alarming to potential home buyers. He discussed the benefit of eliminating the risk of somebody rezoning residential property to commercial and building to the old requirements and asked why then does it not apply to every resident. It appeared that this ordinance makes it one step closer for his neighborhood to be rezoned commercial. Intent was very important and that the ordinance defines "highway overlay" but does not provide what the intention was for including his neighborhood in the District. Courts have held that if the legislature wants to prevent intent, then it needs to be specified more clearly. Whatever Council's intent for his neighborhood being treated differently needs to be clear in the ordinance. Every communication has suggested they are not affected because they are residential but there is no answer as to why they then were included in the District. He stated that being part of a long-term land use plan is not an answer. He asked why this ordinance and why now. He discussed that a future re-zoning attempt would require another public hearing and ordinance. Further, if Council wanted an ordinance requiring that a residential property turned into a commercial property comply with these standards would also require another public hearing and ordinance. He asked why this would only apply to his neighborhood and discussed the perception of their neighborhood being included. He asked that his neighborhood be removed from the District and if not, then to define the intent of why it was included.

Betty Moody 720 Saddlebrook Drive South – Ms. Moody stated that she was speaking on behalf of many residents included in the District. The stated purpose of the District was to provide a set of standards applicable to future development and redevelopment along the highway corridors. Many residents in the District or within 200 feet of the District do not want their property considered for future development or redevelopment. Residential properties on Kentwood Circle back up to the City of Hurst and would not be in the District; it would have no jurisdiction of those properties that face Brown Trail and therefore, it would not seem to matter that they be in the District either. Residents were told that the source of the boundaries were drawn up from the Comprehensive Land Use Plan, which shows how the City plans to utilize land at the time of build-out. The Plan states the best use of property adjacent to the Highway is commercial; however, residents do not want their properties impacted because they were included in the District. Most residents in the District want to be removed from it and want to know that their property is not being looked at for future development. There are vacant spaces and buildings along the Corridor that need to be filled with commercial businesses. The District is to set standards to protect and enhance the appearance of the corridors. It was understood that the standards do not apply to residential properties; however, they could not possibly enhance the appearance of the corridors since they cannot be seen from them. Another purpose of the District is to promote the unique character

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of the City and that all citizens want a prosperous City. She stated she was confident that the Council can find a way to prosper the City that is not at their expense. If they remain within the District, residents may not be encouraged to make improvements to their properties and that they will start to run down. Being in the District would not protect or enhance their property values. If in the future they are offered a sum of money and the land was rezoned, it would not compensate for their losses. Most of the residents are older citizens that want to remain in their homes. They would have to pay taxes on the purchase price of their homes and as their property taxes have been frozen, it is in their best interest that they remain in their homes. Many residents feel their property will lose value if they remain in or within 200 feet of the District. She stated that many residents are senior citizens and do not want to spend month after month attending Council meetings to see what action the Council may take. They appreciate the recommendation of the Planning and Zoning Commission and staff that residential properties be removed from the District. She asked that the Council remove the residential properties, from Queens Way north and from Brown Trail east to Stratford, out of the District.

Robert Bradley, 705 Saddlebrook Drive South – Mr. Bradley stated that the issue he has with the map is that it shows the District boundaries coming up into Mayfair Hills and it would go to his back property line. His property is residential and has been for 32 years. The area from Highway 183 to Harwood Road and the area from Stonegate to Brown Trail are residential. He reminded the Council that government laws are of the people, by the people and for the people and to take that into consideration when voting to change property from residential to commercial.

Matt Eiserloh 1004 Carousel Drive – Mr. Eiserloh stated that unlike the previous speakers, he would like to speak on business and congratulated the Council on some economic development success. There was tremendous opportunity along Highways 121 and 183 for development and he encouraged the Council to have the courage to have businesses do the things that Council wants them to do. These businesses serve as the entrances to the City and provide the image that the City wants; this is a great opportunity to help these businesses to understand the importance of that. The City should expect these businesses to do the things that it wants including landscaping and that they would be willing to support these things. He asked that the Council have the courage to ask these businesses to comply with the regulations and enforce them as necessary.

Al Zim, Colleyville – Mr. Zim stated that he has been in business in Bedford for 35 years and he has learned that those that do not study history are doomed to repeat it. The Planning and Zoning Commission and the Council have concocted a plan and it has always been a situation where the City has not profited by them. He asked that before Council does anything, that they look at past rezoning plans and what a dismal failure they have been for the City; if they were to do so, they would not be pursuing what they are doing. He stated that in his opinion, time has passed on Highway 183; the Bedford Forum area cannot be filled, there are vacancies and if this were a viable place to do businesses, people would be doing it. If Council goes on with this plan, it would stifle growth on Highway 183 and surrender viability to places in the north, namely 1709. The City did not contact Mercedes Benz along Highway 183 and that they would not take kindly to the restrictions. He stated that he has a “crappy” building and if there are these restrictions, it will remain so.

Coy Quine, 301 South Sherman Street, Richardson - Mr. Quine's group owns the Cimarron Plaza Shopping Center. He stated that every time Council changes an ordinance, they have to go back to the drawing board to see what Council is going to do to their shopping center. If they lose a building because of a catastrophe, it will kill them. They own five of the eight parcels at the Center. He discussed issues related to the Burger King and a pipeline under the Center. It was his understanding that the way this ordinance and the legal non-conforming ordinance are written, each piece of property has to stand on its own. One piece of their property is legally non-conforming because it does not meet the parking regulations. If they were to lose this property, there would be problems meeting the 30-foot landscape setback, which would cause them to close the fire lane and the entrance to the Burger King. They would lose parking spots, putting them in conflict with the development agreement regarding parking spaces on each parcel. If they lose another building, in order to meet the landscaping and other requirements,

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they would have to tear down 5,000 square feet of the building. They bought the center predicated on a return and the number of square feet. Insurance would not give them a return on their investment and he asked that Council give them the possibility of rebuilding their facility as it sits on the current footprint. They have spent \$750,000 remodeling the center. If they lost any of their buildings, they could not go back to their Xeriscape landscaping. The Albertsons, Mexican Inn or Burger King, which they do not own, are developing their pads in the existing zoning. They are not being given the chance to rebuild the Center that they have now and asked that they be given the ability to rebuild the existing pad. He also requested clarification on the restricted uses including dry cleaners and bakeries. The Cheek Sparger corridor worked very well but it was not developed. He stated that if you are running a business, especially if you own real estate and are renting it, your return is predicated on what you are able to rent it for and if you have to spend money, it comes out of your cash flow.

Randy Leal, 2404 Bedford Circle – Mr. Leal stated that he has two businesses in Bedford, one of which is a pest control business in the corridor and is on the prohibited use list. He is concerned if they want to expand on the property and asked that the Council allow pest control to be along the freeway.

Mayor Griffin closed the public hearing at 8:01 p.m.

There was discussion regarding different maps for the District; the Planning and Zoning Commission's recommendation to Council for a District map that shows no residential property; that the original Cheek Sparger Overlay District invoked a 200 foot perimeter and that a 200 foot perimeter was to be applied to Highway 183; that when the District map was created, one of the maps it utilized was the Comprehensive Land Use Plan Map, which included the section that juts up along Brown Trail; that based on the Commission's recommendation, there is no residential property in the District map; that for tonight's Council meeting, the map being considered does not contain residential pieces of property in the Overlay; that another piece of property on Highway 121, zoned residential but undeveloped, is included because the Comprehensive Land Use Plan shows it to be commercial; and that it is being proposed that residential properties along Highway 121 be taken out.

There was discussion regarding the intent behind including the residential areas was to protect the properties; that the residential properties are protected by other regulations; that the intent was if residential properties would ever become commercial, that it would look like Highway 121; that there would be additional opportunities in the future to take action or add teeth to other districts to make these regulations City-wide; that the exemption for residential areas is found in Section 4.18.L; raising standards City-wide; and whether the District would cause properties to be adversely affected or stifle growth.

In answer to questions from Council, it was stated that the notice to the Mercedes Benz property would have been sent to the property owner, not Mercedes Benz. In regards to prohibited uses, a dry cleaning plant would be considered an industrial plant and bakeries would be a large, wholesale-type uses with warehouses.

There was discussion regarding reassuring residents that there is recourse through the Planning and Zoning Commission and the Council should a developer come in and encouraging residents to voice their opinions to Council. There was discussion regarding potential relief for shopping centers; that this issue is larger than just the District; issues related to parking for shopping centers that have separate ownership; that staff has interpreted the ordinance to allow for parking to be on an adjacent piece; that staff is working on language to allow parking lots in multi-use shopping centers to be calculated as a premise; and, that in regards to a building being destroyed, language could be added to the non-conforming use section that may allow flexibility for the Zoning Board of Adjustment to allow the percentage level to drop. There was discussion regarding a clause from 2010 to help shopping centers in case of destruction that was taken out as it adversely affected businesses negotiations with TxDOT; that there are currently 14 businesses still in negotiations with TxDOT; that there had been the thought that such a clause could be added once the negotiations were completed; that the clause in question

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was to allow businesses to exist as non-conforming regardless of what TxDOT took off of their property; that there was never a clause to address if a building was destroyed by 50% or more; that the clause regarding 51% is in Section 2.3 of the Zoning Ordinance and that it is incorporated in the District by reference; whether having that clause in the Ordinance would adversely affect the properties that are currently in negotiations; and whether such a clause should be incorporated into the District now and to address City-wide at a later time. In regards to landscaping, there was discussion that if a new development cannot meet the requirements, they can bring an alternate plan for approval. There was discussion that if Mr. Quine's property was to be destroyed by 50% or more, he could not build back under the existing language; and that staff is looking at allowing all shopping centers to be considered a "premise" for landscaping and parking, which means the whole site would have to be destroyed by more than 50%. There was discussion regarding the intent of the District being to bring the standard of Bedford up to what it used to be and bringing improvements to things that are declining; concerns regarding passing the District due to confusion and possible adverse effects; that what is being considered excludes residential areas; that the issue with Mr. Quine has to do with Section 2.3 of the Zoning Ordinance and staff bringing back improvements to that Section; and concerns regarding the 14 properties being interfered with in their negotiations with TxDOT.

Motioned by Councilmember Turner, seconded by Councilmember Brown, to approve an ordinance amending the City of Bedford Zoning Ordinance, Ordinance No. 2275, by amending Section 4.17 "CSED" Cheek-Sparger Entrance District; by amending Section 4.18 "HC" Highway Corridor Overlay District; by removing all references to the "CSED" Cheek-Sparger Entrance District from the Zoning Ordinance; by amending the official Zoning Map of the City of Bedford to designate the expanded "HC" Highway Corridor Overlay District; providing a revised Zoning Map illustrating the change in district as attachment "A"; providing attachment "B" being the text amendments to the Zoning Ordinance; providing a severability clause; providing a penalty and enforcement clause; and providing an effective date.

Councilmember Turner amended his motion that the map would not contain residential areas and that Section 4.18.L be removed. The amended motion was seconded by Councilmember Brown.

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

Council took a break at 8:53 p.m. and reconvened at 9:03 p.m.

7. Consider a resolution amending Section 1 of the Interlocal Agreement between the cities of Bedford, Euless and Hurst for the combining efforts for the provision of a Teen Court Program in Municipal Court. (Tabled at the February 26, 2013 Council Meeting)

This item was approved by consent.

8. Consider a resolution amending Article 1, Section 1.02 and adding a mission statement to the H.E.B. Teen Court Advisory Board Bylaws

This item was approved by consent.

NEW BUSINESS

9. Public Hearing and consider an ordinance amending the City of Bedford Zoning Ordinance, Ordinance No. 2275 Section 5.5 Screening Requirements, specific to Section 5.5.B(1), Fences Abutting Incompatible Districts; providing that this ordinance shall be cumulative; providing a severability clause; providing a savings clause; providing a penalty clause; and providing an effective date.

Planning Manager Jacquelyn Reyff presented information regarding this ordinance. This is to add language to the Section 5.5B (1) Fences Abutting Incompatible Districts stating that the removal of a

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masonry wall or fence by the residentially zoned property will not cause the adjacent commercial or industrial property to be non-compliant. Further, replacement, changes or alterations greater than 50% of an existing fence on a commercial or industry property must comply with Section 5.5B. She stated that it was the consensus of the Council at their March 12, 2013 meeting to put this item on a regular Planning and Zoning Commission agenda. The Commission discussed this item at their March 28, 2013 meeting and voted 4-3-0 to deny. She stated that those voting for denial were of the opinion that the additional language was not necessary because the existing language was clear while those voting in opposition felt the additional language would help clarify in situations like this. The president of the Stonecourt Subdivision HOA spoke at the meeting in favor of this item. Ms. Reyff stated that per the Zoning Ordinance, if the item has been denied by the Commission, for the item to be effective would require a three-fourths vote of the Council.

There was discussion regarding the history of this item; that the Stonecourt subdivision was issued a permit for a wood fence, which was subsequently pulled; that the costs for a wood fence was \$84,000 compared to \$500,000 for brick and mortar fence and \$300,000 to rebuild the fence as is; and that the president of the subdivision's HOA had come to Council asking for relief for this individual case. There was discussion regarding the Commission meeting and whether they were aware of what Council was trying to do; that just amending the subdivision's Planned Unit Development (PUD) would put the commercial properties out of compliance; sending this item back to the Commission with specific reasons why it was being done and why amending the PUD would not accomplish it; that this item was to help commercial properties not be non-compliant; that Stonecourt would have to amend their PUD, which would come before the Commission and the Council; what the regulations are if less than 50% of the fence falls down and that it is still a requirement to have masonry fence between incompatible districts; that there are properties in the City where a commercial or industrial district abuts a lot zoned residential but not being utilized as residential; escrowing of money including whether escalation for costs are built in; language that was included for situations in the past and whether they have relevancy now; confusion over this issue; whether the Commission knew what Council's intent was; the Commission's discussion that the City would have to come back to this scenario time after time; and cleaning up the Ordinance for items that may no longer be applicable such as escrowing of funds.

Mayor Griffin opened the public hearing at 9:22 p.m.

Al Zim, Colleyville, Texas – Mr. Zim owns the property at 1916 Reliance Parkway. He stated that the masonry fence has been ripped down between his property and the subdivision. He has spent \$1,000 in speaking with the City about this problem through his attorney and he received nothing in return and that nobody has sent him anything regarding this situation. There are children that live in the subdivision that play on his property and he has written a certified letter to the City that if any child is hurt while the fence is down, he would hold the City directly responsible jointly and severably. His next step is going to be to put up some "no trespassing" signs on his property and he will handcuff a child and bring them to the Police station. He granted permission to use his property to enter into the fire door to go to the back of the subdivision but that he does not have to maintain it. In answer to questions from Council, Mr. Zim stated that the subdivision took the fence down and that they started putting a wooden wall behind Atmos Energy. He also stated that there is a wall that is open into a municipal area that has a chain link fence with barbed wire.

Mayor Griffin closed the public hearing at 9:27 p.m.

There was discussion on sending this item back to the Commission; whether Council was doing this solely for the subdivision's fence and if this condition did not occur, would they be doing this; that staff was directed by Council to find a solution to this issue; that staff has talked with Mr. Zim and his attorney and understood his issues; and that the subdivision has put in an application for an amended PUD to allow for something other than a masonry fence, which will go to the Development Review Committee, to the Commission and then to Council. There was further discussion regarding the Council having the opportunity to keep neighborhoods and HOAs having nice stone masonry frontages; that a situation

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arose where one property owner took down their stone fence and there was nothing to prohibit them from doing so; and that when Council went to vote on this issue, it opened up a can of worms and nothing has been done on the other fence.

There was discussion on whether there will continue to be a dilapidated fence if this item does not get approved; that when the permit was originally issued, the subdivision removed a small portion of the fence; that if this is voted down, the subdivision has the opportunity to go before the Commission and apply for an amendment to the PUD to put up wood fence in that particular area; and that this ordinance was to clarify the language that was already there so there would not be misinterpretation in the future.

Motioned by Councilmember Brown, seconded by Councilmember Turner, to move this item to the Planning and Zoning Commission.

There was discussion regarding the original PUD allowed for a partial wood fence and partial masonry fence; that the subdivision replaced a lot of the old wood fence with new wood fence; the subdivision collecting monies for maintenance issues; escrowing money to build a masonry wall; that whether or not this item is passed, the subdivision is out of compliance until they amend their PUD; whether there is fault and liability on the part of the City; and that the costs of the fences discussed earlier was to encircle the whole property and that the amount of fence needing replacement is 200 linear feet, with total amount of masonry fence being 6,700 linear feet.

Motion failed 3-4-0. Mayor Griffin declared the motion failed.

Voting in favor of the motion: Mayor Griffin, Councilmember Turner and Councilmember Brown.

Voting in opposition to the motion: Councilmember Boyter, Councilmember Davisson, Councilmember Olsen and Councilmember Nolan.

Motioned by Councilmember Olsen, seconded by Councilmember Nolan, to approve an ordinance amending the City of Bedford Zoning Ordinance, Ordinance No. 2275 Section 5.5 Screening Requirements, specific to Section 5.5.B(1), Fences Abutting Incompatible Districts; providing that this ordinance shall be cumulative; providing a severability clause; providing a savings clause; providing a penalty clause; and providing an effective date.

Motion failed 2-5-0. Mayor Griffin declared the motion failed.

Voting in favor of the motion: Mayor Griffin and Councilmember Turner.

Voting in opposition to the motion: Councilmember Boyter, Councilmember Davisson, Councilmember Olsen, Councilmember Nolan and Councilmember Brown.

Motioned by Councilmember Boyter, seconded by Councilmember Davisson, to deny an ordinance amending the City of Bedford Zoning Ordinance, Ordinance No. 2275 Section 5.5 Screening Requirements, specific to Section 5.5.B(1), Fences Abutting Incompatible Districts; providing that this ordinance shall be cumulative; providing a severability clause; providing a savings clause; providing a penalty clause; and providing an effective date.

Motion approved 4-3-0. Mayor Griffin declared the motion carried.

Voting in favor of the motion: Councilmember Boyter, Councilmember Davisson, Councilmember Olsen and Councilmember Nolan.

Voting in opposition to the motion: Mayor Griffin, Councilmember Turner and Councilmember Brown.

- 10. Consider a resolution appointing one or more qualified persons to serve as an alternate judge temporarily in the absence of the municipal court judge for the City of Bedford, Texas.**

This item was approved by consent.

- 11. Consider a resolution authorizing the City Manager to purchase a replacement 2013 Ford F-150 in the amount of \$22,979.78 from Sam Pack's Five Star Ford through the Houston-Galveston Area Council (HGAC) Cooperative Purchasing Agreement.**

This item was approved by consent.

- 12. Consider a resolution authorizing the City Manager to enter into an Interlocal Cooperation Agreement between the City of Bedford and the County of Tarrant for the purpose of implementing a West Nile Virus Mosquito Surveillance and Response Program.**

This item was approved by consent.

- 13. Discussion and possible staff direction regarding the use of budgeted sidewalk funds. **This item requested by Councilmember Brown**

Councilmember Brown requested this item be placed on the agenda for discussion. He stated that Council recently discussed concrete repairs at Fire Station #3 and during that discussion, sidewalk money was available but no projects identified with that money. He wanted to bring this to Council to see if they could identify a project. There are two that he had in mind including connecting the sidewalk on the west side of Forest Ridge Drive and a sidewalk connecting the Library to the Old Bedford School at a price of \$36,000. He stated he would like to price out the Forest Ridge Drive sidewalk, compare it to the cost of the sidewalk connecting the Library to the OBS and then decide if Council wants to spend the money on either one of these projects. He stated that there is currently \$38,000 in the fund. There was discussion on the pricing; that the \$36,000 for the Library to the Old Bedford School was a two year old estimate; and safety and traffic. Council was of the consensus for staff to look at the pricing for the two projects and bring it back to Council at a future date.

- 14. Report on most recent meeting of the following Boards and Commissions:**

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

Councilmember Olsen reported that the recent Pet Fair set the record for the most vendors and it was another example of the team that works so hard putting it together. There were 12 animals adopted at the event.

✓ **Beautification Commission – Councilmember Turner**

Councilmember Turner reported that after the last meeting, where funding a lunch for the Clean Up Bedford Day volunteers was discussed, \$425 was donated, which will be put in reserves for the Council to decide how to use the money in the future. One consideration has been to put it in the Beautification Commission to fund future lunches. Cheddar's has come forward to feed the volunteers between 1:00 p.m. and 3:00 p.m. on Saturday, which does not involve City money and comes from donations from the community.

✓ **Community Affairs Commission - Councilmember Boyter**

Councilmember Boyter complimented the Commission for bringing events to the citizens. He reported that coming off of the Energy Fair, the next event is a school safety meeting at 7:00 p.m. on May 7 at the old library. Discussion will include how residents and businesses could be impacted by an incident

or emergency, crisis plans, secure building entrances, background checks on volunteers and strong relationships with local law enforcement.

✓ **Cultural Commission - Councilmember Nolan**

Councilmember Nolan reported that the Commission met the previous night and they are having an "Arts Talk" event on June 10, which will bring all the different arts groups together to create a sense of connectivity. There is a "cultural crawl" planned for October, probably under a different name.

✓ **Library Board – Councilmember Brown**

No report was given.

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

No report was given.

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

No report was given.

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

Councilmember Olsen reported that the Scholarship Banquet is this Thursday at the Hurst Conference Center. She stated that there is an opportunity to partner with Papa John's on Harwood Road and that on the first and third Thursdays of each month, they will donate 20% of an order to Teen Court, provided that the person tells them that the order is in sponsorship of Teen Court. The first two dates are May 2 and May 16.

15. Council member reports

No other reports were given.

16. City Manager/Staff Reports

a) Update on Persons to be Heard: Traffic study on Memphis Drive.

Tom Hoover updated Council on traffic issues on Memphis Drive and a request for a 20 mph speed limit. He stated that a traffic study was performed to find out what was happening on the street and based on the concern that traffic was going too fast for the children living and playing there. The average speed was 26 mph going eastbound and 24 mph going westbound. The requirements to establish speeds on roadways are set by the American Association of State Highway and Transportation Officials and the Manual on Traffic Control Devices. These state that the speed of the road should be set at the 85th percentile and then five miles on either side of it. Based on this, the speed limit should be posted between 24 and 38 mph, and he recommended leaving it at 30 mph. He talked to Mr. Deere regarding this issue and that "Slow, Children at Play" signs could be put up, which were installed three weeks later. After a couple of weeks, Mr. Deere again expressed his concerns that the 20 mph issue was not being addressed. He and Deputy City Manager David Miller met with Mr. Deere to discuss the issue. He stated that a 20 mph zone could not be enforced as it would be considered a speed trap. He told Mr. Deere that there were three things that they could do including rumble strips, a mobile speed monitoring trailer and an increased presence of the Police Traffic Division. Road humps would not comply with the City's ordinance. The trailer did come and it proved up that the speeds were matching with the traffic study. On the morning of Friday, March 22, there were three vehicles with a maximum speed of 25 mph. That afternoon, with the release of school, there were 41 vehicles with a maximum speed of 32 mph. On the afternoon of Monday, March 24, there were 49

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vehicles with a maximum speed of 31 mph. One problem with the rumble strips might be complaints about the noise. They could be treated like road humps in that Mr. Deere could get 80% of his neighbors to agree that rumble strips are what they want.

There was discussion that Mr. Deere's issues are related to children playing in the street; that his daughter and grandchild live across the street; staff reaching out to parents of the kids through door hangers; that there is no indication that the street is being used for a cut through; that school zones are usually within 300 feet of school property; and that there have been complaints regarding the rumble strips on Cummings Drive.

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

No action was necessary as a result of the Executive Session.

ADJOURNMENT

Mayor Griffin adjourned the meeting at 11:16 p.m.

Jim Griffin, Mayor

ATTEST:

Michael Wells, City Secretary