

**Council Minutes July 23, 2019**

**STATE OF TEXAS           §**

**COUNTY OF TARRANT   §**

**CITY OF BEDFORD       §**

**The City Council of the City of Bedford, Texas, met in joint work session with the Planning and Zoning Commission at 6:30 p.m. in the former library building, 1805 L. Don Dodson on the 23rd day of July, 2019 with the following members present:**

Jim Griffin	Mayor
Michael Boyter	Council Members
Dan Cogan	
Ruth Culver	
Roger Fisher	
Amy Sabol	
Rusty Sartor	

constituting a quorum.

The following members of the Planning and Zoning Commission were present:

Todd Carlson	Chairperson
Ralph Blackman	
Michael Davis	
Bryan Henderson	
Lisa McMillan	
Keith Quigley	
Tom Stroope	
Dixie Bell-Cawthorne	Alternates
Linda Moye	

constituting a quorum.

Staff present included:

Brian Bosshardt	City Manager
Cliff Blackwell	Assistant City Manager
Michael Wells	City Secretary
Stan Lowry	City Attorney
Emilio Sanchez	Planning Manager
Bill Syblon	Development Director

**CALL TO ORDER/GENERAL COMMENTS**

Mayor Griffin and Chairperson Carlson called the Joint Work Session to order at 7:19 p.m.

**JOINT WORK SESSION**

- **City Council and Planning and Zoning Commission training with the City Attorney.**

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City Attorney Stan Lowry presented training related to planning and zoning. He discussed the role of the City Council, including adopting zoning and development ordinances, which should reflect the vision of the Council, and state laws regarding zoning, platting, and comprehensive plans. Regarding the role of the Commission, he stated per state law, Council cannot take action on a zoning matter until it receives a recommendation from the Commission.

Mr. Lowry presented information on state law requirements regarding zoning regulations, including that they must be adopted in accordance with a comprehensive plan and be designed to do the following: lessen congestion in the streets; secure safety from fire, panic and other dangers; promote health and the general welfare; provide adequate light and air; prevent the overcrowding of land; or facilitate the adequate provision of transportation, water, sewers, schools, parks and other public requirements. He noted the list did not include the economic impact of a project, and stated zoning is based on land use, not value. He further advised that it is not appropriate to ask economic questions of applicants.

Mr. Lowry presented an overview of comprehensive plans, and stated the plan is Council's vision of what a piece of land should be zoned in the future. It is different from zoning on the ground, whereby a property owner or developer is entitled by law to use the property as it is currently zoned. There was discussion on reviewing and updating the City's comprehensive land use plan. Mr. Lowry stated neither Council nor the Commission are required to approve a zoning change that complies with the plan.

Mr. Lowry discussed actions that can be taken on zoning cases, including recommending approval as submitted by the applicant, approving the request subject to certain conditions, disapproval of the request, or tabling the item. He presented an overview of types of zoning cases, including straight zoning, planned unit developments (PUD) and specific use permits (SUP), and stated conditions cannot be added to a straight zoning change. There was discussion on who determines whether a case is straight zoning or a PUD. Mr. Lowry advised if the Council does not want a type of business in a certain district, then it should not be included as an allowed use in the zoning ordinance.

Mr. Lowry presented an overview of plats, and stated they are neither zoning nor land use. Review of plats are a ministerial function of the Commission, meaning if a plat complies with the City's ordinances, the Commission is required to approve it and further is not allowed to place conditions on the plat.

Economic Development Director Bill Syblon discussed the functions of the Council and Commission, including comprehensive planning, zoning and platting. He presented a comparison of the original comprehensive land use plan from 1971 and the latest update from 2010, and stated it is time to overhaul the plan. Currently, there are only 140 residential acres and 127 non-residential acres remaining to be developed, and there has been a focus on infill development and redevelopment. He discussed the neighborhood revitalization study approved by Council and the new Neighborhood Services division. He introduced Andrew Kloefkorn, the new Neighborhood Services Manager.

Mr. Syblon presented an overview of what the City can regulate, including height, stories, size of buildings and lots, percent of area, yard size, density, location and uses. Planning Manager Emilio Sanchez stated House Bill 2439, effective September 1, 2019, will prevent the City from regulating building materials which are authorized by an international code for the last three code cycles. He stated homeowner associations can still regulate materials through deed restrictions. There was discussion on using economic development agreements to regulate materials; the reasoning behind the house bill; how the term "residential or commercial structure" used in house bill is defined and applied in regulating materials; and providing incentives, such as reduced landscaping, to developers using desired products.

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Mr. Syblon presented an overview of the Department's internal processes and the timeframe for zoning changes, including review by the Development Review Committee, the Commission and finally Council. House Bill 3167 now only allows 30 days to process plans or they are automatically approved. There was discussion on the effect of the bill on the City's zoning processes and timeframes, as well as the Commission's review of plats; and the reasoning behind the house bill.

Mr. Syblon discussed the City's zoning ordinance, which consists of the zoning map and text. He stated the ordinance must evolve and adapt to the market. He stated the lack of variance requests received by the City is an indication the zoning ordinance is on track with the market. There was discussion on previous cases heard by the Zoning Board of Adjustment. Mr. Syblon stated zoning regulates how land is used, while platting regulates how land is divided. In the platting process, a developer can be required to participate with funds for utility improvements, park land and public rights-of-way. There was discussion on the differences between plats and site plans, and the effects of House Bill 3167 on the approval process for both.

Mr. Lowry presented information regarding the Open Meetings Act, including the basics of the Act, criminal penalties associated with violations of the Act, and avoiding violations of the Act, including walking quorums and discussing agenda items outside of a called meeting with a quorum of other members. He presented an overview of state laws regarding conflicts of interest and improper influence.

Mr. Lowry presented information on the typical public hearing process. He stated the Mayor and Commission chairperson can enact reasonable rules on how public hearings are conducted. He further stated the applicant is always able to speak after the public hearing is closed. He discussed the best questions to ask during a zoning case, including those about land use, suitability, compatibility, neighborhood adjacency, traffic circulation, noise, comprehension of site plan diagrams, and the comprehensive land use plan. He stated the impact to school district property cannot be taken into consideration in a zoning case.

Mr. Lowry presented information on other legal considerations, including time limits for plats; prohibition against using the review and approval process to exact land and money out of a developer; and special federal and state laws, such as for cell towers. He discussed due process for applicants and property owners and stated they are the only party with legal rights when their case is being discussed in a meeting. Regarding the Fair Housing Act, he stated the City has potential liability if a zoning or land use decision or practice has a disparate impact on a protected class of citizens, regardless of intent. There was discussion on protections for elderly, disabled and veterans in federal law.

Mr. Lowry discussed questions that should not be raised during zoning items, including anything that would evidence illegal intent or unfair bias, including communications with constituents; price points; and demographics and income, or what kind of people will live in a development. There was discussion on the quality of presentations made by applicants, and applicants presenting information themselves on price point and sales tax. Mr. Lowry advised against Council and Commission members qualifying their vote. He stated it would be appropriate to provide clarification on a zoning case at the beginning of a meeting.

Mr. Lowry discussed holding effective meetings, including notifying the public in advance of the meeting; explaining the process; the role of the chairperson; not playing to the audience; not discussing the case privately; not making the speaker look foolish; taking the high road; listening to staff; and staying on topic.

In response to questions regarding members of Council or the Commission receiving texts

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during meetings, he stated it is not illegal, but does have legal and political implications, and advised against responding to such texts during meetings. There was discussion on the role of the Commission, appropriate questions to ask during meetings, and the inclusion of traffic impact analyses in zoning cases. Regarding protected uses such as churches and schools, Mr. Lowry stated the City has no zoning jurisdiction but can enforce certain development criteria. He further stated that conditions, such as hours of operation, can be added to a PUD or SUP, but not a straight zoning case.

### **ADJOURNMENT**

Mayor Griffin and Chairperson Carlson adjourned the Joint Work Session at 9:22 p.m.

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Jim Griffin, Mayor

ATTEST:

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Michael Wells, City Secretary