

**Belton City Council Meeting  
May 23, 2017 – 5:30 P.M.**

The Belton City Council met in regular session in the Wright Room at the Harris Community Center with the following members present: Mayor Marion Grayson, Mayor Pro Tem Craig Pearson, and Councilmembers David K. Leigh, Paul Sanderford Dan Kirkley, Guy O'Banion and John Holmes. Staff present included Sam Listi, John Messer, Gene Ellis, Amy Casey, Brandon Bozon, Erin Smith, Bruce Pritchard, Chris Brown, Aaron Harris, Angellia Points, Judy Garrett, Matt Bates, Charlotte Walker, Paul Romer, Cynthia Hernandez and Kim Kroll.

The Pledge of Allegiance to the U.S. Flag was led by Director of Finance Brandon Bozon, the Pledge of Allegiance to the Texas Flag was led by Councilmember Guy O'Banion, and the Invocation was given by Justin Childers, Pastor of Miller Heights Baptist Church.

1. **Call to order.** Mayor Marion Grayson called the meeting to order at 5:30 p.m.
2. **Public Comments.** There were none.
3. **Present \$2,000 Scholarship from Waste Management, Inc. to Michael "Cole" McDonald.**

Public Information Officer Paul Romer explained that each year the City selects a recipient for the Waste Management scholarship. He said that there were five applicants this year, and the committee selected Michael "Cole" McDonald. Mr. Romer outlined Mr. McDonald's accomplishments, and he added that Cole was the first Youth Advisory Commission Member to receive this scholarship. He then introduced Paul Daugereau of Waste Management who presented Cole with a check for \$2,000.

**Consent Agenda**

**Items 4-5 under this section are considered to be routine by the City Council and may be enacted by one motion. If discussion is desired by the Council, any item may be removed from the Consent Agenda prior to voting, at the request of any Councilmember, and it will be considered separately.**

4. **Consider the minutes of the May 9, 2017, City Council Meeting.**
5. **Consider a resolution approving a change in Atmos Energy Corporation, Mid-Tex Division's rates as a result of a settlement between Atmos and the Atmos Texas Municipalities under the rate review mechanism for 2017.**

Upon a motion by Councilmember Dan Kirkley and a second by Mayor Pro Tem Craig Pearson, the Consent Agenda items, including the following captioned resolution, were unanimously approved upon a vote of 7-0.

**RESOLUTION NO. 2017-20-R**

**A RESOLUTION BY THE CITY OF BELTON, TEXAS (“CITY”), APPROVING A CHANGE IN THE RATES OF ATMOS ENERGY CORPORATION, MID-TEX DIVISION (“ATMOS”) AS A RESULT OF A SETTLEMENT BETWEEN ATMOS AND THE ATMOS TEXAS MUNICIPALITIES (“ATM”) UNDER THE RATE REVIEW MECHANISM; FINDING THE RATES SET BY THE ATTACHED TARIFFS TO BE JUST AND REASONABLE; FINDING THAT THE MEETING COMPLIED WITH THE OPEN MEETINGS ACT; DECLARING AN EFFECTIVE DATE; AND REQUIRING DELIVERY OF THE RESOLUTION TO THE COMPANY AND LEGAL COUNSEL.**

**Planning & Zoning**

- 6. Hold a public hearing and consider a zoning change from Single Family-1 to Single Family-2 Zoning District on a 9.753 acre tract of land, located on the west side of Connell Street and north of West Loop 121, in the vicinity of Mitchell Branch drainageway.**

Director of Planning Erin Smith stated that this property is located along the west side of Connell Street. The applicant is proposing a zone change to allow for a proposed residential subdivision with single family homes. Currently, the 9.753 acres is zoned Single Family-1, and the applicant is proposing a zoning change to Single Family-2 to allow for a similar density to the existing Liberty Valley subdivision located directly west of this property.

Mrs. Smith said that the Planning & Zoning Commission unanimously recommended the zoning change, and Staff concurs with their recommendation.

Mayor Grayson opened the public hearing. Seeing no one wishing to speak, she closed the public hearing.

Upon a motion by Mayor Pro Tem Pearson and a second by Councilmember Kirkley, the following captioned ordinance was unanimously approved upon a vote of 7-0.

**ORDINANCE NO. 2017-13**

**AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF BELTON BY CHANGING THE DESCRIBED DISTRICT FROM SINGLE FAMILY-1 TO SINGLE FAMILY-2 ZONING DISTRICT ON A 9.753 ACRE TRACT, WITH DEVELOPMENT TO BE REGULATED UNDER TYPE AREA 9 DESIGN STANDARDS.**

- 7. Hold a public hearing and consider a zoning change from Office-1 to Neighborhood Service Zoning District on a 5.09 acre tract of land, located on**

**the north side of Huey Drive and east of South Loop 121, in the vicinity of Independence Court and Lincoln Court.**

Director of Planning Erin Smith stated that this request is for a zone change from an Office-1 District to a Neighborhood Service District to allow for office and limited retail uses. To the north is undeveloped land zoned Agricultural; to the east and south is Liberty Valley Subdivision with SF-2 zoning; to the southwest is the Bell County Justice Center; and to the west is Belton ISD School Nutrition/Support Services. Mrs. Smith explained that property owner notices were mailed out, and two were returned in opposition. Additionally, several residents of the neighborhood attended the Planning and Zoning Commission meeting and spoke against the rezoning.

Mrs. Smith explained that the applicant submitted this zone change to allow for both office and limited retail uses. She added that a subdivision plat will not be required unless this lot is proposed to be subdivided. The applicant is proposing a strip center with offices and some limited retail. Neighborhood Service would allow for a convenience store, but would not allow for gasoline sales.

Smith said that the Planning & Zoning Commission unanimously recommended the zoning change, and Staff concurs with their recommendation.

Councilmember O'Banion asked if a convenience store would be allowed to sell alcohol in Neighborhood Service zoning. Mrs. Smith said that alcohol sales would require a rezoning to Neighborhood Service with a Special Use Permit for Alcohol Sales.

Councilmember Holmes asked if there are any lighting requirements with Neighborhood Service. Mrs. Smith said that lighting requirements are not considered with zoning, but will be considered during the platting phase.

Councilmember Leigh asked if the applicant provided a specific development that shows what they want to build. Mrs. Smith said the applicant was available to answer the question. The applicant, Colette Marshall, said that she was planning on something similar to the Bird Creek Development in Temple. She said it will not be a strip center at all. It will include separate buildings or pods, and each pod will be approximately 10,000 square feet. Each building will be independent of the others.

Mayor Grayson opened the public hearing on this item.

**Sarah Twilleager, 2017 Jefferson Court South** – Mrs. Twilleager said the neighborhood is pretty small and close knit. She is not sure that the neighborhood is large enough to support the businesses proposed. She said that she and her neighbors are concerned that the businesses that will end up there will be those to support the Justice Complex like bail bonds businesses. She is concerned that these types of businesses would degrade her neighborhood and hurt her property values. She said that she was not made aware of these plans when she bought her house,

or she would have looked elsewhere. She said that she does not want it in her neighborhood. The neighborhood would prefer a park instead.

**David Twilleager, 2017 Jefferson Court South** – Mr. Twilleager said he is concerned about the increase in traffic that might come about from adding these businesses. He and his neighbors are concerned for the safety of the children who play in the area.

**Catherine Nieves, 2015 Madison Court** – Ms. Nieves expressed concern about people released from jail that may loiter in the area if businesses are added. She said that they are already hanging out at the stop sign in that area. She felt a better area for these businesses would be along Loop 121 instead of being built directly in the neighborhood. She thought a Fire Station would be a better idea. She added that when Huey Drive is opened to Connell Street, she is concerned that the number of speeders through the neighborhood will increase. She also expressed concern about the types of people that might be attracted to these kinds of businesses.

**Christopher Hans, 2111 Lincoln Court South** – Mr. Hans said that they do not need a convenience store in their neighborhood as there are several located a short drive from where he lives. They also don't need a bail bonds business as there is one across the road. He said many children play in the streets, including his little sister, and he is concerned for their safety if there are businesses opened up in that area. He said that when inmates are released, they congregate at the stop sign or at the Valero. If there are businesses closer, they may frequent them. He said that presents many security issues especially for the children.

Mayor Grayson said that it does not appear that it will be a convenience store. Mr. Hans said regardless, Belton already has what is needed.

**Resident of 2006 Madison Court** – Roger (last name unknown) explained that his property backs up to the property proposed for businesses. He asked if privacy fences would be required since he does not have one. Mayor Grayson said that Mrs. Smith would make sure that there is proper buffering between the properties. Mrs. Smith said the setback would be 5-feet from the property line, and a privacy fence would be required by any business. Roger added that he is still concerned about the inmates that would be coming into the neighborhood following their release from the jail.

**Clinton Hans – 2111 Lincoln Court South** – Mr. Hans said that nobody in the neighborhood wants anything business-wise to be constructed on the property. Mayor Grayson said that is the downside to not owning the property proposed for rezoning and development. Mr. Hans said that if a business is constructed, it won't get any business from the residents of the neighborhood.

**Jennifer Ryken of Turley Associates, 301 N. 3<sup>rd</sup> Street, Temple (applicant's engineer)** – Ms. Ryken pointed out that the property is already zoned Office-1, so some type of business will go in this area. One of the reasons for this zoning change



is to put in businesses like a daycare, a bank or a dry cleaner. She said that the applicant is going to make the buildings look more like houses and wants businesses that will be an asset to the neighborhood.

Councilmember Leigh said that he understands the neighborhood concern about the transient population when the inmates are released. He said that when the developer originally bought the property, it was zoned Office-1 to allow businesses to serve the neighborhood. Most subdivisions that are being built these days border a property zoned Neighborhood Service. However, Mr. Leigh said that he agreed that some businesses would not be appropriate. He added that because the property was not developed along with the subdivision, people assume that the vacant property would continue not to be developed. However, if people would have reviewed the plat for the area, they would have seen that it was always planned to be developed for businesses.

Councilmember O'Banion said he is concerned about the fact the businesses would be developed inside the neighborhood. He thinks additional housing would be more appropriate in that area. He said that people need to be aware that regardless of the zoning change being considered, it is still zoned for business with no change in zoning. He said that the Belton ISD property is more suitable for business.

Mayor Pro Tem Pearson said that when the property was zoned Agriculture, the developer asked if the proposed zoning of Office-1 was appropriate. He asked how long ago that was. Mrs. Marshall said approximately ten years ago. He said initially the City was excited about the development because more affordable housing was needed in Belton. He said that it has turned out to be a beautiful development. He added that the developer could have built businesses ten years ago. Mr. Pearson said that he believes Neighborhood Service is a more appropriate zoning to help protect the neighborhood. He wondered when the time would be right to build the park and to build Huey Drive through to Connell Street.

Councilmember Leigh said that Neighborhood Service would allow for Office-1 plus antique shop, bakery, barber shop, church, childcare, food, convenience store, health studio, personal service and service retail. He asked which if those were objectionable, and if the zoning was left at Office-1, could the other types of businesses be added through a Specific Use Permit.

Councilmember O'Banion said that he believes the convenience store would be the least appealing. Any kind of a retail business would generate more traffic than an office. He feels that SUPs would give the City more control. Mrs. Smith said that SUPs are limited to identified uses in the Zoning Ordinance and include bed and breakfast, broadcasting facilities, cemetery, commercial carnival, electric substation, heliport, hospital, military service clubs, repographic services greater than 4,000 square feet, residential uses, seasonal fruit and vegetable sales, mobile concession trailers, telegraph office, university/school or related services or a zoo.

Mayor Grayson said that she thinks the option of Neighborhood Service is better.

Councilmember O'Banion said that it is not always about what the current property owner is proposing. If the Council changes the zoning, the property is zoned that way forever. If the property is sold, the new owner may want to put in a different type of business which may not be what the neighborhood wants, but it may be allowed in the new zoning type.

Upon a motion by Councilmember John Holmes and a second by Councilmember Kirkley, the following captioned ordinance was approved upon a vote of 5-2 with Councilmembers David K. Leigh and Guy O'Banion providing the dissenting votes.

#### **ORDINANCE NO. 2017-14**

**AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF BELTON BY CHANGING THE DESCRIBED DISTRICT FROM OFFICE-1 TO NEIGHBORHOOD SERVICE ZONING DISTRICT ON A 5.09 ACRE TRACT, WITH DEVELOPMENT TO BE REGULATED UNDER TYPE AREA 9 DESIGN STANDARDS.**

8. **Hold a public hearing and consider a zoning change from Single Family-2 to Planned Development Retail Zoning District for proposed mini-storage on a 3.277 acre tract of land, and from Single Family-2 to Retail Zoning District on a 1.510 acre tract of land, located on the northwest corner of West Loop 121 and Southwest Parkway.**

Director of Planning Erin Smith said that this is a request for a zone change to allow for mini-storage warehouses and Recreational Vehicle (RV) and boat storage on the northernmost 3.277 acres of the property and future retail development on the southernmost 1.510 acres of the property. To the north is Liberty Park single family subdivision; to the east are Extra Space Self Storage and the TXDOT area office; to the south are Belton Veterinary Clinic and the Bell County Expo Center; and to the west are vacant land and the Bell County Justice Center. The property is currently vacant except for a cell tower lease, so no development will begin until that lease expires.

Mrs. Smith explained that Buildings A, B, C, D, and E are proposed for mini-storage warehouses, and Building J is proposed for RV and boat storage. The applicant is proposing to construct a wooden privacy fence along the northern, western, and southern property lines, and a wrought iron fence with stone columns along the eastern property line facing Southwest Parkway. She said that the wooden privacy fence will provide screening between this development and the future single family homes to the north in the Liberty Park subdivision.

Smith said the applicant is proposing to construct the mini-storage units with masonry on the exterior façades facing Loop 121 and Southwest Parkway. The eastern and southern sides of the mini-storage, and boat and RV storage are the only areas visible to Loop 121 and Southwest Parkway. The applicant would like to

construct the remaining sides of the exterior with baked-on metal, since the units will not be visible to the traveling public. Mrs. Smith added that the applicant has submitted a landscape plan that identifies a mixture of trees and shrubs on this property in compliance with the Design Standards landscape requirements.

The applicant would like to create a shared 36-foot wide entrance to the mini-storage warehouses from Southwest Parkway and another 25-foot wide entrance farther north on Southwest Parkway. Smith said that the entrance to the facility will be by the office and Building A to provide adequate interior stacking space for this development. The applicant is proposing to install two gates into this development by the office and Building A. She added that the 25-foot wide driveway will contain a gate and will only be utilized for leaving this facility and emergency services.

Mrs. Smith said that the Planning & Zoning Commission unanimously recommended the zoning change, and Staff concurs with their recommendation.

Mayor Grayson opened the public hearing. Seeing no one wishing to speak, she closed the public hearing. She asked whether another mini-storage facility is needed in Belton. Others explained that the existing units are full.

Councilmember O'Banion said that he felt this was a very good buffering type of development for this property.

Councilmember Leigh asked when the tower lease would end. Mrs. Marshall replied that it ended in 2021.

Upon a motion by Councilmember Holmes and a second by Councilmember O'Banion, the following captioned ordinance was unanimously approved upon a vote of 7-0.

#### **ORDINANCE NO. 2017-15**

**AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF BELTON BY CHANGING THE DESCRIBED DISTRICT FROM SINGLE FAMILY-2 TO PLANNED DEVELOPMENT RETAIL ZONING DISTRICT FOR PROPOSED MINI-STORAGE ON A 3.277 ACRE TRACT AND FROM SINGLE FAMILY-2 TO RETAIL ZONING DISTRICT ON A 1.510 ACRE TRACT OF LAND, WITH DEVELOPMENT TO BE REGULATED UNDER TYPE AREA 9 DESIGN STANDARDS.**

**9. Hold a public hearing and consider amendments to Section 503, Sidewalk Standards and Policy, of the Subdivision Ordinance.**

Director of Planning Erin Smith stated that in 2015 the Council created an amendment to the Subdivision Ordinance requiring sidewalks. At their April 25, 2017, meeting, the City Council recommended that City staff create an amendment to the Sidewalk Policy that would provide the option for a sidewalk fee-in-lieu of



sidewalk construction in instances where construction is not feasible or timely. She said that Staff has revised Section 503, Sidewalk Standards and Policy, of the Subdivision Ordinance as shown below:

- Recommend deleting current Section 503.09 that allows for the sidewalk funds to be placed in an escrow account for future construction at that location. The sidewalk fee will replace that section of the Sidewalk Policy.
- Recommend the following amendment to the Subdivision Ordinance:

**503.09 When in the sole discretion of the City, it is determined that an otherwise required sidewalk is not appropriate or feasible at a specific location, the City may substitute a sidewalk fee-in-lieu of sidewalk construction. This fee shall be paid by the developer or builder. The sidewalk fee may be utilized by the City for sidewalk construction at any location within the City or the City's ETJ. The sidewalk fee will be determined by the City. The fee shall be paid to the City prior to recordation of the Final Plat or issuance of any building permits.**

Mrs. Smith explained that this amendment will allow for the developer or builder to submit a fee-in-lieu of sidewalk construction when sidewalk construction is not appropriate or feasible at a location. This sidewalk fee will be beneficial for proposed developments that do not have any existing sidewalks nearby for connectivity, areas that contain steep topography or have drainage challenges, or sites that are adjacent to a roadway planned for expansion in the near future. She said that the fee may be required in conjunction with a plat or building permit, and may be utilized at any location within the City or the City's ETJ. This proposed sidewalk fee will provide flexibility to both the City and the development community.

Mrs. Smith said that the Planning & Zoning Commission unanimously recommended the amendments, and Staff concurs with their recommendation.

Councilmember Kirkley said his concern is that the City will solely determine what the fee will be. He believes that the City should work with the developer to determine the fee. City Attorney John Messer said that he drafted the language, and he wanted to give the City the most flexibility. He said that because no two projects are alike, he wanted to give the City the ability to determine the fee. He said that the developer can always choose to construct the sidewalk instead of paying the fee. Mr. Kirkley said that the fee should be based on the probable construction cost of the sidewalks.

City Manager Sam Listi explained the City's process to determine the fee. He said that Staff asks the developer to provide an estimated cost, and Staff compares that cost to the City's annual bid prices to determine reasonableness. Mr. Messer said that process is still unfair to the City because the City does a lot of prep work prior to the contractor performing the work that is priced in the annual bid.



Mayor Grayson said that she has reviewed the ordinance and believes it would be best for the City to have a workshop on sidewalks to address some of the ambiguities. She said that the City needs a sidewalk plan. It does not seem fair to developers to take a fee for sidewalks, and then use that money to build sidewalks somewhere else in the City. Councilmember Leigh said that this will allow us to work with developers to determine whether it makes sense to put in a sidewalk, and if not, then the developer can pay a fee-in-lieu of putting in the sidewalk. This is not requiring developers to put in sidewalks which would not otherwise be required.

Councilmember Leigh said the fees that are collected should be used to develop sidewalk infrastructure, and the City should somehow enumerate how the fee will be calculated. Once that is done, it should be put in the City's Fee Schedule. He said, that he thinks the City has a good ordinance amendment, but it could be sharpened a little.

Mayor Pro Tem Pearson said that he agreed – a workshop would be best.

Councilmember O'Banion agreed that the City needs the discretion to determine whether sidewalks need to be constructed, but there needs to be a process in place to determine the fee if they are not going to be constructed. He said he believes that this tool to allow variances and collect a fee is a much needed tool. However, he feels that the way the amendment is currently written provides the City too much discretion.

Councilmember Leigh made a motion to table the item for at least 60 days. Mayor Pro Tem Pearson seconded the motion which was unanimously approved upon a vote of 7-0.

### **Miscellaneous**

**10. Consider authorizing the City Manager to enter into a professional services agreement with Kasberg, Patrick & Associates for analysis and design of drainage improvements for the pond above FM439 near Red Rock Drive.**

Director of Public Works Angellia Points explained that City staff has received complaints from residents of Red Rock Drive concerning the drainage channel between Red Rock Hills and The Bluff at Dunns Canyon. Residents of the 2100 block of Red Rock Drive expressed concerns about the amount of water flowing through the channel, the velocity of the water, and the extent of the flooding during recent major storm events. The channel of concern is a normally near-dry creek, except when it rains. Runoff from Red Rock Hills, Regatta Oaks, Dawson Ranch, and portions of The Bluff at Dunns Hollow flow through this area, totaling approximately 337 acres of area contributing to this drainage channel.

Mrs. Points said the City contracted with Kasberg, Patrick, and Associates (KPA) in 2013 to study this drainage area to determine the 100-year flood elevations prior to development and then the 100-year flood elevations post-development with the

various detention and retention ponds and channels. KPA determined that the 100-year modeled post-development runoff for the drainage area has increased slightly when compared to pre-development conditions. The increased runoff was determined to be approximately 5% from pre-development flows.

She said that although the area behind the 2100 block of Red Rock Drive has historically been a floodway, residents are still concerned with the volume and velocity of the water in the area. The resident of 2106 Red Rock Drive is especially concerned, as the home is located at the confluence of two wet weather creeks.

Mrs. Points explained that Staff has thoroughly evaluated the situation and has identified an area of the drainageway that could be modified to improve velocity rates and base flood elevations in the downstream channel. Runoff in this drainage area mostly flows through a retention pond near the HOA pool at Garden Brook Trail and Red Valley Drive. Because the pond retains water, there is not a lot of storage capacity in the pond to slow down the water that flows towards Red Rock Hills and Lake Road. If this particular pond is changed to a detention pond, in theory, the water can be stored in the pond and be released at a lower rate. The magnitude of improvements to the velocities and flood elevations will be determined under the proposed scope. The amount of storage that can be generated in the proposed detention pond will be evaluated after a detailed topographic survey as well as identification of any environmentally sensitive locations which may affect the area that can be excavated. She added that only after this data is obtained can models be developed to provide a better approximation of how much of an impact on larger storms this detention pond can have for downstream properties.

Mrs. Points said that Staff consulted with KPA to determine the effort it would take to perform the design services to convert the retention pond to a detention pond. In order to analyze, model, and design the potential improvements to the pond, the professional services agreement will consist of the following components:

- Surveying the pond
- Engineering design and modeling
- City staff and Council meetings/presentations
- Archeological and environmental assessments
- Permitting

Points said that after the design and modeling is completed, the construction effort will need to be evaluated, as funding has not been identified for construction. The proposed engineering services contract of \$55,890 is proposed to be funded out of the Drainage Capital Project Funds. She anticipates that this study could be completed within 3-4 months.

Councilmember Sanderford asked if the various developments in the area have increased the amount of drainage in the area. Mrs. Points replied that it has increased by an estimated 5%. He asked if the City required the developers to do

what is necessary to mitigate the drainage increases from the developments. Mrs. Points said that she believes the developers have done what was required by the ordinance. She said that the 5% increase could have been from the modeling numbers used.

Councilmember O'Banion asked if any of the area has flooded. Mr. Listi said that there have been storms causing high water, but none of the homes have flooded. Mr. O'Banion asked if flooding was imminent... enough to spend \$55,000 on right now.

Councilmember Leigh said when Red Rock was first built, the retention/detention pond requirement did not exist. He said that former City Manager Jeff Holberg was ahead of his time by requiring the retention pond in that subdivision. He said that the City now has a Drainage Fund that is intended to be used for exactly this type of issue, and he believes that the City needs to move forward now.

City Attorney John Messer said the City relies on the developers' engineers to model the drainage flows in the subdivisions, and those are reviewed and approved by the City.

Mr. Listi said that this problem was identified with the most recent storm events. The resident that brought it to the City's attention owns the property at the confluence of the two flood plains that have existed for a very long time. Identification of this issue and the potential for a solution that this study would give us would resolve it to the best resolution that it can be. Staff believes that there is a possible solution, but this study is needed to determine how to move forward.

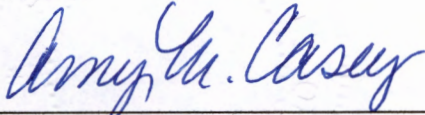
Councilmember Sanderford said the topography in this area is difficult, and the massive amount of development over the last several years has to have increased the drainage flows.

Upon a motion by Councilmember Kirkley, and a second by Councilmember Holmes, item 10 was unanimously approved upon a vote of 7-0.

There being no further business, the Mayor adjourned the meeting at 6:44 p.m.

  
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Marion Grayson, Mayor

ATTEST:

  
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Amy M. Casey, City Clerk