

**BELTON CITY COUNCIL MEETING  
FEBRUARY 26, 2013**

The Belton City Council met in regular session with the following members present: Mayor Jim Covington, Mayor Pro Tem Marion Grayson, Councilmembers David K. Leigh, Wayne Carpenter, Craig Pearson, John Agan (arrived 5:36 p.m.), and Frank Minosky. There were no members absent. Staff present were John Messer, Sam Listi, Connie Torres, Cristy Daniell, Gene Ellis, Francisco Corona, Erin Newcomer, Sandy Slade, Denny Lassetter, Paul Romer, and Aaron Harris.

The Pledge of Allegiance to the U.S. Flag was led by Fire Chief Francisco Corona, the Pledge of Allegiance to the Texas Flag was led by Councilmember Wayne Carpenter, and the Invocation was given by Dr. Bill Carrell, Director of Public Relations at the University of Mary Hardin-Baylor.

The Mayor called the meeting to order at 5:32 p.m.

Public comments. There were no public comments.

Consent Agenda

Councilmember Leigh made a motion to approve the consent agenda. The motion was seconded by Councilmember Carpenter, and the following items were unanimously approved (6-0, Councilmember Agan not yet present):

Minutes of previous meetings. Approved both sets of minutes.

A. February 12, 2013 Workshop

B. February 12, 2013 Regular Meeting

Consider authorizing a Façade Improvement Grant to Darrell Boeselt, 113 North East Street.

Approved a \$10,000 façade improvement grant for Darrell Boeselt for his property at 113 North East Street. The item was unanimously recommended for approval by the Historic Preservation Commission on February 13, 2013, since it is also located in the Downtown Belton Commercial Historic District.

Consider authorizing a Façade Improvement Grant to Ken McWha, 114 East Central Avenue.

Approved a \$8,967.61 façade improvement grant for Ken McWha for his property at 114 East Central Avenue. The item was unanimously recommended for approval by the Historic Preservation Commission on February 13, 2013, since it is also located in the Downtown Belton Commercial Historic District.

Consider authorizing the City Manager to execute an agreement with Kasberg, Patrick & Associates Engineers for professional design services for Flow Monitoring and Preliminary Design Report for Replacement of the Nolan Creek Trunk Sewer.

Authorized the City Manager to execute the agreement with KPA Engineers in the amount of \$149,806, with funding from Water & Sewer capital project funds. The agreement will provide for design services for replacement of the Nolan Creek Trunk Sewer Line, to include a comprehensive assessment of the Nolan Creek Trunk Sewer System (beginning at the BRA lift station), to determine current line capacities and line conditions. Extensive wastewater line flow monitoring and manhole inspection is planned to determine base flow and the extent of inflow and infiltration. Ultimate capacity to accommodate growth will be determined, as well as recommended line alignment, estimated cost, and a phasing plan for line replacement. Professional services for this project total a lump sum fee of \$149,806, and include flow monitoring/data collection (\$106,616), preliminary design (\$31,650), and preparation of the report/exhibits (\$11,540).

Consider award of bid and authorizing the City Manager to execute a contract for Rehabilitation of the 740 and 820 Elevated Water Storage Tanks, and any change orders associated with the contract, not to exceed the amount authorized under state law, and additional funding for the project.

Awarded the bid to A&M Construction and Utilities, Inc. in the amount of \$551,700 for rehabilitation of the 740 and 820 elevated water storage tanks, and authorized the City Manager to execute the related contract and change orders not to exceed the amount authorized by State law. Use of Water & Sewer capital project funds to fund the balance of the project was also approved.

Consider authorizing the Belton Economic Development Corporation to execute a contract with Big Diamond, Inc., for the purchase of property in the Belton Business Park.

Authorized the BEDC to execute the contract for the sale of 1.27 acres to Big Diamond, Inc. at fair market value. The buyer will be required to build a retaining wall on the west side of the site and relocate water and telephone lines currently within existing easements at their expense. The BEDC Board of Directors voted to approve the contract at its meeting on February 21, 2013.

Consider authorizing an agreement with the Texas Department of Transportation (TxDOT) for the temporary closure of state right-of-way related to The Army Marathon to occur in Belton, and consider approval of a resolution related thereto.

Authorized the agreement with TxDOT and approved the resolution captioned below regarding The Army Marathon's 26.2 mile marathon (from Killeen to Temple) to be held on April 21, 2013. TxDOT has requested the agreement and resolution providing for the temporary partial closure of FM 439 (from FM 3219 to FM 2271) and FM 2271 (from FM 439 to FM 2305), as well as a DETOUR route along SH 317.

**RESOLUTION NO. 2013-08**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELTON, TEXAS, AUTHORIZING AN AGREEMENT WITH THE TEXAS DEPARTMENT OF TRANSPORTATION FOR THE TEMPORARY CLOSURE OF STATE RIGHTS-OF-WAY AND EXPRESSING THE CITY'S SUPPORT OF THE ARMY MARATHON, TO BE HELD ON SUNDAY, APRIL 21, 2013.**

Consider an ordinance amending the City of Belton Fee and Rate Schedule.

Approved the ordinance captioned below providing for the following changes to the fee schedule:

- Deleted repeat information regarding Water Heater permit fees.
- Clarified use of Lions Park Softball Field and added permit guidelines for use of this field for recreational/scrimmage play.
- Added clause regarding requirement for off-duty police officer(s) at events at the Harris Community Center where alcohol will be present (page 10).
- Decreased application fee for Historic Preservation Certificate of Appropriateness from \$150 to \$50, given less staff time needed for review (page 19). This item was unanimously recommended for approval by the Historic Preservation Commission at its meeting on February 13th.
- Increased the fee for off-duty police/reserve officers to \$29 per hour minimum, with a two hour minimum, to be more comparable to officers' overtime rate and fees charged by surrounding agencies (page 19).

**ORDINANCE NO. 2013-06**

**AN ORDINANCE AMENDING THE FEE SCHEDULE ESTABLISHING RATES AND FEES FOR CERTAIN ITEMS, SERVICES AND PERMITS PROVIDED FOR IN THE CODE OF ORDINANCES OF THE CITY OF BELTON, TEXAS.**

Consider an ordinance amending Chapter 15 regarding Park Regulations.

Approved the ordinance captioned below, following the Parks Board's unanimous favorable recommendation at its meeting on February 21st, with key changes as follows:

- Extended park hours for those parks with installed, workable lighting;
- Included references to persons with specific physical mobility needs;
- Adjust basic regulations referring to all park facilities versus singling out Heritage Park; and
- Addressed new regulations on permitting policies.

**ORDINANCE NO. 2013-07**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BELTON, TEXAS, AMENDING CHAPTER 15, DIVISION 3 OF THE CODE OF ORDINANCES OF THE CITY OF BELTON REGARDING PARK REGULATIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING AN EFFECTIVE DATE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN OPEN MEETINGS CLAUSE.**

Consider naming a 1.46 acre lot in the Wright Addition, 905 Carla Kay Drive, to Carla Kay Park, east of Muelhouse Street and north of Avenue M.

Approved naming the lot to Carla Kay Park (with appreciation to First Texas Bank for donating the land). The item was unanimously recommended for approval by the Parks Board at its February 21st meeting. City Public Works crews will develop the park.

Miscellaneous

Hold a public hearing and consider an ordinance regarding a zoning change for 0.42 acres of land located on the south side of US Highway 190, approximately 0.18 miles east of George Wilson Road, from Agricultural to Commercial Highway with a Specific Use Permit, for the placement of an electronic changeable copy, off-premise advertising sign.

The Mayor announced this item has been withdrawn.

Hold a public hearing and consider an ordinance regarding a zoning change from Single Family-2 to Single Family-3 for 602 E. 12th Avenue, at the northeast corner of North Blair Street and East 12th Avenue, for the construction of a single family home.

Planning Director Erin Newcomer indicated Brad Turner has recently purchased a lot with an existing home facing E. 12th Avenue, and is proposing to re-plat the lot into two lots to allow for construction of a single family home facing Blair Street to the west. Ms. Newcomer reviewed area zoning and proposed lot sizes and setbacks, and presented photos of existing homes in the neighborhood. She indicated the proposed one-story single family home will be 1,272 square feet with three bedrooms, with the exterior constructed of hardi plank siding to be compatible with surrounding homes.

Ms. Newcomer explained no letters in opposition were received prior to the Planning & Zoning Commission (P&ZC) meeting, but one letter of opposition was received following the meeting. She went on to explain Mr. Turner originally presented an application to the P&ZC in October 2012, which was disapproved due to incompatibility of the first house design to surrounding homes. Ms. Newcomer stated staff recognizes this is a sensitive issue, and worked with the applicant to revise the house design (changed the roof pitch, changed the exterior to hardi plank, and added a front porch and shutters), and staff will have the opportunity for site plan approval. The modified design which is similar to other homes in the neighborhood, was presented during the February P&ZC meeting. She stated there was also discussion at the meeting regarding residents getting their trash back to the alley, and stated Waste Management has indicated residents can put their trash on 12th Avenue or Blair Street, but the alley will remain open and is well utilized. Ms. Newcomer stated the P&ZC recommended approval by a vote of 4-2, and she recommended approval.

The Mayor opened the public hearing. Applicant Brad Turner, 3200 Dunn's Canyon Road, stated he is willing to work with the City and the neighbors to address any concerns. He stated this new construction should appraise between \$105,000-\$120,000, so he doesn't think his project would bring neighboring property values down. Mr. Turner indicated he would like to build this home for his 52-year old sister, and he's willing to do what's needed to get the zoning change approved.

The following spoke in opposition of the request:

- Erin Sims, 603 E. 12th Avenue, stated she bought her home for \$92,000 which is now appraised at \$56,000. She claims this house was zoned SF-2 when Mr. Turner bought the lot, and thinks he should have purchased a different lot instead of cramming another house where one was not designed to be, and cited issues with existing on-street parking.
- Tom Ferstl, 501 E. 13th Avenue, read an email message he had sent to Councilmembers, which expressed his concerns about the alleyway currently used for trash pickup, and he understands the City intends to close the alleyway which will require them to move their trash pickup to 13th Avenue, which is poorly maintained. He also expressed concern with the new home being a rental property, which he believes will make it subject to Section 8 provisions, and cause his property value to suffer.
- Mary Wilhite, 525 E. 13th Avenue, stated she thoroughly agreed with Mr. Ferstl.
- Mildred Williams, 439 E. 13th Avenue, also agreed with the others, and indicated if this request is approved, she might build another house behind her property too.
- Pat Wilson, 606 E. 12th Avenue, stated she will be cramped between four rental houses, and the one on the corner is an eyesore. She is thoroughly against this request, and feels they should be protected. She indicated the applicant hasn't talked to any of the neighbors, and his current renter leaves her trash can along 12th Avenue (instead of the alley).
- Barbara Rhoads, 510 E. 12th Avenue, agreed with comments provided by others, and stated Mr. Turner's current renter doesn't care where her trash ends up and leaves her trash can out, so she assumes this is the type of renter he will have in the new home.

There were no other comments, therefore the Mayor closed the public hearing.

The City Attorney commented about closure of the alley by the City, and the City Manager stated that has not been proposed and isn't under consideration. Councilmember Leigh stated there is no zoning for rental property, and the Council has to determine best use and can't make decisions regarding financial impact of zoning. Mr. Leigh stated though he thinks this zoning request is congruent with surrounding zoning, he cannot support the request given the number of property owners opposed. Councilmember Agan stated though surrounding property owners expressed issues about the current renter, the Council can't base its decision on those comments, and he thinks the request is compatible to the area. Councilmember Carpenter asked how close the nearest home is to the property line, and Ms. Newcomer identified the proposed two lots. Lot 1, containing the existing home, will have a 20' rear yard setback, and Lot 2, containing the proposed home, will have a 5' side yard setback; therefore the homes will be 25' apart.

Mayor Pro Tem Grayson asked if the chain link fence behind the existing home will be the dividing point between the two lots, and Ms. Newcomer indicated that is correct. Ms. Grayson stated she feels the proposed house would fit in the neighborhood, especially since the applicant changed the design to be more compatible, and she thinks the lot can be split for this purpose. Councilmember Pearson agreed that it would be congruent and would not affect the alleyway, and though he is troubled by the amount of opposition, there are no existing regulations that prohibit it. Mr. Pearson asked Mr. Turner if he would be willing to install a privacy fence in the backyard of the new house, and Mr. Turner indicated he would be glad to install a fence or landscaping as the neighboring property owner would like.

Councilmember Pearson asked how much parking will be available, and Ms. Newcomer indicated the new home will have a two-car garage and a 20' long driveway built to code. The Mayor stated the Council can't try to control property rights, and though he is troubled by the number of people opposed, he fears the Council would be telling Mr. Turner what he can do with his property. The Mayor recommended the property owners meet with Mr. Turner, but since he wants to add a single family house in a single family zoning district, he believes it's an appropriate use for the property. Councilmember Carpenter stated nobody likes to vote against groups in opposition, but this request fits all the legal requirements, and he thinks that's what the Council has to do. The Mayor stated according to law, the Council can never consider property values in a decision for rezoning.

Councilmember Pearson made a motion to approve the request as presented. The motion was seconded by Councilmember Agan, and the following captioned

ordinance was approved by a vote of 6-1, with Councilmember Leigh voting in opposition:

**ORDINANCE NO. 2013-08**

**AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF BELTON BY CHANGING THE DESCRIBED DISTRICT FROM SINGLE FAMILY-2 ZONING DISTRICT TO SINGLE FAMILY-3 ZONING DISTRICT FOR THE CONSTRUCTION OF A SINGLE FAMILY HOME, WITH DEVELOPMENT TO BE REGULATED UNDER TYPE AREA 6 DESIGN STANDARDS.**

Consider a request from W&B Development, Ltd., to extend the Preliminary Subdivision Plat validity six months for Three Creeks Subdivision, formally known as La Cchette, an approximately 540-acre tract of land, located generally east of FM 1670 and south of US Highway 190, and adjacent to the north bank of the Lampasas River, located in Belton's Extra Territorial Jurisdiction (ETJ).

Planning Director Erin Newcomer explained staff is currently reviewing the final plat submittal for Three Creeks Subdivision (formally known as La Cchette, a major residential subdivision, proposed as an out-of-city Municipal Utility District). She indicated according to the City's Subdivision Ordinance regarding Preliminary Plat Review, approval or conditional approval by the P&ZC shall be valid for 12 months from the action date by the Commission, and if a Final Plat is not submitted within that time frame, the Preliminary Plat will become null and void. Ms. Newcomer stated this Preliminary Plat was approved by the P&ZC on February 21, 2012 and by the Council on February 28, 2012, and due to all of the review elements, more time is needed for staff and the engineer to discuss this complex subdivision. The developer has submitted a request for a six-month extension of the validity of the Preliminary Subdivision Plat, which can be granted for a specific period of time. She explained the extension will allow staff to meet with the engineer to ensure the Final Plat is ready for presentation to the Commission and City Council. Ms. Newcomer stated the P&ZC recommended approval unanimously by a vote of 6-0, and she concurred, recommending approval of extending the Preliminary Subdivision Plat to August 26, 2013.

Mayor Pro Tem Grayson confirmed that nothing is changing, and the developer just needs more time, and Ms. Newcomer indicated that is correct. Councilmember Pearson asked if the developer is moving dirt yet, and she indicated they are not. Ms. Newcomer read an email from Garrett Nordyke, WB Development, requesting postponement of the plat for one cycle. Mr. Listi stated this is an extremely complicated subdivision, and staff hopes to bring the Final Plat to the P&ZC and Council in March.

Mayor Pro Tem Grayson made a motion to approve the plat extension as recommended. The motion was seconded by Councilmember Minosky and carried unanimously.

Consider a resolution authorizing execution of an Advance Funding Agreement with the Texas Department of Transportation for participation in an Off-System Bridge Replacement project for the Toll Bridge Road Bridge at the Lampasas River, and approving the City's cost share associated with the project.

The City Manager gave an overview of the history of this bridge and the status of the bridge replacement project, which is possible through the Texas Department of Transportation's (TxDOT's) bridge replacement program, with an estimated total cost of \$1.5M. He indicated the City would be responsible for the following:

1. Contribution of 10% cash match, amounting to \$155,000. Match may be satisfied by funding a local project approved by TxDOT, and they have approved the Connell Street Drainage Improvements Project (between US Highway 190 and Loop 121), at a local cost of \$200,000, exceeding the City's match requirement.
2. Following TxDOT's design, the City will be responsible for right-of-way (ROW) acquisition and utility relocation, if any.

Mr. Listi reviewed the following key reasons why the project is needed:

- To provide north-south traffic circulation along a two-way street, located parallel to the future one-way frontage road, adjacent to IH-35;

- To facilitate emergency response by Police and Fire personnel;
  - 1.6 miles from bridge to Shanklin Road @ IH-35
  - 0.5 mile from bridge to Elmer King @ IH-35
- To provide traffic circulation for future development in this important South Belton IH-35 corridor;
- To take advantage of currently available funding through TxDOT's bridge replacement program - 90% federal funds, requiring only a 10% local match;
- Since funding may not be available indefinitely, TxDOT seeks the City's commitment for project scheduling currently scheduled for construction by TxDOT in FY 2014; and
- To leverage the City's local match, as Belton's match can be spent on another City project, leveraging local funds through TxDOT's Equivalent Match Program.

The City Manager reviewed maps of the bridge project and the proposed drainage improvements project. He recommended approval of the City's participation in the bridge replacement program, and the funding commitment identified below:

\$200,000	Connell Street Drainage Project – Drainage Fund
<u>\$100,000</u>	ROW/Utility Costs – TIRZ Fund
<b>\$300,000</b>	<b>Total Estimated Local Costs</b>

Byron Gilchrest, 6498 Toll Bridge Road, presented the City Council an original petition signed by 98% of property owners (36 signatures) along Toll Bridge Road, who are opposed to this project. Mr. Gilchrest read the points outlined in the petition, generally as follows:

- City is acting against property owner wishes;
- Proposed bridge will limit access to owners' property near the bridge site;
- Proposed bridge will be wider than the current road;
- Damage to the road will occur if it's opened to large vehicles;
- Property values will diminish and large oak trees will be lost;
- Possible contamination of source drinking water;
- They believe there are other options available to the City (land along IH-35 easement that can be utilized if additional capacity and rerouting of IH-35 is needed);
- Rerouting traffic through a residential neighborhood is irresponsible and dangerous; and
- Project will diminish habitat for endangered, threatened and rare species currently residing near the proposed site (American bald eagle, Mexican long nose bat, horned toad, beaver and river otter).

Comments from other residents were as follows:

- Kathy Cantu, 6586 Toll Bridge Road, agreed with the comments provided by Mr. Gilchrest.
- Carolyn Southerland, 6546 Toll Bridge Road, agreed with the others, and stated they need help with traffic control in their area. She thinks if the bridge is replaced and opened up, they won't be able to get out of their driveways.
- Gregory Trader, 6501 Toll Bridge Road, stated the City Manager took a poll of residents along the road after the bridge fell, and nobody was interested in replacing it. At that time, Mr. Listi had suggested a hike or bike trail be constructed in its place. Mr. Trader stated in the past, Toll Bridge Road had been used as a means to 'get around' congestion or traffic issues along IH-35. He doesn't see how this project will benefit the remaining citizens of Belton, and would rather see public safety vehicles utilize IH-35 and not a 35 mph road to access residents.
- The City Manager asked the City Clerk to read comments received by Ann Utley, 6101 Toll Bridge Road (via email), expressing support of the project. Mr. Gilchrist interjected Ms. Utley does not reside in Bell County.

The City Manager reiterated the staff's recommendation to proceed with the project. The bridge existed many years before its demise and its replacement is important to circulation. He explained after the bridge was destroyed, there was some initial conversation about whether the bridge was needed, but there was also no funding available at the time and no construction along IH-35. Given the funding opportunity from TxDOT and ongoing widening of IH-35, staff believes the project is warranted.

Mr. Trader commented about the Council being stewards of not only the City's tax dollars, but also the State's tax dollars, and given the present economy, he doesn't think it's a good use of those funds. The Mayor thanked Mr. Trader for his comments and clarified these are Federal funds, and asked the City Council for their comments.

Councilmember Minosky stated the bridge was there before and he thinks its replacement is best for the growth in Belton, especially since funding is now available.

Councilmember Carpenter asked about environmental issues, and the City Manager stated the City will comply with environmental studies in conjunction with design work and ROW acquisition. He added, the City is closer to getting information regarding driveways, trees, etc. from limited survey work, but additional survey, design and environmental work can't proceed to the next level until the advance funding agreement is executed. Councilmember Minosky asked if the City can back out of the project once the agreement is approved, and Mr. Listi stated though the City may have that opportunity, he believes TxDOT wants a serious commitment in terms of funding, etc., and encouraged the Council to not take this step if in doubt. The City Attorney stated he believes approval of this agreement is a commitment by the City. Councilmember Leigh stated the reality is that the Council has to look at the welfare and greater good for all citizens balanced with property rights. He agrees there needs to be access north-south (road parallel to major thoroughfare), and believes when IH-35 is shut down, there is no easy way to get to this area. Mr. Leigh stated since a bridge was there before, he believes it needs to be there again. Following repeated interruptions by Mr. Trader during the Council's deliberation, the Mayor asked the Police Chief to escort Mr. Trader from the meeting room.

Upon motion by Councilmember Agan, seconded by Councilmember Carpenter, the Council unanimously approved the following captioned resolution:

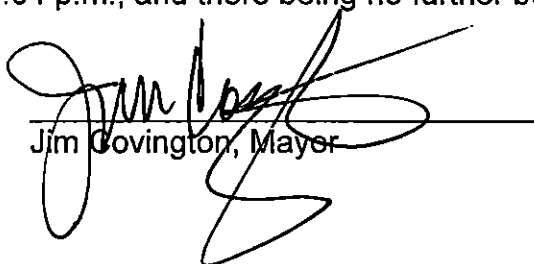
**RESOLUTION NO. 2013-09**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELTON, TEXAS, AUTHORIZING EXECUTION OF AN ADVANCE FUNDING AGREEMENT WITH THE TEXAS DEPARTMENT OF TRANSPORTATION FOR PARTICIPATION IN AN OFF-SYSTEM BRIDGE REPLACEMENT PROJECT; COMMITTING THE CITY'S COST SHARE ASSOCIATED WITH THE PROJECT(S); AUTHORIZING THE CITY MANAGER TO ACT AS THE CITY'S AUTHORIZED REPRESENTATIVE IN ALL MATTERS PERTAINING THERETO; AND AUTHORIZING AN EQUIVALENT-MATCH PROJECT IN RETURN FOR A WAIVER OF THE CITY'S LOCAL MATCH FUND PARTICIPATION REQUIREMENT.**


At 6:50 p.m., the Mayor announced the Council would go into executive session and closed the meeting.

Executive Session pursuant to the provisions of the Texas Open Meetings Act, Chapter 551, Govt. Code, Vernon's Texas Codes Annotated, in accordance with the authority contained in Section 551.072, to discuss real estate transaction(s).

The meeting was reopened at 7:04 p.m., and there being no further business, the meeting was adjourned.

  
Jim Covington, Mayor

ATTEST:

  
Connie Torres, City Clerk