

**BELTON CITY COUNCIL MEETING
JANUARY 26, 2010**

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, and John Agan. Councilmember Clifton Peters was absent. Staff present were John Messer, Sam Listi, Connie Torres, Cristy Daniell, Fred Morris, Les Hallbauer, Gene Ellis, Bruce Pritchard, Jerri Gauntt, and Kim Kroll.

The Pledge of Allegiance to the U.S. Flag was led by Development Services Director Fred Morris, the Pledge of Allegiance to the Texas Flag was led by Councilmember Wayne Carpenter, and the Invocation was given by Dr. Bill Muske, Director of Church Relations for the University of Mary Hardin-Baylor.

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

Public comments.

Kimberly Patterson, 18671 Irvin, Gatesville, extended an invitation to the City Council for recognition at Community Appreciation Night during the Belton High School Varsity Boys' opening soccer game, Friday, January 29, 2010 at 7:00 p.m.

Beverly Drake, 520 Stiles Drive, read a statement about traffic and safety concerns, and the lack of sidewalks along Loop 121 near the High School. The Mayor commented the City is participating in the Safe Routes to Schools Program, and hopes to have sidewalks added in the future.

Karen Albright, 1207 Brazos Street, stated she was not provided clear running water during a two week period, and the City Manager indicated she would not receive a credit for that time period. Ms. Albright also stated the City Manager left a dead animal on the road for over two weeks, which has happened before.

Presentation of Proclamation formalizing the City's partnership with the 15th Sustainment Brigade, 13th Sustainment Command Expeditionary.

The Mayor welcomed Mrs. Lisa Phelps (spouse of LTC Larry Phelps, Commander of the 15th Sustainment Brigade), Rear Detachment Commander LTC Eva Saiz, SGM Kendra Wallace, Specialist Householder, and CPL Jessica Auger, Public Affairs Officer. Mayor Covington read the proclamation, and he and Mayor Pro Tem Grayson presented the representatives of the 15th Sustainment Brigade, with the following items in recognition of the partnership:

- An engraved brick to be placed in the City's Patriot Way Brickwalk;
- Indicated a tree will be planted in Heritage Park in Spring 2010, with a monument to pay tribute to the Brigade; and
- A sign labeled "Wagonmaster Way", which will be placed on the covered wagon in Yettie Polk Park, with plans to erect a story board to share the Brigade's story with park visitors for years to come.

Presentations by the Belton Police Department:

A. Officer of the Quarter Award for 4th Quarter 2009 – Police Chief Gene Ellis presented the Officer of the Quarter Award for the 4th Quarter 2009 to Detective Richard Murray for his dedication and attention to detail as custodian of property and evidence for the Police Department.

B. Officer/Employee of the Year for 2009 – Chief Ellis presented the Officer/Employee of the Year Award for 2009 to Pam Brandon for outstanding performance that frequently involved her going above and beyond her normal duties.

Consent Agenda

Councilmember Leigh made a motion to approve the consent agenda as presented. The motion was seconded by Councilmember Pearson, and the following items were unanimously approved:

Consider a resolution ordering the General Election to be held on May 8, 2010.

Approved the resolution captioned below ordering the general election to be held on May 8, 2010, to elect a Mayor and two persons to serve on the City Council, each to serve two year terms:

RESOLUTION NO. 2010-03

A RESOLUTION CALLING AND ORDERING A GENERAL ELECTION TO BE HELD ON MAY 8, 2010 AND ESTABLISHING PROCEDURES THEREOF.

Conduct annual review of City Investment Policy and consider adoption of resolution attesting to review thereof.

Approved the resolution captioned below providing for annual review of the investment policy, with a minor change on page 9 (deletion of Collateralized Mortgage Obligations from the list of allowable collateral). The rest of the policy remained unchanged.

RESOLUTION NO. 2010-04

A RESOLUTION ATTESTING TO CITY COUNCIL REVIEW OF THE INVESTMENT POLICY OF THE CITY OF BELTON, TEXAS.

Consider a resolution declaring that the updated January 1, 2010 population of the City of Belton is 19,439.

Approved the resolution captioned below declaring an updated population for the City of Belton to be 19,439, up from 18,893 declared in 2009. (The estimate was developed utilizing data available from the U.S. Census Bureau, combined with building permit and annexation data. The base year 2000 Census population was used, and new construction and demolitions accounted for from 2000 to present. A total dwelling unit count, and an occupied unit count was determined, and an average persons per household multiplier applied. The appropriate vacancy rate was also utilized.)

RESOLUTION NO. 2010-05

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELTON, TEXAS, FINDING THAT THERE ARE 19,439 RESIDENTS WITHIN THE CORPORATE LIMITS OF THE CITY OF BELTON AND PROVIDING AN OPEN MEETING CLAUSE.

Miscellaneous

Case No. P-10-01 Hold a public hearing and consider an ordinance amending the zoning of 2604 S. IH-35, a .959 acre tract of land out of the M. F. Connell Survey, from Commercial Highway to Office-2 with a Specific Use Permit, to allow a bail bond office.

Development Services Director Fred Morris explained Kevin Edwards has proposed rezoning of this tract to allow operation of a bail bond office, and gave an overview of the proposal. He indicated staff recommended approval of the request, and the Planning & Zoning Commission (P&ZC) recommended approval 7-0 at its meeting on January 19, 2010. He noted the Commission recommended outside storage is allowable in the area to the rear of the building.

Councilmember Agan asked about screening, and Mr. Morris pointed out there is a very heavy tree line along the rear of the property that separates properties to the east, and adjoining property is zoned Commercial Highway/Commercial. He indicated it wouldn't be inappropriate to require fencing or screening, as these businesses sometimes acquire boats/vehicles as collateral. Councilmember Pearson agreed with the need to provide screening in an attempt to keep that entrance into the City looking as clean as possible.

The Mayor opened the public hearing, and applicant Kevin Edwards gave an overview of his request, and indicated he has no problem with providing fencing or screening, and requested favorable consideration. There were no other comments, therefore the hearing was closed.

Councilmember Leigh expressed concern with the use of real estate along IH-35 for businesses such as bail bond operations. Mayor Pro Tem Grayson made a motion to approve the ordinance with the addition that adequate fencing/screening be provided to prevent items from being seen from IH-35. The motion was seconded by Councilmember Carpenter, and the following captioned ordinance was approved by a vote of 5-1, with Councilmember Leigh opposed:

ORDINANCE NO. 2010-01

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF BELTON BY CHANGING THE DESCRIBED DISTRICT FROM COMMERCIAL HIGHWAY ZONING DISTRICT TO OFFICE-2 ZONING DISTRICT WITH A SPECIFIC USE PERMIT TO ALLOW A BAIL BOND OFFICE.

Case No. P-10-02 Hold a public hearing and consider an ordinance amending the zoning of 603 N. IH-35, a .605 acre tract of land, A0020BC O. T. Tyler, 9, also known as Lot B, Block 203, from Commercial-1 to Commercial-1 with a Specific Use Permit, to allow an auto repair/used car sales business.

Mr. Morris explained applicant Phillip Sueoka is attempting to remedy longstanding code enforcement issues, relating to the sale of vehicles from the site. He has been cited several times for unauthorized used car sales, and claims he is not selling used cars, but reselling vehicles after he has filed a mechanics lien for lack of payment, in accordance with state law. Mr. Sueoka claims this is his only method to recoup parts and labor when not paid for services. Mr. Morris indicated staff recommended approval of the request, and the P&ZC voted 4-2-1 to approve the request with the following conditions applied to the SUP:

1. The sale of vehicles only applies to the sale of repaired vehicles subject to a valid mechanics lien;
2. The maximum number of vehicles displayed for sale on site shall not exceed 15 (increased from staff's recommendation of 10); and
3. All vehicles shall be in operable, working condition. Inoperable vehicles are prohibited.

Mr. Morris added any future development/redevelopment will have to conform to the City's Design Standards. The Mayor opened the public hearing and there were no comments for or against, therefore the hearing was closed.

Councilmember Leigh asked if the fenced yard along the river on the northeast side, is part of this property, and Mr. Morris indicated it is. Mr. Leigh asked if that area is supposed to be screened, and Mr. Morris indicated the interpretation and application of screening requirements are new, and though the applicant has been in this location for years, the Council can add conditions. Mr. Leigh stated the existing screening is chain linked fence, and expressed concern of mangled up vehicles outside the screened area. Mr. Sueoka emphasized that if the area is screened totally, theft and vandalism will become a big problem for him. Councilmember Leigh asked how many cars are currently on site and how many vehicles are allowed under the current zoning. Mr. Sueoka replied he has 10 cars now, and Mr. Morris indicated none are allowed. Mr. Leigh then expressed concern over creating a situation that will be difficult to enforce, as it has in the past, and possibly made worse. The City Attorney stated it's not unreasonable to require Mr. Sueoka to keep a copy of titles in glove compartments available for code enforcement inspections. The Mayor stated he believes if used cars are being sold, the establishment needs to comply with the same regulations as other used car sales businesses.

Mr. Sueoka stated the law has changed and vehicles have to be removed within 30 days. Mayor Pro Tem Grayson asked how long it will take to delete the current inventory, and the applicant didn't have a firm answer. After lengthy discussion and a variety of suggested solutions to the applicant, Councilmember Leigh made a motion to table the item until the City Council meeting on March 23, 2010, at which time a report on the applicant's progress of removal of vehicles, will be presented. The motion was seconded by Councilmember Pearson and carried unanimously. Councilmember Leigh also requested staff look into the idea that screening property creates a potential environment for theft, based on the comment by Mr. Sueoka.

Case No. P-10-03 Hold a public hearing and consider an ordinance amending the zoning of Block 1, Belton Business Park, Phase I, Belton, a 25-acre tract of land with frontage on Loop 121 and US Highway 190, from Light Industrial to Planned Development Commercial-1, to allow mixed use development.

Mr. Morris explained the Belton Economic Development Corporation (BEDC) is proactively working to insure Belton achieves realistic non-residential expansion goals, and has requested a zoning change in the Belton Business Park from Light Industrial to Planned Development Commercial-1. The BEDC studied several design scenarios and is moving forward with a 24.7 acre Concept Plan that provides opportunities for Office Warehousing, Commercial/Retail, Medical Research, Medical Office Condos and a Hotel site. He reviewed the Concept Plan for the 24.7 acre tract located at the corner of Loop 121/US 190, which he indicated reflects land uses that could reasonably be expected to find

access and visibility benefits from the location. Mr. Morris stated staff recommended approval of the request, and the P&ZC voted to recommend approval 7-0. Applicant Tommy Baker, BEDC Executive Director, was present to answer any questions.

The Mayor opened the public hearing. There were no comments for or against the request, therefore the hearing was closed. Several Councilmembers praised the BEDC for their thorough long range planning. Upon motion by Councilmember Pearson, seconded by Councilmember Carpenter, the following captioned ordinance was unanimously approved:

ORDINANCE NO. 2010-02

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF BELTON BY CHANGING THE DESCRIBED DISTRICT FROM LIGHT INDUSTRIAL ZONING DISTRICT TO PLANNED DEVELOPMENT COMMERCIAL-1 ZONING DISTRICT, TO ALLOW MIXED USE DEVELOPMENT.

Consider action regarding Petition and Request by Bruce Whitis for the creation of a Municipal Utility District to serve 540 acres located east of FM 1670.

The City Manager indicated the City has been working on the Whitis development proposal for over two years. The initial MUD petition and request was disapproved by the Council on October 13, 2009, based on incomplete information. The Developer resubmitted the petition and request on October 19, 2009, and following financial analysis by the Developer and the City's Financial Advisor, the Council held another work session on January 12, 2010. Mr. Listi reviewed the items below which summarized the input received at that work session:

- The Council opposed creation of an out-of-city MUD within Belton's ETJ and CCN.
- The Council indicated its willingness to make available connection to the City's water and wastewater infrastructure, conditioned on application of all City standards.
- The Council agreed to consider cost sharing for off site utility extensions and utility oversizing in accordance with City standards and policies.
- The Council expressed the attitude this property should be developed inside the City limits, and supported annexation in an appropriate timeframe.
- The Council concurred that a General Development Plan should be resubmitted for P&ZC consideration, in compliance with all requirements.
- The Council indicated the Design Standards, adopted in August 2009, are applicable here when developed.
- The Council expressed consistent support for application of the City's Thoroughfare Plan and Subdivision Standards, including extension of an arterial street in an appropriate location to serve this development, located between FM 1670 and IH 35.

Following consultation with the City's legal counsel, Barney Knight, the City Manager recommended the Council disapprove the MUD petition and request dated October 19, 2009, while expressing a willingness to explore a Development Agreement with the Developer.

Garrett Nordyke, WB Development, 3000 Illinois Avenue, Killeen, thanked the Council for its continued negotiation, and indicated they are putting together a comprehensive proposal in an attempt to find a realistic agreement. Attorney Barney Knight stated he believes this project has great promise for the Belton community, but the issue of a MUD/Development Agreement is a community decision. He hopes discussions continue, and though he believes the City could win a potential challenge if it stays the course, he pointed out that the City should plan on spending at least \$250,000 over a 3-4 year period if it chooses to litigate and is determined to win. Otherwise, he believes there are many ways to create an attractive development that doesn't involve a MUD. The Mayor expressed his desire to reach an agreement that satisfies the City and the Developer, and Mr. Nordyke concurred.

Councilmember Pearson made a motion to formally deny the petition and request to the City of Belton for creation of a Municipal Utility District. The motion was seconded by Councilmember Carpenter and carried unanimously.

Councilmember Agan then made the motion that the City Council formally confirm the prior commitments made by the City to Bruce Whitis and Whitis Land Investment/Management as follows:

1. The City will make available connection to its water and wastewater services to the land proposed for this development;
2. The City will enter into an agreement with the Developer, conditioned the land will be developed in compliance with all applicable City standards, ordinances, and policies;
3. The Developer will design and construct water and wastewater systems and lines necessary to serve the

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development in compliance with all applicable City Ordinances; and

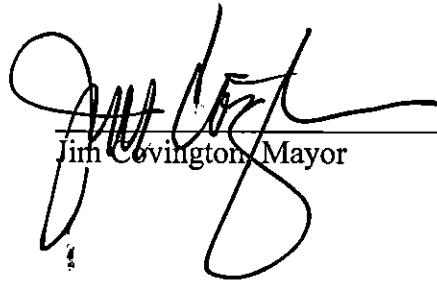
4. The City will consider participation in off-site extension costs and oversizing line sizes for water and wastewater utilities needed to serve the development, in accordance with the City of Belton Utilities Code, Chapter 23, at the discretion of the Belton City Council.

The motion was seconded by Councilmember Leigh and carried unanimously.

At 6:50 p.m. the Mayor recessed the meeting. At 7:03 p.m. the Mayor announced the Council would go into executive session and closed the meeting.


Executive Session pursuant to the provision of the Open Meetings Law, Chapter 551, Govt. Code, Vernon's Texas Codes Annotated, in accordance with the authority contained in Section 551.074, to conduct an evaluation of the City Manager's performance.

At 7:46 p.m. the Mayor opened the meeting and there being no further business, the meeting was adjourned.



Jim Covington, Mayor

ATTEST:



Connie Torres, City Clerk