

**BELTON CITY COUNCIL MEETING
JUNE 24, 2014**

The Belton City Council met in regular session with the following members present: Mayor Marion Grayson, Mayor Pro Tem David K. Leigh, Councilmembers Jerri Gauntt, Dan Kirkley, Craig Pearson, Guy O'Banion, and Paul Sanderford. Staff present included John Messer, Sam Listi, Jana Faucett, Brandon Bozon, Gene Ellis, Francisco Corona, Mike Huber, Byron Sinclair, Erin Newcomer, Denny Lassetter, Charlotte Walker, Matt Bates, Paul Romer and Aaron Harris.

The Pledge of Allegiance to the U.S. Flag was led by Grants/Special Projects Coordinator Aaron Harris, the Pledge of Allegiance to the Texas Flag was led by Mayor Pro Tem David K. Leigh, and the Invocation was given by Pastor Pat Munoz, Hispanic Mission Church of First Baptist Church, Belton, Texas.

1. Call to Order: The Mayor called the meeting to order at 5:35 p.m.
2. Public Comments. None.

Consent Agenda

Councilmember Gauntt requested item 5 be removed from Consent Agenda. Upon motion by Mayor Pro Tem Leigh and seconded by Councilmember Pearson, items 3 and 4 were unanimously approved.

3. Minutes of previous meetings. Minutes were approved as presented.

June 10, 2014 Regular Meeting

4. Consider an application nominating the City's candidate to serve on the Regional Review Committee. Appointed Councilmember Craig Pearson to serve on the Regional Review Committee.
5. Consider a resolution authorizing the City Manager to take all steps needed to purchase 17 iPads, iPad cases, and Apple protection plans as well as enter into a two year agreement with Verizon Wireless to provide data service for the iPads.

Councilmember Gauntt asked for clarification regarding the number of iPads to be purchased. IT Director Denny Lassetter stated per Council's direction at the June 10, 2014 Work Session, iPads would be purchased for Department Heads as well. Mayor Pro Tem Leigh asked about the proposed cost regarding the monthly data plan, and requested Mr. Lassetter look in to alternative options with reduced pricing. Upon motion Councilmember Gauntt and

seconded by Councilmember Kirkley, the following resolution was unanimously approved as outlined in the caption below:

RESOLUTION NO. 2014-24-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELTON, TEXAS, AUTHORIZING THE CITY MANAGER TO TAKE ALL STEPS NEEDED TO PURCHASE OF SEVENTEEN IPADS, IPAD CASES, AND APPLE PROTECTION PLAN; AND ENTER INTO A TWO YEAR AGREEMENT WITH VERIZON WIRELESS TO PROVIDE DATA SERVICE FOR THE IPADS.

Planning and Development

6. Hold a public hearing and consider an ordinance authorizing a zoning change from Agricultural to Planned Development Single Family-3 District on a 9.093 acre tract of land located on the north side of East Loop 121, 0.20 miles east of South Interstate Highway 35.

Planning Director Erin Newcomer provided a brief overview of the request and reviewed area zoning. The applicant has submitted this request for a zone change from Agricultural to Planned Development Single Family-3 to allow for a residential subdivision on the northeast corner of South Wall Street and East Loop 121.

Ms. Newcomer stated the P&ZC voted to unanimously approve this zone change at its June 17th meeting and recommended approval of zone change from Agricultural to Planned Development Single Family-3 District with development regulated under the Design Standards for Type Area 11 standards as follows:

1. The allowable uses of the property shall conform to the Single Family-3 Zoning District in all respects, except the front yard setback shall be a minimum of 20', instead of the required 25' minimum front yard setback.
2. The development of the property shall conform to all applicable Type Area 11 Design Standards, as identified in Ordinance 2014-17, Section 7.1 of the Zoning Ordinance, including:
 - a. Site Development Standards discussed above
 - b. Building Design Standards
 - c. Landscape Design Standards
3. Sign Standards shall conform to Ordinance 2008-11.
4. Subdivision plat is required.

Mayor Grayson opened the public hearing. There being no questions or comments the public hearing was closed. Mayor Pro Tem Leigh made a motion to approve the ordinance as presented. The motion was seconded by Councilmember Pearson and carried by a vote of 6-0 with Councilmember Sanderford abstaining. The following captioned ordinance was adopted:

ORDINANCE NO. 2014-20

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF BELTON BY CHANGING THE DESCRIBED DISTRICT FROM AGRICULTURAL ZONING DISTRICT TO PLANNED DEVELOPMENT SINGLE FAMILY-3 ZONING DISTRICT, WITH DEVELOPMENT TO BE REGULATED UNDER TYPE AREA 11 DESIGN STANDARDS.

7. Consider a preliminary plat for Bella Rose Subdivision, a 9.093 acre tract of land located on the north side of East Loop 121, 0.20 miles east of South Interstate Highway 35.

Planning Director Erin Newcomer presented an overview of this item and stated this is a 36-lot subdivision proposed for single family residential development.

Ms. Newcomer indicated the P&ZC voted unanimously to recommend approval of the preliminary plat at its June 17th meeting and recommended approval of a preliminary plat for Bella Rose Subdivision, a 9.08 acre tract, located on the north side of East Loop 121, 0.20 miles east of South Interstate Highway 35, subject to conditions contained in the letter to the applicant's engineer dated June 2, 2014.

Councilmember Gauntt asked why no sidewalks were presented along Loop 121. Ms. Newcomer indicated this was a major arterial, and TxDOT has requested a 5 foot non-access easement in the rear portion of these lots. Ms. Newcomer indicated with TxDOT's request, as well as traffic along the Loop, this was not a requirement.

Councilmember Kirkley made a motion to approve the preliminary plat as presented. The motion was seconded by Councilmember Gauntt and carried by a vote of 6-0 with Councilmember Sanderford abstaining.

8. Consider a revised preliminary plat for Chisholm Trail West Subdivision, a 59.56 acre tract, located on the west side of Wheat Road, east of Boxer Road, and north of the US Highway 190.

Planning Director Erin Newcomer presented an overview of this item and stated this is a 182-lot subdivision proposed for single family homes.

Ms. Newcomer indicated the P&ZC voted unanimously to recommend approval of the revised preliminary plat at its June 17th meeting and recommended conditional approval of a revised preliminary plat for Chisholm Trail West Subdivision, subject to providing a direct and improved street connection to Boxer Road prior to final plat consideration and remaining technical items stated in the letter to the applicant's engineer dated June 2, 2014.

Councilmember Kirkley commended staff and the developers for coming to a resolution benefiting all those involved including the citizens of Belton.

Mayor Pro Tem Leigh questioned the requirement placed on the developer to provide a second means of egress without the authority to enforce this. City Manager Sam Listi indicated the developer and the property owner, as well as Bell County, are all on board with working together to satisfy this requirement. Ms. Listi stated prior to final plat approval, we would ask the developer to demonstrate this connection has been satisfied. City Attorney John Messer stated it is incumbent on the developer to build the second means of egress on the County's right-of-way, and we are approving the plat conditionally with the final plat only being approved when this requirement is satisfied. Councilmember O'Banion asked why it was the developer's responsibility to make a second means of egress on property they have no control over. Mr. Messer indicated the developer will have to work with the County to satisfy this obligation and also meet our specifications prior to final approval.

Councilmember O'Banion noted as indicated in the the staff report, Council disapproved the former preliminary plat recommendation by the Planning & Zoning Commission in April, 2014. Councilmember O'Banion noted he was serving on the Planning and Zoning Commission during this time, and this recommendation was given contingent upon the technical issues being resolved. Ms. Newcomer indicated this information was stated at the Work Session conducted on April 22, 2014. City Manager Sam Listi stated the Planning and Zoning Commission approved the preliminary plat conditionally contingent upon the technical items be resolved. Mr. Listi stated it was Councils' judgment the plat was not in appropriate form for approval because of these items, therefore, recommending disapproval.

Councilmember Gauntt asked should Council decide to approve or not approve this preliminary plat, will the applicant then move forward with a request for annexation? Ms. Newcomer indicated the petition for annexation has been submitted, and will be moving forward with this process. Councilmember Gauntt asked would it be during this process the City will decide should we provide them with water and sewer, and could this process

be better explained. Ms. Newcomer stated the annexation will come first, and then it will be known to the developer during the design process should we decide to provide water and sewer, and finally the rezoning will occur. Mayor Pro Tem Leigh asked how many feet the City would pay for the extension. Ms. Newcomer stated the City could pay for up to 100 feet of water or sewer according to the Code of Ordinance subject to available funding. Councilmember Gauntt asked would the current taxpayers be responsible for this proposed future infrastructure? Mr. Listi stated the developer would fund everything internally to serve this development with the exception of possible oversizing of utility lines.

Councilmember Pearson questioned high speed internet and the lack of response from Time Warner Cable. Ms. Newcomer stated staff met with Time Warner yesterday and highly encouraged them to look at this subdivision plat.

Councilmember O'Banion concurred with Councilmember Kirkley's earlier comments, commended the developer and staff for working through the technical issues, and fully supports the spirit of these negotiations going forward.

Councilmember Kirkley made a motion to approve the revised preliminary plat as presented. The motion was seconded by Councilmember O'Banion and carried by a vote of 6-0 with Councilmember Sanderford abstaining.

9. Consider an interpretation of Section 18, Office-2 District and Section 20, Neighborhood Service District in accordance with Section 44, Classification of New and Unlisted Uses, of the Zoning Ordinance.

Planning Director Erin Newcomer provided an overview of this item and stated City staff is referring an interpretation question for clarification of Zoning Ordinance requirements that have been unclear for both staff and the public.

Ms. Newcomer provided a brief summary of the interpretations and stated the P&ZC voted unanimously to recommend approval of the interpretations at its June 17th meeting, and recommended approval of an interpretation of Section 18, Office-2 District and Section 20, Neighborhood Service District in accordance with Section 44, Classification of New and Unlisted Uses, of the Zoning Ordinance.

Mayor Pro Tem Leigh made a motion to approve interpretations as presented. The motion was seconded by Councilmember Kirkley and carried unanimously.

10. Consider a request by Turley and Associates, representing Nolan Creek Development GP, LLC, to provide on-site septic systems in lieu of sanitary

sewer, for a proposed subdivision known as Creekside Estates, located on the northwest corner of Loop 121 and FM 93.

Planning Director Erin Newcomer presented this item to Council and stated this preliminary plat, now referred to as Creekside Estates, was approved by the Planning and Zoning Commission and City Council in November 2013 with anticipation of sanitary sewer serving this proposed subdivision.

Ms. Newcomer stated Turley and Associates submitted a letter requesting the City Council consider the use of on-site septic systems in lieu of sanitary sewer for this 22-lot subdivision, proposed as Creekside Estates, and provided a brief summary of the project issues.

Ms. Newcomer provided a brief overview of the current City of Belton Code of Ordinances, Chapter 23-2 Connections. Ms. Newcomer stated at the Planning and Zoning Commission meeting on May 20th, City staff recommended that this proposed subdivision should be served by sanitary sewer and the Homeowner's Association should be responsible for ownership/maintenance of the lift station. Ms. Newcomer stated staff recommended that the City of Belton extend the sanitary sewer 100 feet, totaling an estimated cost of \$15,000. The Planning and Zoning Commission expressed concern with a 22-lot subdivision supporting a lift station and the continued maintenance it requires. Ms. Newcomer stated the Commission unanimously recommended conditional approval of the variance request to allow septic tanks, while recommending the City Council to take a hard look at a feasible alternative to get City sanitary services there. It was the consensus of the Planning and Zoning Commission that this development should be served by City sewer if at all possible. City staff requested a detailed cost estimate of the sewer costs to complete an analysis and determine reasonable options. Ms. Newcomer recommend disapproval of a request by Turley and Associates, representing Nolan Creek Development GP, LLC, to provide on-site septic systems in lieu of sanitary sewer, for a proposed subdivision known as Creekside Estates, and requirement for connection to, and extension of, the City's sanitary sewer system, with the revised elements provided and a development agreement indicating City cost share up to the amounts indicated, subject to project bidding.

Mayor Pro Tem Leigh asked if the sewer line is going to be extended, could areas to the west potentially tie into this line? Ms. Newcomer indicated yes, and staff is recommending a manhole for future extension. Mayor Pro Tem Leigh asked for the developers cost. Ms. Newcomer indicated roughly \$30,000. Mayor Pro Tem Leigh stated the City would pay for the first 100 feet, but at some point we would hope neighbors tie onto this extension. Mayor Pro Tem Leigh asked what the potential impact cost would be that could possibly be shared by other developers for reimbursement of this extension. City Manager Sam Listi stated the standard provision in the subdivision regulations,

that has been a practice generally utilized, is the extension to and through the subdivision. Mayor Pro Tem Leigh agreed with what staff is proposing, but wanted to consider a reimbursement mechanism if, and when, we see development to the west.

Mayor Grayson noted although we've been discussing sewer costs, the item before Council this evening is to approve or disapprove the request from Turley and Associates requesting the City Council consider the use of on-site septic systems in lieu of sanitary. City Attorney John Messer stated the only item to be acted on tonight is the request as presented.

Billy Helm, Elm Grove Road, Belton, Texas, stated the manhole is a need for the City as indicated for development to the west, but this subdivision goes to the north with a dead-end and there will never be any connection out of this subdivision. Mayor Pro Tem Leigh stated every subdivision is a dead-end. Mr. Helm stated with the cost assessment, this is not feasible for this development. Mayor Pro Tem Leigh stated this is simply the cost of development and from a policy standpoint; we have to stand behind what the City is recommending.

Robbie Johnson, 18 Rangler, Belton, Texas, stated the difference regarding this 22-lot subdivision is the 1200 foot entrance that is sensitive as far as the way we are trying to present the spirit of the community with trees in excess of 60 inches. Mr. Johnson indicated if a septic system is required, some of these historical trees would have to be removed. Mayor Pro Tem Leigh stated you could put the sewer line underneath the road without removing any of these historical trees.

Councilmember O'Banion stated in earlier meetings with the Planning and Zoning Commission the issue raised was the cost, but now seems to be more about the layout of the subdivision. Mayor Pro Tem Leigh stated the bottom line is as we see development, do we want it to be on sewer or septic and per our policy decision we have subdivisions tie to sewer?

Councilmember Gauntt asked if it was implied that the negative environmental impact would be lessened by septic. Mr. Johnson stated yes. Mr. Johnson also stated he was under the impression if sewer was not feasible, they had the ability to go back to on-site septic.

Councilmember Gauntt asked if we currently had subdivisions on septic. Mr. Listi indicated yes, but for years the policy decision by Council has always been to facilitate subdivisions provided with sanitary sewer.

Councilmember Sanderford asked what the cost would be per lot for the homeowner to put in a septic tank. Mr. Johnson indicated \$8500. Public Works Director Mike Huber stated there was a large caveat with this figure

regarding not only the maintenance, but the configuration and the proximity to Nolan Creek.

Victor Turley, 301 N 3rd Temple, Texas, stated after some research it was discovered there was no effective date listed in the Code of Ordinances, Section 23-2, Connections; therefore, stating some confusion regarding the effectiveness of the ordinance.

Councilmember Sanderford requested clarification whether or not the exception listed in Section 23-2 of the Code of Ordinances is applicable in the case. City Attorney John Messer stated the ordinance supports the recommendation staff made that sewer is required.

Councilmember Kirkley made a motion to disapprove the request as presented. The motion was seconded by Mayor Pro Tem Leigh and carried unanimously.

Miscellaneous

11. First Reading - Consider an ordinance granting a Franchise to Capital EMS, to operate and maintain a non-emergency ambulance transfer service within the public streets and highways of City of Belton.

Fire Chief Francisco Corona presented this item to Council. Chief Corona stated the City of Belton Code of Ordinances mandates that no individual, organization, entity, political subdivision, corporation, public utility, or any provider of public service shall provide any service within the city that requires the use or occupancy of any street, public right-of-away without first being granted a franchise or permit to use our city facilities, and currently, we have one non-emergency ambulance service providing ambulance transportations without a franchise.

Chief Corona indicated a \$6,000 estimated annual revenue from a 5% franchise fee based on 200 non-emergency ambulance transports at \$600 per call, and recommended approval of the proposed ordinance on the first reading granting a Franchise to Capital EMS to operate and maintain a non-emergency ambulance transfer service within the public streets of the City of Belton, and conduct a public hearing and second reading on the proposed franchise ordinance at the July 8, 2014 Council Meeting at 5:30 pm.

Mayor Pro Tem Leigh asked who monitors these services to ensure franchises are established in the future. Chief Corona stated he does. Councilmember Gauntt asked if a franchise is approved with Capital EMS, and at some point Belton EMS wishes to take over these services, can the franchise be terminated. City Manager Sam Listi stated non-emergency services are not

something we compete with, and this is certainly good allowing the City to focus on emergency services.

Councilmember Sanderford asked if a notice was required. Mr. Listi stated yes, this franchise requires two readings with a public notice provided for a public hearing at the July 8, 2014 Council meeting.

Councilmember Sanderford made a motion to recommend approval of the ordinance as presented on the first reading, with the second and final reading scheduled for July 8, 2014. The motion was seconded by Councilmember Pearson and carried by a vote of 6-1 with Councilmember Gauntt voting in opposition. The following ordinance was recommended for approval as outlined in the caption below:

ORDINANCE NO. 2014-21

AN ORDINANCE GRANTING A FRANCHISE TO CAPITAL EMS TO OPERATE AND MAINTAIN A NON-EMERGENCY AMBULANCE TRANSFER SERVICE WITHIN THE PUBLIC STREETS AND HIGHWAYS OF CITY OF BELTON.

12. Consider an ordinance amending Chapter 3 of the Code of Ordinances relating to small animals and fowl.

Police Chief Gene Ellis presented this item to Council and stated in 2012, the Council passed Ordinance 2012-16, which amended the code of ordinances regulating the keeping of chickens, fowl, and other small animals. Chief Ellis stated recently, some concerns have been raised about the lack of flexibility in ordinance for exceptions regarding the proximity (distance) to other residences for specific circumstances.

Chief Ellis provided an overview of the proposed amendments, and stated this change will allow for greater flexibility in reviewing requests for exceptions to the proximity provisions of the ordinance on a case-by-case basis. Chief Ellis proposed using an application and permit process similar to what is used for keeping more than three dogs and/or cats pursuant to Chapter 3-29 of the code of ordinances, and recommended approval of proposed ordinance amending Chapter 3, Section 3-1, to allow for flexibility in granting exceptions to the minimum proximity to other residences through a permit process for small animals and fowl.

Councilmember Gauntt asked if the problem was a chicken problem or a rooster problem and if a rooster problem, then why not propose no roosters in town rather than have this ordinance in place? Mr. Gauntt felt a better option would be a yes or no approach rather than an application process. City Attorney John Messer stated chickens were more of a health and safety issue, and roosters were more of a noise issue. Mayor Grayson asked why there was

no number limit suggested in the ordinance. Chief Ellis stated the Animal Control Officer needed a little subjectivity and would depend on the individual circumstance.

Councilmember Pearson made a motion to approve the ordinance as presented. The motion was seconded by Mayor Pro Tem Leigh and carried unanimously as outlined in the caption below:

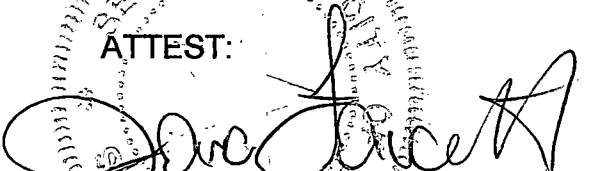
ORDINANCE NO. 2014-22

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BELTON, TEXAS, AMENDING CHAPTER 3, ARTICLE I, SECTION 3-1 OF THE CODE OF ORDINANCES OF THE CITY OF BELTON REGARDING SMALL ANIMALS AND FOWL; PROVIDING A SAVINGS CLAUSE; PROVIDING AN EFFECTIVE DATE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

There being no further business, the meeting was adjourned at 7:30 p.m.



Marlon Grayson, Mayor

ATTEST:


Jana Faucett, City Clerk

