

**CITY COUNCIL MEETING  
OCTOBER 12, 2010 – 4:30 P.M.**

The Belton City Council met in regular session with the following members present: Mayor Pro Tem Marion Grayson, Councilmembers Clifton Peters, David K. Leigh, Wayne Carpenter, and John Agan. Mayor Jim Covington and Councilmember Craig Pearson were absent. Staff present were John Messer, Sam Listi, Connie Torres, Cristy Daniell, Fred Morris, Les Hallbauer, Gene Ellis, Roy Harmon, Jerri Gauntt, and Kim Kroll.

The Pledge of Allegiance to the U.S. Flag was led by Fire Chief Roy Harmon, the Pledge of Allegiance to the Texas Flag was led by Councilmember David K. Leigh, and the Invocation was given by Mayor Pro Tem Marion Grayson.

The Mayor Pro Tem called the meeting to order at 4:32 p.m.

Public comments. There were no public comments.

Consider an ordinance amending Chapter 3, Article II of the Code of Ordinances regarding dangerous animals.

Police Chief Gene Ellis stated the City has experienced numerous police reports of dogs getting out and chasing people or attacking other animals/pets. While state law makes it unlawful for a person to keep a dangerous dog that has attacked another person, it does not cover vicious animals that attack other dogs or animals. He explained the City has no mechanism to have dangerous animals removed from the City. This ordinance gives the Municipal Judge the ability to declare an animal dangerous then to order it moved outside the City. Chief Ellis indicated he doesn't want to be reactive following an incident, and believes adoption of this ordinance will give the City the ability to protect Belton residents from being terrorized by dangerous animals.

Councilmember Leigh asked if the City had the authority to dispose of an animal that bites an individual, and the Chief explained there are quarantine provisions and state law provides for disposal following serious incidents. Councilmember Peters asked if this ordinance would result in the dumping of animals, and Chief Ellis stated the Judge will have the discretion to order an animal removed from the City and can require proof showing where the animal has been moved to.

Mayor Pro Tem Grayson asked if there is some way to mark the residence since the process to determine an animal is dangerous could take some time. The Chief stated the ordinance contains provisions that allows the Animal Control Department to seize the animal or place in quarantine if warranted. Ms. Grayson suggested some form of notice to inform citizens be provided, and the City Attorney indicated a notice could be placed in the right-of-way in front of the residence, but not on private property.

Councilmember Leigh requested the City educate its citizens about the issue and the new ordinance. The Chief agreed and indicated he plans to disseminate information about animal control issues and other requirements.

Councilmember Leigh made a motion to approve the ordinance. The motion was seconded by Councilmember Peters, and the following captioned ordinance was unanimously adopted:

**ORDINANCE NO. 2010-45**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BELTON, TEXAS, AMENDING CHAPTER 3, ARTICLE II OF THE CODE OF ORDINANCES OF THE CITY OF BELTON REGARDING DOGS AND CATS; PROVIDING A SAVINGS CLAUSE; PROVIDING AN EFFECTIVE DATE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN OPEN MEETINGS CLAUSE.**

Consider employee medical insurance programs and renewal rates for 2011.

Assistant City Manager Cristy Daniell introduced Bob Treacy of City-County Benefits Services who reviewed proposed renewal rates and programs for the City's employee health insurance programs. Mr. Treacy indicated the Scott & White Health Plan (SWHP) offered the most competitive proposal during last year's RFP process, and their renewal rates for next year (below) are extremely competitive:

Plan/Tiers	Existing Rates	FY 2011	Increase	
			\$	%
<b>HMO</b>				
Employee Only	\$360.22	\$407.66	\$47.44	13.17%
Employee/Spouse	\$900.52	\$1,018.15	\$117.63	13.06%
Employee/Children	\$648.32	\$732.78	\$84.46	13.03%
Employee/Family	\$1,080.62	\$1,221.99	\$141.37	13.08%
<b>Consumer Choice</b>				
Employee Only	\$297.64	\$336.81	\$39.17	13.16%
Employee/Spouse	\$744.04	\$841.99	\$97.95	13.16%
Employee/Children	\$535.67	\$606.18	\$70.51	13.16%
Employee/Family	\$892.84	\$1,010.39	\$117.55	13.17%

Mr. Treacy explained even with the competitive rates, some changes had to be made to the plan to keep premiums affordable, both for the City and for employees purchasing optional dependent insurance. The HMO plan will retain a \$25 co-pay for routine visits, but the co-pay will increase to \$50 for specialists, and a 10% deductible will apply to some procedures. The Consumer Choice plan will see an increase in the co-pay from \$30 to \$40. Prescription coverage for both plans will improve, with the addition of cost sharing above the existing \$1,000 annual cap.

Mr. Treacy commented about pooling with the school district, and indicated many school districts have moved into the State's pool. School districts have a higher utilizing demographic group, and the City would want to pool with a homogenous group to seek the most benefit. He believes the City seems to be very competitive for now, and it doesn't appear Belton would save any money by pooling with BISD. Mr. Treacy added there are only 70 school districts remaining in the State that haven't migrated to TRS Active Care, but stated he would take a closer look at it next year. The City Manager stated BISD realizes they may be moving to the State's pool in the near future given continually increasing rates.

Upon motion by Councilmember Agan, seconded by Councilmember Carpenter, the Council unanimously authorized the City to negotiate with the Scott & White Health Plan to renew the 2010 contract effective January 1, 2011.

Consider award in response to Request for Proposals for Residential Solid Waste Collection.

Assistant City Manager Cristy Daniell explained in July, the City received proposals for residential solid waste collection from Inland Service Corporation, IESI, and Waste Management. At the Council's workshop on August 24th, staff recommended the continued privatization of residential collection and proceeded with negotiating a contract with the lowest cost proposer, Waste Management (WM). Ms. Daniell reviewed the following key differences between the existing contract and the proposed contract:

- Rates for curbside service will decrease from the current rate of \$15.00 to \$14.55, backyard service will remain at \$25.00, and small business customers will move to a cart system at \$25.00 per cart.
- A new household hazardous waste program will be provided and is based on an additional monthly rate of \$0.50 for all residential customers, with service to be provided on an as-called basis. Customers requesting this service will be directed to WM for scheduling. Small business customers are not eligible for this program and will not be charged for it. These customers will have access to a program for small businesses, provided directly by WM for a fee, outside of the City contract.
- The total rate for residential waste collection service will be \$15.05 based on the components above. Addition of the City provided brush service will result in a total bill of \$18.05 for curbside service, and \$28.50 for backyard service.
- Prior contracts with WM have provided for the City to bill customers for services and then pay WM based on collections, less a 12% billing and franchise fee. WM has proposed that the City pay on billings each month, rather than collections, with a 50/50 sharing of uncollectible accounts to be computed at each year end. Our collection history has been very good, with write-offs for FY 2010 in the amount of \$4,733 (0.53% of annual billings), which would amount to a \$2,367 bad debt expense for the City under this new provision. Staff feels this sharing of bad debt is a reasonable request.
- Section 6.05 - Unresolved Customer Complaint Resolution on page 9 of the contract was revised to give the City more "teeth" in dealing with service issues, including assessment of a fine by the City Manager, with provision for an appeal to the Council.
- The proposed contract includes for the first time, a fuel adjustment factor (section 9.02). The adjustment will not activate until diesel fuel exceeds \$4.00 per gallon. Staff feels this is a reasonable request given the high fuel rates and price volatility experienced during the last contract.

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- Based on direction from Council at the August workshop, we will work with WM to conduct recycling pilot programs in at least two neighborhoods. This program will include curbside recycling and cart based service, with neighborhoods and time period to be determined.
- The contract is for a term of three years, with the option to extend the agreement for two additional one-year terms provided both parties agree to an extension. The shorter term provides greater flexibility for all, and will allow re-examination of these vital services within a couple of years.

Ms. Daniell introduced Terry Woodson, Director of Governmental Affairs, WM, who gave an overview of the company's Community Investment Program, where the company provides a \$1,000 education scholarship, two community recycling grants, and three beautification/cleanup projects annually for the entire term of the contract.

Councilmember Leigh stated the hazardous waste component seems fairly restricted, and he doesn't believe there will be a lot of buy-in to use the service. Since the cost amounts to nearly \$28,000/year, he suggested the City conduct an annual hazardous waste collection event instead of the monthly charge to all citizens. Ms. Daniell indicated the hazardous waste events are very expensive, running \$30,000-\$50,000 each. Ms. Woodson explained the program will allow citizens the opportunity to get rid of hazardous waste once a month, and they will ensure a great deal of community education is provided. Councilmember Agan stated he thinks this is a good first step and it may be useful to get the community started in this direction. He requested however, the Council be provided a report on use of the hazardous waste program.

Councilmember Carpenter asked about WM's plan to sell recycling, and Ms. Woodson stated she plans to provide extensive education to citizens and schools/students, and attend civic club meetings, Chamber of Commerce events, etc. A recycling survey will be conducted before and after the pilot program and results will be provided to the City.

Ms. Daniell reviewed the following proposed rates:

**Residential Services:**

Service	2011 Rate Per Month
Curbside twice weekly per home	\$14.55
Back-door twice weekly per home	\$25.00
Household hazardous waste collection option	\$ 0.50
Brush	\$3.00

**Commercial Hand-Load Services:**

Service	2011 Rate Per Month
Cart collection once per week	\$25.00 per cart
Cart collection twice per week	\$35.00 per cart

The City Manager recommended the City proceed with the base contract, to include brush pickup, and the household hazardous waste collection, and defer implementation of recycling until after the pilot program. Ms. Woodson confirmed the City could transition to carts at any point throughout the contract, and recycling can also be added at any time.

Councilmember Leigh reiterated he doesn't believe citizens will utilize the hazardous waste program in the form presented now, but thinks the recycling pilot program and other components are good. Mayor Pro Tem Grayson agreed with the need to educate citizens on the program but believes it's worthwhile, and asked if there were a way to get the hazardous waste bags in an easier, more timely method (i.e. available at the Water Department).

The Council expressed their support or non-support for the hazardous waste option, with Councilmembers Carpenter and Leigh not supporting. Councilmember Agan made a motion to approve the base contract as recommended by staff, to include the hazardous waste component. The motion was seconded by Councilmember Peters, and carried by a vote of 3-2 with Councilmembers Carpenter and Leigh voting in opposition.

Mayor Pro Tem Grayson commented WM's service level has declined over the years, and requested Ms. Woodson relay the information to her company, with hopes customer service will improve.

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At 5:55 p.m. the Mayor Pro Tem indicated the Council would relocate to the Smith Room for an executive session. The following closed meeting began at 6:00 p.m.:

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 551.071, to consult with City Attorney regarding pending litigation.

The City Council returned to the Wright Room at 6:10 p.m. and the meeting was reopened.

Consider final settlement with BRW Architects regarding the Harris Community Center.

The City Manager recommended the City accept the final settlement offer of \$106,000 from BRW Architects as full settlement with regard to the Harris Community Center. Councilmember Carpenter made a motion to accept the offer as recommended. The motion was seconded by Councilmember Leigh and carried unanimously.

At 6:10 p.m. the Council took a short recess. The meeting was reconvened at 6:35 p.m.

Discuss the proposed La Cachette Development, a 540 acre tract, located east of FM 1670 and south of US 190.

The City Manager introduced Garrett Nordyke of WB Development, who gave the Council an update on the developer's latest plans. The City Manager gave an overview of the ongoing process over the last several years, and presented summary comments regarding the development, to include proposed house, fencing, and landscaping standards. Developer Bruce Whitis was also present and answered questions about the development and housing products being proposed.

The following conclusions were presented:

- Discussion topics outlined in the Council's rejection of the MUD application in January 2010 have been addressed
- Management is satisfied with the Framework Development Components which will result in:
  - Extension of water and wastewater infrastructure
  - ROW/construction of a future east/west arterial
  - Limited direct obligations for City services
  - Partial, but significant, application of the Design Standards, recognizing this project was underway before the Standards were adopted
- Many details will need to be addressed in crafting a MUD Consent Decree, but will follow the Framework Elements in a memo to the Council dated October 12, 2010

Councilmember Leigh asked if the City proceeds with the Consent Decree, if the stipulations of the agreement would convey to new owners if the property was sold. The City's legal counsel Barney Knight, Knight & Associates, stated the agreement would be binding to all grantees, successors, and assigns, and the obligations and rights would convey. He stated the owners could however, present another alternative if they decide the MUD isn't working, but they would have to comply with the contract, subdivision regulations, etc., and couldn't change the uses without the City's approval.

Councilmember Leigh asked if the agreement would allow for zoning and code enforcement, and Mr. Knight reiterated the agreement should include a master plan for the property and those uses cannot be changed without the City's approval. The City Attorney commented the agreement can include whatever stipulations the City Council desires. The City Manager referred to his proposed list of essential components to be included in the consent decree. Following additional Council discussion regarding code enforcement and building inspections, Mr. Knight advised that the City can't enforce its new design standards and other regulations not routinely enforced in subdivisions outside the city limits, unless they are included in the agreement.

At 7:20 p.m. the Mayor Pro Tem indicated the Council would relocate to the Smith Room for the following closed session:

Convene into Executive Session pursuant to Rule 1.05, Rules of Professional Conduct, and the provisions of the Sec. 551.071, Texas Open Meetings Act, to consult with City Attorney

regarding contract negotiations, and contemplated litigation, regarding the La Cachette Development.

The City Council returned to the Wright Room at 8:00 p.m. to consider the next item.

Reconvene from Executive Session and take such action as the City Council finds appropriate in its discretion regarding the proposed Municipal Utility District (MUD) Consent Decree for the La Cachette Development.

The City Manager recommended the Council authorize him to negotiate a Municipal Utility District Consent Decree for presentation and final action in the future. He recommended the following elements for inclusion in the development agreement, and any other issues as appropriate that may emerge during discussion:

1. The City of Belton will use its best faith efforts to develop and execute an Outside City MUD Consent Decree for the 540 acre La Cachette Development in a timely manner between the City and developer, Bruce Whitis.
2. The principal purpose for authorizing the MUD is to provide for connection to and extension of City of Belton utilities – water and wastewater – to and through the development.
  - Trunk water and wastewater lines will be extended to the development, and these costs will be funded by the MUD, as will internal subdivision utility and storm drainage improvements.
  - City of Belton will coordinate with the MUD for connection to City utility systems, location of lines, line sizes, etc., for mutual benefit. Several water/ wastewater line routes have been discussed, and none have been approved, with these decisions subject to engineering analysis.
  - Rates to be charged for utility service shall be 1.25 times the City rate for water and sewer services. The City of Belton will retail utility services to La Cachette residents and they will be our customers. The City will handle all operational activities - setting meters, billings, etc.
  - The City of Belton and the developer will use their best faith efforts to secure the portion of DRWSC CCN located within this development, and the MUD will fund this acquisition for consistent City of Belton water service throughout the development.
  - The MUD boundary shall not be expanded without the approval of the City of Belton.
  - Annexation into Belton City limits of the MUD will be at the discretion of the City of Belton after proposed MUD debt has been issued and after a minimum of 10 years. Annexation into the Belton City limits shall be explicitly acknowledged as the City's intention in the MUD Decree and in each purchaser agreement.
3. The City of Belton concurs in the general alignment and functionality of the road system shown on the land use plan, including the proposed arterial street with roundabouts. Developer will provide 120' ROW and a 37' street pavement section, approved by the City of Belton, to establish an east-west arterial street alignment, beginning at FM 1670 and extending to the applicant's east property line, in a manner satisfactory to the City of Belton. Roundabouts will be allowed in conjunction with subdivision plat approval. The exact street alignment has not been approved and is subject to final approval by the City of Belton. The arterial street will be built to the developer's east property line no later than the date of the last bond issuance for MUD improvements.
4. Land uses shall conform generally to the attached general land use plan and land use table, and additional conditions, including:
  - The proposed Design Standards reflected in the site plan and attached notes shall apply.
  - Compliance with Design Standards shall be ensured by a \$100 plan review fee in advance of construction and a \$100 inspection fee and on-site inspection.
  - A minimum width of 50', depth of 100', and 5,000 square feet overall lot area shall be provided for each detached single family house lot.
5. The City of Belton Subdivision Standards shall be utilized in their entirety in the development review process for this property.
6. The financials for the proposed MUD shall be in conformance with the attached schedule and an initial 85¢ tax rate; however, the City reserves the right to consent to issuance of each series of MUD bonds to ensure conformance, and this consent shall not be unreasonably withheld.
7. The City shall have no obligation to provide City services – police, fire, etc. – in this area until annexation or until a service agreement is executed between the MUD and the City.
8. The MUD shall provide no less than annually, on January 1 of each year, an update of the year's activities, building schedules, and bond issues.
9. This Framework Development Agreement, and other provisions both major and minor, shall constitute the elements which will be used to craft the final MUD Consent Decree.
10. Other items still undergoing discussion with the developer, that will be resolved before a Consent Decree is presented to the Council include:
  - Potential application of the City's franchise fees to utilities in this ETJ subdivision.
  - A potential Master Development Fee, a MUD-funded fee provided for connection to the City of Belton utility system.
  - Utility meter type and cost, based on the distance of this project from the City limits.

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- Potential de-annexation of the portion of the proposed MUD boundary currently in the City – to avoid “double taxation” – in exchange for the voluntary annexation of other Whitis owned property to preserve Belton’s ETJ.

Councilmember Carpenter made a motion to authorize the City Manager to negotiate a Consent Decree as stated. Councilmember Leigh seconded the motion, and requested the City ensure the document includes provisions for transfer to future owners, and some level of enforcement or arbitration provisions, so it is clear what steps will need to occur in the event there is any issue with compliance. The City Manager stated they would work to ensure provisions for compliance are satisfactorily addressed. A vote on the motion carried unanimously.

There being no further business, the meeting was adjourned at 8:05 p.m.

  
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Marion Grayson, Mayor/Pro Tem

ATTEST:

  
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Connie Torres, City Clerk