

STATE OF TEXAS §

COUNTY OF TARRANT §

CITY OF BEDFORD §

The City Council of the City of Bedford, Texas, met in work session at 6:00 p.m., and regular session at 6:30 p.m. in the Council Chamber of City Hall, 2000 Forest Ridge Drive on the 28th day of July 2009 with the following members present:

Jim Story	Mayor
Roy Turner	Mayor Pro Tem
Chris Brown	Council Members
Ray Champney	
Roger Fisher	
Lori Nail	
Roy Savage	

Constituting a quorum.

Staff present included:

Beverly Queen	City Manager
Steve Johnson	Deputy City Manager
Stan Lowry	City Attorney
David Flory	Police Chief
Shanae Jennings	City Secretary
Bill Shelton	Public Works Superintendent
Bill Syblon	Development Director
James Tindell	Fire Chief
Mirenda McQuagge-Walden	Communications/Special Projects Manager

### **WORK SESSION**

Mayor Story called the work session to order at 6:00 p.m.

- **Review and discuss items on the regular agenda and consider placing items for approval by consent.**

Council discussed approving the following item(s) by consent: 4, 6, 7, 8, 9, 10 and 11.

### **EXECUTIVE SESSION**

To convene before 7:00 p.m., if time permits, in the conference room in compliance with Section 551.001 et. seq. Texas Government Code, to discuss the following:

- **Section 551.071, Consultation with City Attorney regarding pending or contemplated litigation - Bedford Hospitality Investments, LLP.**

## Council Minutes July 28, 2009

Council convened into Executive Session pursuant to the Texas Government Code regarding Section 551.071, Consultation with City Attorney regarding pending or contemplated litigation – Bedford Hospitality Investments, LLP at approximately 6:10 p.m.

Council reconvened from Executive Session at approximately 6:26 p.m.

Any necessary action to be taken as a result of the Executive Session will occur during the regular session of the Bedford City Council Meeting.

### **REGULAR SESSION**

Mayor Story called the meeting to order.

### **CALL TO ORDER/GENERAL COMMENTS**

Regular session began at 6:30 p.m.

### **INVOCATION (Senior Pastor Marty Akins, First Baptist Church of Bedford)**

Senior Pastor Marty Akins of First Baptist Church of Bedford gave tonight's invocation.

### **PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was given.

### **OPEN FORUM**

Dave Gebhart, 625 Merrill Drive, Bedford –Mr. Gebhart spoke about Items 4 and 12 on the agenda. He indicated that he went to the Library and found some problem with the minutes. He recommended that a PDF of the agenda packet be made and posted to the website. However, it was not listed within the minutes and he felt it should have been. In addition, he indicated that within the open forum agenda item he noticed that his comments opposing the new open forum rules were tersely recorded with one sentence concerning his disappointment; however, the next person's comments that praised the new open forum rule were thoroughly recorded. Mr. Gebhart also felt the information presented for the curfew ordinance was subjective and should be more closely examined. He sees no basis for judgment that can be made on the Curfew Ordinance based on the information provided.

Gene Buinger, 1512 Forest Meadows Circle Court – Dr. Buinger is the Superintendent of HEBISD and he spoke on Item 12 on the agenda. He thanked the Bedford City Council for their support on the Daytime Curfew Ordinance and feels it is unfortunate that this issue has become so controversial. He indicated that truancy is a community problem not just a school problem. He feels there will be an increase in unexcused absences which will lead to an increase in dropout rates if this issue does not continue to be addressed and taken seriously as it has been. He commended the Council and requested that they continue to support the Curfew Ordinance.

Bob Conlin, 3425 Scenic Hills Drive, Bedford – Mr. Conlin spoke about item 10 on the agenda. He presented the council with a handout entitled: "The Memorandum" which was filed in support of a motion to dismiss tax evasion charges filed against Tommy K. Cryer, J.D. in the court case *United States v. Tommy K. Cryer, NO. 06-50164-01 Western District of Louisiana, Shreveport Division*. He stated that you didn't read about this case in the paper because they don't want this kind of information getting out. This handout can be requested in the Office of the City Secretary.

**CONSIDER APPROVAL OF ITEMS BY CONSENT**

Motioned by Councilman Champney seconded by Councilman Turner to approve the following item(s) by consent: Item(s): 4, 6, 7, 8, 9, 10 and 11.

Motion approved 7-0-0. Mayor Story declared the motion carried.

**COUNCIL RECOGNITION**

**1. Recognition of Fire Fighter II Danny Lewis for the Bedford Employee Commitment Award (BECA).**

Danny Lewis, Fire Fighter II, was recognized with the Bedford Employee Commitment Award for displaying above and beyond the call of duty conduct for going the extra mile as it relates to work that he has done to help conduct professional programming and for helping the City employees learn about fitness.

**2. Employee Recognition**

The following employee(s) received recognition for dedicated service and commitment to the City of Bedford:

Reasha Smith, Customer Service – 5 years of service  
Derek Mueller, Fire Department – 5 years of service  
Christopher Conner, Fire Department – 5 years of service  
Debbie Carlisle, Police Department – 10 years of service  
Chad Pittman, Public Services – 10 years of service  
Wayne Moody, Police Department – 25 years of service  
Bobby Smith, Public Services – 25 years of service

**PERSONS TO BE HEARD**

**3. The following individuals have requested to speak to the Council tonight under persons to be heard:**

- a) Jim Davisson, P.O. Box 12, Bedford, TX 76095 – Requested to speak to the Council concerning the possibility of adding a voluntary \$.50 donation to the Bedford Library Foundation to be used for the new Library. This would be included in the water bill.**

Jim Davisson, 1612 Arborcrest Drive, Bedford, TX – Mr. Davisson spoke on behalf of the Bedford Library Foundation. He indicated the Foundation is working on a number of projects to earn cash or in kind contributions for the Library. He is proposing that a new line be added to the water bill that would allow for a \$.50 voluntary donation to be made to the Library, just as is done for the Parks and Recreation Department, to raise money for the Library Foundation and the Library.

- b) Brandon Moore, 816 Warwick Street, Bedford, TX 76022 – Requested to speak to the Council regarding changes to open forum, code enforcement, and the daytime curfew.**

Brandon Moore, 816 Warwick Street, Bedford – Mr. Moore spoke to the Council about three items:  
1) Changes to open forum - He sees both the benefits and detriments to the changes made in open forum. One of the drawbacks to the new process is that residents can no longer address items that were

acted upon on the agenda. He also indicated the timing, which occurred before the daytime curfew issue, seemed to be poor. He would like to see time limits imposed on individual speakers and not by a block.

2) Daytime curfew - For verification purposes he asked who could receive citations and Chief Flory indicated that a minor who defies the ordinance, a business owner if he/she knows the minor is truant and allows a minor to stay on the premises, and a parent can be charged. Mr. Moore also feels this could be a discriminatory Ordinance simply because a minor can have no influence over his or her own age. He also feels like this bypasses state law. Mr. Moore brought three graphs to the Council meeting that he obtained off the TEA website. Those graphs are available in the Office of the City Secretary upon request.

3) Code Enforcement – Mr. Moore indicated enforcement irregularities during this past year’s election and feels this should not occur. He is concerned enforcement irregularities could also occur within the Daytime Curfew Ordinance.

**c) Caryn Moore, 816 Warwick Street, Bedford, TX 76022 – Requested to speak to the Council regarding the daytime curfew, changes to the open forum, and senior citizens.**

Caryn Moore, 816 Warwick Street, Bedford – Ms. Moore spoke to the Council about three items:

1) Changes to open forum – She would suggest that citizen input not be limited.

2) Daytime curfew – She indicated that state law has already addressed this issue and that by the Council further enacting a Daytime Curfew Ordinance they are usurping state law.

3) Senior citizens – She would like to ask why the Council has deemed the senior citizens as a threat to the citizens. On the website it lists strengths, weaknesses, opportunities and threats to the City and she wanted to know why the seniors have been deemed as threats. It was responded to Ms. Moore that the seniors are in fact not threats but that it is a concern that the Senior Center could be shut down based on the fact that it is partially funded by another city, and that this could be a threat to the viability of the senior citizens ability to enjoy the center as it has always been; therefore, the City will work to keep it open and not allow that to occur.

**d) Dorothy McWhorter, 1600 Martha Drive, Bedford, TX 76022 – Requested to speak to the Council regarding contract for city services, open forum, and council member(s) voting records.**

Dorothy McWhorter, 1600 Martha Drive, Bedford – Ms. McWhorter defined the City of Bedford as a service organization and stated that service is what the City sells. The City has a contract with her to provide fire, police, water, sewer, etc. There is no matter of contract that requires the Council to take on a service such as instituting a daytime curfew ordinance; this is not a basic City service. She also addressed open forum in which she indicated it was important to the former members of the Council to hear from their constituents and foster an atmosphere of freedom of speech. She indicated that the new rules, in which she paraphrased, institute a desire to control the audience and freedom of speech. In closing, she addressed Councilwoman Nail’s prior voting record in which she opposed time limitations on open forum. Ms. Nail responded that she still does not support time limitations on speakers and that she stands by her prior vote several years ago to not institute time limits in which one can speak, which is in line with what is allowed under persons to be heard.

**APPROVAL OF THE MINUTES**

**4. Consider approval of the following City Council minutes:**

- a) July 14, 2009 regular meeting**
- b) July 21, 2009 work session**

This item was approved by consent.

**NEW BUSINESS**

5. **Public hearing and consider and act upon an ordinance to rezone property known as Lot 2, Stonegate Shopping Center Addition, from Heavy Commercial to Heavy Commercial/Specific Use Permit/Church/Secondhand, Rummage and Used Furniture Stores. The property is generally located north of Bedford Road and west of Brown Trail. (Z-195)**

Bill Syblon, Development Director, presented the proposed zoning ordinance to Council and generally fielded questions.

Some Council indicated their support of this rummage rezoning when in the past they were not open to others because they have precedence with this entity and because it is for charitable purposes.

Mayor Story opened the public hearing at 7:56 p.m.

Rebecca Dollar, Administrative Assistant of Mercy Seat, 6940 Katherine Court, Richland Hills, TX – Ms. Dollar stated that they do have the ability to store items inside 24/7 if needed.

Mayor Story closed the public hearing at 7:56 p.m.

Motioned by Councilman Champney, seconded by Councilman Turner to approve an ordinance to rezone property know as Lot 2, Stonegate Shopping Center Addition, from Heavy Commercial to Heavy Commercial/Specific Use Permit/Church/Secondhand, Rummage and Used Furniture Stores, subject to the following stipulations: outside display and sales are restricted to Friday and Saturday under the covered area only and no rolling stock sales such as cars and boats in the parking lot will be allowed.

Motion approved 7-0-0. Mayor Story declared the motion carried.

6. **Consider and act upon an ordinance of the City Council of the City of Bedford, Texas, ("City") approving a negotiated resolution between the Atmos cities steering committee ("ACSC" or "Steering Committee") and Atmos Energy Corp., Mid-Tex Division ("Atmos Mid-Tex" or "Company") regarding the company's rate review mechanism filing in all cities exercising original jurisdiction; declaring existing rates to be unreasonable; requiring the company to reimburse cities' reasonable ratemaking expenses; adopting tariffs that reflect rate adjustments consistent with the negotiated settlement and finding the rates to be set by the attached tariffs to be just and reasonable; approving Atmos' proof of revenues; adopting a savings clause; determining that this ordinance was passed in accordance with the requirements of the Texas Open Meetings Act; declaring an effective date; and requiring delivery of this ordinance to the company and the steering committee's legal counsel.**

This item was approved by consent.

7. **Consider a resolution authorizing the City Manager to enter into a contractual agreement for employee health insurance benefits with Cigna.**

This item was approved by consent.

8. **Consider a resolution authorizing the City Manager to enter into a contractual agreement for employee dental insurance benefits with MetLife.**

This item was approved by consent.

- 9. Consider a resolution authorizing the City Manager to enter into a contractual agreement for employee life and disability insurance benefits with Hartford Insurance Company.**

This item was approved by consent.

- 10. Consider a resolution approving the City of Bedford's Section 125 Plan that allows employees to make contributions for insurance premiums and Health Savings Accounts (HSA) on a pre-tax basis as allowable under the Internal Revenue Service (IRS) Code Section 125.**

This item was approved by consent.

- 11. Consider a resolution authorizing the City Manager to enter into an Interlocal Agreement between the City of Bedford and Tarrant County for street improvements on Cummings Drive from Central Drive north/northwest to Simpson Terrace.**

This item was approved by consent.

- 12. Receive information regarding the daytime curfew ordinance as requested by City Council on March 10, 2009.**

City Manager Beverly Queen indicated that at the March 10, 2009 Council meeting the City Council directed staff to seek additional information and report back during the second meeting in July as it relates to the Daytime Curfew Ordinance.

Two citations have been given since the implementation of this Daytime Curfew Ordinance.

Based on information provided by HEB ISD staff, the total number of unexcused absences decreased by 23% from 42,162 in 2007/2008 to 32,556 in 2008/2009. The breakdown of unexcused absences by City (actual location of the school) is as follow:

	<b>2007/2008</b>	<b>2008/2009</b>	<b>Increase/(decrease)</b>	<b>% change</b>
<b>Hurst</b>	<b>12013</b>	<b>10341</b>	<b>-1672</b>	<b>-14%</b>
<b>Eules</b>	<b>22228</b>	<b>16521</b>	<b>-5707</b>	<b>-26%</b>
<b>Bedford</b>	<b>7921</b>	<b>5694</b>	<b>-2227</b>	<b>-28%</b>
<b>Total</b>	<b>42162</b>	<b>32556</b>	<b>9606</b>	<b>-23%</b>

Additional information as it relates to offenses committed by juveniles and cases involving juvenile victims, both during school hours, is available in the Office of the City Secretary by request.

Chief Flory spoke and indicated that the Police Department has not fielded any complaints from home school families about abuse of power since this Ordinance has passed and that there has been no abuse of power since this Ordinance has been passed. Overall the Ordinance is doing what it was intended to do.

Council indicated they are in favor of keeping the Ordinance.

- 13. Discussion and possible action regarding creation of a program for individual council members to meet with the public on a scheduled basis. \*\*\*Item requested by Councilman Brown**

Councilman Brown requested that this item be placed on the agenda for discussion. Mr. Brown would like to make himself available in an open area setting to residents of the community. Overall, he wanted to see if Council would be in favor of utilizing the City's website to post allotted times for Council members to be allowed to meet with the public and discuss any item they find relevant, with the one caveat that this not be allowed during election time.

Motioned by Councilman Brown, seconded by Councilman Turner to allow the advertising of Council appearances with City Council members to be posted to the website and that the request be made in writing to the City Secretary; however, this option not be made available for those members who are up for re-election, beginning the first day of filing for City Council elections through the day of the final election.

Prior to acting on this motion Councilman Brown amended it to state the following:

Motioned by Councilman Brown, seconded by Councilman Turner to allow advertising of Council appearances with City Council members to be posted to the website and that the request be made in writing to the City Secretary; however, this contains a blackout provision during the time allotted for elections, which will include dates that begin with the first day to file for a place on the ballot to run for City Council through the day of the final election.

Motion approved 7-0-0. Mayor Story declared the motion carried.

#### **14. Discussion and possible action regarding Council Meeting dates for the month of August.**

City Manager Beverly Queen informed Council that there is a conflict for the August 25, 2009 Council meeting. The Texas Department of Transportation (TXDOT) has scheduled their public hearing on the Highway 183 expansion during the same time as the Council's regularly scheduled City Council meeting. In order for the members of Council and City staff to attend the TXDOT public hearings as they relate to the City of Bedford's portion of the expansion, staff is proposing the option to move the City Council meeting up to a start time of 4:00 p.m. or consider an alternate date for the City Council meeting.

Council was in agreement that the Council meeting for August 25, 2009 would begin at 4:00 p.m.

#### **15. Council member reports**

Chris Brown – Mr. Brown will be available for discussion with the public on Saturday, August 1, 2009 from 11 am to 1 pm at the Library. Anyone who would like to speak with him about any matter is welcome to come and do so.

Ray Champney – Mr. Champney acknowledged Mr. Bob Scott for his 80th birthday. He is a member of the Beautification Commission.

#### **16. City Manager/Staff Reports**

City Manager Beverly Queen has no report during tonight's meeting.

#### **17. Take any action necessary as a result of the Executive Session.**

No action was necessary as a result of the Executive Session.

#### **ADJOURNMENT**

**Council Minutes July 28, 2009**

Mayor Story adjourned the meeting at 8:39 p.m.

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Jim Story, Mayor

ATTEST:

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Shanae Jennings, City Secretary