



# City of Bowie

15901 Excalibur Road  
Bowie, Maryland 20716

## REGULAR CITY COUNCIL MEETING

MONDAY, MAY 18, 2015

### CALL MEETING TO ORDER

The Regular Meeting of the Bowie City Council was held on Monday, May 18, 2015 in the Council Chambers at City Hall. Mayor Robinson called the meeting to order at 8:00 p.m.

### PLEDGE OF ALLEGIANCE TO THE FLAG

The Mayor led the Pledge of Allegiance to the Flag.

### QUORUM

In attendance were Mayor Robinson, Mayor Pro Tem Truth, Councilmembers Brady, Gardner, Marcos, Polangin and Woolfley, City Manager Deutsch, Assistant City Manager Fitzwater, Attorney Chip MacLeod for City Attorney Levan, members of the Staff, the Press, and the Public.

### PRESENTATIONS

The Mayor presented Proclamation P-9-15 to Disney-Bell Post 66 of the American Legion represented by Commander Brian Frye and welder Michael J. Heilig for their efforts in repairing the cannon that had been damaged during an April 18th vehicular accident at Bowie's Veterans Memorial Park. City staff repainted the cannon and replaced the wheels and saw to the repair of the flag pole and its base. All accomplished in time for the upcoming Memorial Day Ceremony. Approval of P-9-15 was moved by Councilmember Marcos, seconded and carried unanimously.

### COUNCIL ANNOUNCEMENTS

Mayor Robinson reminded everyone of the Memorial Day Parade on Saturday, May 23rd that begins at the Belair Annex at 11 a.m., and the ceremony at Veterans Memorial Park in Old Bowie on Monday, May 25<sup>th</sup> at 11 a.m.

### CITY MANAGER'S REPORT

City Manager Deutsch noted the Supreme Court decision made today in the Maryland State Comptroller vs. Brian Wynne case; this case which has been working its way through the courts for several years, revolves around alleged double taxation; people who work out of state but reside in Maryland were given credit for Maryland State Tax but not the local piggyback portion of tax. The Supreme Court found for Mr. Wynne 5-4. Mr. Deutsch said refunds going back several years will need to be made; at this point staff is unable to estimate the impact on the City. The City will be in touch with the Comptroller's Office and the County Finance Office; Mr. Deutsch said the County will, instead of billing the City, probably deduct from future revenue that the City would have received. Council will be advised when additional information is received.

CONSENT AGENDA

Mayor Pro Tem Truth moved approval of Consent Agenda items: A) Approval of April 6 Meeting Minutes; B) Approval of Proclamation P-10-15 Celebrating Memorial Day 2015; C) Approval of Resolution R-37-15 Accepting Bid Proposal for the House Demolition, Removal and Lot Stabilization at 13104 10<sup>th</sup> Street; D) Approval of Resolution R-38-15 Authorizing the City Manager to Enter Into an Agreement With Southern Maryland Cable, Inc. for the Installation of a Fiber Optic Network Connecting the Kenhill Center to the Maryland Public Safety Tower on Route 3/301; and E) Authorization to Proceed to Initiate Annexation Process for Karington Property. Motion was seconded by Councilmember Brady and carried unanimously.

OLD BUSINESS

A. Adoption of FY 2016 Budget Ordinance O-5-15 and Capital Improvements Program Resolution R-23-15. Councilmember Woolfley moved and Councilmember Polangin seconded adoption of Ordinance O-05-15 (As Amended) Approving and Adopting A Budget for the Fiscal Year Beginning July 1, 2015 and Ending June 30, 2016.

Councilmember Gardner extended his sincerest thanks to colleagues for making this a simple and stress free process, for working together with staff members and with residents representing special interest groups that came forward and asked for items to be placed in the Budget.

Councilmember Marcos echoed his colleague's sentiments, said it was wonderful working with colleagues, noting that the Budget process wasn't painful and that Council was conservative with the Budget. Councilmember Marcos also recognized staff for their work, especially Finance Director Matthews.

Councilmember Brady joined in commending colleagues for a job well-done, working together for common good for Bowie citizens. Councilmember Brady commended efforts of staff and said the City is in a positive fiscal position for the future.

Mayor Pro Tem Truth echoed comments of colleagues and mentioned colleagues' outstanding work. He thanked Finance Director Matthews and the Financial Advisory Committee. Mayor Pro Tem Truth noted that again there was no increase in taxes.

Councilmember Polangin thanked staff and Council; noted the Budget session was without a doubt the most stress free one she has participated in; especially appreciated the City Manager's line by line explanations.

Councilmember Woolfley thanked staff for effort, noting it was truly commendable; started review with an excellent document; mentioned maintaining core services. He thanked his Council colleagues.

Mayor Robinson expressed congratulations for a conservative, balanced Budget; noted the City has solid reserves; AAA bond rating has been protected. The Mayor thanked senior staff.

Motion to adopt the Budget carried unanimously (7-0).

The Adoption of Resolution R-23-15 (Amended) Adopting A Capital Improvements Program for the Fiscal Years 2016-2021 was moved by Councilmember Brady and seconded by Councilmember Marcos. The motion carried unanimously (7-0).

City Manager Deutsch thanked Council for their kind words on the Budget and for their support of proposals made over the last couple of months.

NEW BUSINESS

A. Ethics Commission Presentation. All Ethics Commission members in attendance: Benjamin Woolery, Chair; Vince Canales, Jim Holderbaum, and Karl Stehmer. Mr. Woolery noted long-serving member, Lee Weimer, regarded as their institutional memory, recently resigned. There are openings for one regular member and two alternate members. The Commission also gained a new attorney, Mr. Fred Sussman. This was the Commission's second time before Council to present their annual educational program which is mandated by the City Charter. A copy of their presentation is on file at City Hall. Mr. Canales reviewed the purpose of the Commission. Mr. Holderbaum reviewed processes (primary functions) and outreach. It was noted that the Commission's previous counsel had an opportunity to provide some training sessions for City staff; general feedback was that the sessions were very well received. The whole issue of ethics in government is very germane to the City; it is important for the community to be aware of this aspect of governance. Mr. Stehmer reviewed Council's questions from the last presentation and responses to those questions; discussed the level of activities for 2014; and pointed out there were no ethics complaints filed in 2014, which is a reflection on Council and staff.

Councilmember Brady asked if on-line training to comply with training requirement has been considered; the Commission agreed to discuss. In response to a question from Mayor Pro Tem Truth, Mr. Woolery responded the Commission has not had an opportunity to make a presentation to an HOA. Mr. Canales commented that the Commission's initial intent was to start in-house and branch out, hoping that as more people become aware of their existence, they will be invited to make an ethics presentation; also doing outreach through the City newsletter. Mayor Pro Tem Truth asked if there is anything on horizon for college students, suggested using them to train high school students. The Mayor thanked the Commission for their presentation.

B. Housing Proposal for Marketplace. City Manager Deutsch noted the presence of Brian Berman of Berman Enterprises and Attorney Andres Gingles, and that Council received a letter from Berman requesting Council's support for an expedited review of a change to the Zoning Ordinance to allow for residential development at the Marketplace.

Mr. Berman reviewed the project's progress, noting that it is about a month ahead of schedule and he thanked everyone who has contributed. He feels this is a tremendous partnership with City; thanked City staff, mentioning City Manager and Economic Development Director. Berman was able to offer the Fire Department a training opportunity on site and has also been participating with the Police Department. The Master Plan envisioned mixed use. Berman doesn't have the right to do residential; even though the City supported residential and signed an agreement that requires 20% of residential development be age-restricted dwelling units; is tasked with what is the methodology to actually achieve this in a reasonable timeline; proposing Zoning Ordinance text amendment to allow them to have that zoning in desired area. This complies with all tenets of the agreement; allows discussion to start; laid out in their letter the exact language; had to go before Prince George's County and they are looking for the City's support.

City Manager Deutsch referenced the letter from Berman Enterprises and note to Council, on file at City Hall; indicates prospect, if Council supports their request, of a three to four-month time frame versus one that is one and one-half to three years in length – a fairly dramatic difference between what would be a typical protracted process and one that Council could support that would expedite. Staff supports moving forward in an expeditious manner.

**Public Hearing:**

Since no one had signed up to speak, the Mayor declared the Public Hearing to have been held.

Councilmember Polangin expressed support to expedite the process. In response to her question about allowing stakeholders meetings for residents to review plans, Mr. Berman indicated they would do so.

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Councilmember Marcos noted the good job Berman is doing; suggested they look at Old Town Bowie after this project is finished.

Councilmember Brady thanked Mr. Berman for his helpful testimony earlier this year during a Delegation hearing in Annapolis. The Councilmember joined colleagues in supporting Berman's request and expressed willingness to move forward; also noted his support for stakeholders meetings.

Councilmember Woolfley said he appreciates Berman's time and effort and commitment to the community. The Councilmember asked that Berman continue to share what stores are coming; expressed that he looks forward to a development with a more prestigious look and feel.

Councilmember Gardner thanked Berman for working with the existing business community; noted that the neighboring service station operator indicated Berman is listening and understands their concern.

Mayor Pro Tem Trough expressed his thanks for the opportunity to be partners, noting this is an example of municipal government working with the business community.

Mayor Robinson thanked Berman for being open to ideas, discussion and alternatives.

Councilmember Polangin moved Council approval of the staff recommendation; the motion was seconded by Councilmember Marcos and carried unanimously (7-0).

C. CDBG Housing and Community Development Annual Action Plan for Fiscal Year 2016 – Resolution R-29-15. Jesse Buggs, Director, Office of Grant Development and Administration, reviewed the staff memorandum which is on file at City Hall. The City is in its third five-year consolidated planning period, 2014-2018. During the first two years in this period, another 30+ homes have been done in the Senior Housing Rehab program; staff decided to pursue this as a result of demographic analysis that showed this was still a major problem in the City, helping seniors to stay comfortably in their homes in older areas. Under HUD, this single-family, owner occupied housing rehab program was designed with qualification requirements, ceiling on grant contribution of \$10,000, income restrictions, procurement standards, energy audit requirements, construction inspection standards, record retention mandates and audit requirements. In 2015, the City received an additional grant of \$180,000 from the State Housing Department to supplement the current program to allow for additional homes to be done. During the past two years, the program has provided windows, roofs, insulation, HVAC systems and other renovations, with its first solar installation on Botany Lane. For FY16, staff proposes to continue the program, having satisfied all Federal requirements for public notice, outreach, citizen participation, program design, and financial integrity. Mr. Buggs requested Council approval of the Plan and proposal.

**Public Hearing:**

Since no one had signed up to speak, the Mayor declared the Public Hearing to have been held.

It was moved by Councilmember Brady and seconded by Councilmember Woolfley to adopt Resolution R-29-15 and authorize the Annual Action Plan be sent to HUD. Motion carried unanimously (7-0).

D. Council Discussion of CB-27-2015 - Townhouses in the M-X-T (Mixed Use Transportation) Zone. City Manager Deutsch noted that this item was added to Council's Agenda after staff became aware late last week of the proposed legislation, and because of the time frame for its prospective review by the County's Planning, Zoning and Economic Development Committee on Wednesday, May 20<sup>th</sup>.

Planning Director Joe Meinert reviewed the staff memorandum, which is on file at City Hall. The legislation sponsored by Council Member Todd Turner and Council Chair Mel Franklin will amend an existing

provision in the Zoning Ordinance which caps the number of townhouse units in a M-X-T Zone at 20% of the total units allowed in the development. This restriction has been in place since 1996; County Council had convened a Housing Policy Task Force which produced a report and the concern at that time was about the preponderance of townhouses constructed in the County in the mid-90s, and the fact that when the townhouses were compared with others in the region, they appeared to be of a lower quality. The recommendation of the County Council in 1996 was to impose a cap on the number of townhouses not only in the M-X-T Zone but also in Comprehensive Design Zones in hope that by restricting the supply, the quality level of units would go up over time. City Council chose to comment in 1996; there were a lot of fine-tuning amendments importing design standards into the Zoning Ordinance – at that time City Council had in its Development Review Guidelines very specific townhouse design standards which the County adopted as part of the Zoning Ordinance.

Mr. Meinert noted that the obvious applicability for the text amendment is the Amber Ridge site; evidently there is a builder who wants to build more than 20% on that site and the support of Council Member Turner has been enlisted. The re-write of the Zoning Ordinance probably won't be concluded until at least a year from now; staff feels it is premature at this time to consider this legislation and recommends writing a letter to the County asking that CB-27-2015 be held in Committee at this time.

**Public Hearing:**

Since no one had signed up to speak, the Mayor declared the Public Hearing to have been held.

In response to questions from Mayor Pro Tem Trough, Mr. Meinert clarified that townhouses are not considered multi-family; if the property is developed with townhouses on site, density and traffic will be less. The Mayor Pro Tem agreed with staff's recommendation.

Responding to a question from Councilmember Woolfley regarding whether there has been any indication of activity on the property between now and the year or so it would take to make an adjustment to overall zoning, Mr. Meinert said there have been no recent communications about the property; don't know if the developer plans to move ahead without this legislation. Rezoning was granted but there are steps that have to follow which involve the Conceptual Site Plan, Preliminary Plan of Subdivision and Detailed Site Plan. There is no grandfathering clause written in the current bill; too early in the process to know what type of grandfathering might be under consideration.

Councilmember Brady asked if the legislation isn't held in Committee, what the likelihood is that this might be adopted. The City Manager said the difficulty in answering that is the City has had no communication with County Council regarding this bill; how much support there is for the bill is not known. Councilmember Brady fully supported the recommendation to hold; supports the Planning Director attending the Committee meeting and raising the issue of the 1996 study – a valid concern that the law they are wanting to change is based upon well thought out, well researched position.

Mayor Pro Tem Trough moved support of the recommendation to hold the bill in Committee and that the Planning Director attend the meeting. The motion was seconded by Councilmember Brady and carried unanimously (7-0).

**ADJOURNMENT AND MOVE TO CLOSE SESSION**

Mayor Pro Tem Trough moved to adjourn the City Council Meeting and move to Close Session under Statutory Authority to Close Session, General Provisions Article, §3-305(b)(1): To discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom this public body has jurisdiction; or any other

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personnel matter that affects one or more specific individuals. Councilmember Polangin seconded the motion and it carried unanimously (7-0). The meeting adjourned at 9:12 p.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Anne S. Ford".

Anne S. Ford, Acting City Clerk

**WRITTEN STATEMENT FOR CLOSING A MEETING  
UNDER THE OPEN MEETINGS ACT**

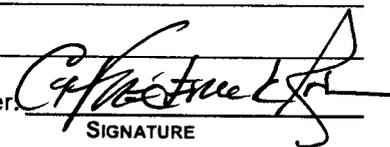
Date: 5-18-15 Time: 9:10 Location: City Hall <sup>Bowie</sup> Motion to close meeting made by: Troun  
Seconded by Polansky Members voting in favor: Robinson, Woolfley, Brady, Marcos  
Gardner Opposed: \_\_\_\_\_ Abstaining: \_\_\_\_\_ Absent: \_\_\_\_\_

**STATUTORY AUTHORITY TO CLOSE SESSION, General Provisions Article, §3-305(b) (check all that apply):**

- (1) To discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom this public body has jurisdiction; or any other personnel matter that affects one or more specific individuals;
- (2) To protect the privacy or reputation of individuals concerning a matter not related to public business;
- (3) To consider the acquisition of real property for a public purpose and matters directly related thereto;
- (4) To consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State;
- (5) To consider the investment of public funds;
- (6) To consider the marketing of public securities;
- (7) To consult with counsel to obtain legal advice on a legal matter;
- (8) To consult with staff, consultants, or other individuals about pending or potential litigation;
- (9) To conduct collective bargaining negotiations or consider matters that relate to the negotiations;
- (10) To discuss public security, if the public body determines that public discussion would constitute a risk to the public or to public security, including: (i) the deployment of fire and police services and staff; and (ii) the development and implementation of emergency plans;
- (11) To prepare, administer, or grade a scholastic, licensing, or qualifying examination;
- (12) To conduct or discuss an investigative proceeding on actual or possible criminal conduct;
- (13) To comply with a specific constitutional, statutory, or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter;
- (14) Before a contract is awarded or bids are opened, to discuss a matter directly related to a negotiating strategy or the contents of a bid or proposal, if public discussion or disclosure would adversely impact the ability of the public body to participate in the competitive bidding or proposal process.

**FOR EACH CITATION CHECKED ABOVE, THE REASONS FOR CLOSING AND TOPICS TO BE DISCUSSED:**

§3-305(b) (1) Performance Evaluation of Appointee  
§3-305(b) ( ) \_\_\_\_\_  
§3-305(b) ( ) \_\_\_\_\_

This statement is made by Mayor Polansky, Presiding Officer.   
SIGNATURE

**WORKSHEET FOR USE IN CLOSED SESSION (CHECKLIST OF DISCLOSURES TO BE MADE IN MINUTES OF NEXT REGULAR MEETING- NOT A PART OF THE CLOSING STATEMENT)**

PERSONS ATTENDING CLOSED SESSION: Robinson, Troun, Polansky, Woolfley, Brady, Marcos, Gardner

TOPICS ACTUALLY DISCUSSED Performance Evaluation of Appointee

ACTION(S) TAKEN (IF ANY) AND RECORDED VOTES: \_\_\_\_\_

TIME CLOSED SESSION ADJOURNED: \_\_\_\_\_

PLACE OF CLOSED SESSION \_\_\_\_\_

PURPOSE OF CLOSED SESSION: \_\_\_\_\_

STATUTORY AUTHORITY FOR THE CLOSED SESSION: §3-305(b) ( ) ; ( ) ; ( ) \_\_\_\_\_

MEMBERS WHO VOTED TO CLOSE: \_\_\_\_\_