



City of Bowie

15901 Excalibur Road
Bowie, Maryland 20716

REGULAR CITY COUNCIL MEETING MINUTES

MONDAY, NOVEMBER 19, 2018

CALL MEETING TO ORDER:

The Regular Meeting of the Bowie City Council was held on Monday, November 19, 2018 in the Council Chambers at City Hall. Mayor Robinson called the meeting to order at 8:03 p.m.

PLEDGE OF ALLEGIANCE TO THE FLAG:

Mayor Robinson led the Pledge of Allegiance to the Flag.

QUORUM:

In attendance were Mayor Robinson, Councilmembers Esteve, Gardner, Marcos, Truth and Woolfley, City Manager Lott, Assistant City Manager Mears, City Clerk Hernandez, City Attorney Levan, Staff, Press and the Public.

AGENDA ADDITIONS/DELETIONS/AMENDMENTS:

Mayor Robinson stated that Item A under Old Business South Lake Declaration of Covenants Resolution R-76-18, is rescheduled to the December 3 meeting.

CITIZEN PARTICIPATION:

1. Virginia Weimer, Gold Cup Lane – Spoke in regards to neighbor cutting down trees without approval from HOA or a permit, would recommend the City to adopt a permit procedure in order to avoid this from happening again.

PRESENTATIONS:

Councilmember Woolfley presented a Proclamation to Ms. Laney Puhalla winner of the Gold Medal in the Junior Women's Event at the 2018 World Baton Twirling Championship.

CITY BOARDS AND COMMITTEES:

A. Appointments/Reappointments/Swearing-in

1. Mayor Pro Tem Gardner made a motion to appoint Joshua Wooten to the Green Team Executive Committee for a 2-year term. Councilmember Truth seconded the motion. Motion passed 6-0.
2. Councilmember Woolfley made a motion to appoint Julie Kelly to the Education Committee for a 2-year term. Councilmember Marcos seconded the motion. Motion passed 6-0.

MAYOR G. Frederick Robinson **MAYOR PRO TEM** Henri Gardner

COUNCIL Michael P. Estève ♦ Courtney D. Glass ♦ James L. Marcos ♦ Isaac C. Truth ♦ Dufour Woolfley **CITY MANAGER** Alfred D. Lott
City Hall (301) 262-6200 FAX (301) 809-2302 TDD (301) 262-5013 WEB www.cityofbowie.org

3. Councilmember Truth made a motion to appoint Charles Mutama to the Community Outreach Committee for a 2-year term. Councilmember Marcos seconded the motion. Motion passed 6-0.
4. Councilmember Marcos made a motion to reappoint the following members to the Board of Elections: Yolanda Jones, Camilla M. Gaines, Louis D'Orsaneo, Brian Suddeth, Albert Curley and Susan Curley for a 2-year term. Mayor Pro Tem Gardner seconded the motion. Motion passed 6-0.
5. Mayor Robinson swore-in the members to their respective committees.

COUNCIL ANNOUNCEMENTS:

Mayor Robinson wished everyone a safe and happy Thanksgiving holiday and mentioned that this year's Tree Lighting event will take place on December 2 at 7:00 p.m. at the Belair Mansion.

CITY MANAGER'S REPORT:

City Manager Lott reported a summary of the City's expenditures for Fiscal Year 2018. General Fund Budget Expenditures was \$55,739,400 actual expenditures were \$50,742,522 leaving a net change in fund balance of \$(1,595,842). (Copy of report attached)

CONSENT AGENDA:

Councilmember Marcos moved the approval of Consent Agenda Items: A) Approval of Resolution R-79-18 Accepting a Proposal for an Agreement for Architect/Engineering Open End Contract – Category 4; B) Approval of Resolution R-80-18 Accepting a Bid Proposal for Regrade Bowie Forest Stormwater Management Pond; C) Approval of Resolution R-81-18 Allowing for the Reduction of the Performance Security Guaranteeing Construction of the Stormwater Management at Page Court; D) Approval of Resolution R-82-18 Allowing for the Reduction of the Performance Security Guaranteeing Construction of the Storm Drain/Paving at Page Court; E) Approval of Resolution R-83-18 Accepting Bid for Analytical Laboratory Services. Mayor Pro Tem Gardner seconded the motion and it passed 6-0.

NEW BUSINESS:

A. Auditors Presentation – Ms. Aires Coleman from the audit firm CliftonLarsonAllen, LLP, briefed Council on the audit findings. Overall the City is in great standings and financial statements for the fiscal year ending June 30, 2018 were fairly presented in conformity with GAAP. One item that remains on the auditors' management letter is the Information Technology Risk Assessment. Even though the City has a risk assessment over the IT functions, under industry standards they would suggest the City enhance their risk assessment to make it a little more robust.

B. Twisting Lane Traffic - Public Works Director George Stephanos summarized the traffic study that was done on Twisting Lane in 2017. The study results did not support installation of speed humps or other physical traffic calming devices. The current City policy states that installation of traffic calming devices could be installed even when the study results conclude the street ineligible, if 90% of the homeowners on the affected street and 60% on all side streets agree in writing to the proposed installation.

Mr. James Caruso, who resides on Twisting Lane and presented a petition for speed humps on Twisting Lane spoke with concerns on the study which seem to be erroneous especially on the blind curves.

Councilmember Gardner commented that he has witnessed himself, several vehicles speeding on Twisting Lane at different times of the day in both directions and hopes that his colleagues would look at this situation as a special exception to the City's Neighborhood Traffic Management Program and overlook the requirements for traffic calming on Twisting Lane.

Councilmember Woolfley mentioned that staff should consider having a community meeting for residents to come in and voice their concerns about the speeding similar to what was done for Belair Drive.

Councilmember Truth asked Mr. Stephanos to look at past files and see what was done on Pin Oak Parkway several years ago when they had the same situation. Mr. Stephanos stated that the two roads are not similar but will look into it.

Councilmember Woolfley made a two-part motion: Part 1) direct staff to review current standards on the traffic policy and see if any changes are needed; Part 2) to move forward on a trial basis, the installation of temporary speed humps on Twisting Lane and measure traffic pattern after installation. Councilmember Truth seconded the motion. Motion carried 6-0.

C. City Election Code and Charter - City Clerk Awilda Hernandez summarized the previous recommendations from the Board of Elections on candidate filing procedures as well as possible changes to recall process. During the budget process for Fiscal Year 2018, Council requested the Board of Elections to review the City's procedures for candidacy filing. The Boards' recommendations were presented to Council on June 5, 2017 and stated the following: 1) the filing fee should remain at \$25, with the addition of requiring candidates to submit a 100-signature petition with the signatures of registered Bowie residents at the time they file the fee; 2) the board also recommended extending the filing deadline to 45 days and that nomination packets for candidates become available beginning May 1st of the election year. In 2017, the City went through their first Recall Election of a City Councilmember, during that process the Board and City Clerk noticed several other changes that Council should consider updating in the Charter which include extending the period for conducting the recall election from 30 days to 60 days and the period relating to the time remaining in an official's term from 6 months to 18 months. The City's next election is scheduled for November 5, 2019, in order for any of the proposed changes to be effective prior to the next election, Council would need to take action soon since Charter Amendments takes approximately 50 days to become effective once Council adopts it.

Public Hearing:

1. Larry Swank, Scarlett Lane – Suggests expanding the 100-signature petition to candidates that are filling a vacant Council seat outside of a regular election period, strike out the action challenging the reason for a recall and not changing the officials term from 6 months to 18 months as well as extending the time to collect signatures for the petition from 30 to 60 days.
2. Fiona Moodie, Ithan Lane – Suggests removing the period for collection of signatures during the recall process, 80% of surrounding municipalities do not have a timeframe.
3. Dennis Brady, Paisley Lane – Recommends a Task Force be formed to review the charter, timeframe change from 6 months to 18 months is not warranted, contributions should be clearly stated. A copy of Mr. Brady's comment are attached.

Councilmember Esteve asked if any other municipalities require signatures for their candidates. City Clerk Hernandez responded that when the Board reviewed this item they polled surrounding municipalities that are similar in size to Bowie (Greenbelt, College Park, Laurel, Gaithersburg, and Rockville) and found that 4 out of the 5 require signatures, Greenbelt is the only one that does not require it, nor do they have a filing fee.

Councilmember Esteve suggests staff look into having a separate Counsel to represent the Board of Elections to help adjudicated with any election issues. City Counsel Levan was in agreement with Councilmember Esteve's recommendation.

Councilmember Woolfley has concerns of not having a clear understanding and transparency of the entire election process. He is also in agreement of forming a Task Force to review all election rules and how they are adjudicated. It should be formed with residents, staff, past elected officials as well as the Board of Election members. We want to encourage people to run for office, not feel that they are being boxed out.

Mayor Pro Tem Gardner is in agreement with his colleagues to have an organized effort to define the rules for elections and does not support the signature requirements.

Councilmember Truth is also against the signature requirements.

Mayor Robinson asked the City Clerk if it would be feasible to have the Board of Elections come before Council at the first meeting in January to work with Council on the changes recommended before the next election cycle.

Councilmember Woolfley does not think that it is wise to cherry pick items, the entire review should be done at one time.

City Clerk Hernandez responded that it might be difficult to get the Board to have answers by the first meeting in January or form a Task Force to thoroughly review the charter before residents consider filing for the 2019 election.

Councilmember Truth asked his colleagues if anyone is in opposition to setting the May 1st as the opening of the election cycle. There was no opposition.

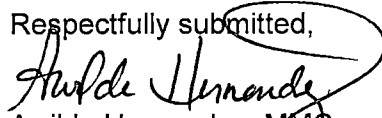
City Counsel stated that Council could do a Code change via an Emergency Ordinance which requires less time than a Charter Amendment in order to meet the time for candidates to file beginning May 1st and then, once the Task Force is formed, reviews the charter and presents their recommendations to Council, at that time then it can be changed in the Charter.

Councilmember Truth made a motion to have staff proceed with an Emergency Ordinance to set May 1st as the start of candidate filings for City elections. Councilmember Woolfley seconded the motion. Motion carried 5-1 (Esteve).

ADJOURNMENT AND MOVE TO CLOSE SESSION:

Mayor Pro Tem Gardner moved to adjourn the Regular City Council meeting and move to Close Session, General Provisions Article §3-305(b)(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. Councilmember Truth seconded the motion and it carried 6-0. The meeting adjourned at 10:40 p.m.

Respectfully submitted,


Awilda Hernandez, MME
City Clerk

CITY OF BOWIE MARYLAND
SUMMARY OF FISCAL YEAR 2018

Unassigned fund balance:

Unassigned fund balance FY2018	\$ 25,812,899	
Unassigned fund balance FY2017	29,330,312	
Decrease in unassigned fund balance	<u>\$ (3,517,413)</u>	-11.99%

Total fund balance

Total fund balance FY2018	\$ 39,556,903	
Total fund balance FY2017	41,152,745	
Decrease in total fund balance	<u>\$ (1,595,842)</u>	-3.88%

Revenues:

General fund FY2018 actual revenue	\$ 49,146,680	
General fund FY2018 actual expenditures	50,742,522	
Net change in fund balance	<u>\$ (1,595,842)</u>	-3.14%

Budget Highlights:

Revenues:

General fund FY2018 budget	\$ 55,739,400
General fund FY2018 actual revenues	49,146,680
unfavorable budget variance	<u>\$ (6,592,720)</u>

Expenditures:

General fund FY2018 budget	\$ 55,739,400
General fund FY2018 actual expenditures	50,742,522
Favorable budget variance	4,996,878
Net budget variance	<u>\$ (1,595,842)</u>

General fund FY2018 budgeted expenditures	\$ 55,739,400
General fund FY2018 budgeted actual expenditures	51,083,559
favorable variance	<u>4,655,841</u>

General fund FY2018 budget	\$ 55,739,400	
General fund FY2018 actual revenues	49,146,680	
unfavorable budget variance	<u>6,592,720</u>	(expected use of fund balance \$6,049,900)
Net budget variance	(1,936,879)	
Plus FY2018 encumbrances	714,897	
Less prior year encumbrances	(373,860)	
Net change in fund balance	<u>\$ (1,595,842)</u>	

Water and Sewer Fund

Revenues	\$ 7,543,615
Expenditures	6,596,864
Net Change in net position	<u>\$ 946,751</u>

**Comments on Council Item XI.-C City Election Code and Charter
(Document 20181119 - City Elections.pdf)
City Council Meeting of November 19, 2018**

At the outset, I would strongly recommend that Council establish a Task Force to investigate the conduct of past elections, research what documentation and requirements other municipalities (MML and PGCMA are excellent sources of information) utilize in carrying out their elections, and determine what "Best Methods" are available. The task force's meetings should be open and include public participation.

This item tonight appears to be version 2.0 of last September's Charter Amendment Resolution which sought to severely restrict/limit the ability of Bowie's citizens to recall an elected official.

We seem to forget that elections are truly a popularity contest. When someone is elected to an office, it doesn't necessarily mean that the best candidate won; only the one with the most votes. This is different than what we expect when hiring a prospective employee.

As a result, the requirement that there be a reason for a Recall, especially if it is limited to a few restrictive qualifiers, is not only unfair but it is unnecessary.

It is unfortunate that the supporting data for the Board's recommendation is not included. What is the rationale for the requirement of a "100-signature petition"? Where did this come from and what is the basis for it. I do not support this change but must say that it is at odds with the requirement for the recall petition: signatures must be from 25% of the total eligible voters in their respective district or, for Mayor and At-Large, of the total eligible voters in the City.

The recommendation to change the cutoff time for recall from 6 months to 18 months is not warranted. It is clearly based upon the unnecessary cost and conflict that a special election has on staff. The same can be argued in the first 6 or 18 months of one's term in office. As a recall is a rare occurrence, this change is unsupportable. And, if we visit the theatre of the absurd, where a recall's impact is minimized with respect to the previous election (first months in) and to the next election (final months), then there is only one date available for a recall: the first Tuesday following the first Monday of November in the odd year between City elections.

The recommendation to extend the special election date from 30 to 60 days is reasonable and supported. But this same extension should apply to the time for signatures to be collected on Recall Petitions.

The recommendation to move the cutoff date for filing from 30 days to 90 days is supportable.

The code needs to clarify its definitions with respect to who cannot contribute to a candidate. Corporate contributions should continue to be prohibited. Additionally, contributions from developers and their representatives should also be prohibited. And the limits of contributions should better define what is prohibited.

Any individual, group or business that has a contractual relationship with the City should be prohibited from contributing to a candidate or participating in that candidate's campaign.

My experience in City 11 elections leaves me concerned with the veracity of information provided in Treasure's Reports. While I reported every contribution received and every expenditure made, I do not have the same level of confidence in several other candidates who ran over that same period of time. Treasure Reports must be independently audited and discrepancies corrected.

A process for adjudicating complaints about the conduct of elections needs to be formalized. The City Attorney, due to their employment by the Council, cannot be the one to resolve complaints, especially those directed at an incumbent. An outside attorney should be hired by the Board of Elections to provide them with legal advice and services related to the conduct of an election.

Of recent elections, the issue of partisanship has infected the City's election. Since Bowie beginnings as a bedroom community for Washington DC and the federal workforce, its structure was intentionally established as non-partisan to allow the many residents affected by the Hatch Act to serve in an elected capacity. Either this partisanship needs to be stopped or the City should establish a partisan style election with primaries and general elections.

There is much more that I could say and write about this item on tonight's agenda but I will stop here. The bottom line is that, whatever you do, it needs to be done in full view of the citizens and with public input and involvement.

Sincerely,


Dennis Brady

Former Bowie City Councilman (April 1994 through November 2015)

PRESIDING OFFICER'S WRITTEN STATEMENT FOR CLOSING A MEETING ("CLOSING STATEMENT")
UNDER THE OPEN MEETINGS ACT (General Provisions Article § 3-305)

This form has two sides. Complete items 1 – 4 before closing the meeting.

1. Recorded vote to close the meeting: Date: 11/19/18; Time: 10:40^{pm}; Location: CH 182 ;
Motion to close meeting made by: Gardner Seconded by Truth ;
Members in favor: Robinson, Marcos, Truth, Gardner ; Opposed: _____ ;
Abstaining: Woolfy, Esteve ; Absent: Glass .

2. Statutory authority to close session (check all provisions that apply).
This meeting will be closed under General Provisions Art. § 3-305(b) only:

(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; 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"; (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." (15) "To discuss cybersecurity, if the public body determines that public discussion would constitute a risk to: (i) security assessments or deployments relating to information resources technology; (ii) network security information . . . or (iii) deployments or implementation of security personnel, critical infrastructure, or security devices."

Continued →

3. For each provision checked above, disclosure of the topic to be discussed and the public body's reason for discussing that topic in closed session.

Citation (insert # from above)	Topic	Reason for closed-session discussion of topic
§3-305(b) <input checked="" type="checkbox"/> 14	Discuss Lobbying Proposal	Consideration of Lobbying Services
§3-305(b) <input type="checkbox"/>		
§3-305(b) <input type="checkbox"/>		
§3-305(b) <input type="checkbox"/>		
§3-305(b) <input type="checkbox"/>		

4. This statement is made by *C. Richard E. John*, Presiding Officer.

WORKSHEET FOR OPTIONAL USE IN CLOSED SESSION: INFORMATION FOR SUMMARY TO BE DISCLOSED IN THE MINUTES OF THE NEXT OPEN MEETING. (See also template for summary.)

> For a meeting closed under the statutory authority cited above:

Time of closed session: 10:45 pm

Place: City Hall ch 181

Purpose(s): Consider contract for Lobbying services

Members who voted to meet in closed session: Estee, Gardner, Marcos, Truth, Woolley, Robinson

Persons attending closed session: Estee, Gardner, Marcos, Truth, Woolley, Robinson, Lott, Mears, Levan

Authority under § 3-305 for the closed session: (14) Discuss contract before awarding

Topics actually discussed: Contract for lobbying services

Actions taken: not accepting proposal/contract

Each recorded vote: _____

> For a meeting recessed to perform an administrative function (§ 3-104): Time: _____

Place: _____

Persons present: _____

Subjects discussed: _____