



City of West University Place

A Neighborhood City

CITY COUNCIL

Susan Sample, Mayor
Bob Kelly, Mayor Pro Tem
Burt Ballanfant, Councilmember
Brennan Reilly, Councilmember
Mardi Turner, Councilmember

STAFF

M. Christopher Peifer, City Manager
Alan Petrov, City Attorney
Thelma Lenz, City Secretary

City Council Meeting Agenda

Notice is hereby given of a regular meeting of the City Council of West University Place to be held on **Monday, January 25, 2016** beginning at **6:30 p.m.** in the **Municipal Building** located at 3800 University Boulevard, West University Place, Texas, for the purpose of considering the following agenda items.

Note: All agenda items are subject to action. The City Council reserves the right to meet in a closed session on any agenda item should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code.

CALL TO ORDER

Agenda items are as follows:

Call to Order
Pledge of Allegiance
Matters related to the notice of this meeting

1. Public Comments

This is an opportunity for citizens to speak to Council relating to agenda and non-agenda items. If the topic the speaker wishes to address is on the agenda, the speaker can either speak at this time or defer his/her comments until such time the item is discussed. Speakers are advised that comments cannot be received on matters which are the subject of a public hearing once the hearing has been closed. Public comments must be kept relevant to the subject before the Council. The presiding officer shall rule on the relevance of comments. Persons making irrelevant, personal, impertinent, or slanderous remarks may be barred by the presiding officer from further comment before the Council during the meeting. Speakers are required to register in advance and must limit their presentations to three minutes each.

2. Street Parking and Parking Violations

Matters relating to Parking Etiquette Program, designated drop off zones, parking on sidewalks, and guidance to staff regarding parking violations. *Discuss and take any desired action.* **Councilmember Brennan Reilly and Mayor Pro Tem Bob Kelly** [see Agenda Memo 2]

3. Future Agenda Items

Matters related to future agenda items. *Discuss and take any desired action.* **City Council** [see Future Agenda Items List]

4. Consent Agenda

All Consent Agenda items listed are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council member requests in which event the item will be removed from the Consent Agenda and considered in its normal sequence on the agenda.

A. City Council Meeting

Approve City Council Minutes of the January 4, 2016 and January 11, 2016. *Recommended Action: Approve Minutes. Ms. Thelma Lenz, City Secretary* [see Minutes]

5. Adjourn

In compliance with the Americans with Disabilities Act, if you plan to attend this public meeting and you have a disability that requires special arrangements, please contact City Secretary Thelma Lenz at 713.662.5813 at least 24 hours prior to the meeting so that reasonable accommodations can be made to assist in your participation in the meeting. The Council Chambers is wheel chair accessible from the west entrance and specially marked parking spaces are available in the southwest parking area. Special seating will be provided.

I certify that the attached notice and agenda of items to be considered by the West University Place City Council on January 25th 2015 was posted on the Municipal Building bulletin board on January 21st, 2016 at approximately 4:00 o'clock p.m.

(SEAL)


Thelma A. Lenz, City Secretary

AGENDA MEMO
BUSINESS OF THE CITY COUNCIL
CITY OF WEST UNIVERSITY PLACE, TEXAS

AGENDA OF:	January 25, 2016	AGENDA ITEM:	2
DATE SUBMITTED:	January 21, 2016	DEPARTMENT:	Public Works
PREPARED BY:	D. Beach, Public Works Dir.	PRESENTER:	D. Beach, Public Works Dir.
SUBJECT:	Street Parking and Parking Violations		
ATTACHMENTS:	None		
EXPENDITURE REQUIRED:	N/A		
AMOUNT BUDGETED:	N/A		
ACCOUNT NO.:	N/A		
ADDITIONAL APPROPRIATION REQUIRED:	N/A		
ACCOUNT NO.:	N/A		

EXECUTIVE SUMMARY

The Parking Etiquette Program (PEP) was enacted by the City Council to extend the “Golden Rule” into West U’s current parking practices. Basically “Do unto others as you would have them do unto you.” Through this program the goal of the City is to achieve behavioral changes to residents parking practices.

The PEP program is administered almost entirely by the City’s Code Enforcement Officer through a tiered approach.

- 1st Violation – Courtesy Notice
- 2nd Violation – Formal Warning
- 3rd Violation – Parking Citation (including monetary fine)

If there is an immediate or impending danger to public safety a ticket may be issued for the violation upon first notice or the vehicle may be towed.

Below are the overall results of the PEP program from October 1, 2012 to December 31, 2015.

	2012	2013	2014	2015	TOTAL
Total Incidents *	90	602	459	210	1,361

*Note * - includes warnings, citations and complaints received that did not result in a warning or citation being issued.*

Staff will provide a breakdown of warnings, citations and complaints that did not result in a warning or citation.

RECOMMENDATION

No recommendation at this time. Informational purposes only.

FUTURE AGENDA ITEMS

Shaded items are on immediate agenda.

Date	Item	Synopsis & Recommendation
01/25/16	Street Parking and Parking Violations	Matters relating to Parking Etiquette Program, designated drop off zones, parking on sidewalks, and guidance to staff regarding parking violations. <i>Discuss and take any desired action.</i> Presenter, Councilmember Brennan Reilly and Mayor Pro Tem Bob Kelly
02/08/15	Tree Trust Planting Project	Approval of agreement with Bio Landscapes for the City's Annual Tree Trust Planting Project in the amount not to exceed \$60,000.
02/22/16	Park Acquisition and Development City Council Workshop	Matters related to the future acquisition and development of parkland in West University Place. Mr. Tim O'Connor, Parks and Recreation Director
02/22/16	Solid Waste Ordinance (first reading)	Matters related to updating Chapter 38 Garbage and Trash of the Code of Ordinances of the City of West University Place. <i>Recommended Action: Approve ordinance of the Code of Ordinances of the City of West University Place on the first of two readings.</i> Mr. Dave Beach, Public Works Director
03/14/16	Parks and Recreation Dept. Awards	Matters related to a presentation from the Parks and Recreation Department staff related to the two recent awards bestowed the City on behalf of the Houston-Galveston Area Council and the Texas Recreation and Parks Society. Mr. Tim O'Connor, Parks and Recreation Director
03/14/16	Solid Waste Ordinance (second and final reading)	Matters related to updating Chapter 38 Garbage and Trash of the Code of Ordinances of the City of West University Place. <i>Recommended Action: Approve ordinance of the Code of Ordinances of the City of West University Place on the second and final reading.</i> Mr. Dave Beach, Public Works Director
03/14/16	Tree City USA Recognition and Arbor Day Proclamation	Matters related to a proclamation proclaiming March 26, 2016 as Arbor Day. <i>Recommended Action: Proclaim March 26, 2016 as Arbor Day in the City of West University Place.</i> Mr. Craig Koehl, Urban Forester and Ms. Debbie Scarcella, City Planner
04/11/16	National Volunteer Month	Matters related Matters related to proclaiming the month of April "National Volunteer Month" in the City of West University Place. <i>Recommendation: Proclaim April "National Volunteer Month" in the City of West University Place.</i> Ms. Toby Brooks, Senior Services Manager
04/25/16	National Water Safety Month	Matters related to proclaiming the month of May 2016 "National Water Safety Month" in the City of West University Place. <i>Recommendation: Proclaim May "National Volunteer Month" in the City of West University Place.</i> Ms. Brittany Bakes, Recreation Manager
04/25/16	Lemonade Day Proclamation	Matters related to proclaiming May 1, 2016 as Lemonade Day in West University Place, Texas. <i>Recommended Action: Proclaim May 1, 2016 as Lemonade Day in West University Place.</i> Mayor Susan Sample

Date	Item	Synopsis & Recommendation
05/09/16	National Older Citizens Month	Matters related to proclaiming the month of May 2016 as “National Older Citizens Month” in the City of West University Place. <i>Recommendation: Proclaim May as “National Older Citizens Month” in the City of West University Place. Ms. Toby Brooks, Senior Services</i>
06/13/16	National Parks and Recreation Month	Matters related to proclaiming July 2016 as “National Parks and Recreation Month” in the City of West University Place. <i>Recommendation: Proclaim July as “National Parks and Recreation Month” in the City of West University Place. Mr. Tim O’Connor, Parks and Recreation Director</i>
10/24/16	Chevron Houston Marathon	Matters related to the 2017 Chevron Houston Marathon. <i>Ms. Susan White, Assistant Parks and Recreation Director</i>
10/24/16	Parks & Recreation 2017 Fee Schedule	Matters related to an ordinance adopting the 2017 Fee Schedule for the Parks and Recreation Department. <i>Mr. Tim O’Connor, Parks and Recreation Director</i>
11/14/16	Friends 2017 Projects	Matters related to funding of the Friends of West University Place Parks 2017 projects. <i>Mr. Tim O’Connor, Parks and Recreation Director</i>
11/14/16	West U Aquatics MOU	Matters related to a 2017 Memorandum of Understanding between the City of West University Place and West University Aquatics. <i>Recommended Action: Approve Memorandum of Understanding. Mr. Tim O’Connor, Parks and Recreation Director</i>
11/14/16	West U Baptist Church MOU	Matters related to a 2017 Memorandum of Understanding between the City of West University Place and West University Baptist Church. <i>Recommended Action: Approve Memorandum of Understanding. Mr. Tim O’Connor, Parks and Recreation Director</i>
11/14/16	Tri-Sports MOU	Matters related to a 2017 Memorandum of Understanding between the City of West University Place and Tri-Sports. <i>Recommended Action: Approve Memorandum of Understanding. Mr. Tim O’Connor, Parks and Recreation Director</i>
TBD	Texas Ethics Commission Opinion	Matters related to a Texas Ethics Commission opinion relating to the content of articles written in <i>City Currents</i> . <i>Recommended Action: Discuss and take any desired action. Councilmember Brennan Reilly</i>
TBD	Parking Survey	Matters related to a parking survey. <i>Recommended Action: Discuss and take and desired action. Mr. Dave Beach, Public Works Director</i>
TBD	Video Distribution of Council and Board Meetings	Matters relating to the availability of City Council and Board/Commission meetings by internet video. Discuss and take any desired action.
TBD	Executive Session with City Attorney	Matters related to status update on various legal matters. <i>Councilmember Brennan Reilly and Mayor Pro Tem Bob Kelly</i>
TBD	Town Center Zoning	Matters related to Town Center Zoning. <i>Recommended Action: Discuss and take any desired. City Council</i>

Date	Item	Synopsis & Recommendation
TBD	Parkland Acquisition and Funding (Workshop)	Matters related to an update on parkland acquisition, development and funding. <i>Recommended Action: Discuss and take any desired action. Mr. Tim O'Connor, Parks and Recreation Director</i>
TBD	Poor Farm Ditch	Matters related to Poor Farm Ditch. <i>Recommended Action: Discuss and take any desired action. Mayor Susan Sample</i>
TBD	Investment Policy	Matters related to amendments to the City's Investment Policy and Investment Strategies. <i>Discuss and take any desired action. Ms. Rhonda Daugherty, Finance Director</i>
TBD	Buffalo Speedway	Matters related to Buffalo Speedway Replacement Project. Mr. Chris Peifer, Interim City Manager
TBD	Evelyn's Park Development	Matters related to the development of Evelyn's park in Bellaire, including possibility of shared parking arrangements with the City of Bellaire for Evelyn's park. <i>Discuss and take any desired action.</i>

1/21/2016 4:25:37 PM



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CITY COUNCIL WORKSHOP MINUTES

The City Council of the City of West University Place, Texas, met in a workshop session on **Monday, January 4, 2016**, in the Municipal Building, 3800 University, West University Place, Texas beginning at **6:00 p.m.**

Agenda Items were as follows:

Call to Order. Mayor Sample called the meeting to order at 6:00 p.m. in the City Council Chambers. Council and Staff in attendance were: Mayor Pro Tem Kelly, Councilmembers Ballanfant, Reilly and Turner, City Manager Peifer, City Secretary Lenz, and Public Works Director Beach

1. Discuss the scope of the Facilities Master Plan Task Force

Mayor Kelly said to him the scope is very simple because since there is already a Master Plan in place. He said Council should just have a task force look at the November 15, 2015 Facilities Master Plan Update and provide Council input on it. He said there are two main things that need to be addressed by a task force: (1) How does the Baptist Church's announcement that it will build on Amherst affect the Master Plan; and (2) If the Master Plan needs review/revisions, what would they do differently?

Councilmember Turner said she looked at this report (which she prefers to call it), as the culmination of a review of the space the City has, what it needs and where it can put people. She said the City has space for everybody that works at the City today and for everybody who is going to work at the City in 2024, but there are a couple of buildings in desperate need of repair in the short-term (1 – 5 years). Councilmember Turner said to her those buildings would be more of a useful topic for a task force to deal with. She said the report has a few scenarios regarding a couple of buildings and Council needs to start paying attention as to what will become of them. She said the library would be number one on her list and because of the deed restrictions she would also fold in the Community Building. She said she would put facility maintenance buildings in 3rd place.

City Manager Peifer said Council has three different ways of addressing library repair needs: Focus on the life safety issues only (approximately \$300,000), rehab the current footprint to what libraries provide now (\$3.2 million), or construct a new library. He said constructing a new library or rehabbing the existing footprint is roughly about the same amount of money and no square footage is gained.

Councilmember Reilly said this is putting the cart before the horse. He said to him figuring out what to do with the library is exactly what he would want the Facilities Master Plan Task Force to do. He said in the current and previous Master Plans several recommendations are given and

they are very significant things, and none which he believes have gone through the sort of citizen input typically seen as with the Parks Master Plan. He said there are significant recommendations in the Master Plan that are presented as givens, yet they haven't been publicly vetted.

Councilmember Reilly said if Council were to decide today to replace the library, that would be met with shock by most residents in the City because they don't see it as a facility that is about to fall down in 1 to 5 years and the same thing for the maintenance facility, which is why he would like a task force to be charged with performing a condition assessment of the City's facilities and evaluate the recommendations in the Master Plan as well as those in previous plans to see if there is something that the citizens really want.

Councilmember Ballanfant said he would like to see any genuine justification for moving the maintenance facility outside the middle of the City. He said the current site is the best operation site there is.

City Manager Peifer said the 2015 Master Plan Update is just a planning tool for what the City envisions in 5, 10, 15 or 30 years and beyond.

Councilmember Reilly said he understands that it could be a planning tool, but a recommendation to move the maintenance facility out of the City Center is in the report, so he feels it's more than just a planning tool.

Councilmember Reilly said he would like a task force to evaluate the need for immediacy.

Councilmember Turner suggested Council direct a task force to only look at the 3 or 4 buildings that are considered to be in poor condition.

Councilmember Reilly said Councilmember Turner is making conclusions about which facilities should be looked at before the facilities' conditions have been assessed and before Council has heard the public's desire. He said she is assuming that the public wants the library to be rebuilt and the maintenance facility to be looked at.

Councilmember Reilly said he feels that Council is making a lot of assumptions. He said the 2015 Facilities Master Plan has a lot in it and said though some are not controversial, there are some things he feels that if a Citizen Task Force looked at it, they might think that the maintenance facility shouldn't be moved. He said they could make what he feels is a policy decision.

Councilmember Reilly said it would also behoove Council to look at the City's valuable piece of land on Dincans, as well as realize the value of the old golf course property at Ruffino Hills. He said looking at those two properties is just as important, if not more, than looking at the building issues.

Councilmember Ballanfant said if the City has a solid building, it's functional and it's been upgraded over time, he wants to know the real justifications why Council would change that. He said there is nothing in the report that causes him to think there is any crisis that needs to be addressed.

Mayor Sample said the Master Plan is for future planning.

Councilmember Ballanfant said it's fun for people to put together books like this and dream all kinds of good things that might be nice to do someday, but he wants to have real engineering and structural justification before even having this discussion.

Mayor Sample said one of the recommendations in the report is to pay for an assessment of the condition of every building and asked Councilmember Ballanfant is that something he would agree to have done. Councilmember Ballanfant said he would agree with something like that.

Councilmember Reilly said he feels the document is deficient in a lot of ways, but the main problem he has with it is that it doesn't reflect citizen input and it's being used to justify very significant decisions, for example, the need to rebuild the library. He said he thinks that is an atrocious idea.

Councilmember Turner said Councilmember Reilly is making some great points, but in terms of the buildings, she doesn't think the citizens particularly care about the outbuildings around Public Works or the break room in Public Works. She said she is suggesting that the four buildings pointed out in the report as being the most vulnerable and oldest receive the assessment.

Mayor Sample pointed out that the City did receive a lot of input for the Parks Master Plan because citizens use the parks and the recreational facilities. She said residents don't go to the lunchroom in the maintenance building.

Councilmember Reilly said he is looking for a huge amount of citizen input on significant projects that will result in the issuance of significant amounts of bonds and therefore significant taxes to be paid for by the residents. He said just because it is a building project for a maintenance facility that the residents don't use directly, doesn't mean that the residents are not interested in it. He said residents are extremely interested in the amount of money the City spends and Council has the responsibility to justify that.

Councilmember Reilly said the buildings can't be addressed in a vacuum, because in his mind the other facilities have to be addressed at the same time because they might provide some planning opportunities for the City's vacant land as well.

Mayor Pro Tem Kelly said Options 1 and 2 are the only options available from this plan because the plan is premised on the fact the Community Building would be moved behind City Hall and that's no longer possible, which negates the other options.

Councilmember Turner said Mayor Pro Tem Kelly makes a very good point, because Options 1 and 2 are the only options because according to the deed restrictions the City is not to have anything else in that space, other than a park. She said if the City doesn't have the Community Building contiguous with the Library in that space, unless for a park, the City runs the risk of losing that land completely.

Councilmember Turner reiterated that she would like a task force to focus on the four buildings (library, community center, Public Works outbuildings, which are the older parts of those structures not built with bunker strength, and the maintenance facility) regardless of where it comes out. She said she doesn't think a task force needs to look at anything else and said she thinks the City should go ahead and appoint a task force while waiting for the building assessment.

Councilmember Ballanfant said he doesn't believe the City needs to do anything unless the buildings are in some kind of fundamental risk of a roof collapsing or a wall caving in.

Mayor Pro Tem Kelly said the simplest thing is to have a task force look at the plan to determine if it is still relevant and provide it's recommendations regarding location of facilities, etc. He said all we are asking from the members of a task force is their input.

Mayor Pro Tem Kelly asked what is the disadvantage of having the task force look at the whole egg rather than just part of it.

Councilmember Turner said the other 8 or 9 buildings don't appear to be in dire need of anything being done to them, so she is trying to focus on something topical that a small group can review in a short of amount of time.

Mayor Pro Tem Kelly said he doesn't see this task force as making a decision that the City needs to do something right away with anything. He said he thinks Council needs to ask them to look at everything and see just what would be a Facilities Master Plan from their standpoint. For instance, what are the pros and cons of locations, pros and cons of a new building versus an old building, and how much longer can the City go with one or the other and then they provide the information to Council for a decision based on the report.

Mayor Sample said what Mayor Pro Tem Kelly says makes sense, but the fact is it's probably not needed for the all of the buildings such as the Rec Center.

Councilmember Turner noted that Page 3, first paragraph, of the plan states that the plan is to identify the space needs for each department of the City. She said that's all the plan is.

Councilmember Reilly said if that's all it is then why does it state that the City needs to relocate facilities out of the City Center and expand parking in the City Center. He said if that's all it is, why does it say these things? He said he thinks Council is going to appoint people who are very qualified to evaluate the document to see whether or not all of the recommendations and assumptions make sense and then recommend changes and Council will decide whether it agrees with them. He said he is fully on board with Mayor Pro Tem Kelly that Council needs to have this committee evaluate the document and agrees with Councilmember Ballanfant that there be a building condition assessment before discussing which buildings need to be changed in 1 to 5 years. He said it may be true, but he hasn't seen any evidence of that.

Councilmember Turner said looking at the list on Page 10, the relocation of Public Works continues to be problematic, consolidation of City-owned properties is a long-term goal since there are no opportunities at the moment, expansion of parking would be only if the City figures out a way to buy more land, rebuilding the animal control facility is underway; so, the facilities she would like to see the task force review are the only facilities left.

Mayor Pro Tem Kelly said he just doesn't see any advantage of limiting the task force unless there is some big hurry to do something. He said he would rather let the task force chew on it and give them a time limit to report back to Council.

Councilmember Turner asked if the buildings assessment could be limited to buildings built prior to 1990. Mayor Sample said she thinks all the buildings should be assessed. Councilmember

Reilly said he doesn't think there is a need to do an assessment on the Municipal Building, the Rec Center, the Colonial Park Pool or Police Station.

Councilmember Reilly said he would like staff to come back to Council for a vote on a list of the buildings recommended for a condition assessment.

Regarding the Wastewater Treatment Plant facility, City Manager Peifer indicated that the facility was not included in the report because it is regulated by a state entity and is serviced and looked at all the time.

After further discussion, Councilmember Reilly recommended that Council review the entire Facilities Master Plan and that the City's Facilities Master Plan Task Force make any recommended changes to this document. Failed due to lack of a second.

Councilmember Turner moved to limit the scope of the Facilities Master Plan Task Force review to the following buildings:

- Library
- Community Building (to include the Senior Center)
- Public Works out buildings (as defined in the 2015 Master Plan document)
- Public Works Maintenance Facility

Mayor Pro Tem Kelly seconded the motion.

Councilmember Reilly moved to amend the motion to exclusively include recommendations regarding the Dincans facility.

Mayor Pro Tem Kelly seconded the amended motion. **Amended motion passed.**

Ayes: Sample, Kelly, Ballanfant, Reilly, Turner
Noes: None
Absent: None

Councilmember Reilly moved to amend the original motion to explicitly address what to do with the Ruffino Hills property. **Motion filed due to lack of a second.**

A vote was made on the original motion by Councilmember Turner. **Motion passed.**

Ayes: Sample, Kelly, Ballanfant, Turner
Noes: Reilly
Absent: None

After a break, Council discussed composition of the Task Force and it was agreed to have eleven (11) members on the Task Force.

Council then discussed the applicants and after the selection process was vetted, the following were appointed to the Facilities Master Plan Task Force:

- Orval Marlowe
- Mimi Tsai

- Keith Cole
- David Flame
- Owen Rutz
- Brad Burke
- Bruce Beneke
- David Kukendahl
- Eddie Matthews
- Mark Plagens
- Frank Griffin

2. **Take any desired action**

After appointing the members to the task force, Councilmember Reilly moved that Council appoint a chairman. Councilmember Kelly seconded the motion. **MOTION PASSED.**

Ayes: Kelly, Reilly, Ballanfant
Noes: Sample, Turner
Absent: None

Councilmember Turner moved to approve the appointment of Owen Rutz as chairman of the task force. Mayor Pro Tem Kelly seconded the motion. **MOTION PASSED.**

Ayes: Sample, Kelly, Ballanfant, Reilly, Turner
Noes: None
Absent: None

3. **Adjourn**

With no further discussion, Mayor Sample adjourned the meeting at 8:40 p.m.

Prepared By:

Thelma A. Lenz, City Secretary

Date Approved



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STAFF

M. Chris Peifer, City Manager
Alan Petrov, City Attorney
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CITY COUNCIL MEETING MINUTES

The City Council of the City of West University Place, Texas, met in regular session on **Monday, January 11, 2016**, in the Municipal Building, 3800 University, West University Place, Texas beginning at **6:30 p.m.**

Agenda Items were as follows:

Call to Order. Mayor Sample called the meeting to order at 6:30 p.m. in the City Council Chambers. Council and Staff in attendance were: Mayor Pro Tem Kelly, Councilmembers Reilly and Turner, City Manager Peifer, City Attorney Petrov, City Secretary Lenz, Police Chief Walker, and Public Works Director Beach. Councilmember Ballanfant was absent.

Cadesman Brickley, Boy Scout Troop 266, led the Pledge of Allegiance.

City Secretary Lenz confirmed that the notice of this meeting was duly posted in accordance with the Texas Government Code, Chapter 551.

Before taking Public Comments, Councilmember Reilly moved to consider moving Agenda Item #2 so that it follows Agenda Item #5. Mayor Pro Tem Kelly seconded the motion. **MOTION PASSED.**

Ayes: Sample, Kelly, Reilly, Turner
Noes: None
Absent: Ballanfant

1. Public Comments

This was an opportunity for citizens to speak to Council relating to agenda and non-agenda items.

Stan McCandless, 3712 Rice Boulevard, spoke to first apologize for some recent emails he sent to Council. He then spoke to request equity with regard to the Baptist Church and senior services. He said the Baptist Church gets a free ride every Sunday to use the Senior Services from 2:00 pm to 7:00 pm and it costs seniors over 65 \$90 to use the Recreation Center. He said he would like to propose that all resident seniors get discounts at age 65 rather than age 75. He said seniors should have free use of the Rec Center and Colonial Park during normal times and also receive a discount on the programs offered by the City, particularly the exercise programs.

Ramsay Elder, 2817 Tanglely, spoke to comment about the inconsistency regarding municipal facilities. He said it is simply a sin that the west side will get all fixed up even though they are the facilities on the west side are either brand new or recently renovated. He said Council should make sure that the rules and the procedures are the same for both the east side and the west side.

2. Houston-Galveston Area Council 2016 General Assembly

Matters related to designating a representative and an alternate to the Houston-Galveston Area Council 2016 General Assembly. *Recommended Action: Discuss and designate a representative and an alternate to the 2016 Houston-Galveston Area Council 2016 General Assembly.*

Action on this item was taken after Action on Item 5.

After City Manager Peifer gave some historical background on the Houston-Galveston Area Council, Councilmember Turner moved to designate Mayor Sample as the representative and Mayor Pro Tem Kelly as the alternate. Mayor Pro Tem Kelly seconded. **MOTION PASSED:**

Ayes: Sample, Kelly, Turner
Noes: None
Absent: Ballanfant, Reilly

3. Independent Counsel Concerning Zoning Board of Adjustment Application

Matters related to a discussion of whether the City should retain independent legal counsel or direct current counsel to represent the interest of the City and/or the neighboring residents in connection with the Zoning Board of Adjustment application received in regards to the AT&T (formerly Southwestern Bell) property located at 4068 Bellaire, 6707 Academy and "0" Ruskin.

Robert Grossman, 4103 Ruskin, spoke to clarify his request of City Council at the previous meeting. He said he is simply requesting that the City pay for an attorney to advocate in support of the decision of the Administrative Official. He said this attorney should not make arguments or provide facts that exclusively counter AT&T's request for special exception or variance, but rather only defend the decision of the Administrative Official. Mr. Grossman said the reason for this is that that if this is appealed, the decision of the Zoning Board of Adjustment (ZBA) will be overturned if it is not properly supported by law and fact.

David Cole, 4104 Cason, spoke to say he would also urge City Council to approve hiring outside Council to support Planner Scarcella and the Administrative Order so that the City stands a good chance of having the Order upheld.

Alida Drewes, 6112 Fordham, was allowed to speak at this time as she did not have an opportunity to speak during public comments. Ms. Drewes spoke to say that she agrees with the comments made during public comments about the seniors being totally ignored. She said quite some time ago, resident Joe Mitchell asked Council to raise the 65 exemption and not one word has been said about it since that time. She said 65 is an age when residents need the support from the City. She said she doesn't expect to have her services reinstated, so don't think she is asking for herself. She inquired as to why when the bus caught on fire, staff did not call the County to ask why the bus was catching on fire and putting the lives of the citizens at risk. Ms. Drewes said citizens are being faced with life-safety issues and it is being said that citizens don't care, but citizens do care about their children's health and disabled people. Ms. Drewes also said the City shouldn't be spending taxpayer money on private parties.

Getting back to relevant topic of this item, Councilmember Reilly requested clarity from City Attorney Petrov about the City's role with the ZBA. He asked City Attorney Petrov if it is permissible for the City to have Council that would represent the City's interest in front of the ZBA.

City Attorney Petrov said it is permissible. He said there was a prior unique situation with the West University Baptist Church where the City was a co-applicant and so special counsel was hired for

that circumstance. He said as a general matter, the city attorney represents the City's interest in putting forth staff's position.

Councilmember Reilly said asked Mr. Petrov if his firm could represent Debbie Scarcella and defend her decision from the ZBA without it being anything extraordinary.

Mr. Petrov said it wouldn't be extraordinary, but he wouldn't use the word represent. He said as a matter of course, his firm assisted staff in putting forward the City's position and supporting it to be sure the record is correct.

Councilmember Reilly asked Mr. Petrov, in the instance of the case with the West U Baptist Church, if it is required or just advisable to have a separate Counsel when the City is going to be putting on a case, in addition to advising it about its responsibilities.

Mr. Petrov said he doesn't know if he would characterize it as either required or advisable. He said it's not common. He said it was a very politically charged situation with that case so there was an effort to go above and beyond what would be normal.

Councilmember Reilly said he believes the Administrative Official made the right decision in this case and he would like to see the City represented to develop the facts and he prefers that Mr. Petrov's firm does that. He also said if Council doesn't have an issue with Mr. Petrov's firm also providing advice to the ZBA, Council should encourage the City Attorney to in fact defend and build that record so that the Administrative Officer's decision is upheld on appeal.

Councilmember Reilly said he presumes also that it wouldn't be impermissible for the City to not only be in favor of upholding the Administrative Officer's decision, but also argue against the granting of an exception or a variance if, in fact, those aren't warranted by the facts.

Mr. Petrov said if they aren't warranted by the facts the staff can only give a position statement on a variance or exception as to whether or not those items should be granted under the Code, and if not his firm would be ready to assist in developing the record.

Mr. Petrov said his firm assisted Debbie with the Administrative Order, which was a process that involved going back through the history of actions prior City Councils had taken and trying to march through the development of the Code as it related to that property.

Councilmember Reilly said he would like to see the City's counsel vigorously defend the Administrative Officer's decision and the City's decision on the exception and variance, which he doesn't believe is warranted in this particular case. He said this is a City of residences, not a City of manufacturers, and it should be kept like that.

Mayor Pro Tem Kelly asked what the difference is with this request from the one with the Baptist Church. Councilmember Turner said the difference is the City had a dog in the hunt and had an interest in the outcome.

Councilmember Reilly asked Mr. Petrov if Reid Wilson has a conflict because he represented the City on another issue. Mr. Petrov said the law doesn't see it as a conflict. Councilmember Reilly said he doesn't know many clients who would be happy about their lawyer representing them one week and suing them the next week and said that should be taken into account in the future.

Mr. Grossman spoke again and said the reason he gave Council the appeal document that Reid Wilson had submitted is because of the issues he raises as regards to fact and law and some of the points he makes are very complex, especially the legal issues, and they depend on facts that he personally wouldn't be in a position to know so he is relying on someone to provide those facts. He said he sees this hearing at the ZBA as being fluid and adversarial with conflicts on the law and the facts and because of that he feels that an independent attorney, separate from an attorney that advises the ZBA on their deliberations, would be more properly geared to arguing the pros and cons of the facts and the law and opposing the fluid argument that he anticipates any good advocate will put forward.

Mayor Sample said it is best that Council doesn't get any deeper into this because she doesn't want to step on a quasi-judicial body's toes and tell the members what they as legislators want them to do, because there is a separation for a reason.

Councilmember Reilly left the meeting at this time – 7:25 p.m.

4. Municipal Facilities

Matters related to a presentation describing the status of each Municipal Facility and related discussion in order to determine which facilities should or should not be included in a detailed Facilities Condition Survey performed by a licensed professional.

Public Works Director Beach presented this item and noted that at its previous meeting, Council requested that staff provide at this meeting information on the condition of the City's facilities and staff's recommendation on which facilities, if any, should be considered for an assessment. He then reviewed the buildings and work that had been done on each since being built.

After review of the buildings, Mr. Beach said staff recommends for an assessment the Public Works Building, the Public Works Operation Breakroom lockers, Public Works Outbuilding, Information Technologies, Public Works Fleet Maintenance, the Library, the Community Building, Scout House and the Wastewater Treatment Plant office. He said staff recommends partial assessment for the Municipal Building, Fire Department, Recreation Center and the Police Department. He said the pump stations and other operational parts of the sewer/treatment plant are constantly being monitored by the City's engineer.

Mr. Beach said the assessment can range from \$30,000 to \$100,000 for a city-wide assessment. He said costs won't come into play until the end, so staff will solicit the RFPs and bring the item back to Council for consideration.

Councilmember Turner moved that Council ask staff to solicit an RFP for the evaluation of the facilities listed on Mr. Beach's Municipal Building Assessment Recommendations document. Councilmember Reilly seconded the motion. **MOTION PASSED.**

Ayes: Sample, Kelly, Turner
Noes: None
Absent: Ballanfant, Reilly

5. City Currents

Matters related to article content included in *City Currents*. *Recommended Action: Discuss and take any desired action.*

Mayor Sample presented and stated that *City Currents* is a community newsletter and said in addition to informative articles and information, the newsletter also includes a Mayor's column and a City Council column, which rotates quarterly among the councilmembers.

Mayor Sample said the first newsletter started in April 1974 and the first newsletter declared that the aim of the newsletter was to emphasize activities and factual information considered important to the residents and that issues of *City Currents* are not intended to reflect the personal opinions or attitudes of the City Commission (Council).

Mayor Sample said she received a number of phone calls from people who are not happy with the content of the past two Council columns. She said she understood that the complaint about the first column had more to do with the feeling that the column itself clashed with the intent of the *City Currents* newsletters in that it self-promoted a particular councilmember versus providing updates and information. She said after the last newsletter came out, there were further complaints about Texas ethics rules violations and after requesting a clip on the state law from the City Attorney and rereading both columns, it does in fact look like the newsletter is crossing over into uncertain territory. She then read an excerpt of the law – Title 15 of the Election Code.

Mayor Sample said she has talked with the City Attorney about this and before someone sends a complaint to the Texas Ethics Commission, she suggests that the City request an Advisory Opinion on the two council columns in question.

Mayor Pro Tem Kelly said he wanted to know who made the complaints and that person's background and qualifications, because they have attacked the City in this. He said he did some research and the two articles in question followed the format of prior publications and the views expressed are exactly as they've been expressed in the past. He said the only thing that is different is that the second publication has the mayor's column and the councilmember's column each taking up a full page, which he believes should only be a half page each.

Mayor Pro Tem Kelly said he looked at all the articles and the complaint received in an email forwarded by the City Manager, which doesn't identify who made the complaint, is that one article needed a disclaimer and didn't have one and he is not sure of the problem with the second article.

Mayor Pro Tem Kelly said the articles in the last two editions of the newsletter don't need "a disclaimer statement" under the Texas Ethics Commission rules as they do not contain express advocacy. He said expressed advocacy is defined in the law as "they are not calling for a vote for or against a candidate in an election or for or against a matter in an election" such as saying "vote for me" or "vote for these bonds" and there is no article in the last two editions of the *City Currents* that contains expressed advocacy as called for in the Texas Ethics Commission. He said the articles can be printed at the City's expense and published per the Election Code, also.

Mayor Pro Tem Kelly read an article from a past issue of the *City Currents* that was written by then councilmember George Boehme that related to debt and said that somebody could argue that what he wrote was a political statement and advocated that the City has too much debt.

Mayor Pro Tem Kelly said why all of a sudden 6 months into this administration, is this administration and the City being attacked for violating the Texas Election Law and the Texas Ethics Commission law? He said Council needs to find out who made the allegations and on what basis, what legal opinions did they have, who did they consult legally to make such allegations, and what facts do they have because they definitely don't have the facts in the two *City Currents* and they don't certainly don't have the law, which he defers to the City Attorney.

Mayor Pro Tem Kelly said there is something rotten. He said there are some people not happy with the outcome of the election and 6 months later they are making legal allegations against the City of West University Place and its council members for doing exactly what has always been done in *City Currents*.

Mayor Sample said she is not on a witch hunt for the people who are dissatisfied with it. She said the point is (a) the City has a newsletter that is not for self-promotion and (b) whatever the motives, the articles were a little much to be sent out with taxpayer's money. She said if there is nothing wrong with them, there shouldn't be problem with getting an advisory opinion. She said she doesn't want lingering liability over a staff member for allowing it to go through or somebody in the City who wrote the article. She said it's just better to have clarification and transparency right now.

Former councilmember George Boehme, 3005 Robinhood, spoke to say that he is very familiar with the article Mayor Pro Tem Kelly referenced that was written by him and he said he also wrote another one that talked about the City needing stronger zoning and he will tell Mr. Kelly that he was not familiar with the ethics rule and he believes that they were both were in violation. Mr. Boehme said that the West U Essentials magazine has been contacted by many people about this issue and the law is clear – when there is a City newsletter dependent on taxpayer money, it should be informational in nature not self-advocating

Mayor Pro Tem Kelly told Mr. Boehme that he is not reading the law properly. He said the law does have those comments that Mr. Boehme made, but the statute must be read in its entirety, because at the bottom it states that “irrespective of the above, it has to contain express advocacy,” which it then defines express advocacy.

Mr. Boehme told Mayor Pro Tem Kelly that he needs to focus on whether he violated the law or not.

Mr. Boehme said he thinks that what the mayor requested, which is to ask the Ethics Commission for an Advisory Opinion is a very reasonable request.

Councilmember Turner said the two articles are questionable and she agrees they are not perhaps what *City Currents* should be, but is not sure how it can be prevented other than to have an editor review articles beforehand. She said she thinks Council should take a look at the next two articles from council members and see if they do any less reprehensible of a job.

Mr. Petrov spoke to say that the Ethics Commission does have rules that it puts out about newsletters to prevent using public funds for political advertising. He said whether the two articles in question or other past articles have crossed that line is a fact question. He said the Ethics Commission allows people to get Advisory Opinions.

Mayor Sample said she would rather get an Advisory Opinion than a complaint. Mayor Pro Tem Kelly said he doesn't have a problem with that, either.

Mayor Pro Tem Kelly said this could be a slippery slope by reining in the mayor and council member from giving comments about what is going on in the City. He said if you do that, the slippery slope is that there will be groups for or against any particular thing that one would say. He said he is for getting an Advisory Opinion.

Mayor Sample moved that Council ask City Attorney Petrov to submit an Advisory Opinion request on the two articles in question to the Ethics Commission. Councilmember Turner seconded the motion. **MOTION PASSED.**

Ayes: Sample, Kelly, Turner
Noes: None
Absent: Ballanfant, Reilly

City Council took action on Item 2 at this time.

6. Future Agenda Items

Matters related to future agenda items. *Discuss and take any desired action.* **City Council**

The parks acquisition item will be moved to the second meeting in February as requested by Councilmember Turner.

7. Consent Agenda

All Consent Agenda items listed are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council member requests in which event the item will be removed from the Consent Agenda and considered in its normal sequence on the agenda.

A. City Council Minutes

Approve City Council Minutes of the December 14, 2015. *Recommended Action: Approve Minutes.*

Councilmember Turner moved to approve the Consent Agenda as presented. Mayor Pro Tem Kelly seconded the motion. **MOTION PASSED.**

Ayes: Sample, Kelly, Turner
Noes: None
Absent: Ballanfant, Reilly

8. Adjourn

With no further discussion, Councilmember Turner moved to adjourn the meeting at 7:55 p.m. Mayor Pro Tem Kelly seconded the motion. **MOTION PASSED.**

Ayes: Sample, Kelly, Turner
Noes: None
Absent: Ballanfant, Reilly

Prepared By:

Thelma A. Lenz, City Secretary

Date Approved