

MINUTES OF THE REGULAR CITY COUNCIL MEETING  
CITY OF BEE CAVE  
NOVEMBER 22, 2011

STATE OF TEXAS       §

COUNTY OF TRAVIS   §

**Present:**

Caroline Murphy, Mayor  
Bob Dorsett, Jr., Council Member  
Bill Goodwin, Council Member  
Jack McCool, Mayor Pro Tem  
Mike Murphy, Council Member

**Absent:**

Chad Bockius, Council Member

**City Staff:**

Frank Salvato, City Administrator  
Travis Askey, Deputy City Administrator  
Patty Akers, City Attorney  
Kaylynn Holloway, City Secretary  
Amy Kelley, Systems Administrator  
Bill Pitmon, Police Sergeant  
Giancarlo Patino, Engineer Associate  
Stephen Myrick, Building Official  
Barbara Hathaway, Library Director

**Call to Order and Announce a Quorum is Present**

With a quorum present, the Regular Meeting of the Bee Cave City Council was called to order by Mayor Murphy at 6:00 p.m. on Tuesday, November 22, 2011 in the Council Chambers of the City of Bee Cave City Hall, 4000 Galleria Parkway, Bee Cave, Texas.

**Pledge of Allegiance**

**Citizen Comments**

Larry Fox, Lake Pointe, spoke to the City Council about the LCRA divestiture.

**Proclamation recognizing the Bee Cave Public Library.**

Barbara Hathaway, Library Director, reported that the Bee Cave Library had once again been selected as a Star Library and received the highest 5-star rating. She introduced employees of the library that were present at the meeting.

**MOTION:** A motion was made by Council Member Goodwin, seconded by Mayor Pro Tem McCool, to approve the Proclamation recognizing the Bee Cave Public Library.

The vote was taken on the motion with the following result:

Voting Aye: Mayor Pro Tem McCool, Council Members Dorsett, Goodwin,  
and Murphy  
Voting Nay: None  
Absent: Council Member Bockius

The motion carried.

**Consent Agenda.**

- A. Consider approval of minutes of the Regular meeting conducted on November 8, 2011.
- B. Consider approval of monthly financial and investment report.

**MOTION:** A motion was made by Council Member Goodwin, seconded by Council Member Murphy, to approve the Consent agenda as presented.

The vote was taken on the motion with the following result:

Voting Aye: Mayor Pro Tem McCool, Council Members Goodwin and  
Murphy  
Voting Nay: None  
Absent: Council Member Bockius  
Abstain: Council Member Dorsett

The motion carried.

**Discuss and consider action on a request from AusPro Enterprises, LP, regarding the definition of fine art at 12701 State Highway 71 West.**

Mayor Murphy reported on the ordinance and the definition of fine art. She also addressed items in the City of Bee Cave Comprehensive Plan.

Russ Horton and Terrence Irion, representing AusPro Enterprises, spoke on this item and fielded questions from the City Council. They argued that the latest installed art board met community standards and was therefore exempt from requiring a permit.

Michele Bliss, 3800 Kenora Court, commented that the art boards were not fine art and that they do not meet community standards.

Zelda Auslander, 3101 Hayden Bend, stated that AusPro or Planet K have not come forth and seek approval for anything. Everything has been done secretly and defiantly. She asked that the City Council not approve the sign boards.

Judith Fry, 15816 Spillman Ranch Loop, commented that the art boards were murals and therefore fall under the sign ordinance.

Nathan Smith, 4009 Vail Divide, stated that he was disgusted at how Planet K was conducting business when every other business in town has followed the rules.

Jim Ballard, 12104 Lake Stone, stated that the logo is part of their sign. He asked how a head shop or sexually oriented business was allowed in the City.

Jeff Howell, 3500 Vanshire, stated that the Council should not approve the sign because it was not fine art.

Brian Hosier, 4733 Malachite, stated that the signs were not fine art but an advertisement and looked like the side of a bus in a 1960's movie.

**MOTION:** A motion was made by Council Member Dorsett, seconded by Council Member Murphy, to deny the request from AusPro Enterprises that the sign be designated as fine art.

The vote was taken on the motion with the following result:

Voting Aye:	Mayor Pro Tem McCool, Council Members Dorsett, Goodwin, and Murphy
Voting Nay:	None
Absent:	Council Member Bockius

The motion carried.

**Discuss and consider action on a pre-concept plan for Kwik Car Lube located at 13719 State Highway 71 West.**

Jennie Braasch, Pohl Partners, presented the pre-concept plan and the request to place a Kwik Car Lube in Town Center. They would like to have a planned development agreement for the project.

Council Member Goodwin stated that he could not support the project.

Mrs. Auslander commented that auto repair was not allowed in town center for a reason. She asked that the Council not make exceptions to the City Ordinances.

Mrs. Bliss requested that the Council not allow this project to move forward.

Adrian Overstreet, Asset Manager for the Hill Country Galleria, stated that he was concerned about the steel building in Town Center and that it could be seen from the Galleria.

Ay-Chyi Boudreaux, Scenic Bluff Drive, commented that town center was not the best location for a Lube Center.

Council Member Murphy and Dorsett commented that they were not totally against the project but would like to see something else on that property.

Mayor Murphy stated to the applicants that they had heard diverse opinions and it was at their own risk if they wanted to pay the fees to prepare a PDD and move forward to seek approval from the Council.

### **Executive Session**

The City Council closed the Open Session at 8:04 p.m. to convene in Executive Session in the Conference Room.

At this point in the meeting, Mayor Murphy publicly announced that a closed, executive session would be held and identified the sections of the Open Meeting Law under which the meeting would be held.

Executive session in accordance with the Texas Government Code, Section 551.072 – Deliberation regarding Real Property; Section 551.074 – Personnel and Section 551.071 – Consultation with Attorney in which the Attorney has a duty to the City under the Texas Disciplinary Rules of Professional Conduct that clearly conflicts with the provisions of the Open Meetings Law.

- A. LCRA Rate Case litigation
- B. Consultation with Attorney regarding acquisition of LCRA water/wastewater systems, to include possible condemnation of the West Travis County systems.
- C. Consultation with Attorney regarding authority of city to enforce building, sign and development ordinances and litigation with AusPro Enterprises, LP.

- D. Discussion regarding acquisition of real property for possible use as water quality mitigation land.

The City Council closed the Executive Session at 10:19 p.m. and reconvened in Regular Session in the Council Chambers.

**ITEM A. from Executive Session**

**MOTION:** A motion was made by Mayor Pro Tem McCool, seconded by Council Member Murphy, to instruct the attorneys to abate the rate case for 60 days pending the Utility Development Corporation purchase agreement from LCRA.

The vote was taken on the motion with the following result:

Voting Aye: Mayor Pro Tem McCool, Council Members Dorsett, Goodwin,  
and Murphy  
Voting Nay: None  
Absent: Council Member Bockius

The motion carried.

**ITEM C. from Executive Session**

**MOTION:** A motion was made by Council Member Murphy, seconded by Council Member Goodwin, to ratify the action of the attorneys to move the AusPro Enterprises, LP, litigation to federal court.

The vote was taken on the motion with the following result:

Voting Aye: Mayor Pro Tem McCool, Council Members Dorsett, Goodwin,  
and Murphy  
Voting Nay: None  
Absent: Council Member Bockius

The motion carried.

**Discussion on letter received from Adrian Overstreet regarding building codes, TCSS ordinances and permitting requirements related to the Hill Country Galleria.**

Mr. Overstreet requested the Council to review and change various portions of the City's Building Code and permitting requirements for the Hill Country Galleria.

The Staff will work with the City Attorney to bring propose changes to the City Council for review.

**Discussion and comments on a pre-concept plan for Hill Country Indoor located on Bee Cave Parkway.**

Josh McKay, representing Hill Country Indoor, presented the pre-concept plan for Hill Country Indoor. The proposed indoor sports facility is planned to be approximately 84,000 square feet with a 50-foot maximum height. The proposed location is zoned retail.

The City Council asked questions and provided feedback on the project. Their response was mostly unfavorable due to the location of the project and the large variances that would be required.

**Discussion and comments on a request from Tim Skaggs for a second median cut in Bee Cave Parkway, placement of fill and waterline casing and the relocation of a water quality pond.**

John Clark with LJA Engineering and Tim Skaggs presented this item and provided an update on the project.

Discussions were held on the requirements of the Bee Cave Parkway construction project and the TCEQ approved Contributing Zone Plan. The applicant requested permission to amend the City's CZP. This permission was not granted. The applicant will be required to submit their own CZP to the TCEQ for approval.

A site and NPS plan will be presented at a future meeting.

**Adjournment**

**MOTION:** A motion was made by Council Member Murphy, seconded by Council Member Goodwin, to adjourn.

The vote was taken on the motion with the following result:

Voting Aye: Mayor Pro Tem McCool, Council Members Dorsett, Goodwin,  
and Murphy  
Voting Nay: None  
Absent: Council Member Bockius

The motion carried.

The City Council adjourned the Regular Session at 12:25 a.m.

PASSED AND APPROVED this 13<sup>th</sup> day of December, 2011.

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Caroline Murphy, Mayor

ATTEST:

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Kaylynn Holloway, City Secretary

[SEAL]