

Environmental and Sustainability (ESB) Board Meeting
Wednesday, February 7, 2018
Bellaire City Hall Council Conference Room

Meeting Minutes

A. Call to Order and Announcement of a Quorum

The regular meeting of Environmental and Sustainability Board (ESB) was called to order at 6:41PM on Wednesday, February 7, 2018, by Joe Burris, Vice Chairman presiding as Chairman. There was a quorum of members present.

Members Present

Ayobamidele (Ayo) Bello
Joe Burris
Michelle (Micki) Mastin
Brian Witt

Members Absent

Ritwick Agrawal
Jonathan (Jon) Palmer
George Williams

Non-Voting Members Present

Velvia Whiting and Horace Gulley, Bellaire Public Works Staff

- B. Approval of Minutes:** Brian indicated that he hasn't been able to finalize the draft meeting minutes from the January meeting and will try to finish drafting and sending to all for review as soon as possible. The approval of the minutes was deferred to the next meeting.

C. Introduction of Visitors:

1. Johanna Moran.

D. Citizen Comments, if any:

1. Johanna Moran indicated her objection to the new logo. There was a brief discussion but no action taken.

E. Council Liaison Comments – Neil Verma: Absent

1. Although not present, Neil sent in a letter (attached for reference) which was handed out to Board members.
2. There was a brief discussion on the issue of plastic bag fees discussed at previous Board meetings. There was a general consensus to wait till the results of the pending court cases relative to the issue prior to having a follow up discussion on impacts to Board recommendations on the issue.

3. There was also a similar discussion on the City's Brand Identity efforts. No action was taken.

F. Public Works Update:

1. No new updates except on items covered under Board Business.

G. Board Business:

1. Spring Semi-Annual Recycling Drop-off Event
 - a. Revised Date and location confirmed with Condit Elementary and City Staff.
 - b. Horace provided an updated on the traffic control plan and event flyer.
 - c. Horace indicated staff would handle Facebook and city webpage notifications
 - d. Horace to send out event flyer to Ayo to send out to all Board members who wanted to hand out.
 - e. Horace confirmed the City will handle the following items.
 - i. Coordinating location of event signage
 - ii. Getting signage authorized
 - iii. Set up, clean up paying invoices
2. Ongoing Board Initiatives/Outstanding Items:
 - a. There was no update. Item to be deferred to next meeting.
3. Social Media Posts.
 - a. There was no update. Item to be deferred to next meeting.
4. Change in July Meeting Date (currently scheduled on July 4, 2018)
 - a. There was a brief discussion and subsequent vote to move this meeting to July 11, 2018 to be held at Council chambers if the conference room was not available. Ayo to follow up with Tracy Dutton (City Clerk) on room availability.

H. New Business:

1. Ayo asked Staff about the Solid Waste Service Plan. Ms. Velvia indicated that she thought the plan was currently under review/update. There was a brief board discussion about interest in Board input to revisions to the plan. The board subsequently implored Staff to make the plan available to the Board for review prior to finalizing and sending to City Council.

I. Next Meeting: The next Board meeting will be held on Wednesday March 7, 2018 at the City Council Conference Room.

J. Adjourn: Brian motioned to adjourn the meeting. Micki seconded. There being no further business, the meeting was adjourned at 7:29PM.

Submitted by: Ayobamidele G. Bello

February 7, 2018

ESB,

It is with very deep regret that I am unable to make your meeting this evening. I had an issue come up this afternoon and am so very sorry that I am not able to be there with you.

Nevertheless, I wanted to make sure that my comments are before you. As an initial matter, I want to commend Chairman Palmer for the excellent presentation made on Monday night for the State of the City address. It was clear, concise, and entertaining. Thank you for the presentation and the comments. The thought of removing "and" from your board's name was well received! We look forward to many more and I am honored to be your liason.

Second, I wanted to share with you that I attended a conference held by the Texas Municipal League in San Antonio last month. During a presentation, the topic of requiring retail outlets to charge for using plastic bags (for example, five cents per bag) was raised. Right now, there is a case pending before the Texas Supreme Court over banning plastic bags, however, the TML sees it equally applicable to municipalities that want to charge for their use. Please see the attached articles on this topic. The recommendation from TML was to wait until the case resolves.

In other business before City Counsel, the topic that seems to be getting the most attention seems to be the possibility of redoing the city logo. If you are interested in learning more, and providing feedback, please go to <https://www.bellairetx.gov/1430/Brand-Identity>. The mayor has also added a post to his blog about it: <http://cityofbellairemayorsmusings.blogspot.com/>

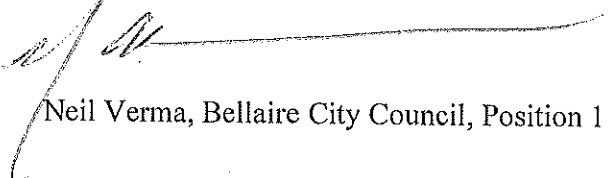
We also have approved several contracts for the rebuild of the municipal facilities as well as held events to honor those that served on boards and commissions, and who volunteered during Hurricane Harvey to help the community.

Finally, the Mayor presented his State of the City Address on Monday. In summary, funds will be tight as we end of having to tap our ending balance (and other sources) to make up for shortfalls anticipated as a result of expenses incurred (and reduced property tax revenue) from Hurricane Harvey. Tough decisions will need to be made once we better know the full fiscal impact and will be reflected in the next budget, and likely, the next several thereafter. The full address can be found by clicking on video for the February 5 meeting here: <http://bellairecitytx.iqm2.com/Citizens/default.aspx>

I am excited for the recycling event on the 17th. Please let me know where to be with my work gloves to help out! I will be there for as long as you need me, directing traffic, lifting recyclables, or anything else. Just let me know.

Please reach out to me with any questions. I also request that, if available, the Chairman give me a call so that he can update me on anything that I missed, particularly with respect to G.2 and G.3 on your agenda.

Again, my deepest apologies for the last-minute conflict.



Neil Verma, Bellaire City Council, Position 1



MENU

AG Paxton drops Brownsville lawsuit over plastic bag fee

Attorney General Ken Paxton has dropped a lawsuit against the city of Brownsville over a 2010 ordinance that imposed a \$1 per-transaction fee on plastic bags offered at grocery stores and other retailers.

BY KIAH COLLIER MAY 11, 2017 6 PM



Attorney General Ken Paxton has dropped a lawsuit against the city of Brownsville over a 2010 ordinance that imposed a \$1 per-transaction fee on plastic bags offered at grocery stores and other retailers.

The dismissal, announced Thursday, came as part of a settlement in which the city agreed to repeal the ordinance, which it had enacted in an effort to cut down on waste.

Paxton — wading into yet another fight over local control — sued the city last October, calling the \$1 fee an “illegal sales tax.” According to the settlement agreement, Brownsville continues to deny that claim and maintains that it had “the full authority to enact the use fee ... and denies that the plastic bag user fee made the subject of this litigation constitutes an unlawful tax.”

Still, Paxton said that he was “pleased that the city of Brownsville agreed to stop taxing its citizens through an unlawful bag fee.”

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“Cities and municipalities in Texas are obligated to follow the rule of law. And in this case, a law passed by the Legislature clearly prohibits a sales tax on bags,” Paxton said in a statement.

The law Paxton appears to be referring to is at the heart of another case pending before the Texas Supreme Court over a plastic bag ban in the city of Laredo.

In a ruling the city appealed, a state appeals court cited a state law that says cities cannot “prohibit or restrict, for solid waste management purposes, the sale or use of a container or package.” It noted that the bags businesses distribute are viewed as “containers” under the law.

As the state's highest civil court decides whether to hear the case, some state lawmakers have pushed legislation that would explicitly prohibit cities from banning single-use plastic bags or charging fees for them. But several bills — including at least one filed this year — have yet to gain much traction.

About a dozen Texas cities have enacted ordinances restricting plastic bag use, including Austin and South Padre Island.

Read related Tribune coverage:

- Ranchers, city officials and environmentalists testified against a bill that would prevent cities from banning plastic grocery bags or charging a fee for them.
- Texas Attorney General Ken Paxton is suing the city of Brownsville, calling its \$1 bag fee an “illegal sales tax.”

State Supreme Court case could bring an end to plastic bag bans in Texas

The Texas Supreme Court will hear oral arguments Thursday in the case, Laredo Merchants Association v. The City of Laredo, in which the merchants' association is arguing a ban on single-use bags by the city is illegal.

BY PAUL COBLER JAN. 11, 2018 12 AM



Muliadi Soenaryo

A Thursday Texas Supreme Court hearing on plastic bags could have implications that spread across the state faster than such bags blowing in the wind.

The court will hear oral arguments in the case, *Laredo Merchants Association v. The City of Laredo*, in which the merchants' association is arguing a ban on single-use bags by the city is illegal because an existing state law regulating solid waste disposal pre-empts it.

If the merchants' challenge is successful, Texas cities, including Austin, Fort Stockton and Port Aransas could find their similar local bans on bags struck down, and the case would create deeper questions about the role of local regulation in the state.

San Antonio's 4th Court of Appeals ruled 2-1 in August 2016 that Laredo's bag ban was illegal, overturning a 2015 ruling by the 341st Judicial District Court in Webb County that sided with the city. The city then appealed that decision, sending the case to Texas' highest court.

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The case hinges on only a few lines of the Texas Health and Safety Code, specifically section 361.0961, which states local governments may not "prohibit or restrict, for solid waste management purposes, the sale or use of a container or package in a manner not authorized by state law." In the lower courts, arguments focused on the specifics of the law, including the definitions of "container or package" and "solid waste management."

Attorney Christy Drake-Adams filed a friend-of-the-court brief on behalf of the Texas Municipal League and the Texas City Attorneys Association supporting the city of Laredo and arguing that siding with the merchants would represent a swift departure from Texas' history of supporting local governments.

"There just seems to be a trend that the state wants to consolidate power in the state's hands," Drake-Adams said. "They don't want the federal government telling them what to do, and yet they want to tell local governments what to do."

Drake-Adams also said this case could create a dangerous precedent of strict, uniform regulations on cities.

"Extreme uniformity and regulation fails to address diverse local concerns," Drake-Adams said. "Texas is a great example of why that can't work. A state as large and diverse geographically as Texas, that simply can't work."

Supporters of the merchants' case are arguing that statewide enforcement of the law should overrule any local ordinances, and the inconsistent local laws like the plastic bag bans seen in cities across Texas cause unnecessary strain on small businesses.



"Inconsistent local ordinances harm the sales of affected retailers, force the layoff of employees, deprive retailers of their existing inventory of bags, and impose an expensive and complex requirement on multisite retailers to comply with varying ordinances across the state," wrote Edward Burbach in a friend-of-the-court brief on behalf of the Texas Retailers Association in support of the merchants.

Plastic bag bans have also faced challenges from the Texas Legislature in the past. During the 2017 session, Sen. Bob Hall, R-Edgewood, filed a bill that would have prevented Texas cities from enforcing bag bans.

In a Business and Commerce Committee hearing on the bill, Hall argued that cities had "overstepped their authority" by implementing the bans. The bill died in committee and never made it to the Senate floor.

In the Laredo case, Texas Attorney General Ken Paxton is calling on the court to affirm the lower court's ruling and eliminate plastic bag bans across the state. Scott Keller from the attorney general's office has submitted a form to participate in Thursday's oral arguments, and Paxton submitted two friend-of-the-court briefs in support of the merchants association.

"The Legislature did not mince words when it removed the authority of Texas cities to restrict or prohibit plastic checkout bags," Paxton said in a December 2016 statement.

Disclosure: The Texas Municipal League has been a financial supporter of The Texas Tribune. A complete list of Tribune donors and sponsors can be viewed [here](#).

Read related Tribune coverage:

- AG Paxton drops Brownsville lawsuit over plastic bag fee
- Laredo's Bag Ban Becomes Flashpoint in Debate Over Local Control
- At Capitol, bill targeting plastic bag bans draws strong opposition