

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BRYAN, TEXAS, AMENDING CHAPTER 2, ARTICLE III, DIVISION 8, “BRYAN TEXAS UTILITIES BOARD”, SECTION 2-244 “MEMBERSHIP OF THE BOARD” OF THE BRYAN CITY CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; FINDING AND DETERMINING THAT THE MEETING AT WHICH THE ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 552.122 of the Texas Local Government Code (the “Act”) permits a municipality to transfer by ordinance management and control of the municipality’s electric utility system to a board of trustees appointed by the municipality’s governing body; and

Whereas, the Act places limitations on the authority that can be granted to such a board; and

Whereas, in 2001, the City of Bryan created the Bryan Texas Utilities Board by Ordinance No. 1281; and

Whereas, the Act requires the ordinance prescribe the number of members and the qualifications for appointment to the board, and

Whereas, the Bryan City Council deems it to be in the best interest of the City and the management of Bryan Texas Utilities to amend Section 2-244 of the Bryan City Code to modify the procedure for appointment and terms and qualifications of the Bryan Texas Utilities Board members.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRYAN, TEXAS:

1.

That Section 2-244 of Chapter 2, Article III, Division 8, entitled “Bryan Texas Utilities Board” is hereby amended to read as follows:

Sec. 2-244. – Membership of the board.

(1) The board shall be composed of seven voting members, two (2) of which must be rural system customers.

~~(1) The seven members shall occupy seven positions with the following qualifications~~

- ~~a. Position 1. A person who is a residential customer of the city.~~
- ~~b. Position 2. A person who is a commercial customer or employed by a commercial customer of the city.~~
- ~~c. Positions 3 and 4. Persons who have experience and expertise in the field of marketing, finance, law, or engineering.~~
- ~~d. Positions 5, 6, and 7. Persons who have experience in electric generation, transmission or distribution.~~

(2) All of the members of the board shall be qualified voters within the State of Texas; and shall be either (i) and a residents of the Bryan Texas Utilities electric utility service area, Brazos County or (ii) have a commercial account with Bryan Texas Utilities.

(3) Each of the members of the board shall be appointed by the city council. The city council shall not receive recommendations from the board concerning board member appointments. after a candidate is recommended by the board. If the council does not agree with the candidate recommended by the board, the board shall submit a new candidate to the council. All appointments shall be for staggered terms of three (3) years. ~~Council shall appoint persons meeting the above qualifications to fill vacancies.~~

(4) The mayor or a council member appointee of the mayor shall serve as an ex officio non-voting member of the board.

(5) A former member of a City of Bryan city council, board, or commission may be appointed by the city council to serve as an ex officio non-voting member of the Bryan Texas Utilities Board for the purpose of serving on the Texas Public Power Association (TPPA) and/or American Public Power Association (APPA) legislative affairs committee(s) when no active or regular BTU board member wishes to serve in that capacity.

(6) The council shall designate a member to serve as chairperson to serve for one year and may reappoint or remove the chair person from such service at any time.

(7) The board may elect such other officers as it deems necessary.

(8) The board shall adopt bylaws setting meetings, which must be at least monthly, requirements for attendance at meetings, rules of procedure and such other matters as deemed appropriate by the board. No action may be taken by the board without at least four members present and voting.

(9) The board shall be subject to the Texas Open Meetings and Texas Public Information Act as applicable to city councils of home rule cities.

(10) The board shall serve without compensation but shall be reimbursed expenses appropriate for conducting the duties of the board.

(11) The members of the board shall be indemnified and held harmless from liability incurred in the performance of their duties provided such indemnity and hold harmless expenses shall come only from revenues of the electric utility. The city attorney or other counsel appointed by the board shall advise and represent the board, as appropriate.

That all ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

3.

The Code of the City of Bryan, Texas, as amended, shall remain in full force and effect, save and except as amended by this Ordinance.

4.

Should any section, paragraph, sentence, clause, phrase or word of this Ordinance be declared unconstitutional or invalid for any purpose by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby and to this end the provisions of this Ordinance are declared to be severable.

5.

It is hereby found and determined that the meeting at which this Ordinance was passed was open to the public, as required by Section 551.001 et seq., Texas Government Code, and that advance public notice of time, place and purpose of said meeting was given.

6.

It is the intention of the City Council that this Ordinance shall become a part of the Code of the City of Bryan, Texas, and it may be renumbered and codified therein accordingly.

7.

This Ordinance shall take effect immediately upon its first and only reading and passage.

PASSED, ADOPTED, AND APPROVED the ____ day of _____, 2019, at a regular meeting of the City Council of the City of Bryan, Texas, by a vote of ____ yeses and ____ noes.

ATTEST:

CITY OF BRYAN:

Mary Lynne Stratta, City Secretary

Andrew Nelson, Mayor

APPROVED AS TO FORM:

Janis K. Hampton, City Attorney