



# CITY OF IOWA COLONY

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STATE OF TEXAS  
COUNTY OF BRAZORIA  
CITY OF IOWA COLONY

BE IT REMEMBERED ON THIS, the 21st day of September, 2020, the City Council of the City of Iowa Colony, Texas, held a Work session at 6:00 P.M. and a Public Meeting at 7:00 P.M. via teleconference/videoconference, there being present and in attendance the following members to wit:

Mayor Byrum-Bratsen  
Councilwoman Susan Cottrell  
Councilwoman Arnetta Murray  
Councilwoman Robin Bradbery  
Councilwoman Kacy Smajstrla  
Councilman Chad Wilsey

And none being absent, constituting a quorum at which time the following business was transacted.

## **WORKSESSION- 6:00 P.M.**

Mayor Byrum-Bratsen opened the work session at 6:02 P.M.

- Discussion of short-term rental in single family residential areas. Kent Marsh, Consultant City Planner presented a power point regarding rentals in the city. The Council members response was to wait and do nothing at this time.
- Discussion and possible action on the proposed City Budget for Fiscal Year 2020-21 beginning October 1, 2020. No discussion on the budget.

Mayor Byrum-Bratsen closed the work session at 6:44 P.M.

## **REGULAR MEETING – 7:00 P.M.**

1. Mayor Byrum-Bratsen called the meeting to order at 7:00 p.m.
2. Pledge of Allegiance and Texas Pledge were recited.

### **3. PUBLIC HEARING**

Mayor Byrum-Bratsen opened the public hearing at 7:01 P.M.

- Hold a public hearing to consider a specific use permit for a church on the following property: Lot 2, in Block 1, of Felts Manor Subdivision, according to the map or plat recorded in document no. 2011023705 of the official Records of Brazoria County, Texas,

commonly known as 2500 C. R. 62, and being the land in property ID No. 169531 in the records of the Brazoria County Appraisal District.

Comments from public addressing the public hearing. Written statements received will be put into the record.

- Judy Myers – Appreciates the Council hearing the matter. She has placed her comments in the Council's packets prior to meeting for review. She stated to please know that she welcomes the church into the area, but be aware this is not Pearland yet. It is a challenge to have a church on that site to avoid drainage problems. Think about how much will need to be raised to accommodate the drainage needs. There are other sites in Iowa Colony that are more suitable for building such a facility. If they choose to live here, we will welcome them as neighbors but will welcome the church if they choose to come as well.
- Denny Myers – Has lived here for 47 years. Their property is across the road from the tract being discussed. They have enjoyed their rural setting with agricultural activities. They have their own unique community within a community. His long experience with the city as a councilmember, is meaningful. Many good and bad things happened. He shared some thoughts as a word of caution both for the city and the applicant. Southview Baptist Church was described as a wonderful addition to our city, but there are times when their parking lot overflows. He also described another example of a small tract with a small subdivision of homes. It was approved, but the applicant soon realized that the real costs of his project were far greater than he anticipated, and he wanted those requirements lowered. His project failed and lost a lot of money and was not good for the city nor for the applicant. He cautioned the city to do its best to make certain the applicant fully understands the cost of the project. He objected to the structure of the building. They anticipated a single-family residence and prefers it to remain that way. He asked questions regarding the requirements and regulations of the building:
  - Will all city requirements for elevation, retention and drainage be enforced?
  - Will all requirements for infrastructure be enforced?
  - Will all building codes be enforced?
- Mike Woodfin – Had questions regarding the church.
  - Do we know how many will be attending? 154 seats in their preliminary plan.
  - Do we know how large it will be? 8-x40ft including offices and classrooms.
  - Will there be classrooms? Yes.
  - Wants Council to insist on environmental study on residents in the area and impact on Hayes Creek.
- Mr. Gbadamosi- Expressed that he understands the concern. He originally purchased five acres in Friendswood, and was attempting to close the property. So he went to God, prayed, he received a call from the judge, and was advised to move on. So he decided to leave the land alone. He was showed by an older man the land to bring a church to the place in the country. Found two other properties, as well. God wanted him to be at that property.
- Angela Barton – stated that she is very concerned there will just not be enough room for the building on that property and it doesn't match.

Mayor Byrum-Bratsen closed the public hearing at 7:47 P.M.

#### 4.Citizens Comments and Presentations.

- Sydney Hargroder- 3423 Cassini Drive; thanked the Mayor, Council, and Staff for doing their due diligence on the budget. She stated that it was a pleasure serving on the Charter

Commission and reminded everyone that the Charter is ready to be mailed. She thanked Ron and Kayleen for their efforts regarding the Charter. She appreciates the staff and all they do.

5. Mayor's comments or reports

- Mayor Byrum-Bratsen thanked the Council for the work they put into the budget, tax rate, homestead exemption. They were all good and still allow for us to grow as a city. He also thanked the citizens for their input on the city's budget.

6. Council comments or reports.

- Councilwoman Cottrell is continuing to watch the high school construction.
- Councilwoman Murray praised the Council on a job well done for ensuring the budget was up to par. She stated that she had just returned from Washington where she offered her condolences.
- Councilwoman Bradbery had nothing to report.
- Councilwoman Smajstrla asked when we are going to get internet out the residents in the city? She appreciates everyone who worked so hard on the Charter Commission. Thanked the City Secretary for working to get the Charter mailed out. Told everyone to stay safe and dry.
- Councilman Wilsey appreciates the efforts of Drainage District 5 for their work on the ground right now. They are really working hard and moving forward with drainage. He provided CR 67 as an example of the work they have done and how great it looks. The new Super Intendent is doing a great job as well as Commissioner, Kerry Osborne. Reminded everyone that there are positions in Drainage District 5 being voted on.

7. Staff Reports.

- A. City Manager stated his report was provided on the memo in advance of the meeting.
- B. City Engineer received the first review set for the overpasses for CR 57, 64, and 65. Also, received letter from TWDB on the master drainage. We ranked 16 out of 178 but are trying to get clarification.
- C. Police Department
- D. Building Inspector
- E. City Secretary stated that the proposed charter will be mailed out soon. There is also a copy on the new city website for review.
- F. Senior Accountant stated all reports are in the drop box.
- G. Public Works

8. Consideration and possible action regarding the COVID-19 emergency. Councilwoman Murray made a motion for discussion regarding the COVID-19 emergency. Seconded by Councilwoman Smajstrla. Chief Bell reported that last month there were forty cases and this month there have been twenty-nine cases. None reported since last Friday. The city has ordered a temperature checking kiosk and handheld electro static sprayers to work towards reopening City Hall. We are hoping to have the October Council meeting at city hall once the procedures are in place for reopening. No action taken.

9. Consideration and possible action regarding an application and ordinance for a specific use permit for a church at 2500 CR 62. Councilwoman Bradbery made a motion to approve the SUP for a church at 2500 CR 62 as recommended by the Planning Commission. Seconded by Councilwoman Murray. Discussion occurred between the City Attorney, Larry Boyd and the

Council who had questions regarding the building site. The motion was approved with three ayes and two noes. Councilwoman Cottrell and Councilman Wilsey voted against the motion.

10. Consideration and possible action on an ordinance to adopt the FY 20-21 City Budget by a roll call vote. Councilwoman Cottrell made a motion to approve an ordinance approving the FY 20-21 City Budget effective October 1, 2020. Seconded by Councilwoman Smajstrla. Approved unanimously by a roll call vote. Councilwoman Cottrell voted yes, Councilwoman Murray voted yes, Councilwoman Bradbery voted yes, Councilwoman Smajstrla voted yes, and Councilman Wilsey voted yes.

11. Take a separate roll call vote to ratify the property tax revenue increase reflected in the budget, although the property tax rate has been reduced from last year. Councilwoman Cottrell made a motion to ratify the property tax rate revenue increase reflected in the budget. Seconded by Councilwoman Murray. Approved unanimously by a roll call vote. Councilwoman Cottrell voted yes, Councilwoman Murray voted yes, Councilwoman Bradbery voted yes, Councilwoman Smajstrla voted yes, and Councilman Wilsey voted yes.

12. Consideration and possible action to approve an ordinance setting the tax rate for the 20-21 fiscal year by a roll call vote. Councilwoman Cottrell made a motion to approve an ordinance setting the tax rates for M&O and Debt Service with an M&O rate of \$0.449322, Debt Service rate of \$0.019887 with a total tax rate of \$0.469209. Seconded by Councilwoman Bradbery. Approved unanimously by a roll call vote. Councilwoman Cottrell voted yes, Councilwoman Murray voted yes, Councilwoman Bradbery voted yes, Councilwoman Smajstrla voted yes, and Councilman Wilsey voted yes.

13. **Consent Agenda-** Consideration and possible action to approve the following consent agenda items. Staff requested to pull the early plat release for Sierra Vista 6 and take a sperate vote. Also, to remove the approval of Sierra Vista Detention Phase 3. Councilwoman Cottrell made a motion to approve all other consent agenda items. Seconded by Councilman Wilsey. Approved unanimously.

A. Approval of Minutes of the following meetings.

- August 17, 2020 Regular Meeting
- August 24, 2020 Special Meeting
- September 8, 2020 Special Meeting

B. Approval of an amendment to the flood damage prevention ordinance.

C. Approval of the CDBG Grant Citizens Participation Plan.

D. Approval of the following Plats as recommended by the Planning Commission.

- Cherry Villages Preliminary Plat.
- Extension of Final Plat for a one-year period for Iowa Heights

E. Approve the following Infrastructure Approvals/Acceptances

- Meridiana Section 60 Water and Sanitary- Conditional Approval into One Year Maintenance Period.
- Meridiana Section 60 Storm and Paving-Conditional Acceptance into One Year Maintenance Period.
- Sierra Vista Section 6 and Tyndall Mist Dr-Approval of Water, Sanitary, Storm and Paving into One Year Maintenance Period.
- Sierra Vista Section 7 and Crystal View Drive Phase I- Approval of Water, Sanitary, Storm and Paving into One Year Maintenance Period.
- Sierra Vista West Mass Grading and Detention Phase I- Approval of Facilities into One Year Maintenance Period.
- ~~Sierra Vista Detention Phase III- Approval of Facilities into One Year Maintenance Period.~~
- Sierra Vista West Section Two Water, Sanitary, Storm and Paving-Approval of Facilities into One Year Maintenance Period.
- Meridiana City Park Phase I- Final Acceptance of Facilities for City maintenance.
- BC MUD 55 16" Water Line Interconnect-Final Approval of Facilities and Release of Surety.

**F. Approve the following Early Plat Releases and return of escrow funds.**

- Sierra Vista West Sections 1 and 2 and Crystal View Drive Phase II
- Sierra Vista Section 6 and Tyndall Mist Dr. The engineer requested this be pulled off the agenda and voted on separately by Council. He requested that the amount released be reduced to \$15,000. Councilwoman Cottrell made a motion to approve the release to be reduced to \$15,000 as requested by the City Engineer. Seconded by Councilwoman Smajstrla. Approved unanimously.
- Sierra Vista Section 7 and Crystal View Drive Phase I

**EXECUTIVE SESSION- 8:12 P.M.**

Executive Session in accordance with 551.074 Texas Gov't Code to deliberate on the following:

- Selection of a Municipal Court Judge and Associate Municipal Court Judge
- Compensation for City Hall Staff

**RETURN TO OPEN SESSION- 9:11 P.M.**

14. Consideration and possible action regarding a Municipal Court Judge and Associate Municipal Court Judge for the City of Iowa Colony. Councilman Wilsey moved to appoint Greg Hill as the presiding Judge for Iowa Colony. Seconded by Councilwoman Murray. Approved unanimously.

15. Consideration and possible action on employee compensation. Councilman Wilsey made a motion to approve the employee compensation as provided on the salary schedule. Seconded by Councilwoman Smajstrla. Approved unanimously.

16. Councilwoman Murray made a motion to adjourn. Seconded by Councilwoman Smajstrla. Approved unanimously. Meeting adjourned at 9:14 P.M.

APPROVED THIS 19<sup>th</sup> DAY OF OCTOBER, 2020.

ATTEST:

Kayleen Rosser

Kayleen Rosser, City Secretary

Michael Byrum-Bratsen

Michael Byrum-Bratsen, Mayor



Letter to City Council of Iowa Colony  
Opposing the issuance of the special permit  
to ID #169531

Good evening, my name is Donaciano G. Moreno I live at 2345 County Rd. 62 right in front of the proposed Church building permit in question. I have lived at this location for about 20 years. I have seen lots of expansion and growth of the area. I have seen the good and the bad of this growth but for the most part the growth of the area has benefited the community with schools and community centers and parks and soon to come shopping center and fuel stations. But with this came elevation changes to many areas. New areas tend to flood out the existing older communities. The city even came up with an ordinance that an owner of a property no matter what size could not bring in more than five truckloads of dirt a year.

With all this said, I am requesting the City council to deny the special request for the permit to build a church at 2500 County Rd. 62. I am Opposing this Permit for this building because the location is in the flood plain G and to build up high enough where it will not flood will have adverse effects by sending the flood waters to the adjacent neighbors and flood there properties out. The five Acres is not enough property for what the owner tends to build. The proposed building which would house many people, several times a week, every week would bring in itself other issues like septic issues, water well issues, drainage issues, parking issues and this would cause people to park their vehicles on an already narrow road. This will cause severe wear and tear of the road from the higher flow of traffic. Not to mention CR 62 is used to cross over from 288 to 521 which already has a hi flow of traffic this would only increase that traffic. Would the planning commission and City council guarantee that the above listed concerns will not occur by issuance of this permit? Furthermore, the area was zoned by Iowa Colony for Single Family dwelling. By city ordinance you cannot place a single wide manufactured home into the City of Iowa Colony and now you are discussing issuing a permit to build a church in a single-family dwelling zone? Yes, I know that is where the special permit comes in and muddies the water on what the property is supposed to be used for. I am asking the City council to deny the special permit request. To issue this permit to an individual allowing them to build in this location this type of building does not benefit the community and would only bring further issues to the area. I welcome any one to build a home for their family in this area which it is what it was zoned for. During the Meeting with the planning commission the city attorney mentioned state law that the city could not discriminate against a church. I ask you this question what about imposing or affecting the quality of life to the existing individuals that would have to live with your decision when you allow this permit to be issued. If the city of Iowa Colony is concerned about having to go into litigation because of denying this permit. I would also think about being sued by the individuals that are going to be affected by the issuance of this building permit. I would not worry so much about one person but when there is a 100 to 75 individuals participating that could be a problem to the city.

I am Judy Myers. My husband and I have lived on FCR 62 for 47 years. We came here, in part, to have the local control that living in a city provides. From then until now, our area has been single-family residence and agricultural. That usage was confirmed in the Iowa Colony first zoning ordinance. Under the zoning ordinance, our road has continued to transition from a few homes with cropland to more homes with cows and horses and chickens and such. Zoning has allowed the city to grow in an orderly way that benefits all of the residents.

On our road, some of our new neighbors bought here instead of somewhere else because they wanted the protection of the zoning. Some people have not bought here because what they wanted to do did not comply with the zoning. Zoning has done its job here.

I know things are changing in Iowa Colony. But, developers are still buying larger properties and are not looking here. I see no reason to change our zoning because the city is growing.

Ordinance 2020-6 shows this road remaining a minor collector. A church would be expected to, and should, generate more traffic and be designed to have more people regularly on-site than is allowed in Ordinance 2019-27 for any class of home-based business in single-family residence zoning. Churches have regular and frequent gatherings. Churches have traffic concentrations at starting and ending times. A church inherently creates parking and traffic congestion. This places an undue burden on us and others in the immediate neighborhood, undue because it is beyond what is otherwise allowed, and would thus be disruptive to our neighborhood.

There is a Federal law\* passed in 2000 and amended in 2002, that speaks to Protection of land use as religious exercise. I have read the law. You can see the link to it in the footnote to my written submission.

Disallowing this proposal does not violate the Federal law. The law says, in short that, 1) Cities can not restrict church use more than other activity in the zone. We are not doing that. 2) Cities can not discriminate on the basis of religious denomination. I don't know the denomination of the proposed church. 3) Cities can not totally exclude or unreasonably limit the places a church can be. Our zoning complies. There are several churches in our city. All of the ones I know of are on roads designed to accommodate more traffic than ours.

I found a Texas law and a court case that occurred before the Federal law was passed. I wondered whether these should be taken into account today, I consulted a guidebook on Texas zoning published in 2013\*\*, and the only source it cites for guidance on land use for religious purposes in Texas is the Federal law that I mentioned above.



I would oppose this variation from our zoning for any purpose. I can find no requirement that the city approve this permit on the grounds that it is for a church. In just the past few weeks the Supreme Court has ruled twice that churches may not be exempted from the same laws that apply to anyone else.\*\*\* This follows many such rulings by courts at all levels of government.

I urge that this permit not be approved. I would welcome the Gbadamos family as neighbors and would welcome their church to our community. On an appropriate site.

Thank you to the Planning Commission and to all of you here tonight.

—————footnotes—————

[Text in brackets like these are my comments on the law and the court cases.]

\* <https://www.justice.gov/crt/title-42-public-health-and-welfare>

[This web link leads to the text of the current version of the law familiarly known as the Religious Land Uses and Institutionalized Persons Act (RLUIPA). In the U.S. Code (which contains all Federal laws currently in effect) this document is cited as 2USC2000cc.]

Section 2000cc. Protection of land use as religious exercise.

[This is what seems to me to be the relevant part of the law:]

(a) Substantial burdens

[I am skipping to the relevant part. You can see the whole thing at the link above.]

(1) Equal terms

No government shall impose or implement a land use regulation in a manner that treats a religious assembly or institution on less than equal terms with a nonreligious assembly or institution.

(2) Nondiscrimination

No government shall impose or implement a land use regulation that discriminates against any assembly or institution on the basis of religion or religious denomination.

(3) Exclusions and limits

[I am skipping ahead to land use. Again, you can go to the link and see the part that I did not think was applicable to our current permit request.]

No government shall impose or implement a land use regulation that—

(A) totally excludes religious assemblies from a jurisdiction; or

(B) unreasonably limits religious assemblies, institutions, or structures within a jurisdiction.

[I am skipping the rest of the law because it moves from the "RLU" part to the "IPA" part, Institutionalized Persons.]

Also, here is an analysis of RLUIPA from the website <https://www.useful-community-development.org/church-zoning.html>

"Some of you have heard of RLUIPA, but apparently think the gist of it is that any religious activity is permitted anywhere. That's not true, although the law does speak about local governments not restricting religion in a burdensome way (as opposed to a trivial way) unless there is a compelling government interest.

"Actually this federal law was aimed somewhat specifically at making sure that zoning and related land use controls were not oriented toward putting up discriminatory barriers against a particular religion or denomination, or at keeping out all new religious uses by not allowing any new places of worship to have an opportunity to locate a particular jurisdiction."

\*\*

American Planning Association Texas Chapter, A Guide to Urban Planning in Texas Communities, 2013, Chapter 4, Zoning Regulations in Texas.

( go to <https://txplanningguide-ojs-utexas.tdl.org/txplanningguide/index.php/tpg/issue/view/2/showToc> and select Chapter 4, which is a PDF.)

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SUPREME COURT OF THE UNITED STATES \_\_\_\_\_ No. 19A1044 \_\_\_\_\_ SOUTH BAY UNITED PENTECOSTAL CHURCH, ETAL.v. GAVIN NEWSOM, GOVERNOR OF CALIFORNIA, ET AL. ON APPLICATION FOR INJUNCTIVE RELIEF[May 29, 2020]  
([https://www.supremecourt.gov/opinions/19pdf/19a1044\\_pok0.pdf](https://www.supremecourt.gov/opinions/19pdf/19a1044_pok0.pdf))

SUPREME COURT OF THE UNITED STATES \_\_\_\_\_ No. 19A1070 \_\_\_\_\_ CALVARY CHAPEL DAYTON VALLEY v. STEVE SISOLAK, GOVERNOR OF NEVADA, ETAL. ON APPLICATION FOR INJUNCTIVE RELIEF[July 24, 2020]  
([https://www.supremecourt.gov/opinions/19pdf/19a1070\\_08l1.pdf#page=12#page=13](https://www.supremecourt.gov/opinions/19pdf/19a1070_08l1.pdf#page=12#page=13))

[Both of these plaintiffs asked to allow churches to have higher occupancy than other similar businesses, such as theaters, and that limiting their occupancy during the pandemic was not legal. The defense argued that the occupancy limit did not abridge freedom of religion.

Both cases were decided on the grounds that churches could not claim exemptions to the same laws that apply to anyone else.

Courts have ruled many times in many jurisdictions that churches could not claim exemptions to the same laws that apply to anyone else. I cited these two because they are so recent, and because It is a bit unusual for these decisions to become news.]