

## **Brenham City Council Minutes**

A regular meeting of the Brenham City Council was held on December 15, 2011 beginning at 1:00 p.m. in the Brenham City Hall, City Council Chambers, at 200 W. Vulcan Street, Brenham, Texas.

### Members present:

Mayor Milton Y. Tate, Jr.  
Mayor Pro Tem Gloria Nix  
Councilmember Andrew Ebel  
Councilmember Danny Goss  
Councilmember Keith Herring  
Councilmember Weldon Williams, Jr.

### Others present:

City Manager Terry Roberts, Assistant City Manager Kyle Dannhaus, City Attorney Cary Bovey, City Secretary Jeana Bellinger, Chief Financial Officer Carolyn Miller, Fire Chief Ricky Boeker, Police Chief Rex Phelps, Public Works Director Doug Baker, Public Utilities Director Lowell Ogle, Gerry Hartstack, Allen Jacobs, Leslie Kelm, Kim Hodde, Dane Rau, Danny Romo, Pam Ruenke, and Janie Mehrens

### Citizens present:

Mary Barnes-Tilley, Jason Kiemsteadt, Page Michel, Clint Kolby, Wesley Brinkmeyer, Virginia Boeker, Glenn Whorton, Craig Kankel, Lete Phillips, Karen Marek (for C.H. Harvey), and Doss H. Pruitt

### Media Present:

Allison Smith, Brenham Banner Press; Frank Wagner, KWHI

- 1. Call Meeting to Order**
- 2. Invocation and Pledges to the US and Texas Flags – Councilmember Danny Goss**

### 3. Citizens Comments

Karen Marek read a letter on behalf of C.H. Harvey indicating that TFE previously issued two checks for donations to the Washington County Healthy Living Association “Meals on Wheels” on behalf of Mayor Tate and Keith Herring. Another check has been issued as a donation on behalf of Gloria Nix. Mr. Harvey commended Danny Goss for his contribution and support of the WCHLA. The three checks were presented to Lete Phillips. Mrs. Phillips thanked Mr. Harvey for his donation and support.

## CONSENT AGENDA

### 4. Statutory Consent Agenda

#### 4-a. Minutes from the December 1, 2011 Council Meetings

#### 4-b. Ordinance No. O-11-026 on Its Second Reading Related to the Organizational Structure, Operations and Best Practices of City Boards and Commissions; Continuation of Service of Current Board and Commission Members During Said Review Period; Repeal of the Term Limits Applicable to City Boards and Commissions; and Related Matters

A motion was made by Keith Herring and seconded by Weldon Williams to approve the Statutory Consent Agenda Items 4-a – minutes from the December 1, 2011 and 4-b – Ordinance No. O-11-026 on its second reading Related to the Organizational Structure, Operations and Best Practices of City Boards and Commissions; Continuation of Service of Current Board and Commission Members During Said Review Period; Repeal of the Term Limits Applicable to City Boards and Commissions; and Related Matters

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Gloria Nix	Yes
Councilmember Andrew Ebel	Yes
Councilmember Keith Herring	Yes
Councilmember Weldon Williams	Yes
Councilmember Danny Goss	Yes

## **PUBLIC HEARING**

### **5. Public Hearing Regarding a Request for a Change of Zoning for Lots 1 and 2 of the Trinity Care Center Subdivision and also Tract 120 of the Arrabella Harrington Survey from R-2, Mixed Residential District to a B-1, Local Business/Residential Mixed Use District**

Allen Jacobs informed City Council that the Planning and Zoning Commission held a scheduled meeting on Monday, December 5, 2011. A Public Hearing was held in reference to a Request for a Change of Zoning District for the property with Legal Descriptions as follows: Lot 1 and Lot 2 of the Trinity Care Center Subdivision (400 Block of Sayles Street) and also Tract 120 of the Arrabella Harrington Survey (400 Block of East Blue Bell Road). The properties are presently classified as the R-2, Mixed Residential District and the request is to change the Zoning District to the B-1, Local Business/Residential Mixed Use District. The Change of Zoning District Request is being submitted in an effort to accommodate existing property uses as located on these properties; to thereby make the present uses existing conforming uses. The existing property uses are nursing and convalescent homes. This proposed Zoning District Change abuts an existing B-1, Local Business/Residential Mixed Use District. The P&Z received no objections. After discussion, the Public Hearing was closed and the Planning and Zoning Commission Unanimously made the recommendation to approve the Request for the Change of Zoning District Classification as submitted.

There was no citizen comments made regarding this item.

## **CLOSE PUBLIC HEARING**

### **6. Discuss and Possibly Act Upon an Ordinance on its First Reading Amending Appendix A- "Zoning" of the Code of Ordinances of the City of Brenham, Texas; Amending the Official Zoning Map to Change the Zoning of Lots 1 and 2 of the Trinity Care Center Subdivision and also Tract 120 of the Arrabella Harrington Survey from R-2, Mixed Residential District to a B-1, Local Business/Residential Mixed Use District**

A motion was made by Weldon Williams and seconded by Gloria Nix to approve an Ordinance on its First Reading Amending Appendix A- "Zoning" of the Code of Ordinances of the City of Brenham, Texas; Amending the Official Zoning Map to Change the Zoning of Lots 1 and 2 of the Trinity Care Center Subdivision and also Tract 120 of the Arrabella Harrington Survey from R-2, Mixed Residential District to B-1, Local Business/Residential Mixed Use District.

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Gloria Nix	Yes
Councilmember Andrew Ebel	Yes
Councilmember Keith Herring	Yes
Councilmember Weldon Williams	Yes
Councilmember Danny Goss	Yes

**7. Discuss and Possibly Act Upon Resolution No. R-11-025 Re-Adopting the Guidelines and Criteria for Granting Tax Phase-In in a Reinvestment Zone Created in the City of Brenham**

Clint Kolby presented this item to City Council. Every two years the Tax Phase-In Policy needs to be reviewed and readopted. The EDF’s Incentives Review Committee has reviewed the current policy and has recommended that the minimum average base salary of \$30,000 including benefits be raised to \$33,000 including benefits in order to better promote quality jobs in the City of Brenham. According to the Texas Workforce Commission, the average annual wage for employees in the private sector in Washington County is about \$33,000, and the Committee feels that is an appropriate baseline to go by for the policy. Also, the Committee suggested that “2006” in Section VIII(a) on page 7 be changed to say “even numbered years” in regards to appointing people to the Compliance Review Committee.

Danny Goss asked if the new wage requirements would also apply to the former agreements or just new ones. Mr. Kolby clarified that the new requirement would only apply to new agreements not ones already in place.

A motion was made by Keith Herring and seconded by Andrew Ebel to approve Resolution No. R-11-024 re-adopting the guidelines and criteria for granting Tax Phase-In in a Reinvestment Zone created in the City of Brenham.

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Gloria Nix	Yes
Councilmember Andrew Ebel	Yes
Councilmember Keith Herring	Yes
Councilmember Weldon Williams	Yes
Councilmember Danny Goss	Yes

**8. Discuss and Possibly Act Upon an Agreement with O’Malley Engineers, L.L.P. for 2012 Water Distribution System Improvements and Authorize the Mayor to Execute any Necessary Documentation**

Lowell Ogle presented this item to City Council. He presented an agreement from O’Malley Engineers, L.L.P. for engineering services related to improvements within the Water Distribution System, especially in areas where the most water leaks occur. These improvements will involve replacing old asbestos concrete water lines with new C-900 PVC pipe. Approximately 5,096 feet of main water line will be replaced on Longhofer, Bormann, Reimer, Windy Dr., Windswept and a portion of S. Day. Replacements of service lines leading up to the meter will also be replaced on each of these sections. Based on the engineering curve “A” it is estimated that approximately \$31,000 is for basic engineering. Additional services are \$6,500 for surveying and approximately \$2,000 for TxDOT Traffic Control, but Mr. Ogle has talked with the Engineer and would like to change the traffic control amount to \$1,000. Actual costs will be billed to the City of Brenham.

A motion was made by Danny Goss and seconded by Andrew Ebel to approve an agreement with O’Malley Engineers, L.L.P. for 2012 Water Distribution System Improvements that includes the \$1,000 change to the traffic control amount and authorize the Mayor to execute any necessary documentation.

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Gloria Nix	Yes
Councilmember Andrew Ebel	Yes
Councilmember Keith Herring	Yes
Councilmember Weldon Williams	Yes
Councilmember Danny Goss	Yes

**9. Discuss and Possibly Act Upon an Ordinance on its First Reading Amending the Rate Tariff Schedule, Section 1005, Related to Residential Customer Deposits for All City Owned Utilities**

Kyle Dannhaus presented this item to City Council. During a recent meeting of the City of Brenham Audit Committee, the subject of customer deposits came up. The committee asked the staff to research the possibility of refunding residential deposits and develop a policy. Staff has researched the issue and determined that a large number of cities who own their electric distribution systems refund deposits based on some criteria.

After reviewing those policies, staff is recommending that if a residential customer has no more than two late payments, no disconnects for non-payment or returned checks during their most recent twelve (12) month billing period, their deposit would be credited to their utility bill. If the customer is disconnected for non-payment any time after their deposit is refunded, they will be required to put up a new deposit determined by the policy in effect at that time.

It will take several months to credit the deposits to utility accounts if approved by council because each account will have to be reviewed to see if it meets the criteria. These changes will not apply or effect commercial accounts.

Danny Goss asked that the renters be excluded from this policy due to the greater possibility of renters leaving owing the City money. Weldon Williams stated that he thought “good” rental customers should be treated the same as homeowners. Mr. Williams asked for some statistics regarding the renter and homeowner customers. Kyle stated that they would analyze the data and bring the information back to the next meeting.

A motion was made by Keith Herring and seconded by Danny Goss to approve an Ordinance on its first reading amending the Rate Tariff Schedule, Section 1005, related to Residential Customer Deposits for all city owned utilities.

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Gloria Nix	Yes
Councilmember Andrew Ebel	Yes
Councilmember Keith Herring	Yes
Councilmember Weldon Williams	Yes
Councilmember Danny Goss	Yes

**10. Discuss and Possibly Act Upon an Ordinance on its First Reading Amending Section 17-8, Noise Nuisances, of the Code of Ordinances of the City of Brenham**

Cary Bovey respectfully asked that this item be tabled until some additional wording changes could be completed.

A motion was made by Andrew Ebel and seconded by Gloria Nix to table this Ordinance on its first reading amending Section 17-8, Noise Nuisances, of the Code of Ordinances of the City of Brenham.

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Gloria Nix	Yes
Councilmember Andrew Ebel	Yes
Councilmember Keith Herring	Yes
Councilmember Weldon Williams	Yes
Councilmember Danny Goss	Yes

**11. Discuss and Possibly Act Upon Renewal of the Police Protection Agreement between the City of Brenham and the Brenham Housing Authority and Authorize the Mayor to Execute any Necessary Documentation**

Police Chief Rex Phelps presented this item to City Council. He stated that the BHA and the City of Brenham have an ongoing agreement regarding police services. The Brenham Police Department provides a fulltime police officer for the routine utilization of policing in and around the public housing areas. This proactive approach reduces crime and helps keep the patrol and investigative divisions balanced as it relates to police response to the entire Brenham community. In return, the BHA reimburses the city the costs related to personnel. Since Ray Wilkinson retired, Lloyd Powell will be the new liaison. BHA pays the City of Brenham not to exceed \$44,000 annually. Any extra duty work is paid directly to the officer at the off-duty rate. Mr. Goss asked that we make sure that this is adequate compensation. It was suggested that this be looked into for next year's budget since the budget for the BHA has already been set.

A motion was made by Gloria Nix and seconded by Weldon Williams to approve the renewal of the Police Protection Agreement between the City of Brenham and the Brenham Housing Authority and authorize the Mayor to execute any necessary documentation.

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Gloria Nix	Yes
Councilmember Andrew Ebel	Yes
Councilmember Keith Herring	Yes
Councilmember Weldon Williams	Yes
Councilmember Danny Goss	Yes

**12. Discuss and Possibly Act Upon the Annual Election to be Exempt from Certain Requirements of the Health Insurance Portability and Accountability Act (HIPAA) of 1996 and Authorize the Mayor to Execute any Necessary Documentation**

Janie Mehrens presented this item to City Council. Ms. Mehrens stated that the provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) went into effect for the City of Brenham group medical plan effective October 1, 1997. This plan imposes a number of regulations on group health plans; however, it also allows non-Federal government plans such as the City of Brenham's plan to be exempt from any or all of this legislation. Because of the administrative complexity, the severe penalties for non-compliance and the unknown financial impact of the legislation, the City of Brenham has elected to be exempt from all provisions of HIPAA for the current contract year and re-evaluate the provisions prior to October 1 each year. This exemption must be elected each year for the effective contract year.

A motion was made by Gloria Nix and seconded by Keith Herring to approve the annual election to be exempt from certain criteria requirements of the Health Insurance Portability and Accountability Act (HIPAA) of 1996 and authorize the Mayor to execute any necessary documentation.

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Gloria Nix	Yes
Councilmember Andrew Ebel	Yes
Councilmember Keith Herring	Yes
Councilmember Weldon Williams	Yes
Councilmember Danny Goss	Yes

**13. Discuss and Possibly Act Upon the Purchase of Group Stop Loss Coverage for Calendar Year 2012 and Authorize the Mayor to Execute any Necessary Documentation**

Janie Mehrens presented this item to City Council. She stated that this item is for stop loss coverage for our group medical coverage. Stop loss coverage limits the City's liability for individual claims as well as the total aggregate.

Holmes Murphy and Associates obtained viable quotes from three stop loss carriers: the current carrier ING, Fairmont Specialty and HCC Life. Each carrier provided quotes for the current \$75,000 individual stop loss deductible (ISL) and for \$85,000 individual stop loss deductible. The individual stop loss deductible limits the City's exposure for each claim to the stated deductible. However, ING, the current carrier, has attached a larger ISL, called a laser, to one individual because of past catastrophic claims and future prognosis. ING has attached a \$250,000 laser or \$175,000 over the group ISL. ING attached a laser of \$200,000 for one individual for 2011 which was met during the current calendar year.

In evaluating the quotes, several factors in addition to the stated premium costs need to be considered. Based on these factors, the recommendation is to place stop loss coverage for 2012 with ING with a \$75,000 ISL.

A motion was made by Danny Goss and seconded by Keith Herring to approve the purchase of Group Stop Loss coverage for calendar year 2012 and authorize the Mayor to execute any necessary documentation.

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Gloria Nix	Yes
Councilmember Andrew Ebel	Yes
Councilmember Keith Herring	Yes
Councilmember Weldon Williams	Yes
Councilmember Danny Goss	Yes

**14. Discuss and Possibly Act Upon the Purchase of Group Term Life/AD&D and Group Long Term Disability Coverage for Calendar Year 2012 and Authorize the Mayor to Execute any Necessary Documentation**

Janie Mehrens presented this item to City Council. As part of the request for proposal conducted by Holmes Murphy and Associates this past summer, quotes were sought for Group Term Life and AD&D and Group Long Term Disability coverage for eligible City of Brenham employees. Due to the lack of viable quotes, new quotes were pursued through a second RFP. This process produced only one quote from Lincoln Financial. The City has been with Prudential since 2009 but Prudential did not submit a quote. The quote from Lincoln Financial matches the current rates and policy provisions and provides for an annual renewal of two years after the initial 12 month term. Lincoln Financial will provide an Employee Assistance Program (EAP) and TravelConnect as an additional value to the Life Plan for no additional cost to the City.

A motion was made by Weldon Williams and seconded by Gloria Nix to approve the purchase of Group Term Life/AD&D and Group Long Term Disability coverage for calendar year 2012 and authorize the Mayor to execute any necessary documentation.

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Gloria Nix	Yes
Councilmember Andrew Ebel	Yes
Councilmember Keith Herring	Yes
Councilmember Weldon Williams	Yes
Councilmember Danny Goss	Yes

**15. Discuss and Possibly Act Upon Bid No. 12-004 for Janitorial Services for Various City Facilities and Authorize the Mayor to Execute any Necessary Documentation**

Kyle Dannhaus presented this item to City Council. The City requested bids on November 22, 2011 for janitorial services for several city facilities. Last year the janitorial services were split up but this year we decided to bid them all together this year. Six Bid Packets were requested and three completed bids were received. Staff evaluated the bids and the low bidder was Callie Korth (Brenham Cleaning Solutions) from Brenham. After evaluating all of the bids, staff is recommending awarding the bid to Callie Korth (Brenham Cleaning Solutions). Carlos with C& S Janitorial services thanked the City for opportunity to submit a bid and stated that even though they are not a local company, they do hire local people. Ms. Korth thanked the City for allowing her to do work with them. Mayor Tate asked how many employees Ms. Korth has. She stated that she currently has 5 employees but will be hiring another person as well as a machine that will help out greatly. If she sees that she needs additional personnel, she will hire more. Mr. Dannhaus stated that we have had a great working relationship with Brenham Cleaning Solutions and her employees.

A motion was made by Keith Herring and seconded by Danny Goss to approve Bid No. 12-004 for janitorial services for various city facilities and authorize the Mayor to execute any necessary documentation.

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Gloria Nix	Yes
Councilmember Andrew Ebel	Yes
Councilmember Keith Herring	Yes
Councilmember Weldon Williams	Yes
Councilmember Danny Goss	Yes

**16. Discuss and Possibly Act Upon Resolution No. R-11-026 Authorizing the Submission of Grant Application to the Brazos Valley Council of Governments under the Solid Waste Grant Program for the Purchase of 500 (18) Gallon Recycling Bins and 25 (60) Gallon Stand-alone Recycling Containers**

Dane Rau presented this item to City Council. Each year the Brazos Valley Council of Governments Solid Waste Committee provides an opportunity for municipalities, counties, schools, and organizations to apply for grant funds issued by the State of Texas. This year the City of Brenham will be applying for a grant for the purchase of 500-(18) gallon recycling bins and 25-(60) gallon standalone recycling containers. If the grant is received, the City will distribute the 500 recycling bins out to the general public on Earth Day on April 22, 2012 and the 25-(60) gallon standalone recycling containers will be used in our local attractions such as the Blue Bell Aquatic Center, Hohlt Park, Fireman’s Park Kitchen and Pavilion along with other sites that currently do not offer the option to recycle. The grant requested will be in the amount of \$7,435.21. Currently the TCEQ has approved \$51,672.00 for distribution through the BVCOG for these grants.

Grant applications are due on December 16, 2011. Funds were budgeted for this purchase so if the Grant is denied, budgeted funds will be used to pay for the recycling containers. Mr. Rau clarified that the grant is for the purchase of (25) 60-gallon stand-alone recycling containers not (15) as the agenda stated in error.

A motion was made by Gloria Nix and seconded by Andrew Ebel to approve Resolution No. R-11-026 Authorizing the Submission of Grant Application to the Brazos Valley Council of Governments under the Solid Waste Grant Program for the purchase of 500 - 18 gallon recycling bins and 25 – 60 gallon stand-alone recycling containers.

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Gloria Nix	Yes
Councilmember Andrew Ebel	Yes
Councilmember Keith Herring	Yes
Councilmember Weldon Williams	Yes
Councilmember Danny Goss	Yes

**EXECUTIVE SESSION**

**17. Texas Government Code Section 551.072 – Deliberation Regarding Real Property – Discuss and Consider the Acquisition of Property for Westwood Drive Improvements**

**RE-OPEN REGULAR AGENDA**

- 18. Discuss and Possibly Act Upon Resolution No. R-11-027 Determining the Public Need and Necessity for the Acquisition of Certain Real Property for the Public Uses of Construction, Widening, Improvements, Use, Repair, and Maintenance of Street Improvements as Part of the Westwood Drive Improvements, Authorizing the City Manager to Agree on Amounts to be Paid to the Property Owner(s) as Compensation for Said Property, and Authorizing the City Attorney to Institute Condemnation Proceedings, (Use of Eminent Domain), If Necessary, to Acquire Said Property situated in the City of Brenham, Washington County, Texas out of the Phillip H. Coe Survey, A-31, Owned by Glenn & Eloisa Whorton**

Doug Baker presented this item to City Council for consideration as discussed in Executive Session.

A motion was made by Gloria Nix and seconded by Keith Herring to approve Resolution No. R-11-027 determining the public need and necessity for the acquisition of certain real property for the public uses of construction, widening, improvements, use, repair, and maintenance of street improvements as part of the Westwood Lane Improvements, authorizing the City Manager to agree on amounts to be paid to the property owner(s) as compensation for said property, and authorizing the City Attorney to institute condemnation proceedings, (Use of Eminent Domain), if necessary, to acquire said property situated in the City of Brenham, Washington County, Texas out of the Phillip H. Coe Survey, A-31, owned by Glenn & Eloisa Whorton.

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Gloria Nix	Yes
Councilmember Andrew Ebel	Yes
Councilmember Keith Herring	Yes
Councilmember Weldon Williams	Yes
Councilmember Danny Goss	Yes

## 19. Administrative/Elected Officials Report

Terry Roberts reported on the following:

- Cupcakes in foyer for Keith Herring and Gloria Nix birthdays
- Holiday Party – January 27, 2011
- Cary Bovey Christmas Party – December 16, 2011

Danny Goss reported on the following:

- Former City of Brenham Fireman Jimmy Fathauer's funeral – December 16<sup>th</sup> at 2:00 pm

The meeting was adjourned.

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Milton Y. Tate, Jr.  
Mayor

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Jeana Bellinger, TRMC  
City Secretary

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