

## **Brenham City Council Minutes**

A regular meeting of the Brenham City Council was held on August 30, 2012 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 Mary E. Barnes-Tilley  
Councilmember Andrew Ebel  
Councilmember Danny Goss  
Councilmember Keith Herring  
Councilmember Weldon Williams, Jr.

### Others present:

City Manager Terry K. Roberts, City Attorney Cary Bovey, City Secretary Jeana Bellinger, Deputy City Secretary Jennifer Salsgiver, Fire Chief Ricky Boeker, Police Chief Rex Phelps, Chief Financial Officer Carolyn Miller, Debbie Gaffey, Brandon Plumb, Public Works Director Doug Baker, Leslie Kelm, Public Utilities Director Lowell Ogle, Dane Rau, Development Services Director Julie Fulgham, and Angela Hahn

### Citizens present:

Clint Kolby, Paul Ehlert, Billy Holle, Doug French, Randy French, Wayne Giese, and Clarence Gerck

### Media Present:

Arthur Hahn, Brenham Banner Press; Frank Wagner, KWHI

- 1. Call Meeting to Order**
- 2. Invocation and Pledges to the US and Texas Flags – Councilmember Keith Herring**
- 3. Citizens Comments**

Mayor Tate asked the community to remember the young Brenham High School football player who is recovering from a stroke.

## **PUBLIC HEARING**

### **4. Proposed Tax Rate of \$0.5432 per \$100 Valuation for Fiscal Year Beginning October 1, 2012 and Ending September 30, 2013**

Mayor Tate opened the Public Hearing.

Chief Financial Officer Carolyn Miller explained that this is the first of two public hearings on the proposed tax rate. She stated that the Council Budget Workshops were held during the week of July 25, 2012 and the proposed budget is on the City's website, on file with the City Secretary, the Washington County Clerk, and at the Nancy Carol Roberts Memorial Library. Miller explained that in compliance with the Property Tax Code, a governing body must hold two public hearings to receive citizen comments.

Mayor Tate stated that the first reading of the Ordinance to adopt the tax rate will be during a Special Council meeting on Monday, September 17, 2012 at 1:00 p.m. and the second reading of the Ordinance and adoption of the tax rate is scheduled for a Regular Council meeting on Thursday, September 20, 2012 at 1:00 p.m.

Mayor Tate asked for citizen comments on the proposed tax rate. There were no citizen comments.

The public hearing was closed.

### **5. Public Hearing Concerning an Official Zoning Map Amendment to Change the Zoning from a Mixed Residential (R-2) District to a Local Business/Residential Mixed Use (B-1) District on 7.43 Acres Being Tract 189 Out the Phillip Coe Survey and Located at the Northeast Corner of Old Mill Creek Road and Saeger Street in Brenham, Texas**

Mayor Tate opened the Public Hearing.

Development Services Director Julie Fulgham presented a request to re-zone an R-2 District to a B-1 District for the purpose of developing the site for a professional office. Fulgham recommended approving this requested zone change because it conforms to principles outlined in the Comprehensive Plan. She explained that the tract is located at the intersection of two collector streets and though it is surrounded by single-family residential zoning districts, it is not surrounded by single-family residential uses.

City Manager Terry Roberts advised Council that this public hearing provides citizens an opportunity to comment. He said the tract is located at the northeast corner of Saeger Street.

The public hearing was closed.

**6. Public Hearing Concerning an Official Zoning Map Amendment to Change the Zoning from Local Business/Residential Mixed Use (B-1) District to a Business, Research and Technology (B-2) District on 24.28 Acres, More or Less, Being Portions of Tracts 1 and 340 Out of the Phillip Coe Survey, and Located at the Northern End of Farewell Street and Generally Known as the Prairie Lea Cemetery Expansion Area**

Mayor Tate opened the Public Hearing.

Development Services Director Julie Fulgham presented a request from the Brenham Cemetery Association (BCA) to re-zone approximately 24 acres from a B-1 District to a B-2 District for cemetery expansion purposes. She recommended a City initiated zone change to a small portion of land owned by Black Mesa, LLC to prevent a 0.13 acre B-1 District island surrounded by B-2 Districts and she explained that Black Mesa, LLC was notified. Fulgham recommended approving the request except for the approximate 1.3 acre portion that comprises the undeveloped section of the Saeger Street extension in order to prevent an encroachment and protect the right-of-way for future development in accordance with the Comprehensive Plan.

BCA Director Paul Ehlert introduced himself and BCA President Wayne Giese and explained that re-zoning the approximate 1.532 acre of land in the City's right-of-way does not affect the City's right to construct a road. Ehlert asked Council to consider including this strip to prevent the creation of a small B-1 District sliver surrounded by B-2 Districts.

City Attorney Cary Bovey described staff's concern regarding the potential for construction if the area in question is re-zoned since a B-1 District prevents activity allowed in a B-2 District. Bovey explained that maintaining a B-1 District makes it clear that the BCA cannot expand the cemetery onto this strip.

Ehlert specified that the easement has a twenty-five (25) year term-limit with ten (10) years remaining for the City to build a road and questioned if the City was trying to protect the right-of-way longer than ten (10) years.

Bovey clarified that staff advocates maintaining a B-1 District in the right-of-way in order to prevent improvements made on this land during the interim period.

Fulgham added that maintaining the B-1 District zoning prevents confusion and protects that transportation corridor. She indicated that the BCA can request a zone change after the easement expires and re-zoning this strip of land does not comply with the Comprehensive Plan.

Mayor Tate recognized both Ehlert's and Fulgham's perspectives and remarked that if the City does not build the road in ten (10) years, BCA owns the property free of the easement.

Bovey reiterated that maintaining a B-1 District makes it clear that the BCA cannot expand the cemetery onto this strip during the interim period.

Fulgham indicated that the City could not extend Saeger Street in the event that a grave was placed on this strip.

Mayor Tate asked if maintaining the B-1 District on the right-of-way for the next ten (10) years, in addition to restrictions congruent to the easement, prevents BCA from putting graves onto this site.

Ehlert confirmed that BCA can not put graves in a B-1 District or a right-of-way.

Mayor Tate asked for other citizen comments and there were none.

The public hearing was closed.

**7. Public Hearing Concerning an Official Zoning Map Amendment to Change the Zoning from a Residential Single Family (R-1) District to Establish a Planned Development (PD) District for Single-Family Residential Uses on Approximately 57.32 Acres and Generally Bounded by East Stone Street to the North, South Blue Bell Road to the East and Gun and Rod Road to the South as well as a Request to Change the Zoning from a Residential Single Family (R-1) District to a Local Business/Residential Mixed Use (B-1) District on Approximately 3.08 Acres Located at the Southwest Corner of East Stone Street and South Blue Bell Road with Both Parcels Being a Part of Tract 191 Out of the James Walker Survey in Brenham, Texas**

Mayor Tate opened the Public Hearing.

Development Services Director Julie Fulgham presented a request from Stylecraft for a PD District. Fulgham recommended re-zoning an R-1 District to a PD District for single-family residential uses with minimum lot widths of fifty-five (55) feet, minimum lot depths of one hundred and twenty-five (125) feet, and side setback lines reduced to seven and a half (7.5) feet in return for the creation of a homeowners association to maintain common areas and the dedication of a minimum one thousand five hundred (1,500) linear feet all-weather trail. Fulgham added that R-1 District standards applied to property not otherwise specified. Fulgham further endorsed re-zoning an R-1 District to a B-1 District to establish a neighborhood commercial tract to serve the surrounding area. Fulgham confirmed that the plan meets principles outlined in the Comprehensive Plan and deviations from standards are minimal.

Mayor Tate asked about lot width in the smaller lots.

Fulgham referred to Exhibit A in the proposed Ordinance explaining that the larger blue lots adhere to all the normal standards and the smaller yellow lots are reduced in width to a minimum of fifty-five (55) feet, but extended in length.

City Manager Terry Roberts clarified that the smaller yellow lots contain a minimum lot width of fifty-five (55) feet and a minimum lot depth of one hundred and twenty-five (125) feet.

Fulgham added that the extended lot depth in the smaller yellow lots produced lots that exceed the minimum square footage requirement.

Councilmember Herring questioned the depth of the larger blue lots.

Fulgham explained that the larger blue lots meet the minimum lot depth of one hundred and fifteen (115) feet with many of these lots exceeding this minimum requirement.

Mayor Tate asked for citizen comments.

Stylecraft Developer Randy French presented how the Ralston Creek Estates Sub-division differs from grid-development while maintaining a pedestrian friendly setting. In return for the layout, French requested a reduced side setback of five (5) feet in lieu of the ten (10) feet minimum due to increasing development cost and minimum standards found in other cities.

Councilmember Barnes-Tilley and Councilmember Herring asked about the homeowners association.

Fulgham stated that homeowner association specifications are written into the Ordinance to ensure that staff is comfortable with their bylaws and language concerning the maintenance of common areas.

French added that the homeowners association is managed by a third party, which Stylecraft pays for until the neighborhood populous can self-sufficiently fund it.

Councilmember Goss inquired if the fire department reviewed the plan.

Fire Chief Ricky Boeker stated that Fire Marshal Alan Finke reviewed the plan and recommended a seven and a half foot (7.5') side setback.

Fulgham recommended a seven and a half (7.5) feet minimum side setback, explaining that staff was not comfortable with the five (5) feet side setback requested by Stylecraft and the smallest reduction the Fire Marshall's office supported was seven and a half (7.5) feet.

The public hearing was closed.

## **REGULAR AGENDA**

- 8. 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 from a Mixed Residential (R-2) District to a Local Business/Residential Mixed Use (B-1) District on 7.43 Acres Being Tract 189 Out the Phillip Coe Survey and Located at the Northeast Corner of Old Mill Creek Road and Saeger Street in Brenham, Texas**

Mayor Tate explained that Councilmember Goss’s wife works for Seidel, Schroeder & Company, who is requesting the zoning change, so he will not participate in the vote.

A motion was made by Councilmember Williams and seconded by Councilmember Ebel 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 from a Mixed Residential (R-2) District to a Local Business/Residential Mixed Use (B-1) District on 7.43 Acres Being Tract 189 Out the Phillip Coe Survey and Located at the Northeast Corner of Old Mill Creek Road and Saeger Street in Brenham, Texas.

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 Mary E. Barnes-Tilley	Yes
Councilmember Andrew Ebel	Yes
<b>Councilmember Danny Goss</b>	<b>Abstain</b>
Councilmember Keith Herring	Yes
Councilmember Weldon Williams	Yes

**9. 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 from Local Business/Residential Mixed Use (B-1) District to a Business, Research and Technology (B-2) District on 24.28 Acres, More or Less, Being Portions of Tracts 1 and 340 Out of the Phillip Coe Survey, and Located at the Northern End of Farewell Street and Generally Known as the Prairie Lea Cemetery Expansion Area**

City Attorney Cary Bovey highlighted a revised Ordinance that includes language regarding the approximate 1.3 acres that comprises the seventy (70) foot right-of-way strip, noting that Paul Ehlert referred to it as 1.52 acres.

Development Services Director Julie Fulgham stated that Ehlert was probably correct because she used measurements from the City’s GIS maps and advised the City to use 1.53 acres.

Bovey stated that he believes it should be 1.52 acres based off of documents he reviewed a few months ago.

Councilmember Herring asked if the City could initiate re-zoning Tract 340 since the City has not received feedback from Black Mesa, LLC indicating support or opposition.

Fulgham affirmed that Black Mesa was notified and did not contact the City to voice their support or opposition. She suggested that Black Mesa probably agreed with the reasoning behind re-zoning the land.

A motion was made by Councilmember Herring and seconded by Councilmember Goss 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 from Local Business/Residential Mixed Use (B-1) District to a Business, Research and Technology (B-2) District on 24.28 Acres, More or Less, Being Portions of Tracts 1 and 340 Out of the Phillip Coe Survey, and Located at the Northern End of Farewell Street and Generally Known as the Prairie Lea Cemetery Expansion Area with corrections.

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 Mary E. Barnes-Tilley	Yes
Councilmember Andrew Ebel	Yes
Councilmember Danny Goss	Yes
Councilmember Keith Herring	Yes
Councilmember Weldon Williams	Yes

**10. 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 from a Residential Single Family (R-1) District to Establish a Planned Development (PD) District for Single-Family Residential Uses on Approximately 57.32 Acres and Generally Bounded by East Stone Street to the North, South Blue Bell Road to the East and Gun and Rod Road to the South as well as to Change the Zoning from a Residential Single Family (R-1) District to a Local Business/Residential Mixed Use (B-1) District on Approximately 3.08 Acres Located at the Southwest Corner of East Stone Street and South Blue Bell Road with Both Parcels Being a Part of Tract 191 Out of the James Walker Survey in Brenham, Texas**

City Attorney Cary Bovey highlighted changes to the proposed Ordinance including correcting 3.08 acres to 3.07 acres, replacing the word requests with parcels, and capitalizing the word tract.

Councilmember Barnes-Tilley asked if the cul-de-sac in this District exceeds the length permitted by Ordinance.

Development Services Director Julie Fulgham explained that the cul-de-sac is longer than six-hundred (600) feet, but no longer than the eight-hundred (800) feet allowed with special typography. She reiterated that PD Districts permit exceptions and recommended approval due to the number of homes in the cul-de-sac and the Fire Department’s approval of the layout. She clarified that length specifications protect evacuation measures by preventing the construction of too many homes in a dead-end area. Fulgham further explained that the creek limits layout options and Stylecraft cannot deviate from the layout they presented.

Councilmember Barnes-Tilley expressed her concern that cul-de-sac requests were denied in other areas and approved in a PD District, noting that individuals previously denied may present their request again.

Fulgham differentiated PD Districts from existing developments, explaining that PD Districts provide comprehensive plans up-front that require developers to offer desirable trade-offs while adhering to the spirit of the appendices and Fire Code.

City Manager Terry Roberts clarified that availability for a PD District in an existing development is limited in comparison to an open tract.

Councilmember Goss expressed concern that the Planning and Zoning Commission denied a developer's preliminary request due to Ordinance standards involving cul-de-sac length and traffic.

Fulgham specified that the PD District Ordinance did not exist when that request was denied so trade-offs were not an option at that time. Fulgham stated that Stylecraft requested relaxed standards in return for surpassing multiple expectations and other developers may request a PD District for trade-off options that uphold the health and safety in the development.

Councilmember Herring asked if that developer could request approval for his plan again.

Fulgham acknowledged that she discussed options with that particular developer and assured Council that PD Districts allow for acceptable deviation in order to gain desirable trade-offs. Fulgham explained that staff consider criteria, the spirit of the Ordinance, the Health and Safety Code and not cost.

Councilmember Barnes-Tilley expressed her apprehension with the inconsistency related to cul-de-sac approvals.

Mayor Pro Tem Nix asked if Fire Chief Ricky Boeker felt comfortable with the layout and street width.

Boeker explained that the Fire Marshall's office thoroughly reviewed all dimensions and approved the plan.

A motion was made by Councilmember Herring and seconded by Councilmember Ebel 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 from a Residential Single Family (R-1) District to Establish a Planned Development (PD) District for Single-Family Residential Uses on Approximately 57.32 Acres and Generally Bounded by East Stone Street to the North, South Blue Bell Road to the East and Gun and Rod Road to the South as well as to Change the Zoning from a Residential Single Family (R-1) District to a Local Business/Residential Mixed Use (B-1) District on Approximately 3.07 Acres Located at the Southwest Corner of East Stone Street and South Blue Bell Road with Both Parcels Being a Part of Tract 191 Out of the James Walker Survey in Brenham, Texas.

Mayor Tate called for a vote. The motion passed 5-2 with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Gloria Nix	Yes
<b>Councilmember Mary E. Barnes-Tilley</b>	<b>No</b>
Councilmember Andrew Ebel	Yes
<b>Councilmember Danny Goss</b>	<b>No</b>
Councilmember Keith Herring	Yes
Councilmember Weldon Williams	Yes

## 11. Administrative/Elected Officials Report

City Manager Terry Roberts reported on the following:

- Connect with Paula regarding the TML Annual Conference.
- Construction will begin in a few days at the Highway 290 and Highway 36 intersection. After TxDOT completes the outer lanes, the intersection under the overpass will shut down for two (2) to three (3) weeks and traffic will be deferred to the Fireman's Training Center and Stringer Street.
- Traffic drove on both Highway 290 overpass lanes in July, the car count begins in October, and the semi-annual payments for reimbursement begin at the beginning of 2013.
- Regular Council meeting scheduled next Thursday, September 6, 2012 and the Planning and Zoning items discussed today will be on this upcoming agenda for a second reading.

The meeting was adjourned.

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Milton Y. Tate, Jr.  
Mayor

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Jeana Bellinger, TRMC  
City Secretary

Mayor Tate called for a vote. The motion passed 5-2 with Council voting as follows:

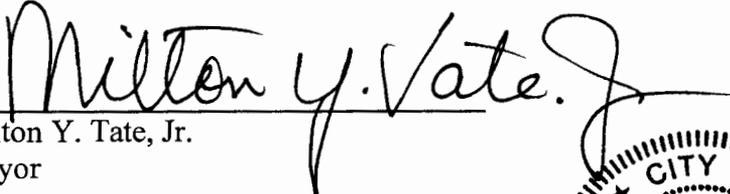
Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Gloria Nix	Yes
<b>Councilmember Mary E. Barnes-Tilley</b>	<b>No</b>
Councilmember Andrew Ebel	Yes
<b>Councilmember Danny Goss</b>	<b>No</b>
Councilmember Keith Herring	Yes
Councilmember Weldon Williams	Yes

## 11. Administrative/Elected Officials Report

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- Regular Council meeting scheduled next Thursday, September 6, 2012 and the Planning and Zoning items discussed today will be on this upcoming agenda for a second reading.

The meeting was adjourned.

  
Milton Y. Tate, Jr.  
Mayor

  
Jeana Bellinger, TRMC  
City Secretary



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