

Brenham City Council Minutes

A regular meeting of the Brenham City Council was held on September 6, 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 Weldon Williams, Jr.

Members absent:

Councilmember Keith Herring

Others present:

City Manager Terry K. Roberts, City Attorney Cary Bovey, City Secretary Jeana Bellinger, Deputy City Secretary Jennifer Salsgiver, Fire Chief Ricky Boeker, Deputy Fire Chief Alan Finke, Police Chief Rex Phelps, David Doelitsch, Chief Financial Officer Carolyn Miller, Stacy Hardy, Debbie Gaffey, Brandon Plumb, Susan Nienstedt, Public Works Director Doug Baker, Leslie Kelm, Public Utilities Director Lowell Ogle, Dane Rau, Bobby Brenham, Development Services Director Julie Fulgham, Kim Hodde, Kevin Boggus, Nancy Stafford, Janie Mehrens, Michael Kohring, Kevin Gaffey, Megan Shine, Andrea Ryan, Colby Finke, and Justin McDonald

Citizens present:

Clint Kolby, James Proske, Joshua Arnold, Joel William, Elizabeth Bordwell, Jeff Robertson, Billy Holle, Courtney South, and Tiffany McMordie-Morisak

Media Present:

Joel Williams, Brenham Banner Press; Frank Wagner, KWHI

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

3. 3-a. Service Recognitions

| | |
|-------------------------------------|----------|
| Dane Rau – Public Utilities | 10 years |
| Michael Kohring – Street Department | 5 years |

Assistant Public Utilities Director Dane Rau thanked Mayor Tate, Council, Public Utilities Director Lowell Ogle, and City Manager Terry Roberts for his time with the City.

3-b. New Employees

Kevin Gaffey – Sanitation Department
Megan Shine – Communications
Andrea Ryan – Communications
Colby Finke – Parks Department
Justin McDonald – Fire Department

Fire Chief Ricky Boeker introduced Justin McDonald to Council and explained that the City is fortunate to fill the position with someone as qualified as McDonald.

4. Proclamation

➤ **Constitution Week: September 17, 2012 - September 23, 2012**

Mayor Tate read a proclamation designating September 17, 2012 - September 23, 2012 as Constitution Week. It was accepted by Tiffany McMordie-Morisak.

5. Citizens Comments

James Proske requested that the City reschedule garage pick-up days affected by holidays since most holidays fall on a Monday. Mayor Tate explained that Assistant Public Utilities Director Dane Rau will look into a solution.

CONSENT AGENDA

6. Statutory Consent Agenda

The Statutory Consent Agenda includes non-controversial and routine items that Council may act on with one single vote. A councilmember may pull any item from the Consent Agenda in order that the Council discuss and act upon it individually as part of the Regular Agenda.

6-a. Minutes from the August 2, 2012 and August 16, 2012 Council Meetings

6-b. Second Reading of Ordinance O-12-018 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

- 6-c. **Second Reading of Ordinance O-12-019 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**

- 6-d. **Second Reading of Ordinance O-12-020 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 advised council that Consent Agenda Items 6-b and 6-d would be moved to the Regular Agenda for discussion. The Mayor directed Council to act on Consent Agenda Items 6-a and 6-c only.

A motion was made by Councilmember Barnes-Tilley and seconded by Councilmember Goss to approve the Statutory Consent Agenda Items 6-a. Minutes from the August 2, 2012 and August 16, 2012 Council Meetings and 6-c. Ordinance O-12-019.

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 | Absent |
| Councilmember Weldon Williams | Yes |

PUBLIC HEARING

7. 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 a governing body must hold two public hearings on a proposed tax rate and the first public hearing was held during a Special Council meeting on August 30, 2012 where no citizens commented. Miller explained that the City is maintaining a property tax rate of \$0.5432 per \$100 valuation.

Citizen James Proske stated that citizens are not aware that their property values increased, which increases their taxes. Mr. Proske questioned how property was appraised.

Mayor Tate clarified that the City did not increase the tax rate although the Appraisal District raised the value of some properties. Mayor Tate explained that the City has no control over property assessments, and directed Mr. Proske to contact Willy Dilworth at the Washington County Appraisal District for information related to property values.

City Manager Terry Roberts added that under state law, the Appraisal District appraises property at fair market value and they furnished that information to the City.

Mayor Tate announced 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.

The public hearing was closed.

REGULAR AGENDA

6-b. Second Reading of Ordinance O-12-018 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

City Manager Terry Roberts advised Council that he requested for this item to be brought from the Consent Agenda since Councilmember Goss recused himself last week due to his spouse’s employment at Seidel, Schroeder & Company. Roberts asked for a separate vote so Councilmember Goss can recuse himself from this particular item.

A motion was made by Mayor Pro Tem Nix and seconded by Councilmember Ebel to approve Ordinance O-12-018 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 |
| Councilmember Danny Goss | Abstain |
| Councilmember Keith Herring | Absent |
| Councilmember Weldon Williams | Yes |

6-d. Second Reading of Ordinance O-12-020 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

City Manager Terry Roberts advised Council that he requested this item be moved to the Regular Agenda from the Consent Agenda because the layout of the proposed development contains a minor adjustment from the map presented last week. Roberts compared the design presented last week, which placed a green space between two lots, to the new design, which moved the green space along the road.

Development Services Director Julie Fulgham referenced the map placed around the dais explaining that the green space and lot beside the green space were switched so there is not a green space located between two lots.

Councilmember Barnes-Tilley expressed concern that cul-de-sacs requests were denied for reasons not related to the safety code while cul-de-sacs requests located in Planned Development (PD) Districts were approved.

Mayor Tate noted that Council may want to review the Ordinance and reevaluate cul-de-sac standards.

Councilmember Goss asked if all developers who were denied development due to the length of the cul-de-sacs can present their requests again.

Fulgham confirmed that developers can present their plans again emphasizing that existing developments may not meet PD District intent. Fulgham added that staff researched cul-de-sac standards and presented the information to the Planning and Zoning (P&Z) Commission during a work session in March, but she wanted to gain more institutional knowledge before undertaking this charge.

Mayor differentiated between regular Ordinance standards and PD District standards, explaining that developers can build one section at a time over a period of time if the entire plan is presented upfront.

Fulgham explained that cul-de-sac standards allow for six-hundred feet (600') or up to eight-hundred feet (800') with special topography.

Roberts confirmed that developers can build one section at a time over a period of time and PD Districts provide a method for negotiation on standards which Fulgham communicated to the other developers. Roberts added that Ralston Creek arguably has unusual topography, which qualifies it for an eight-hundred feet (800') cul-de-sac allowance without a variance.

Fulgham reminded Council that Ralston Creek plan is codified, meaning that the specified standards are written into the Ordinance. She explained the codification of the development's standards requires a Council approved zone change for any deviation from the plan. Fulgham clarified however that home owners may present requests through the normal process.

Roberts pointed out that the development Ordinance calls for six-hundred feet (600') or eight-hundred feet (800') with special topography while Fire Marshal Alan Finke considers the fire code standpoint in which cul-de-sacs with less than thirty (30) homes are acceptable. Roberts noted the P&Z Commission held a workshop on cul-de-sac standards, adding that the standards will remain unchanged until revised by the P&Z Commission and/or Council.

Councilmember Barnes-Tilley reiterated her concern, questioning why cul-de-sac stipulations, not related to safety, are in place.

City Attorney Cary Bovey clarified that Council's approval on the cul-de-sac length in this situation is not legally binding since this is discretionary with the City and City Council. He explained this as a negotiable situation that allows for enhanced developments, noting that the City is not bound to grant PD District standards to a standard subdivision.

Councilmember Barnes-Tilley asked if Ralston Creek is unusual topography.

Roberts confirmed that Ralston Creek arguably does not require a variance because the unusual topography qualifies it for the less than eight-hundred feet (800') cul-de-sac standard.

Councilmember Goss asked if the City becomes liable if emergency services are hindered due to an approved deviation from the Ordinance.

Bovey explained that no deviation from the City's Ordinance occurs because the PD Ordinance allows the City to focus specifically on this development. Bovey stated that PD Ordinances were enacted to address concerns called spot zoning, which focus on small tracks of land. Bovey noted that the City is not responsible for the ultimate development condition and case law states, in terms of subdivision fire approval, that the City is not liable for damages because it is the developer's responsibility and liability. Bovey explained that the City should not experience exposure for approving a PD District provided it meets the standards laid out in the PD Ordinance, which allows for a customized development outside of the standard rules.

Fulgham added that some standards are based on public safety while others derive from community character. Fulgham emphasized that the City takes public safety very seriously, explaining that the Fire and Police Departments are involved in the process, and further explained that PD Districts allow developers to infuse unique character into their development.

Roberts assured Council that the Police and Fire Departments review requests to ensure public safety and requests that deviate from the standard code are taken very seriously.

Councilmember Ebel expressed support for the subdivision and asked if the City will attain additional right-of-way on Gun & Rod Road to expand the road width to compensate for the increased traffic.

Fulgham explained that the City will request additional right-of-way during the subdivision plot process to ensure Gun & Rod Road meets the minimum residential street width.

Public Works Director Doug Baker confirmed that Gun & Rod Road is not considered a collector street.

A motion was made by Councilmember Ebel and seconded by Mayor Pro Tem Nix to approve Ordinance O-12-020 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 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 | Absent |
| Councilmember Weldon Williams | Yes |

8. Discuss and Possibly Act Upon Ordinance O-12-021 on Its Second Reading Amending Chapter 16, Occupational Licenses and Business Regulations, of the Code of Ordinances of the City of Brenham, to Provide for the Regulation of Boarding Homes Located Inside the City Limits

Police Chief Rex Phelps presented the Ordinance on its second reading, explaining that City Secretary Jeana Bellinger will present the language revisions and fee schedule.

Bellinger highlighted language revisions involving the period granted to current boarding homes to get into compliance, background checks, the burden of renewal, and the complaint procedure. Bellinger presented her research on permit fees and briefed Council on how the permit process involves the Fire Marshal, Code Enforcement Officer, and City Secretary. Bellinger requested Council's direction on application and re-inspection fees to offset the cost of inspections and administrative duties related to issuing the permits.

City Attorney Cary Bovey added that the two hundred dollar (\$200) application fee recommended by staff reasonably covers cost the City incurs for inspections and administrative burdens related to issuing the permits and the one hundred dollar (\$100) re-inspection fee offsets expenses related to inspections performed by the Fire Marshal and Code Enforcement Officer.

Councilmember Williams expressed concern regarding the vast number of items that require evaluation in boarding homes, questioning if the City incurs liability for boarding homes that do not meet the Ordinance's standards. Bovey explained that the Ordinance places the burden to comply on the business and not the City and emphasized that the City does not incur liability for noncompliance.

Phelps explained that a significant number of boarding homes were established in Brenham within the last year and some of these businesses, which house elderly or disabled individuals for profit, do not properly care for the individuals living there. Phelps noted that the Ordinance implements food preparation and facility standards and added that the call for service volume generated from boarding homes justifies the rationale for this Ordinance.

Mayor Tate questioned if the two hundred dollar (\$200) application fee covers the expenses incurred by the City for inspections and administrative burdens related to issuing the permit.

Bellinger specified that Board Home Packets are available at the City Secretary's Office and contain all the inspection forms and the application. Bellinger indicated that after the application and fee is received, she will notify the Fire Marshall and Code Enforcement Officer who will then schedule an inspection. Bellinger explained that the City Secretary's Office will issue the permit once all inspections are passed.

Bovey clarified that the state law, which allows the City to regulate boarding home facilities also allows for fees to cover expenses related to the permitting process. Bovey noted that the fee is not intended to generate revenue for purposes unrelated to boarding home facilities.

Councilmember Goss questioned why the City would require a private business to run background checks.

A motion was made by Councilmember Goss and seconded by Councilmember Barnes-Tilley to approve Ordinance O-12-021 on its second reading amending Chapter 16, Occupational Licenses and Business Regulations, of the Code of Ordinances of the City of Brenham, to provide for the regulation of boarding homes located inside the city limits.

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 | Absent |
| Councilmember Weldon Williams | Yes |

Councilmember Ebel voiced support for health and welfare regulations, asked if the proposed fees were sufficient, and questioned how the Ordinance will be enforced.

Bellinger explained that staff initially proposed a two hundred dollar (\$200) application fee and a one hundred dollar (\$100) re-inspection fee, advising that other cities charged between fifty dollars (\$50) to five hundred dollars (\$500) potentially based on the number of facilities.

Phelps stated that the Ordinance will be advertised to promote awareness, staff compiled a list of boarding home to ensure compliance, and noncompliant boarding homes will receive citations.

A motion was made by Councilmember Ebel and seconded by Councilmember Williams to raise the initial application fee to two hundred and fifty dollars (\$250) and the annual inspection fee to one hundred and fifty dollars (\$150).

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 | Absent |
| Councilmember Weldon Williams | Yes |

9. Discuss and Possibly Act Upon a Professional Services Agreement with Jones and Carter, Inc. for Engineering Services Related to the Extension of the High Pressure Plane Along Highway 36 North and Burleson Street and Authorize the Mayor to Execute Any Necessary Documentation

Public Utilities Director Lowell Ogle presented a water service extension involving a fire protection request in an annexed area along Highway 36 North and Burleson Street as well as a water service request from Country Place Northwest (CPN). Ogle noted that both requests were discussed with Council in previous meetings. Ogle explained that extending a twelve inch (12”) water main along Highway 36 North from Blue Bell Road and an eight inch (8”) main south on Burleson enables the City to tie the line back into our existing system which creates a loop and an alternate feed into the high pressure plane. Ogle noted that the project will cost about \$529,000 and recommended approving an agreement with Jones and Carter, Inc. for engineering services to design the water line extension for \$69,023. Ogle also recommended using bond funds for the west side pressure plane.

Councilmember Williams asked how the area is currently serviced. Ogle explained that a community waterline currently services this area but it does not provide fire protection.

Councilmember Goss asked if the tie-in was on the high pressure plane. Ogle explained that part of the tie-in is on the high pressure plane and part is on the low pressure plane. Ogle added that CPN ties-in on Highway 36 to the low pressure plane and anything that services CPN beyond that will be their responsibility.

A motion was made by Councilmember Goss and seconded by Councilmember Williams to approve a Professional Services Agreement in the amount of \$69,023 with Jones and Carter, Inc. for engineering services related to the extension of the high pressure plane along Highway 36 North and Burleson Street 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 Mary E. Barnes-Tilley | Yes |
| Councilmember Andrew Ebel | Yes |
| Councilmember Danny Goss | Yes |
| Councilmember Keith Herring | Absent |
| Councilmember Weldon Williams | Yes |

10. Discuss and Possibly Act Upon the Award of a Contract for Sodium Chlorite, Chlorine Dioxide Generation Equipment and Technical Services Associated with the Chlorine Dioxide Process for the Water Plant's Chlorine Dioxide Program and Authorize the Mayor to Execute Any Necessary Documentation

Public Utilities Director Lowell Ogle asked Council to approve a contract with Siemens Industry, Inc. for the city's chlorine dioxide program. Ogle explained that Siemens has been the city's provider for many years. Ogle explained that Siemens Industry, Inc. will charge for sodium chlorite at \$0.658 per pound and there is no cost for the chlorine dioxide generation equipment and technical services associated with the chlorine dioxide process included in the agreement. Ogle stated that the contract will be for one (1) year and may be renewed for up to two (2) additional one (1) year terms for a total of three (3) years.

City Attorney Cary Bovey recommended striking the language "within the warranty period" in Item 7 of the Terms and Conditions and adding a sentence under Item 12 that reads "Exclusive venue for any dispute, claim, lawsuit or other legal proceeding arising out of or involving the Agreement shall be in Washington County, Texas".

A motion was made by Mayor Pro Tem Nix and seconded by Councilmember Barnes-Tilley to award of a contract for the Chlorine Dioxide Program with Siemens Industry, Inc. for \$0.658 per pound for sodium chlorite, chlorine dioxide generation equipment and technical services associated with the chlorine dioxide process with an annual renewal option, with changes as recommended by the City Attorney, to Items 7 and 12 in the Terms and Conditions 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 Mary E. Barnes-Tilley | Yes |
| Councilmember Andrew Ebel | Yes |
| Councilmember Danny Goss | Yes |
| Councilmember Keith Herring | Absent |
| Councilmember Weldon Williams | Yes |

11. Discuss and Possibly Act Upon an Amendment No. 1 to the Professional Services Agreement with Jones and Carter, Inc. for the Valmont Water System Improvements Project and Authorize the Mayor to Execute Any Necessary Documentation

Public Utilities Director Lowell Ogle presented a water service extension requested by taxpayers along Salem Road and added that the high pressure plane can be extended to this area along Highway 36 South. Ogle explained that the new customers will have water pressure on the lower end of TCEQ requirements if the high pressure plane is not employed. Ogle noted that the total estimated cost of this extension is \$175,789 which includes construction and engineering.

Ogle recommended amending the Valmont Water System Improvements Project Agreement with Jones and Carter, Inc. to save money on engineering and explained that the City will fund this portion of the project and it will not affect the participation agreement with Valmont. Ogle added that engineering is estimated to be about \$22,929 which might come down due to an existing easement on Salem Road.

City Manager Terry Roberts asked Ogle to clarify that the Valmont twelve inch (12”) line extension is on the high pressure plane and the water line extension under Highway 36 converts the Highway 36 line to a high pressure plane.

Ogle explained that the amendment relocates a check valve assembly near the intersection of Highway 36 South and Wood Ridge Boulevard and everything south of Lowe’s will be converted to the high pressure plane.

Councilmember Goss asked about cost, funding, and if bond funds will pay for the line extension from Industrial Boulevard to Valmont. Ogle explained that the total estimated cost is \$175,789, which includes the estimated engineering cost of \$22,929. Ogle added that funds left over from the west side expansion project can be used for the continuation of that pressure plane. Ogle explained that the Valmont line extension can be financed through the water fund reserves or bond funds.

Roberts added that the 2008 bond funds are restricted to west side water plane expansion and the City can either retire the debt early or do more projects on intended uses.

A motion was made by Mayor Pro Tem Nix and seconded by Councilmember Ebel to approve Amendment No. 1, in the amount of \$175,789, to the Professional Services Agreement with Jones and Carter, Inc. for the Valmont Water System Improvements Project 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 Mary E. Barnes-Tilley | Yes |
| Councilmember Andrew Ebel | Yes |
| Councilmember Danny Goss | Yes |
| Councilmember Keith Herring | Absent |
| Councilmember Weldon Williams | Yes |

12. Discuss and Possibly Act Upon a Request for a Noise Variance from Allen Oberrender DBA AO Studios for Music Video Filming to be Held in the Alleyway Behind Jim’s Whims from Sundown to Sunrise on September 8, 9, and 10, 2012

Administrative Assistant Kim Hodde presented a noise variance request from AO Studios for filming parts of a music video in the alleyway behind Jim’s Whims from sundown to sunrise as needed on September 8-10, 2012. Hodde explained that they will not be using sound amplification equipment; but, they will be using drums and a radio. Hodde explained that instruments will be set up to look realistic for the video, but they will not be plugged in. Hodde introduced AO Studios partner Josh Arnold to answer Council’s questions.

Arnold explained that the noise should not be very loud even with the drummer playing since nothing else will be plugged in. He explained they decided to request a noise variance to avoid trouble since they are filming at night downtown and stated that he played inside a warehouse located behind Jim’s Whims that his grandmother owns, which did not bother anyone.

A motion was made by Councilmember Barnes-Tilley and seconded by Councilmember Williams to approve a request for a noise variance from Allen Oberrender DBA AO Studios for music video filming to be held in the alleyway behind Jim’s Whims from sundown to sunrise on September 8, 9, and 10, 2012.

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 | Absent |
| Councilmember Weldon Williams | Yes |

13. Discuss and Possibly Act Upon a Request for a Noise Variance from Café in the Garden for Live Music Coinciding with the Downtown Christmas Stroll to be Held at 110 W. Main Street on November 30, 2012 from 7:00 p.m. – 11:00 p.m.

Administrative Assistant Kim Hodde presented a noise variance requested from Café in the Garden for a band to play at 110 W. Main Street on November 30, 2012 from 7:00 p.m. – 11:00 p.m. to coincide with the Downtown Christmas Stroll. Hodde noted that the band consists of one (1) drummer and three (3) guitarists and introduced requestor Elizabeth Bordwell to answer Council’s questions.

Councilmember Goss asked what kind of music the band will play.

Bordwell explained that the band will play country music and hopefully some Christmas music.

Mayor Pro Tem Nix asked why they have not applied for a noise variance for the live music they normally have.

Bordwell explained that the band stops playing by 9:30 p.m. so she was under the impression that no noise variance was required, but would gladly go through the proper process.

City Bovey Cary Bovey confirmed that a noise variance is only required for amplified sound.

Chief Financial Officer Carolyn Miller noted that a tuba group normally plays on the corner across from Café in the Garden during the Downtown Christmas Stroll and suggested that the band takes a break during their performance to avoid competing sounds.

Mayor Pro Tem Nix asked for Bordwell to clarify that the band will not play during the parade.

Bordwell assured Council that they will adjust accordingly so that the band does not play during the parade or the tuba group's performance.

A motion was made by Councilmember Williams and seconded by Councilmember Barnes-Tilley to approve a noise variance from Café in the Garden for live music coinciding with the Downtown Christmas Stroll to be held at 110 W. Main Street on November 30, 2012 from 7:00 p.m. – 11:00 p.m.

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 | Absent |
| Councilmember Weldon Williams | Yes |

14. Discuss and Possibly Act Upon the Selection of Candidates to be Voted for on the Texas Municipal League Intergovernmental Risk Pool Board of Trustees, Places 11-14, and Authorize the Mayor to Execute Any Necessary Documentation

Human Resources Director Janie Mehrens explained that as a member of the Texas Municipal League Intergovernmental Risk Pool, the City of Brenham is eligible to participate in the election of members to the Board of Trustees and this year positions eleven (11) through fourteen (14) for six-year terms are open. She suggested that votes be cast by the City for Place 11 Kavon Novak, Place 12 Larry Gilley, Place 13 Byron Black and Place 14 Cynthia Kirk.

Councilmember Danny Goss asked if Mehrens knew the suggested nominees. Mehrens explained that she knows Kirk very well and noted that Kirk and Novak are both from Region 10. Mehrens stated that Black and Gilley are incumbents.

A motion was made by Councilmember Barnes-Tilley and seconded by Councilmember Ebel to vote for the recommended nominees as presented for the Texas Municipal League Intergovernmental Risk Pool Board of Trustees election 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 Mary E. Barnes-Tilley | Yes |
| Councilmember Andrew Ebel | Yes |
| Councilmember Danny Goss | Yes |
| Councilmember Keith Herring | Absent |
| Councilmember Weldon Williams | Yes |

RE-OPEN REGULAR AGENDA

16. Administrative/Elected Officials Report

City Manager Terry Roberts reported on the following:

- Cubs Hall of Honor lunch-in scheduled for October, 5, 2012
- TML Annual Conference scheduled for November 13-16
- Public Works Director Doug Baker and Roberts met with O'Malley Engineers, LLP, the bid packet will be available next week for the collector street overlay project, and the item will be on the October 18, 2012 agenda
- Fence is up around old City Hall and demolition work is underway
- Library Family Night scheduled on Monday, September 10, 2012
- BISD luncheon scheduled for Friday, September 7, 2012

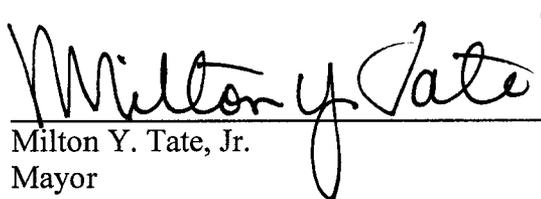
Council adjourned into Executive Session at 2:41 p.m.

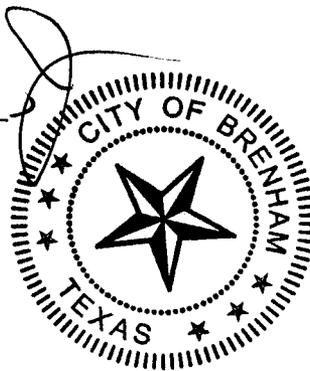
EXECUTIVE SESSION

- 15. Texas Government Code Section 551.086 – Utility Competitive Matters – Discussion Regarding Lower Colorado River Authority’s (LCRA’s) Wholesale Power Agreement with Short-term Customers**

Executive Session adjourned at 3:10 p.m.

The meeting was adjourned.


Milton Y. Tate, Jr.
Mayor




Jeana Bellinger, TRMC
City Secretary