

Brenham City Council Minutes

A regular meeting of the Brenham City Council was held on March 7, 2013 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 Mary E. Barnes-Tilley
Councilmember Weldon Williams, Jr.

Members absent:

None

Others present:

City Manager Terry Roberts, Assistant City Manager Kyle Dannhaus, City Attorney Cary Bovey, City Secretary Jeana Bellinger, Deputy City Secretary Amanda Klehm, Chief Financial Officer Carolyn Miller, Stacy Hardy, Kaci Konieczny, Wende Ragonis, Christi Korth, Fire Chief Ricky Boeker, Allan Hinze, Police Chief Rex Phelps, Chris Jackson, David Doelitsch, Billy Rich, Amanda Carker, Ginger Bishop, Development Services Director Julie Fulgham, Kim Hodde, Public Utilities Director Lowell Ogle, Dane Bybee, Bobby Keene, Kevin Boggus, Grant Lischka, Cleveland McBride, and Terry L. Fielder

Citizens present:

Clint Kolby, Page Michel, Perry Thomas, Robert and Kathleen Wilson, Michele Kwiatowski, Casey Acker, Jerry and Jan Calvert, and William Krueger

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 – Mayor Pro Tem Nix**

3. 3-a. New Employees

- Cleveland McBride - Water Construction

Public Utilities Director Lowell Ogle introduced Cleveland “Tweety” McBride as a new employee in the Water Construction department.

3-b. Service Recognitions

Service recognitions were presented to the following employees:

- Terry L. Fielder – Sewer Construction Department – 25 years

Public Utilities Director Lowell Ogle expressed his appreciation for Terry Fielder’s good attitude, hard work, and dedication over his twenty-five (25) year career with the City of Brenham.

4. Citizens Comments

There were no citizen comments.

CONSENT AGENDA

5. 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.

5-a. Ordinance No. O-13-003 on Its Second Reading Amending Chapter 2, Administration, of the Code of Ordinances of the City of Brenham to Amend Article V, Open Records and Records Management

A motion was made by Councilmember Herring and seconded by Mayor Pro Tem Nix to approve the Statutory Consent Agenda Item 5-a. Ordinance No. O-13-003 relating to Open Records and Records Management.

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

REGULAR AGENDA

6. Discuss and Possibly Act Upon a Variance Request from Adolph Wehmeyer from Section 23-25(3), Subdivision Ordinance of the Code of Ordinances to Allow the Development of a New Mobile Home Park on Approximately 19.3 Acres Located on FM 389 and Situated Directly West of the Eight Star Corporation's Mobile Home Park (Formerly Known as Wehmeyer Mobile Home Park)

A motion was made by Councilmember Ebel and seconded by Councilmember Herring to remove this item from the table.

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

Development Services Director Julie Fulgham presented this item. Fulgham reiterated to Council that Mr. Wehmeyer has submitted a request for a variance from Section 25-23(3) of the Subdivision ordinance to vary from the requirement that a mobile home park has a minimum frontage of 200 feet to allow the development of a mobile home park on Mr. Wehmeyer's land directly east of the former Wehmeyer Mobile Home Park, with only 131 feet of frontage.

Fulgham stated Staff with the help of the City Secretary's office has researched the intent of the regulations in which the variance is being sought and could not find anything specific regarding the intent of the regulation. Fulgham explained that frontage requirements have a basis on access to public rights-of-ways for minimum frontage regulations and aesthetics and circulation (to prohibit excessive block lengths in urbanized areas) for maximum frontage regulations; however, discussion on the intent or regarding the basis of this requirement in Brenham has not been discovered during the research of City documents.

Fulgham stated that Chief Phelps has researched police records regarding accidents near this property; however, there have only been two accidents in the past two years in close proximity to the existing manufactured home park adjacent to this property. Fulgham explained that they received information about the approval of the TXDOT driveway permit right before the meeting and they have the access agreements to the existing mobile home, but Fulgham is still reviewing those documents. Fulgham passed out handouts containing a redlined version of the Ordinance, Warranty Deed, and access agreements to the Council.

Councilmember Goss suggested that we review the frontage requirements in the Subdivision Ordinance pertaining to manufactured home parks since Staff was unable to find documentation explaining the significance of the 200-400 foot frontage. Goss would be in favor of doing away with the specifications and fall back on the standard frontage listed otherwise in the Ordinance. Goss does not feel comfortable approving the variance to Wehmeyer because of the large magnitude of the variance may set a precedent for future builders.

Councilmember Barnes-Tilley also addressed her concerns about setting a precedent for future applicants. Barnes-Tilley suggested that Staff bring back more information on the frontage, where Council could further discuss the frontage issue in the Ordinance and not grant the variance at this time.

City Manager Terry Roberts stated that if they remove the wording for the frontage in the Ordinance, then it will default to the rules and regulations listed in the City's zoning ordinance. Fulgham advised that the standard frontage would fall back to 110 feet for property in the ETJ because the zoning ordinance would then be silent upon elimination of the current frontage wording.

A motion was made by Councilmember Ebel and seconded by Councilmember Williams to approve a Variance request from Adolph Wehmeyer from Section 23-25(3), Subdivision Ordinance of the Code of Ordinances to allow the development of a new mobile home park on approximately 19.3 acres located on FM 389 and situated directly West of the Eight Star Corporation's Mobile Home Park (formerly known as Wehmeyer Mobile Home Park)

Mayor Tate called for a vote. The motion failed with a 4-3 vote, with Council voting as follows:

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

7. Discuss and Possibly Act Upon Acceptance of the Audit from Seidel, Schroeder, & Company for Fiscal Year 2012

Chief Financial Officer Carolyn Miller presented the comprehensive annual financial report (CAFR) for the fiscal year ended September 30, 2012. She explained how various staff members produce the financial report and introduced audit partner, Michele Kwiatkowski, from Seidel, Schroeder & Company.

Kwiatkowski presented a detailed overview of the audit report to Council. Kwiatkowski passed out a handout further explaining the audit to Council.

A motion was made by Mayor Pro Tem Nix and seconded by Councilmember Ebel to accept the audit from Seidel, Schroeder, & Company for fiscal year 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 Andrew Ebel	Yes
Councilmember Danny Goss	Abstain
Councilmember Keith Herring	Yes
Councilmember Mary E. Barnes-Tilley	Yes
Councilmember Weldon Williams	Yes

8. Discuss and Possibly Act Upon a Resolution No. R-13-002 Adopting a Records Management Policy for the City of Brenham

City Secretary Jeana Bellinger presented this item. Bellinger explained the State of Texas Local Government Act requires all cities to establish and implement a Records Management Program. Bellinger stated the Records Management Policy will be used as a tool to assist all City departments in maintaining records as outlined in the Records Management Program. Bellinger further explained that each director will receive retention schedules that apply to their department, which will help the directors to better manage their records. Bellinger explained that if her office receives an open records request and the files have been maintained even though the retention schedule states that the files could be destroyed, they have to present them upon request. Bellinger passed out a redlined version of the Resolution and Records Management Policy to Council.

A motion was made by Councilmember Barnes-Tilley and seconded by Councilmember Herring to approve Resolution No. R-13-002 adopting a Records Management Policy for 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 Danny Goss	Yes
Councilmember Keith Herring	Yes
Councilmember Mary E. Barnes-Tilley	Yes
Councilmember Weldon Williams	Yes

9. Discuss and Possibly Act Upon Resolution No. R-13-003 Authorizing the Abandonment of a Portion of Peabody Street West of Church Street and the Conveyance of 0.038 Acres to Unity Theatre Company, and 0.065 Acres to Heather Van Dyke Thielemann, Trustee, and Retaining 0.085 Acres for a City of Brenham Utility Easement

Assistant City Manager Kyle Dannhaus presented this item. Dannhaus stated the City has no further need to maintain a public roadway on this section; therefore, Staff recommends the abandonment of this property. Dannhaus stated the adjacent property owners were contacted and the property would be recommended to be conveyed as 0.038 acres to Unity Theatre Company and 0.065 acres to Heather Van Dyke Thielemann, Trustee, while the City will retain an easement on the portion of the property for electric, gas and sewer in the amount of 0.085 acres.

A motion was made by Councilmember Goss and seconded by Councilmember Herring to approve Resolution No. R-13-003 authorizing the abandonment of a portion of Peabody Street west of Church Street and the conveyance of 0.038 acres to Unity Theatre Company, and 0.065 acres to Heather Van Dyke Thielemann, Trustee, and retaining 0.085 acres for a City of Brenham utility easement.

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

10. Discuss and Possibly Act Upon an Ordinance on Its First Reading to Repeal Ordinance O-07-009 and Grant a Non-Exclusive Franchise to Budget Roll-Off Service to Operate a Roll-Off Container Service for Residents, Businesses, and Industries Inside Brenham City Limits

City Secretary Jeana Bellinger presented this item. Bellinger explained she has been working with Public Works Director Dane Rau and City Attorney Cary Bovey to update the Sanitation Franchise Ordinance. Bellinger stated the major changes include updating the general language, getting all of the Sanitation Franchises on the same expiration date each year, rates to be charged, payments to the City, access to records and reporting, placement of containers, interruption of service or default, and further explaining the issue of containers on the street to state if damage to the street occurs, the franchisee will be responsible for the street repair. Bellinger explained that the new Ordinance will be sent to Sanitation franchise holder for review and if they agree with the terms, they are to sign and return to the City Secretary's office.

City Attorney Cary Bovey stated the City is bound by the regulations of the Texas Public Information Act; therefore, a Sanitation Franchise holder will be notified when their records are requested as part of an open records request. The City's only obligation is to advise the franchise holder of the request; it is the responsibility of the franchisee to contact the Attorney General's Office to make any arguments they may have with regards to the release of their company specific information.

Councilmember Danny Goss questioned the place of containers and the time limit they are allowed to be placed on a traveled street. Goss expressed concerns about containers utilizing Downtown Brenham parking spaces. Assistant City Manager Kyle Dannhaus responded stating the container owner must request permission in writing to the City before the container can be placed on the street. Dannhaus agreed that a time limit request is not unreasonable. Councilmember Goss would like Bellinger to bring back changes to the Ordinance on its second reading at the next Council meeting with changes to reiterate a time limit on containers placed in the streets. Goss suggested the wording should indicate that the City reserves the right to specify the exact time and placement of containers.

A motion was made by Councilmember Herring and seconded by Councilmember Barnes-Tilley to approve an Ordinance on its first reading to repeal Ordinance O-07-009 and grant a non-exclusive franchise to Budget Roll-Off Service to operate a roll-off container service for residents, businesses, and industries inside Brenham city limits with an amendment to Section 8 stating that the City can set an exact time limit in which a container may be placed on a city street.

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

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

11. Discuss and Possibly Act Upon an Ordinance on Its First Reading to Repeal Ordinance O-09-008 and Grant a Non-Exclusive Franchise to Brazos Valley Recycling to Operate a Roll-Off Container Service for Residents, Businesses, and Industries Inside Brenham City Limits

City Secretary Jeana Bellinger presented this item. Bellinger explained this item is the exact same as Item 10. Bellinger stated that each company has to be brought to City Council individually. Bellinger stated that this Ordinance will be brought back to Council for its second reading with Councilmember Goss' suggested changes as well.

A motion was made by Councilmember Goss and seconded by Councilmember Herring to approve an Ordinance on its first reading to repeal Ordinance O-09-008 and grant a non-exclusive franchise to Brazos Valley Recycling to operate a roll-off container service for residents, businesses, and industries inside Brenham city limits with an amendment to Section 8 stating that the City can set an exact time limit in which a container may be placed on a city street.

Mayor Tate called for a vote. The motion passed with correction as requested in Item 10 with Council voting as follows:

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

12. Discuss and Possibly Act Upon an Ordinance on Its First Reading to Grant a Non-Exclusive Franchise to Action Roll-Offs, Inc. to Operate a Roll-Off Container Service for Residents, Businesses, and Industries Inside Brenham City Limits

City Secretary Jeana Bellinger presented this item. Bellinger explained this item is the exact same as Item 10. Bellinger stated that each company has to be brought to City Council individually. Bellinger stated that this item will be brought back to Council for its second reading with Councilmember Goss' suggested changes as well.

A motion was made by Councilmember Barnes-Tilley and seconded by Councilmember Goss to approve an Ordinance on its first reading to grant a non-exclusive franchise to Action Roll-Offs, Inc. to operate a roll-off container service for residents, businesses, and industries inside Brenham city limits with an amendment to Section 8 stating that the City can set an exact time limit in which a container may be placed on a city street.

Mayor Tate called for a vote. The motion passed with correction as requested in Item 10 with Council voting as follows:

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

WORK SESSION

13. Discussion and Update on the Brenham Municipal Airport Hangar Project

City Engineer Grant Lischka presented this item. Lischka explained that Staff met with Texas Department of Transportation (TXDOT) about using the City's Non-Primary Entitlement Funds (NPE) as a possible funding source for the access for the proposed box hangars. Lischka stated the City currently has \$450,000 of NPE funds "banked" with an additional \$150,000 anticipated in August, for a total of \$600,000. Lischka further explained that during the discussions with TXDOT, they felt that a better use of the City's NPE funds would be for the City of Brenham to construct another row of T-hangars. Lischka stated TXDOT suggested that access to the box hangars and T-hangars would be put into their Capital Improvement Program (CIP) Grant.

Lischka explained that by working with TXDOT, a project scope was determined with a preliminary project estimate of \$1,695,000. Lischka stated the City would be responsible for approximately \$169,500 (10% of the project costs). Lischka also explained TXDOT plans to take the project to the Transportation Commission for their approval in early May. Lischka advised Council that he will bring a Resolution at the next council meeting requesting Council's approval of the Airport Hangar Project.

14. Presentation of the 2012 Annual Report by the Fire Department

Fire Chief Ricky Boeker presented this report. He reviewed the department's performance, statistics, and services. Boeker discussed various grant funding and donations the Fire Department received throughout the year in addition to their budget. The department responded to 583 fires in 2012, 471 incident in the City limits and 112 incidents outside of the City. The department's county response decreased from 119 to 109. Boeker explained the various fire safety presentations they provide for the community. Boeker updated on the project status of the Fire sub-station. ISO was performed in March 2012 and ISO maintained Brenham's PPC at "3."

15. Presentation of the 2012 Annual Report by the Police Department

Chief Rex Phelps presented this report. Phelps reviewed the department's performance, statistics, and services. Phelps explained the department's recognition status within the Texas Best Practices Program for Law Enforcement Agencies, which is a quality control initiative where the police department has to meet or exceed 180 standards that have been established by the Texas Police Chief's Association. Phelps explained the new core values of the police department, which include: empathy, edification, enthusiasm, and excellence. Phelps was proud to report that the Part 1 crime rate decreased by 8% compared to the previous year.

Phelps stated that in 2012, patrol officers conducted approximately 7,169 traffic stops, responded to approximately 3,617 emergency 911 calls, and responded to 25,494 total calls to include self-initiated activity and non-emergency calls. The K-9s were deployed over 100 times in 2012 for both narcotic searches and for fleeing felons. Phelps discussed the Citizens on Patrol (COPS) program, which is made up of over 50 members. The COPS logged 7,793.25 man hours, which equates to 650 hours per month patrolling the city and assisting the patrol officers with equipment and resource support. Code Enforcement addressed 753 code violations of the City of Brenham's Health and Sanitation ordinance in 2012. In 2012, the animal shelter and animal control sections processed 1906 animals. Phelps expressed his appreciation to all of his officers, the Mayor and City Council, and the public for all of their assistance during the year.

16. Administrative/Elected Officials Report

City Manager Terry Roberts reported on the following:

- Animal Shelter Task Force has been meeting. The County representative to the Task Force is Commissioner Fuchs and the City's representative is Councilmember Williams.
- A mystery flyer has been floating around Downtown relating to 2 hour parking violations. He stated that the source of the flyer is still unknown but that staff is currently trying to find it origin.
- The ILA with the County for Animal Control/Shelter services is still in the works. It appears that the County is willing to participate in the construction of a new animal shelter facility.

Chief Financial Officer Carolyn Miller reported on the promotion of Stacy Hardy as the City Controller. Miller explained that with the move of former Budget Officer, Debbie Gaffey, to Public Utilities it allowed for the promotion of Stacy Hardy. Miller stated that her department would be advertising soon to fill Stacy's previous position of Accounting Manager.

Development Services Director Julie Fulgham reported that Kim Hodde was promoted to Planning Technician and that a new Administrative Assistant, Sarah Hill, would be starting in a couple of weeks.

Police Chief Rex Phelps reported on the following:

- Introduced his Administrative Assistant Ginger Bishop and reported that Ashley McDonald would be coming on board soon as the new Patrol Secretary.
- Advised Council that he received a call from someone who wishes to remain anonymous stating that they would be willing to donate \$500,000.00 to build new animal shelter if the City and County will match their donation.

City Engineer Grant Lischka updated Council on the following:

- The paving project is still on-going around town and is going very well.
- TxDOT will be opening up both west bound traffic lanes at the new Westwood intersection today and work will be completed on the east-bound lanes next week.

Fire Chief Ricky Boeker advised Council of a massive AT&T outage in the area, which has caused emergency communication to be down. They are working on the problem and hope to have it fixed soon. In the meantime, they are communicating through backup lines.

Mayor Pro Tem Gloria Nix questioned the closing of the Farmers Market. Development Services Director Julie Fulgham states that a new law prohibits food made in one's home (without a commercial kitchen and proper food inspections) from being sold to the public; therefore, the owners were concerned about possible litigation and decided to close the market. Fulgham explained that her department is currently working with another similar-type operation and will advise Council once all the details are worked out.

The meeting was adjourned.

Milton Y. Tate, Jr.
Mayor

Jeana Bellinger, TRMC
City Secretary

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