

## **Brenham City Council Minutes**

A regular meeting of the Brenham City Council was held on May 15, 2014 beginning at 1:00 p.m. in the Brenham City Hall, City Council Chambers, at 200 W. Vulcan Street, Brenham, Texas.

### Members present:

Mayor Pro Tem Gloria Nix  
Councilmember Andrew Ebel  
Councilmember Danny Goss  
Councilmember Keith Herring  
Councilmember Mary E. Barnes-Tilley

### Members absent:

Mayor Milton Y. Tate, Jr.  
Councilmember Weldon Williams, Jr.

### Others present:

City Manager Terry K. Roberts, Assistant City Manager Kyle Dannhaus, City Attorney Cary Bovey, City Secretary Jeana Bellinger, Deputy City Secretary Amanda Klehm, Chief Financial Officer Carolyn Miller, Kaci Konieczny, Fire Chief Ricky Boeker, Deputy Fire Chief Alan Finke, Police Chief Rex Phelps, Development Services Director Julie Fulgham, Jennifer Eckermann, Public Works Director Dane Rau, Public Utilities Director Lowell Ogle, and Grant Lischka

### Citizens present:

Perry Thomas, Charlie Pyle, Don Boecker, Page Michel, John Muegge, Alan Hutson, Felicia Green, Rhonda Lee, Nancy Low, and Clint Kolby

### Media Present:

Arthur Hahn, Brenham Banner Press; Frank Wagner and Mark Whitehead, KWHI

- 1. Call Meeting to Order**
- 2. Invocation and Pledges to the US and Texas Flags – City Attorney Cary Bovey**

**3. Proclamation**

➤ **2014 Motorcycle Safety and Awareness Month – May 2014**

Felicia Green and Rhonda Lee with Steel Heels were present to receive the Proclamation.

**4. Citizens Comments**

There were no citizen comments.

**CONSENT AGENDA**

**5. Statutory Consent Agenda**

**5-a. Minutes from the April 24, 2014 City Council Meeting**

A motion was made by Councilmember Barnes-Tilley and seconded by Councilmember Goss to approve the Statutory Consent Agenda Item 5-a.

Mayor Pro Tem Nix called for a vote. The motion passed with Council voting as follows:

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

**PUBLIC HEARING**

**6. Proposed Annexation of Four Areas of Land into the City Limits and Explanation of Service Plan for Each Area Proposed for Annexation**

**Section 2014-1: Approximately 281.667 acres of land situated in Washington County, Texas, out of the Phillip Coe Survey, Abstract No. A0031, and the Arrabella Harrington Survey, Abstract No. A0055 generally consisting of tracts with frontage along Burleson Street; tracts with frontage along State Highway 36th North and Dixie Street; land located east of and adjacent to Westwood Lane; and land with frontage along Highway 290 West that is not currently within the City limits being located approximately 2500 feet from the ‘cloverleaf’ intersection of Highway 290 West and State Highway 36 North.**

**Section 2014-2: Approximately 30.512 acres of land situated in Washington County, Texas, out of the John Carrington Survey, Abstract No. A0120, generally consisting of tracts with frontage along the western right-of-way line of State Highway 36 beginning at the current City limits and proceeding in a southerly direction to approximately Anderson Lane (located on the eastern side of State Highway 36 North).**

**Section 2014-3: Approximately 45.366 acres of land situated in Washington County, Texas, out of the Isaac Lee Survey, Abstract No. A0077, generally consisting of tracts that abut the current City limits between South Blue Bell Road and Taden Lane and tracts that abut US Highway 290 East from Blue Bell Road to approximately 500 feet east of Taden Lane.**

**Section 2014-4: Approximately 46.457 acres of land situated in Washington County, Texas, out of the Phillip Coe Survey, Abstract No. A0031, consisting of tracts located between FM 389 and Industrial Boulevard.**

Development Services Director Julie Fulgham presented this item. Fulgham stated a public hearing is required by State Law to hear comments regarding annexation. Fulgham explained the Ordinance will come to Council on June 5 and June 19 for approval. Fulgham advised the 2014 Annexation Service Plan is available in the agenda packet as well as handouts in the back of Council Chambers.

There were no citizen comments.

## **REGULAR AGENDA**

- 7. Discuss and Possibly Act Upon Approval of Ordinance O-14-016 Providing for the Issuance and Sale of City of Brenham, Texas, Combination Tax and Revenue Certificates of Obligation, Series 2014; in the Aggregate Principal Amount of \$4,075,000; Levying a Tax in Payment Thereof; Prescribing the Terms and Provision of said Certificates; Awarding the Sale Thereof; and Enacting Other Provisions Relating to the Subject**

The City's financial advisor with Specialized Public Finance Garry Kimball presented this item. Kimball explained the proceeds from the sale of these Certificates of Obligation will be used for the following purposes: (a)(i) the acquisition of land for the construction of a fire substation and the acquisition of a fire rescue truck and a fire pumper truck for the City, (ii) the construction and equipping of a new City animal shelter, and (iii) the expansion, renovation and equipping of the City library (collectively, the "Project"), and (b) to pay professional services of attorneys, engineers, financial advisors and other professionals in connection with the Project and to pay the costs associated with the issuance of the Certificates.

Kimball summarized the official bids for the sale of the bonds. Kimball advised the bid came in under budget at 2.91% from BOSC, Inc. for a 20 year fixed rate and tax exempt. Kimball stated the savings will be \$330,000 over the duration of the note. Kimball explained an ordinance involved with financing only requires a single reading.

A motion was made by Councilmember Goss and seconded by Councilmember Ebel to approve Ordinance No. O-14-016 of the City of Brenham, Texas, authorizing the issuance and sale of City of Brenham, Texas, Certificates of Obligation, Series 2014.

Mayor Pro Tem Nix called for a vote. The motion passed with Council voting as follows:

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

**8. Discuss and Possibly Act Upon Ordinance No. O-14-017 on Its Second Reading Authorizing the Abandonment of the Unimproved Right-of-Way as Shown on the Ewing Subdivision Plat and Located Near the Intersection of Old Chappell Hill Road and Carrington Lane in Brenham, Texas**

Development Services Director Julie Fulgham presented this item. Fulgham explained Donald Boecker, Ernest Lott, Peggy Williams, Danny Wilson, and Mabel Wills own property that abuts an unimproved right-of-way named Ewing Street on the W. R. Ewing subdivision plat filed on April 12, 1919. Fulgham stated that all property owners listed above also have frontage on Carrington Lane or Old Chappell Hill Road. Fulgham explained these property owners have submitted a request to abandon this unimproved right-of-way, as depicted on Exhibit "A" of the attached ordinance. Fulgham advised that Staff recommends approving this abandonment subject to a replat being filed to include the abandoned right-of-way as well as the rear yards (and separately platted lots) of the platted lots owned by the requestors being submitted to match property ownership lines. Fulgham explained the Ordinance will take effect once a subdivision replat meeting this criterion is approved by the Planning and Zoning Commission.

Fulgham stated this is the second reading of the abandonment. Fulgham explained Council wished to delay the second reading until the replat, required of the abandonment, could be prepared. Fulgham advised that with this abandonment, the Planning and Zoning Commission will consider the proposed replat for approval at their next meeting. Fulgham explained the replat meets all applicable ordinances and regulations.

A motion was made by Councilmember Herring and seconded by Councilmember Goss to approve Ordinance No. O-14-017 on its second reading authorizing the abandonment of the unimproved right-of-way as shown on the Ewing Subdivision Plat and located near the intersection of Old Chappell Hill Road and Carrington Lane in Brenham, Texas.

Mayor Pro Tem Nix called for a vote. The motion passed with Council voting as follows:

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

**9. Discuss and Possibly Act Upon Resolution No. R-14-013 Amending Resolution No. R-14-006 and Modifying the Company Name Shown on the Nomination to the Office of the Governor Economic Development and Tourism for Designation as an Enterprise Project Under the Texas Enterprise Zone Program from Tempur Sealy International, Inc. to Sealy Texas Management, Inc. and Authorize the Mayor to Execute Any Necessary Documentation**

Project Manager with the Brenham Economic Development Foundation, Clint Kolby, presented this item. Kolby stated the corporate office at Tempur Sealy International, Inc. is currently in the process of applying for the Texas Enterprise Zone Program for their proposed expansion here in Brenham, and City Council passed a Resolution to nominate them for this state sales tax incentive at their February 6, 2014 meeting. Kolby explained that they have requested that we modify the company name in the Resolution from Tempur Sealy International, Inc. to Sealy Texas Management, Inc.

A motion was made by Councilmember Barnes-Tilley and seconded by Councilmember Ebel to approve Resolution No. R-14-013 amending Resolution No. R-14-006 and modifying the company name shown on the nomination to the Office of the Governor Economic Development and Tourism for designation as an Enterprise Project under the Texas Enterprise Zone Program for Tempur Sealy International, Inc. to Sealy Texas Management, Inc. and authorize the Mayor to execute any necessary documentation.

Mayor Pro Tem Nix called for a vote. The motion passed with Council voting as follows:

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

**10. Discuss and Possibly Act Upon Ordinance No. O-14-018 on Its Second Reading Amending Chapter 8, Fire Protection and Prevention, Articles I, III, and V, of the Code of Ordinances of the City of Brenham**

City Secretary Jeana Bellinger presented this item. Bellinger stated at the May 1<sup>st</sup> Council meeting, she presented updates to Articles I, III and V of Chapter 8 (Fire Protection and Prevention) in the Code of Ordinance. Bellinger advised after further review of these articles as well as Article II that was adopted by Council in February, it was discovered that three different persons/boards would have jurisdiction over appeals: the City Manager (Article III, Section 8-44), the City Council (Article II, Section 8-26), and the Board of Appeals (Section 108 of the International Fire Code, 212 Edition). Bellinger explained in an effort to clear up the discrepancies the City Attorney, Cary Bovey, recommended the City Manager hear all appeals related to Chapter 8 and that Articles II and II be amended accordingly. Bellinger stated that Mr. Bovey also recommended that the City enact a local amendment deleting Section 108 from the International Fire Code, 2012 Edition, as adopted by the City.

Councilmember Barnes-Tilley questioned if there was any particular reason the Mayor was included before and is not currently. City Attorney Cary Bovey stated the appeals were written out to be heard by several different entities, so it needed to be cleaned up to just one appeals person for uniformity purposes. Bovey explained that he is not sure why it was originally set up that way. Bovey advised they looked at three provisions and recommended one entity to be City Manager or his designee as the Board of Appeals. Bovey stated there is no legal reason other than to clean up the verbiage and consolidate wording. Bovey explained the designee is up to the City of Brenham's discretion.

A motion was made by Councilmember Goss and seconded by Councilmember Herring to approve Ordinance No. O-14-018 on its second reading amending Chapter 8, Fire Protection and Prevention, Articles I, III and V, of the Code of Ordinances of the City of Brenham.

Mayor Pro Tem Nix called for a vote. The motion passed with Council voting as follows:

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

**11. Discuss and Possibly Act Upon a Recommendation from the Main Street Board Related to a Request for a Reserved Parking Space in Downtown Brenham**

Main Street Manager Jennifer Eckermann presented this item. Eckermann stated Bebe Hayward submitted a Request For Reserved Parking Space to the Main Street Board and it was presented at the April meeting. Eckermann explained the request asked that the first space on the side of her building at 101 W. Alamo be reserved to load and unload merchandise, using the sidewalk as a dock. Eckermann advised City Engineer Grant Lischka wrote a memo to the Board with the recommendation that the space not be used for a loading dock, due to unsafe conditions. Eckermann stated based on his recommendation and the prominent location of this particular space, the Board recommends Council deny this reserved parking space request. Eckermann stated the Board is currently discussing whether the reserved parking space section of the ordinance should be abolished, so be aware that recommendation may come to Council this summer.

Councilmember Barnes-Tilley questioned if the Hospice Boutique was the only reserved parking space that Council has approved. Eckermann stated there have been others that have been approved in previous years, but Hospice is the only current one that has been approved. Councilmember Barnes-Tilley agrees that the policy needs to be reviewed because if numerous requests get approved then it opens up for everyone Downtown business owner to request reserved parking in front of their businesses. Eckermann stated that the Hospice Boutique is only for one half a day space. Eckermann explained the Main Street Board is worried about setting a precedent, which may start a lot of requests.

Councilmember Barnes-Tilley questioned if loading and unloading is a problem in the Downtown area. Eckermann stated that yes, it is a problem, but, for this particular request, they would be loading and unloading in the wrong direction on the street. Eckermann stated the Board advised Ms. Hayward that she could bring the request back to the Board for consideration if she removed the part about the loading and unloading specification.

Councilmember Goss questioned if Ms. Hayward had access from the rear of her store. Eckermann stated she does not have access from the rear.

A motion was made by Councilmember Barnes-Tilley and seconded by Councilmember Herring to deny a request for a reserved parking space in Downtown Brenham by Bebe Hayward.

Mayor Pro Tem Nix called for a vote. The motion passed with Council voting as follows:

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

**12. Discuss and Possibly Act Upon Resolution No. R-14-014 in Support of TxDOT's Turnback Program, or Similar Program, Concerning Conveyance of TxDOT Right-of-Way FM 389 from US 290 West to FM 332 to the City of Brenham**

This item was passed until the next meeting when all Councilmembers are present to discuss and act upon the item. Bovey explained the discrepancies with the agenda wording as well. Bovey stated it should include FM 332 to Business 36.

**13. Discuss and Possibly Act Upon One-Year Extensions of Three (3) Contracts, in Accordance with Bid #13-007, for Bulk Water and Wastewater Treatment Chemicals and Authorize the Mayor to Execute Any Necessary Documentation**

Public Utilities Director Lowell Ogle presented this item. Ogle stated the City of Brenham solicited bids for a one (1) year supply of bulk water and wastewater treatment chemicals to be delivered to the Brenham Water and Wastewater Plants. Ogle explained the contracts are set to expire in the near future. Ogle advised the service provided by the vendors has been very good and each has agreed to extend their contract for an additional year at the current prices. Ogle stated the Operations Staff and Purchasing agree that the extension of these contacts would be a good value for the City of Brenham and recommend approval of the extensions.

Ogle explained the table below shows the vendor name along with the original bid price and the extension price:

<b>Company</b>	<b>Chemical</b>	<b>Bid Price</b>	<b>Extension Price</b>
Chemtrade Chemicals	Caustic Soda	251.80/ton	251.80/ton
Brenntag Southwest	Liq Alum Sulfate	194.45/ton	194.45
DXI Industries	Chlorine	\$530.50/cylinder (ton) \$0.26525/lb	\$530.50/cylinder (ton) \$0.26525/lb

Ogle advised the estimated total amount of Liquid Aluminum Sulfate used per year is 350 dry tons, Caustic Soda is 300 tons and Chlorine is 162,000 pounds.

A motion was made by Councilmember Herring and seconded by Councilmember Barnes-Tilley to approve one-year extensions of three (3) contracts, in accordance with Bid #13-007 to Brenntag Southwest for Liquid Aluminum Sulfate in the amount of \$194.45/dry ton, General Chemical for Caustic Soda in the amount of \$251.80/liquid ton and DXI Inc. for Chlorine in the amount of \$0.26525 per pound and authorize the Mayor to execute any necessary documentation.

Mayor Pro Tem Nix called for a vote. The motion passed with Council voting as follows:

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

**14. Discuss and Possibly Act Upon a Request for a Noise Variance from St. Mary's Immaculate Conception Catholic Church for the 100 Days of Summer Festival to be Held on May 18, 2014 from 9:00 a.m. – 6:00 p.m. at 701 Church Street and Authorize the Mayor to Execute Any Necessary Documentation**

Deputy City Secretary Amanda Klehm presented this item. Klehm stated Suzanne Limb with the St. Mary's Immaculate Conception Catholic Church is requesting a Noise Variance for their annual 100 Days of Summer Festival to be Held on May 18, 2014 from 9:00 a.m. – 6:00 p.m. at 701 Church Street. Klehm explained they will have a sound amplification system, which requires a Noise Variance. Klehm stated the Brenham Police Department and the Brenham Fire Department have approved the noise variance request.

A motion was made by Councilmember Barnes-Tilley and seconded by Councilmember Ebel to approve a request for a noise variance from St. Mary's Immaculate Conception Catholic Church for the 100 Days of Summer Festival to be held on May 18, 2014 from 9:00 a.m. – 6:00 p.m. at 701 Church Street and authorize the Mayor to execute any necessary documentation.

Mayor Pro Tem Nix called for a vote. The motion passed with Council voting as follows:

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

Council adjourned into Executive Session at 1:32pm.

## EXECUTIVE SESSION

- 15. Section 551.072 - Texas Government Code – Deliberation Regarding Real Property – Discussion Regarding Potential Sale of Approximately 204.925 Acres In the Silas Clark Survey (A028), Tract 18, As Recorded in Volume 496, Page 800 of the Official Records of Washington County and Located at 5525 Caney Creek Road in Chappell Hill, Texas and More Commonly Identified as the Old Landfill Property**

Executive Session adjourned at 2:06pm.

## RE-OPEN REGULAR SESSION

- 16. Discuss and Possibly Act Upon the Sale of Approximately 204.925 Acres In the Silas Clark Survey (A028), Tract 18, As Recorded in Volume 496, Page 800 of the Official Records of Washington County and Located at 5525 Caney Creek Road in Chappell Hill, Texas and More Commonly Identified as the Old Landfill Property and Authorize the Mayor to Execute Any Necessary Documentation**

This item was passed.

- 17. Administrative/Elected Officials Report**

Police Chief Rex Phelps reported on the following:

- Tomorrow at 2pm on the Courthouse Square, there will be a memorial ceremony for National Police Day.

City Manager Terry Roberts reported on the following:

- Tomorrow at 3pm at the Brenham State School, there will be a 40 year anniversary ceremony for Brenham Supported State Living
- May 27<sup>th</sup> at 10:30am and 1:30pm, the Masons will be setting the cornerstones for the Elementary School and the updated Middle School.

Chief Financial Officer Carolyn Miller reported on the following:

- The Library opened on Monday and went smoothly. The large print, periodicals, newspapers, and the children's section are available at City Hall.
- The new Library relocation provides easy access to patrons.
- Mayor Pro Tem Nix questioned if the Genealogy section was going to the Museum. Miller stated the movers are coming back next week to move that section to the Museum due to the rain this week.

City Manager Terry Roberts reported on the following:

- Rex and the Animal Shelter Task Force are currently fundraising.

- Councilmember Herring and Mayor Tate are currently working with the Fortnightly Group regarding their contribution of \$1-\$1.5 million for renovations to the Library. A Memorandum of Understanding will be brought before Council at the June 5<sup>th</sup> meeting.
- June 5<sup>th</sup> at 8:30am – Pre-Budget Workshop
- June 5<sup>th</sup> at 1:00pm – Regular Council meeting with Joint meeting with Planning and Zoning Commission.

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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