

Brenham City Council Minutes

A regular meeting of the Brenham City Council was held on September 17, 2015 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:

Larry Joe Doherty, Frank Wagner, Lynette Sheffield, Megan Jackson, Perry Thomas, Natalie James, Lewis E. Blount, Page Michel, Jenny Mills, Judy Hyman, Grant Lischka, Clint Kolby and Randy and Diana Hoover

Citizens present:

City Manager Terry Roberts, Assistant City Manager-General Government Rex Phelps, City Attorney Cary Bovey, City Secretary Jeana Bellinger, Deputy City Secretary Kacey Weiss, Assistant City Manager-Chief Financial Officer Carolyn Miller, Stacy Hardy, Susan Nienstedt, Kaci Konieczny, Cynthia Longhofer, Christi Korth, Director of Community Services Wende Ragonis, Jennifer Eckermann, Fire Chief Ricky Boeker, Interim Police Chief Dant Lange, Todd Jacobs, Chris Jackson, Trey Gully, Public Works Director Dane Rau, Casey Redman, Assistant City Manager of Public Utilities Lowell Ogle, Debbie Gaffey, Wanda Kramer, Development Services Manager Erik Smith, Kim Hodde, Billy Rich, Ginger Bishop, Angela Hahn, Tommy Kurie, Becky Squyers, Kelvin Raven, Linda Mooney, Joseph Merkley and Lionel Moore

Media Present:

Arthur Hahn, Brenham Banner Press and Mary-Janet Reyes, KWHI

1. **Call Meeting to Order**
2. **Invocation and Pledges to the US and Texas Flags – City Attorney Cary Bovey**
3. **Proclamation**
 - **Lone Star Water Forum Day**
4. **a. Service Recognitions**
 - **Kenneth C. “Chris” Jackson, Police Department** **15 Years**
 - **Linda Q. Mooney, Utility Billing** **20 Years**
 - **Lionel Moore, Transfer Station** **30 Years**
5. **Swearing-In Ceremony of Police Chief Craig Goodman**
6. **Citizens Comments**

There were no citizen comments.

WORK SESSION

7. **Presentation of the Third Quarter Report by the Washington County Convention and Visitors Bureau**

Judy Hyman, with the Washington County Convention and Visitors Bureau, presented this report. Hyman focused on the highlights in the *Third Quarter Report: April-June 2015*, pointing out the visitor statistics, major tourism events, advertising placements, and editorial coverage.

8. **Presentation and Discussion on Firearms and Recent Legislation Related to Open Carry of Handguns**

City Secretary Jeana Bellinger presented this item. Bellinger advised that during the 2015 Legislative Session, the Texas Legislature passed House Bill 910 which allows a concealed handgun license holder to “open carry” in a belt or shoulder holster beginning on January 1, 2016. Bellinger stated that as a part of this new legislation, the concealed and/or open carry of a firearm into a meeting that is subject to the Open Meetings Act, which would be the City Council meetings, must be prohibited by the Council by the enactment of a Resolution. Bellinger informed Council of the new handgun law and explained how the new law affects City buildings and various activities.

Bovey stated there is some confusion about the definition of “premises” since Municipal Court is located on the first floor of City Hall; however, there are special situations pertaining to our building that may determine whether handguns can be prohibited from all areas of City Hall or just the Court area. City Attorney Cary Bovey stated that recently two other governmental entities have submitted inquiries to the Attorney General related to House Bill 910 asking for clarification of the term “premises” as it relates to a government court or offices utilized by the court.

Councilmember Herring asked how the new legislation will affect the parks and the Blue Bell Aquatic Center. Bellinger explained that the law currently prohibits open carry on the premises of a high school or collegiate sporting event and due to the Blue Bell Aquatics Center (BBAC) and several of our parks being used for Blinn College and Brenham High School sporting events, staff was not sure how to address those facilities, Attorney Bovey stated that once the Attorney General’s Office rules on the definition of premises he would be able to better advise the City on how to handle the other facilities.

Councilmember Barnes-Tilley questioned if staff could request an opinion from the Attorney General related to the city’s other facilities. Attorney Bovey explained that the District Attorney’s Office would have to submit the an inquiry to the Attorney General’s Office for us as the city cannot legal request an opinion. Mayor Tate suggested that Attorney Bovey and City Secretary Bellinger contact the District Attorney’s Office and see if they would be willing to submit a request on the City’s behalf related to the BBAC and parks.

Council decided they would like to wait and see what the response is received from the Attorney General’s Office related to the definition of premises and bring this item back at a future meeting for more discussion.

9. Presentation and Discussion Related to Renovations in the City of Brenham Fire Department Living Quarters

Fire Chief Ricky Boeker presented this item. Boeker advised that the fire station renovation project is well on its way with most of the demo work being complete. Boeker stated that Staff is in the process of getting quotes on the plumbing, AC system, and other items. Boeker noted that when Staff was getting quotes on the asbestos abatement, it was suggested that they also get a quote on getting the asbestos removed in the engine bay as well. Boeker advised that the quotes have come back in amounts less than was estimated and therefore, both the living quarters and the engine bay asbestos could be removed for the amount that was budgeted.

Boeker stated that after doing additional research, it was discovered that the living quarters of the fire station would require a fire sprinkler system. Boeker advised that this was not a budgeted item included in the original estimate for the cost of the remodeling that was presented at the Council Retreat in April. Boeker noted that the additional cost if the City funds all of the asbestos removal and the additional fire sprinkler system would be \$8,000 in additional funds.

Boeker advised that several days after submitting the information to the City Secretary for the packet, a quote was presented to him to do the fire sprinkler system for free. Boeker noted that the company will follow all required standards and it will not cost the City any money; therefore, the Fire Department does not need any money at this time related to the renovations.

PUBLIC HEARING

10. Public Hearing Considering an Amendment of Appendix A – “Zoning” of the Code of Ordinances of the City of Brenham Granting a Specific Use Permit to True Believers Christian Fellowship Church to Allow for a Church and Related Auxiliary Uses on Property Located on Clay Street in an R-2, Mixed Residential Zoning District, and Being Described as Lots 1-3 and 30-32 of the College Heights Addition and the Portion of Porter Street Adjacent to These Lots in Brenham, Washington County, Texas

Mayor Tate opened the Public Hearing.

Development Services Manager Erik Smith explained that True Believers Christian Fellowship has requested a specific use permit (SUP) for lots 1-3 and 30-32 of the College Heights Addition subdivision. Smith advised that there is currently city right-of-way that runs through the property that is going through the process of being abandoned with staff support. Smith stated that Zoning amendments, which is what a SUP is, run to the middle of the right of way. Smith noted that if City Council chooses to abandon the right-of-way, the SUP will apply to that portion of Porter Street. Smith advised the plan for the six lots is to be replatted in the future to one individual lot for True Believers Christian Fellowship Church.

Smith also noted that the rezoning of this property complies with the City’s comprehensive plan and the thoroughfare plan. Smith stated that his department did receive a concern related to excess parking from events and where the overflow parking would take place. Smith explained that there is a parking ordinance the church would have to abide by. Smith stated his department also had a concern that overflow parking would end up in the road. Smith explained that his Staff advised the resident that it is legal to park on the road because that is a public domain.

Deacon Davis with True Believers Christian Fellowship stated that his congregation would like build a church in the future. Deacon Davis explained that the church started in November 2014 and they currently have 55 members.

REGULAR SESSION

11. Discuss and Possibly Act Upon Ordinance No. O-15-26 on Its Second Reading Adopting the Budget for Fiscal Year Beginning October 1, 2015 and Ending September 30, 2016

Assistant City Manager-Chief Financial Officer Carolyn Miller presented this item. Miller explained that the Fiscal Year 2015-16 Proposed Budget has been developed in compliance with the Property Tax Code, Local Government Code and the City Charter.

A motion was made by Councilmember Herring and seconded by Councilmember Barnes-Tilley to approve Ordinance No. O-15-026 on its second reading adopting the budget for fiscal year beginning October 1, 2015 and ending September 30, 2016

Mayor Tate called for a record vote. The motion passed with a 6 to 1 vote with Council voting as follows:

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

12. Discuss and Possibly Act Upon Ordinance No. O-15-027 on Its Second Reading Levying Taxes for the Tax Year 2015 for the City of Brenham at \$0.4731 per \$100 Valuation

Assistant City Manager-Chief Financial Officer Carolyn Miller presented this item. Miller advised that the FY2015-16 Proposed Budget includes a tax rate of \$0.4731 per \$100 valuation which has two components: maintenance and operations (M&O) and interest and sinking (I&S). Miller explained that the proposed tax rate of \$0.4731 will allocate \$0.2950 to the General Fund for M&O expenditures and the balance of \$0.1781 will be allocated to the Debt Service Fund for principal and interest obligations. Miller also stated the proposed tax rate of \$0.4731 is above the effective rate of \$0.4632, but below the rollback rate of \$0.4766.

A motion was made by Councilmember Barnes-Tilley and seconded by Councilmember Ebel that the property tax rate be increased by the adoption of a tax rate of \$0.4731 per \$100 valuation, which is effectively a 2.14% increase in the tax rate.

Mayor Tate called for a record 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

13. Discuss and Possibly Act Upon Resolution No. R-15-023 for the Purpose of Participating in the Texas Parks & Wildlife Local Park Grant Program for Fireman's Park

Director of Community Services Wende Ragonis presented this item. Ragonis explained that Council adopted the 2015-2025 Parks, Recreation and Open Spaces Master Plan (Plan) with Resolution No. R-15-009 at their March 5, 2015 Council meeting. Ragonis stated that Staff then submitted the adopted Plan to Texas Parks and Wildlife for that agency's review. Ragonis noted the City of Brenham is now eligible for grants issued by Texas Parks and Wildlife (TPW).

Ragonis advised that Staff presented this new grant opportunity to the Parks Advisory Board (PAB) at their August 19, 2015 meeting. Ragonis stated that at that meeting, the PAB reviewed the FY16 recommended park projects to determine if any could easily be expanded with this new grant opportunity. Ragonis noted the PAB selected the skate park project which is located in Fireman's Park for the grant application.

Ragonis explained that the initial skate park project cost of \$35,000 was approved by the BCDC Board of Directors at their June 4, 2015 meeting. Ragonis noted that if awarded grant funds of \$35,000, this project would have a total impact of \$70,000 for skate park improvements. Ragonis stated that if grant funding is not awarded, then the City would not move forward with the expanded skate park project and would implement the original skate park project as presented to the BCDC Board at a cost of \$35,000.

A motion was made by Mayor Pro Tem Nix and seconded by Councilmember Williams to approve Resolution No. R-15-023 for the purpose of participating in the Texas Parks & Wildlife Local Park Grant Program for Fireman's Park.

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

14. Discuss and Possibly Act Upon an Ordinance on Its First Reading Granting a Specific Use Permit to True Believers Christian Fellowship Church to Allow for a Church and Related Auxiliary Uses on Property Located on Clay Street in an R-2, Mixed Residential Zoning District, and Being Described as Lots 1-3 and 30-32 of the College Heights Addition and the Portion of Porter Street Adjacent to These Lots in Brenham, Washington County, Texas

A motion was made by Councilmember Williams and seconded by Mayor Pro Tem Nix to approve an Ordinance on its first reading granting a specific use permit to True Believers Christian Fellowship Church to allow for a church and related auxiliary uses on property located on Clay Street in an R-2, Mixed Residential Zoning District, and being described as lots 1-3 and 30-32 of the College Heights Addition and the portion of Porter Street adjacent to these lots in Brenham, Washington County, 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 Andrew Ebel	Yes
Councilmember Danny Goss	Yes
Councilmember Keith Herring	Yes
Councilmember Mary E. Barnes-Tilley	Yes
Councilmember Weldon Williams	Yes

15. Discuss and Possibly Act Upon an Ordinance on Its First Reading for the Abandonment of Porter Street

Development Services Manager Erik Smith presented this item. Smith explained that Don Boecker is requesting the right of way that is platted as Porter Street on the College Heights Addition plat be abandoned. Smith noted the properties with frontage on what is now Porter Street include lots 1-32 of the College Heights Addition. Smith stated that all of the property is owned by Donald Boecker which would be affected by the abandonment of Porter Street.

Smith explained that Mr. Boecker is planning to have lots 1-3 & 30-32 platted as one lot, divide up the lots to the north of lots 1-3 & 30-32 to individual lots that will remain single family and have some of the currently existing single family lots near HWY 290 replatted into one commercial lot. Smith stated that once this is done all of the properties will have frontage on right of way and no property will be land locked or negatively impacted from an access point. Smith noted that all of this land is currently undeveloped.

Smith explained that Staff recommends approving this abandonment subject to a replat being filed to include the abandoned right-of-way remaining lots being platted into legally conforming lots. Smith stated that the ordinance will take effect once a subdivision replat meeting this criterion is approved by the Planning and Zoning Commission.

A motion was made by Councilmember Williams and seconded by Councilmember Ebel to approve an ordinance on its first reading for the abandonment of Porter Street.

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

16. Discuss and Possibly Act Upon Change Order No. 4 (Reconciliation) and Authorize Final Payment to Collier Construction, LLC for the Chappell Hill Street Extension Project and Authorize the Mayor to Execute Any Necessary Documentation

Public Works Director Dane Rau presented this item. Rau explained that the project consisted of a realignment of S. Chappell Hill Street at Market Street, new traffic light installation, re-striping and resurfacing of roadway, newly constructed roadway sections and tie-ins to existing roadway along with curb and gutter work.

Rau explained that in order to complete the project, Staff asks Council to accept and approve Change Order No. 4 which is a reconciliation of quantities used in the field after the project was finalized. Rau noted that the change order totaled \$24,025.40 and is included in the final payment of \$125,056.97.

A motion was made by Councilmember Herring and seconded by Councilmember Ebel to approve Change Order No. 4 (Reconciliation) and approve final payment to Collier Construction, LLC in the amount of \$125,056.97 for the Chappell Hill Extension 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 Andrew Ebel	Yes
Councilmember Danny Goss	Yes
Councilmember Keith Herring	Yes
Councilmember Mary E. Barnes-Tilley	Yes
Councilmember Weldon Williams	Yes

17. Discuss and Possibly Act Upon the Approval of the Routine Airport Maintenance Program (RAMP) Grant Agreement No. M1617BRENM with TxDOT for FY2016 and Authorize the Mayor to Execute Any Necessary Documentation

Planning Technician/Airport Coordinator Kim Hodde presented this item. Hodde explained that the grant agreement with TxDOT is for the participation in the Routine Airport Maintenance Program (RAMP) for September 1, 2015 through August 31, 2016. Hodde advised that as in prior years, the agreement allows the City to be reimbursed for 50% of the cost of the monthly AWOS monitoring (AviMet Data Link connection fees and continued scheduled maintenance), annual AWOS Maintenance Contract, as well as 50% of the replacement lamps for the airport lighting system, herbicides, general maintenance, and a contingency for emergency repairs. Hodde noted that Staff has lowered the grant amount from the maximum \$100,000 (50/50 match) to \$60,000 (50/50 match) for this fiscal year.

A motion was made by Councilmember Barnes-Tilley and seconded by Mayor Pro Tem Nix to approve the Routine Airport Maintenance Program (RAMP) Grant Agreement No. M1617BRENM with TxDOT for FY2016 and authorize the Mayor to execute any necessary documentation.

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

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

18. Discuss and Possibly Act Upon a Request for a Noise Variance from Jesus Christ is the Answer #9 for a Church Gathering on September 25, 2015 from 6:00 p.m. – 11:00 p.m. at Fireman’s Park and Authorize the Mayor to Execute Any Necessary Documentation

Deputy City Secretary Kacey Weiss presented this item. Weiss explained that Martha Villasana from Jesus Christ is the Answer #9 has requested a noise variance to hold a church gathering on September 25, 2015 from 6:00 p.m. – 11:00 p.m. at Fireman’s Park. Weiss advised that their church band will be performing and they will be using sound amplification equipment. Weiss stated that both the Police Department and the Fire Department have approved the noise variance request.

A motion was made by Councilmember Herring and seconded by Councilmember Williams to approve a request for a noise variance from Jesus Christ is the Answer #9 for a church gathering to be held on September 25, 2015 from 6:00 p.m. – 11:00 p.m. at Fireman’s Park and authorize the Mayor to execute any necessary documentation.

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

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

19. Discuss and Possibly Act Upon Compensation Correction Related to Police Overtime

Assistant City Manager of General Government Rex Phelps presented this item. Phelps explained that Brenham police officers work 12 hour shifts on a 28 day pay period cycle as it relates to the accumulation of overtime. Phelps stated that the overtime rate has been paid after the 168th hour in accordance with the Federal Fair Labor Standards Act (FLSA). Phelps noted that Staff has recently learned there is a conflicting state labor law that specifically applies to police officers only who serve in cities with a population of over 10,000. Phelps explained that the state law mandates that police officers on the 12 hour shifts with a 28 day pay cycle have to be paid the overtime rate after the 160th hour of actual hours worked. Phelps stated that according to legal counsel, the conflicting state law supersedes the federal law in this situation; therefore staff recommends paying four (4) years of back pay for hours worked over the 160th hour.

Assistant City Manager-Chief Financial Officer Carolyn Miller explained that payment would be made in this fiscal year and her Staff would do a budget amendment for the change.

A motion was made by Councilmember Williams and seconded by Councilmember Ebel to authorize back pay owed for the entire four (4) year period at approximately \$100,000.

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

Council adjourned into Executive Session at 2:44 p.m.

EXECUTIVE SESSION

- 20. Section 551.086 – Texas Government Code – Utility Competitive Matters – Deliberation Regarding the City of Brenham’s Gas Supply Contract**
- 21. Section 551.072 – Texas Government Code – Deliberation Regarding Real Property – Discussion Regarding an Agreement with Roy Burger (dba RB Film Productions) for the Lease of Approximately 108.9 Acres of the Old Landfill Property**

Executive Session adjourned at 3:37 p.m.

RE-OPEN REGULAR SESSION

22. Administrative/Elected Officials Report

City Manager Terry Roberts reported on the following:

- TML convention will be next week in San Antonio
- There will be a reception tomorrow for Sgt. Todd Jacobs recognizing his 25 years of service
- Linda Soeken with the Parks Department will be retiring at the end of September.
- Reception today at 4:00 p.m. at the police station for Chief Goodman

Assistant City Manager of Public Utilities Lowell Ogle reported on the following:

- Old Chappell Hill Road will be closed for 2-3 days for work on a new sewer line

The meeting was adjourned.

Milton Y. Tate, Jr.
Mayor

Jeana Bellinger, TRMC
City Secretary