



**NOTICE OF A REGULAR MEETING
THE BRENHAM CITY COUNCIL
THURSDAY, NOVEMBER 21, 2013 AT 1:00 P.M.
SECOND FLOOR CITY HALL
COUNCIL CHAMBERS
200 W. VULCAN
BRENHAM, TEXAS**

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

CONSENT AGENDA

4. 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.

- 4-a. Minutes from the November 7, 2013 City Council Meeting Page 1-13**
- 4-b. Discuss and Possibly Act Upon Ordinance No. O-13-027 on Its Second Reading Authorizing the Abandonment of Magnolia Street Page 14-15**

WORK SESSION

- 5. Discussion and Presentation by the Police Chief Regarding an Update from the Animal Shelter Task Force Concerning the Future Shelter Facility Page 16-18**

REGULAR AGENDA

6. **Discuss and Possibly Act Upon an Ordinance on Its First Reading Amending the Code of Ordinances of the City of Brenham, Chapter 2, Administration, Article VII, Library Advisory Board, to Provide for the Powers, Duties, Organization, Operation, Board Membership and Additional Matters Related to the Library Advisory Board** **Page 19-31**
7. **Discuss and Possibly Act Upon Resolution No. R-13-019 for the Election of Members to the Board of Directors of the Washington County Appraisal District** **Page 32-34**
8. **Discuss and Possibly Act Upon an Ordinance on Its First Reading to Repeal Ordinance No. O-09-019 Relating to a Non-Exclusive Franchise to Impact Disposal Services, LLC to Operate a Roll-Off Container Service for Residents, Businesses, and Industries Inside Brenham City Limits** **Page 35-38**
9. **Discuss and Possibly Act Upon an Ordinance on Its First Reading to Grant a Non-Exclusive Franchise to Legacy Waste Services to Operate a Roll-Off Container Service for Residents, Businesses, and Industries Inside Brenham City Limits** **Page 39-52**
10. **Discuss and Possibly Act Upon Bid No. 14-001 for the Purchase of a 53' Aluminum Refuse Trailer and Authorize the Mayor to Execute Any Necessary Documentation** **Page 53-56**

EXECUTIVE SESSION

11. **Section 551.072 – Deliberation Regarding Real Property – Discussion Concerning the Possible Donation and Acceptance of Land for Future Park Purposes** **Page 57**

RE-OPEN REGULAR AGENDA

12. **Discuss and Possibly Act Upon a Development Agreement Related to the Donation of Land for Future Park Purposes and Authorize the Mayor to Negotiate and Execute Any Necessary Documentation** **Page 58**

Administrative/Elected Officials Reports: Reports from City Officials or City staff regarding items of community interest, including expression of thanks, congratulations or condolences; information regarding holiday schedules; honorary or salutary recognitions of public officials, public employees or other citizens; reminders about upcoming events organized or sponsored by the City; information regarding social, ceremonial, or community events organized or sponsored by a non-City entity that is scheduled to be attended by City officials or employees; and announcements involving imminent threats to the public health and safety of people in the City that have arisen after the posting of the agenda.

13. **Administrative/Elected Officials Report**

Adjourn

Executive Sessions: The City Council for the City of Brenham reserves the right to convene into executive session at any time during the course of this meeting to discuss any of the matters listed, as authorized by Texas Government Code, Chapter 551, including but not limited to §551.071 – Consultation with Attorney, §551.072 – Real Property, §551.073 – Prospective Gifts, §551.074 - Personnel Matters, §551.076 – Security Devices, §551.086 - Utility Competitive Matters, and §551.087 – Economic Development Negotiations.

CERTIFICATION

I certify that a copy of the November 21, 2013 agenda of items to be considered by the City of Brenham City Council was posted to the City Hall bulletin board at 200 W. Vulcan, Brenham, Texas on November 18, 2013 at **12:30 PM**.

Amanda Klehm

Deputy City Secretary

Disability Access Statement: This meeting is wheelchair accessible. The accessible entrance is located at the Vulcan Street entrance to the City Administration Building. Accessible parking spaces are located adjoining the entrance. Auxiliary aids and services are available upon request (interpreters for the deaf must be requested twenty-four (24) hours before the meeting) by calling (979) 337-7567 for assistance.

I certify that the attached notice and agenda of items to be considered by the City Council was removed by me from the City Hall bulletin board on the _____ day of _____, 2013 at _____ AM PM.

Signature

Title

Brenham City Council Minutes

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

Members absent:

Councilmember Keith Herring

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, Kaci Konieczny, Susan Nienstedt, Florence Bentke, Judy Wagner, Christi Korth, Cyndi Longhofer, Darlene Konieczny, Fire Chief Ricky Boeker, Police Chief Rex Phelps, Billy Rich, Development Services Director Julie Fulgham, Kim Hodde, Public Works Director Dane Rau, Leslie Kelm, Casey Redman, Public Utilities Director Lowell Ogle, Kevin Boggus, Janie Mehrens, and Grant Lischka

Citizens present:

Wesley Brinkmeyer

Media Present:

Arthur Hahn, Brenham Banner Press; Frank Wagner, KWHI

- 1. Call Meeting to Order**
- 2. Invocation and Pledges to the US and Texas Flags – Councilmember Goss**
- 3. 3-a. Service Recognitions**
 - Judy Wagner – Finance – 15 years

4. Citizens Comments

CONSENT AGENDA

5. Statutory Consent Agenda

5-a. Minutes from the October 17, 2013 City Council Meeting

5-b. Discuss and Possibly Act Upon Ordinance No. O-13-026 on Its Second Reading Providing for Updated Service Credit and an Increase in Retirement Annuities in the Texas Municipal Retirement System Effective January 1, 2014

A motion was made by Mayor Pro Tem Nix and seconded by Councilmember Williams to approve the Statutory Consent Agenda Item 5-a. minutes from the October 17, 2013 City Council meeting and 5-b. Ordinance No. O-13-026 on its second reading providing for updated service credit and an increase in retirement annuities in the Texas Municipal Retirement System effective January 1, 2014.

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	Absent
Councilmember Mary E. Barnes-Tilley	Yes
Councilmember Weldon Williams	Yes

WORK SESSION

6. Discussion and Presentation Regarding Vegetation Control in All Right-of-Ways within the City Limits

Public Works Director Dane Rau presented this item. Rau stated as discussed previously many of you have probably noticed the unsightly weeds, grass, and vegetation growing alongside TxDOT highways, railroad tracks and city streets, which grows in right-of-ways which are either maintained by TxDOT, the BNSF or the City of Brenham. Rau explained BNSF and TxDOT only address their right-of-ways periodically throughout the year. Rau stated TxDOT has a schedule in which they mow and provide litter pick-up in May and November of each year and BNSF sprays vegetation alongside their right-of-ways bi-annually with a pre-emergent in January and then a final spraying in August. Rau explained the other right-of-ways are city right-of-ways and are currently maintained by the City of Brenham Street Dept. on an ongoing basis. Rau stated TxDOT and Railroad right-of-ways are large in area and range throughout town.

Rau explained examples of TxDOT right-of-ways are all medians and open areas along major roads such as HWY 290 E/W, 36S/N, FM 577, FM 389 and HWY 105. Rau stated although TXDOT does have right-of-ways closer to downtown such as S. Market St/Business 290, Austin St/Business 36, E. Alamo St/ S. Chappell Hill St./ HWY 105, they do not mow or weed eat these areas due to the smaller spaces of area between driveways and property boundaries. Rau explained Staff has been advised by TxDOT that they only have enough resources to continue with their schedule of bi-annual mowing and litter control along the major roadways twice per year, but if the City wishes to maintain these right-of-ways more frequently we are more than welcome to do so.

Rau stated he has visited with TxDOT officials and there are 5 major areas that currently TxDOT mows twice per year. These areas are:

<u>AREA</u>	<u>ACRES</u>
1. FM 577-Clover Leaf	97
2. 36S-FM 109	5
3. HWY 36-HWY 290 W (FM 577)	38
4. Becker Dr.- HWY 290	5
5. HWY 105/FM 577- City Limit	3

Rau explained TxDOT currently has an annual contract for the entire County for mowing services along state roads which is bid out once per year at a current rate of \$23 per acre, which are only a portion of the entire TxDOT which happen to fall within the City of Brenham. Rau explained rates have fluctuated over the last 5 years from \$23-\$30 per acre. Rau stated based on those figures it could be possible that these areas could be contracted out for a total amount ranging from \$3400-\$5000 per occurrence.

Rau explained TxDOT does not have a problem with the City of Brenham maintaining these sections in between their mowing schedules either by a contractor or in-house staff. Rau stated they did indicate that currently in the Municipal Maintenance Agreement it puts the burden on the City of Brenham to mow all areas on the outside of the feeder roads (TxDOT ROW), but if the City wanted to mow the interior portion of these roads specifically Section 1 they would add that to the Municipal Maintenance Agreement. Rau stated they stated that if this option was chosen, they would not back off of their twice per year mowing. Rau explained if mowing was conducted by a third party hired by the City or City staff the same regulations would apply such as placing “Mowers Ahead” signs every two miles along the mowing area and organizing a litter pickup crew to collect debris after the mowing is completed.

Rau explained Staff has discussed our options after the TxDOT meeting and our suggestion would be to see if these sections could be handled in house during 2014; specifically starting with an in-between mowing in July/August along these 5 portions of roadway. Rau stated TxDOT contractors are equipped with a minimum 6 tractors and 6, 16’ shredders and the job is completed within a few days; however, the City of Brenham Street Department has access to two tractors and two shredders at this current time, which would take Staff quite a bit longer but could be completed within a week or two.

Rau explained currently the Street Department only has 2 full-time and 1 part-time employee for Vegetation Control, which would be a very tough challenge and would put a strain on Staff, but he is willing to try it and see what happens during 2014. Rau stated currently the City of Brenham spends an estimated \$140,000 + on vegetation management throughout the City, which includes chemicals, two full-time employees, one part-time employee, fuel, maintenance of equipment, and supplies. Rau explained with adding these sections to their current responsibilities, it is estimated to add another \$5,000+ to the budget per mowing occurrence without adding another employee.

Mayor Tate questioned how much it would cost the City per acre to maintain vegetation in these areas. Rau stated it is hard to say until they bid out the work. Councilmember Barnes-Tilley questioned the cost for Staff to conduct the work. Rau stated the costs would include workers, diesel, and maintenance costs of the equipment. Rau explained Staff does not want to mow when the wildflowers are coming out and seeding, so they are going to try to mow in mid to end of summer and possibly in January if we have a wet and warm November and December.

Councilmember Barnes-Tilley suggested exploring the possibility of Community Service projects to help with City beautification and litter control. Rau stated they attend the Keep Brenham Beautiful meetings with the Chamber and will keep that option available as another avenue.

Councilmember Goss questioned if Staff could address this in house. Rau stated he would use two workers and two tractors and shredders in July 2014 to see if they can handle the job. Rau explained he will readdress at budget time next year. Rau explained the job will take Staff longer due to less equipment and man-power available.

7. Discussion and Presentation on a Recommendation from TxDOT Related to the Possible Closure of the Crossover Between FM 389 and Old Mill Creek Road Along U.S. Highway 290

City Engineer Grant Lischka presented this item. Lischka stated Staff has discussed with TxDOT the possibility of closing the crossover at Robert C. Appel Drive (near the Appel Ford dealership) on U.S. Highway 290. Lischka explained the crossover is a current safety issue because of the lack of deceleration lanes for traffic turning left. Lischka stated several businesses in the area would be affected if the crossover were removed. Lischka stated Staff has contacted the owners of Appel Ford, Appel Dodge, Appel Hyundai and Mike Hopkins Distributing as well as the Washington County EMS and the response from property owners has been mostly positive, with some concerns regarding access to the west-bound lanes of 290. Lischka explained Washington County EMS does not use the crossover and have stated that their response times will not be affected. Lischka stated an additional safety improvement that can be made at the crossover location is the addition of a deceleration lane for west-bound traffic turning right onto the frontage road. Lischka explained TxDOT installed striping on the east-bound lanes several years ago and this has given traffic turning right the ability to move out of the main lane traffic.

REGULAR AGENDA

8. Discuss and Possibly Act Upon an Ordinance on Its First Reading Establishing New Speed Limits on U.S. Highway 290 from the East City Limit Line to Business U.S. 290 West

City Engineer Grant Lischka presented this item. Lischka stated as previously discussed in work session, TxDOT performed a speed zone study in July 2013 on U.S. Highway 290 within the City Limits. The proposed speed limits were as follows:

1. From the east City Limit line (just east of F.M. 577/Blue Bell Road) to approximately 500 feet east of the BNSF Railroad crossing (in the general area of the Fireman's Training Center) TxDOT is proposing a speed limit of 70 miles per hour (MPH).
2. From approximately 500 feet east of the BNSF Railroad crossing to Business U.S. 290 (cloverleaf) TxDOT is proposing a speed limit of 65 MPH.

As directed by Council during the work session, Staff reviewed alternatives and approached TxDOT and requested that the speed limit on U.S. Highway 290 from the east City Limit line to Business U.S. 290 West be set at 65 MPH. TxDOT has provided Staff with new speed zones as follows:

From the east City Limit line to Business U.S. 290 West, TxDOT is proposing a speed limit of 65 MPH in both directions.

Councilmember Goss disagrees with the speed limit being set at 65 mph. Goss stated the main concern is trying to enter roadways especially between four corners and BNSF railroad. Goss thinks 60 mph is a reasonable speed because people will travel 65 mph.

Councilmember Barnes-Tilley questioned the number of accidents in specific areas. Police Chief Rex Phelps stated there were 158 accidents within the City limits and 9 accidents at the crossover. Phelps stated the majority of the accidents occur at the location stated by Councilmember Goss. Councilmember Williams agrees with Councilmember Goss' recommendation.

Mayor Pro Tem Nix stated she has received several phone calls regarding the speed limit change and no one wants speed limit over 60 mph. Councilmember Barnes-Tilley questioned if Council is able to set speed limit at any limit or is there a recommendation. Lischka stated he will contact TxDOT regarding Council's recommendation for 60mph.

Councilmember Goss questioned speed limits on the feeder roads and the inconsistency. Lischka stated there are several different speed zones ranging from 40-55 mph on various feeder roads and those speed limits are set by TxDOT based on the number of driveways on the specific roadways. Goss stated constituents would like to see consistency on the feeder roads as well as on the highway. Lischka stated he will explore options for the speed limits on feeder roads.

A motion was made by Councilmember Goss and seconded by Councilmember Williams to approve an Ordinance in its first reading establishing new speed limits of 60 mph on U.S. Highway 290 from the east City Limit line to Business U.S. 290 West.

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	Absent
Councilmember Mary E. Barnes-Tilley	Yes
Councilmember Weldon Williams	Yes

9. Discuss and Possibly Act Upon an Ordinance on Its First Reading Authorizing the Abandonment of Magnolia Street

Development Services Director Julie Fulgham presented this item. Fulgham stated Magnolia Street (also shown as Washington or Faith Streets on certain maps) has never been improved and abandonment has been requested by the adjoining property owners. Fulgham explained deed research shows the abutting property owners own the land included within this public right-of-way and this ordinance will remove all public interest and rights to this land; allowing the full control of the land included within the platted right-of-way to the property owners.

Councilmember Williams stated Doug Baker talked about a right-of-way property several years ago. Fulgham explained this is a different piece of property. Fulgham stated the property he is talking about was Old Chappell Hill and East Blue Bell Road, where this is the west side of Blue Bell Road.

Councilmember Goss questioned how someone would get access if they subdivide the land. Fulgham stated they would need to come off of Sabine Street.

A motion was made by Councilmember Barnes-Tilley and seconded by Councilmember Ebel to approve an Ordinance on its first reading authorizing the abandonment of Magnolia 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	Absent
Councilmember Mary E. Barnes-Tilley	Yes
Councilmember Weldon Williams	Yes

10. Discuss and Possibly Act Upon Resolution No. R-13-017 Reauthorizing an Investment Policy for the City of Brenham

Chief Financial Officer Carolyn Miller presented this item. Miller stated in 1987, the Texas Legislature adopted the Public Funds Investment Act (PFIA) which established guidelines for local governments. Miller explained this Act requires that a local government adopt a written investment policy and reauthorize the policy annually. Miller stated there were no legislative changes to the current investment policy.

A motion was made by Councilmember Williams and seconded by Councilmember Goss to approve Resolution No. R-13-017 reauthorizing an Investment 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	Absent
Councilmember Mary E. Barnes-Tilley	Yes
Councilmember Weldon Williams	Yes

11. Discuss and Possibly Act Upon the Purchase of Firefighting and Rescue Equipment Through the Houston-Galveston Area Council (HGAC) Cooperative Purchasing Program and Authorize the Mayor to Execute Any Necessary Documentation

Fire Chief Ricky Boeker presented this item. Boeker stated the Fire Department is requesting the approval of a Purchase Order for two new fire trucks which were approved in the 2013-2014 budget. Boeker explained these trucks will be replacing a 1986 Pierce Arrow 55' Telesquirt (27 yrs) and a 1998 American LaFrance Cab with General Rescue body (15yrs), which have served the Department well, but they have reached the end of their service life and need to be replaced. Boeker explained Staff is replacing the 1986 Pierce with a Pierce Dash CF PUC Pumper for \$578,635 and the 1998 ALF Rescue with a Pierce Dash CF PUC Rescue for \$718,387 plus additional equipment for \$20,000 for a total of \$1,319,020. Boeker stated this amount is below the estimated budgeted amount by \$30,980. Boeker explained the delivery time projected on these two trucks will be within 8.5 to 9.5 months from the date of order. Boeker explained Staff has not decided if we will trade in the old trucks or not, we are still researching the GovDeals option. Boeker stated the trade in price they have offered Staff is for the 1986 Pierce \$10,000 and for the 1998 ALF \$36,000. Boeker explained with the extended time for delivery, Staff has some time to research the best option as to how Staff will deal with the trade in offers. Boeker explained there will be a HGAC pricing increase if Staff orders these trucks after November 30th of at least 3.7%, which will amount to approximately \$45,395.

Councilmember Goss questioned if these totals included additional equipment needed to outfit the fire trucks. Boeker explained the ladders, hoses and nozzles will be added. Boeker explained Staff needs to perform final reviews with Pierce and go line by line to make sure that everything is exactly how they want it. Boeker explained Staff has been working on the specs for over a year and built the trucks from the ground up.

Councilmember Barnes-Tilley questioned if the City will be able to get more on GovDeals for the trade in trucks. Boeker states Staff is hoping to get more than the quotes they were given.

A motion was made by Councilmember Ebel and seconded by Councilmember Goss to approve the purchase of Firefighting and Rescue Equipment through the Houston-Galveston Area Council (HGAC) Cooperative Purchasing Program 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	Absent
Councilmember Mary E. Barnes-Tilley	Yes
Councilmember Weldon Williams	Yes

12. Discuss and Possibly Act Upon Resolution No. R-13-018 Adopting the 2013-2018 Washington County Hazard Mitigation Action Plan as It Applies to the City of Brenham

Fire Chief Ricky Boeker presented this item. Boeker stated this Hazard Mitigation Action Plan was created in 2005 and updated in 2010-2013. Boeker explained the hazard mitigation planning process for Washington County was started in April 2010 and a draft was completed for submission to the state in October 2011. Boeker stated after the state review in February 2012, the plan was revised and resubmitted back to the state in mid-2012, then the plan was submitted to FEMA for review in early 2013. Boeker explained development of this plan was funded by the Federal Emergency Management Agency (FEMA) under a mitigation grant awarded in November 2010, to the Brazos Valley Council of Governments. Boeker explained whereas the 2005 version contained multiple counties within the BVCOG region, this updated plan covers only Washington County, which the jurisdictions participating in this update remain the same as in 2005 and include Washington County, the cities of Brenham and Burton and the BVCOG.

Boeker stated this Hazard Mitigation Action Plan was prepared by the Texas Engineering Extensions Service, on behalf of the Brazos Valley Council of Governments and the participating jurisdictions. Boeker explained it is intended as a blueprint for future hazard mitigation, defined as “any sustained action taken to reduce or eliminate the long-term risk to human life and property from all hazards.” Boeker stated the plan is designed to help build sustainable communities that, when confronted by natural disasters, will sustain fewer losses and recover more quickly.

Councilmember Goss questioned if there are locations within the City that need attention. Boeker stated there are a few culverts within the City, generators at the Water and Wastewater Plant, and lengthening the runway at the airport that have been identified, but many improvements have already been made.

A motion was made by Councilmember Goss and seconded by Mayor Pro Tem Nix to approve Resolution No. R-13-018 adopting the 2013-2018 Washington County Hazard Mitigation Action Plan as it applies to 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	Absent
Councilmember Mary E. Barnes-Tilley	Yes
Councilmember Weldon Williams	Yes

13. Discuss and Possibly Act Upon the Purchase of a 2014 International 7400 4x4 Chassis with an Altec DL42 Body for the City of Brenham’s Electric Department from the HGAC Cooperative Purchasing Program and Authorize the Mayor to Execute Any Necessary Documentation

Public Utilities Director Lowell Ogle presented this item. Ogle stated during the budget process, Council approved the purchase of a new digger derrick truck. Ogle explained this truck will be used to install and remove poles, install transformers, and can handle heavy materials as well as other miscellaneous tasks on the jobsite. Ogle stated this unit will replace a 1996 model that has begun to have many maintenance issues and the old unit will be sold on GOVdeals. Ogle stated the unit was budgeted at \$230,237, but is coming in at \$223,961. Ogle stated this unit will be purchased using the HGAC Cooperative Purchasing Process.

A motion was made by Mayor Pro Tem Nix and seconded by Councilmember Williams to approve the purchase of a 2014 International 7400 Chassis with an Altec DL42 body for the City of Brenham’s Electric Department from the Houston Galveston Area Council Cooperative in the amount of \$223,961 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	Absent
Councilmember Mary E. Barnes-Tilley	Yes
Councilmember Weldon Williams	Yes

14. Discuss and Possibly Act Upon the Purchase of New Vehicles for the City of Brenham Police Department from the TXSmartBuy State Purchasing Cooperative and Authorize the Mayor to Execute Any Necessary Documentation

Police Chief Rex Phelps presented this item. Phelps stated this purchase of five (5) police pursuit vehicles is to replace the existing vehicles due to their retirement under the Brenham Police Department's five-year vehicle replacement program. Phelps stated the estimated cost per vehicle is \$23,318.00 or a total cost of approximately \$116,380.00. Phelps explained there will be four (4) marked vehicles and one (1) unmarked vehicle.

Councilmember Goss questioned if these will all be sedans without equipment. Phelps stated the vehicles are police edition, but they do not come with equipment. Phelps explained the equipment will be ordered at a later date and then the vehicles can be outfitted. Goss questioned if these cars were approved in the budget. Phelps stated they were.

A motion was made by Mayor Pro Tem Nix and seconded by Councilmember Barnes-Tilley to approve the purchase of five (5) new vehicles for the City of Brenham Police Department from the TXSmartBuy State Purchasing Cooperative 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	Absent
Councilmember Mary E. Barnes-Tilley	Yes
Councilmember Weldon Williams	Yes

15. Discuss and Possibly Act Upon the 2014 Holiday Schedule

Human Resources Manager Susan Nienstedt presented this item. Nienstedt stated the holiday schedule for 2014 presented provides for the same number of holidays approved in 2013, which include twelve (12) paid holidays for employees and a floating birthday holiday.

A motion was made by Councilmember Barnes-Tilley and seconded by Councilmember Ebel to approve the 2014 Holiday Schedule as presented.

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	Absent
Councilmember Mary E. Barnes-Tilley	Yes
Councilmember Weldon Williams	Yes

16. Discuss and Possibly Act Upon the Purchase of Group Term Life and Accidental Death and Dismemberment and Long Term Disability Coverage and Authorize the Mayor to Execute Any Necessary Documentation

Risk Manager Janie Mehrens presented this item. Mehrens stated traditionally the City of Brenham has gone out for quotes every two years for the purchase of employee group benefits such as group health coverage, group life and ad&d, long term disability and similar such coverage for the two year period. Mehrens explained this year would have been the year Staff would normally have sought quotes for employee benefits; however, when the decision was made to accept the funding rates for a fully insured group health plan for 2014 from Texas Municipal League Intergovernmental Employee Benefits Pool, no quotes were sought for other group benefits. Mehrens explained when the City purchased group term life and accidental death and dismemberment and long term disability coverage effective January 1, 2012, Staff was given a three year guaranteed rate contract effective through January 1, 2015 from Lincoln National Life Insurance Company. Mehrens explained although the total annual cost of the coverage is under the \$50,000 limit the City Manager can approve, since it is the third year renewal of a multi-year contract, City Council must approve the purchase.

A motion was made by Councilmember Barnes-Tilley and seconded by Councilmember Williams to approve the purchase of Group Term Life and Accidental Death and Dismemberment and Long Term Disability Coverage 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	Absent
Councilmember Mary E. Barnes-Tilley	Yes
Councilmember Weldon Williams	Yes

17. Discuss and Possibly Act Upon a Request for a Noise Variance for the Unveiled Conference to be Held from 5:00 P.M. to 7:00 P.M., November 8, 2013 at the Dr. Bobbie M. Dietrich Memorial Amphitheater Located at 2425 North Park Street and Authorize the Mayor to Execute Any Necessary Documentation

Mayor Tate stated after further review of the request, Staff suggested the item be passed.

A motion was made by Councilmember Goss and seconded by Councilmember Barnes-Tilley to pass on item #17.

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	Absent
Councilmember Mary E. Barnes-Tilley	Yes
Councilmember Weldon Williams	Yes

18. Administrative/Elected Officials Report

Public Works Director Dane Rau reported on the following:

- Friday, November 15th is Texas Recycle Day at the Recycling Center. They will have sausage wraps, chips and handing out recycle bins from 8am to 3pm.

City Manager Terry Roberts reported on the following:

- Today, immediately following Council meeting, Municipal Court is having an Open House with refreshments to celebrate Municipal Courts Week.
- Tonight from 5-7pm at First Baptist Church, there will be a Community Reception for the new pastor at the Cannery Kitchen.
- Faith Mission Candle Light Gala is next Thursday, November 14, 2013 and City of Brenham has a table that needs to be filled. Council needs to let Paula know if they are able to attend.
- Health Fair is November 19th and 20th from 6:30-9:00am at the Fireman's Training Center; breakfast will be served.
- There have been revisions made to the ILAs and material has been laid around the Dias for Council review.
- Council Workshop has been set for Thursday, November 21, 2013 at 11:00am in Conference Room 2A to discuss the Exchange of Services ILA.
- December 5th is a tentative date to adopt the ILAs, if Council is ready.
- We will possibly cancel the 2nd meeting in December if it is not necessary, but Staff will decide when it gets closer.

Public Utilities Director Lowell Ogle reported on the following:

- Somerville Lake has come up about 3 feet in 2 weeks and is almost 7 feet above the level in 2011. He stated the Lake looks good for right now.

Police Chief Rex Phelps reported on the following:

- The Animal Shelter Task Force continues to evaluate locations and will present findings at the next couple of Council meetings.

The meeting was adjourned.

Milton Y. Tate, Jr.
Mayor

Jeana Bellinger, TRMC
City Secretary

ORDINANCE NO. O-13-027

AN ORDINANCE PROVIDING FOR THE ABANDONMENT OF MAGNOLIA STREET AS SHOWN ON THE PLAT FOR THE SCHMITT'S SUBDIVISION FILED FOR RECORD ON SEPTEMBER 11, 1911.

WHEREAS, the City of Brenham was dedicated a public right-of-way named Magnolia Street as shown on the Plat for the Schmitt's Subdivision recorded on September 11, 1911 in the official records of Washington County, Texas; and

WHEREAS, the adjoining property owners own the land within the Magnolia Street right-of-way and support the abandonment and closing of Magnolia Street; and

WHEREAS, the abandonment and closing of Magnolia Street as shown on the plat for the Schmitt's Addition will not create an undue burden on traffic; and

WHEREAS, the City of Brenham has no need or use for Magnolia Street as shown on the plat for the Schmitt's Subdivision as a public thoroughfare and Magnolia Street remains undeveloped and unused; and

WHEREAS, the City Council of the City of Brenham desires to abandon and close the portion of Magnolia Street as shown on the plat for the Schmitt's Subdivision as a public thoroughfare being in the best interest of the Citizens of Brenham.

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Brenham, Texas:

SECTION I.

That the portion of Magnolia Street as shown on the plat for Schmitt's Subdivision is hereby abandoned and closed as a public thoroughfare.

SECTION II.

This street is currently undeveloped and any existing or future maintenance by the City of Brenham will cease.

SECTION III.

This Ordinance shall take full force and effect from and after its passage and approval on second reading.

PASSED and APPROVED on its first reading this the _____ day of _____, 2013

PASSED and APPROVED on its second reading this the _____ day of _____,
2013.

Milton Y. Tate, Jr.
Mayor

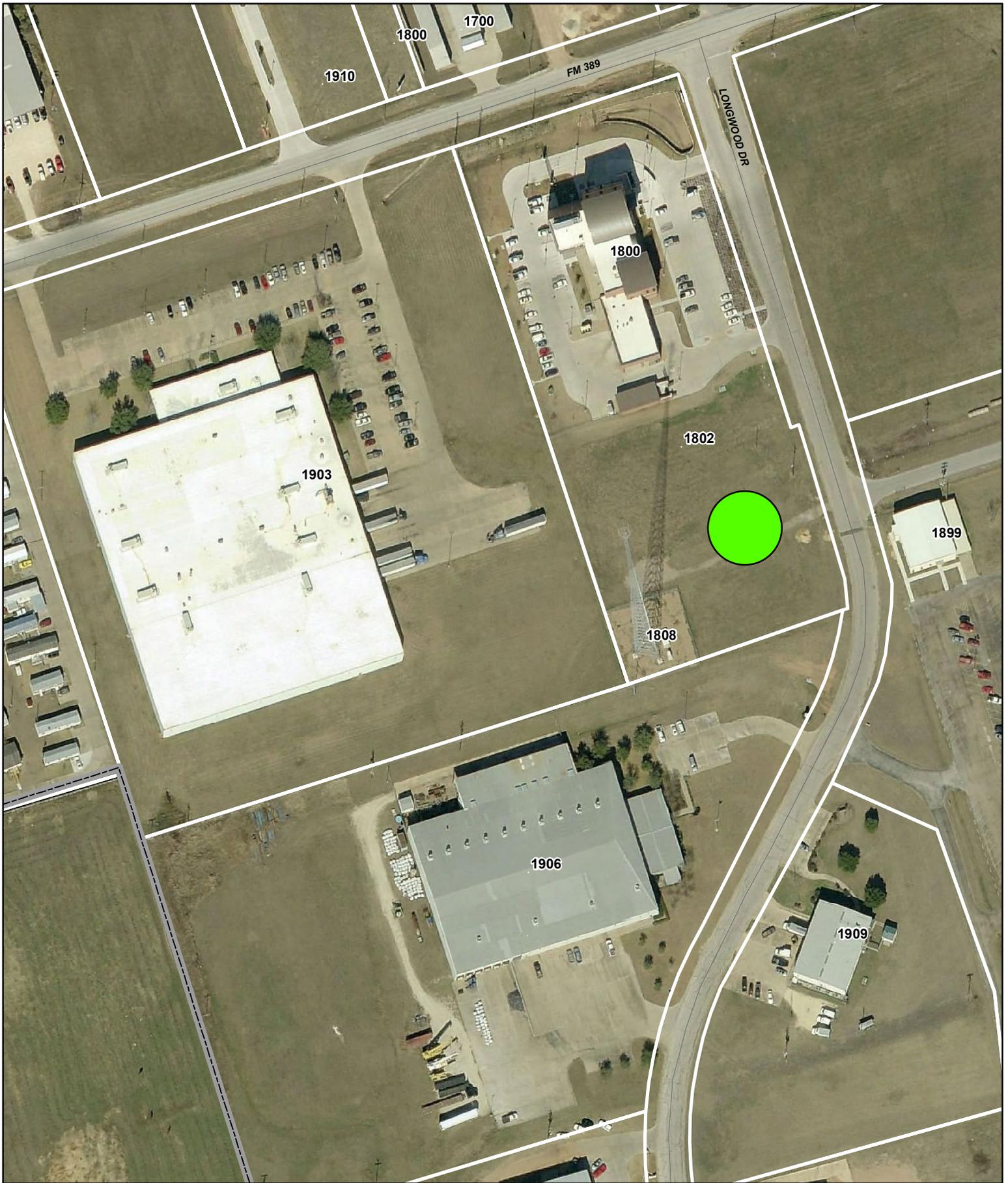
ATTEST:

Jeana Bellinger, TRMC
City Secretary



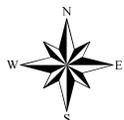
AGENDA ITEM 5

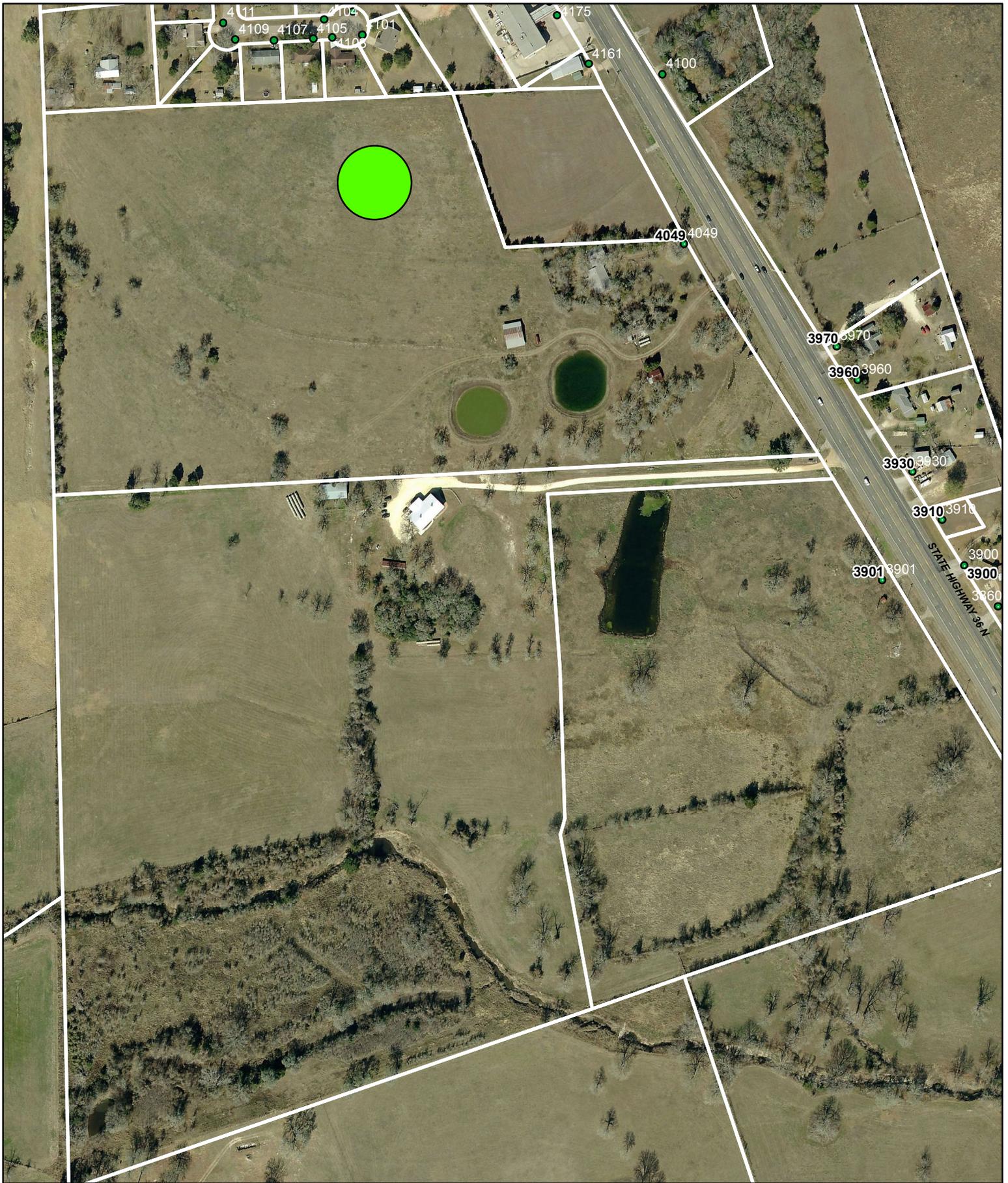
DATE OF MEETING: November 21, 2013	DATE SUBMITTED: November 14, 2013	
DEPT. OF ORIGIN: Police	SUBMITTED BY: Rex Phelps	
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:
<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> PUBLIC HEARING	<input type="checkbox"/> 1 ST READING
<input type="checkbox"/> SPECIAL	<input type="checkbox"/> CONSENT	<input type="checkbox"/> 2 ND READING
<input type="checkbox"/> EXECUTIVE SESSION	<input type="checkbox"/> REGULAR	<input type="checkbox"/> RESOLUTION
	<input checked="" type="checkbox"/> WORK SESSION	
AGENDA ITEM DESCRIPTION: Discussion and Presentation by the Police Chief Regarding an Update from the Animal Shelter Task Force Concerning the Future Shelter Facility		
SUMMARY STATEMENT: The Animal Shelter Task Force respectfully requests to engage the Mayor and City Council in a discussion on items such as the naming of the new facility and the location options of the new facility. There are two location options identified and the task force would like to inform the council on the pros and cons of each potential location. The task force believes the upcoming fundraising efforts would be more successful if the location is solidified and identified first by the city council. The task force respectfully understands this is a decision to be made by the Mayor and members of the City Council. The task force would also like to inform the council on the current fundraising level as well as future fundraising efforts.		
STAFF ANALYSIS (For Ordinances or Regular Agenda Items):		
A. PROS: Transparent discussion, information up front for better decision making, direction from council needed		
B. CONS:		
ALTERNATIVES (In Suggested Order of Staff Preference): N/A		
ATTACHMENTS: (1) Aerial Map of Option #1 - site by the Police Department; and (2) Aerial Map of Option #2 - site located on the Animal Friends of Washington County property)		
FUNDING SOURCE (Where Applicable): Locations option #1 is property currently owned by the city and the second option would be a building site donated by the Animal Friends of Washington County		
RECOMMENDED ACTION: Engage in discussion and decide future site of the Brenham Pet Adoption Center (BPAC)		
APPROVALS: Terry K. Roberts		



BPAC Option #1

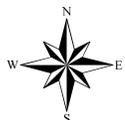
1 inch = 160 feet





BPAC Option #2

1 inch = 300 feet





AGENDA ITEM 6

DATE OF MEETING: November 21, 2013		DATE SUBMITTED: November 12, 2013	
DEPT. OF ORIGIN: Administration		SUBMITTED BY: Jeana Bellinger	
MEETING TYPE:		CLASSIFICATION:	
<input checked="" type="checkbox"/> REGULAR		<input type="checkbox"/> PUBLIC HEARING	
<input type="checkbox"/> SPECIAL		<input type="checkbox"/> CONSENT	
<input type="checkbox"/> EXECUTIVE SESSION		<input checked="" type="checkbox"/> REGULAR	
		<input type="checkbox"/> WORK SESSION	
ORDINANCE:			
<input checked="" type="checkbox"/> 1 ST READING			
<input type="checkbox"/> 2 ND READING			
<input type="checkbox"/> RESOLUTION			
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon an Ordinance on Its First Reading Amending the Code of Ordinances of the City of Brenham, Chapter 2, Administration, Article VII, Library Advisory Board, to Provide for the Powers, Duties, Organization, Operation, Board Membership and Additional Matters Related to the Library Advisory Board			
SUMMARY STATEMENT: The Interlocal Agreement between the City of Brenham and Washington County for library services at the Nancy Carol Roberts Memorial Library ended on September 30, 2013. Due to the termination of the ILA, Chapter 2 of the Code of Ordinances mandating the membership, organization and operation of the Library Advisory Board needed to be amended accordingly.			
STAFF ANALYSIS (For Ordinances or Regular Agenda Items):			
A. PROS:			
B. CONS:			
ALTERNATIVES (In Suggested Order of Staff Preference):			
ATTACHMENTS: (1) Redline version of current ordinance indicating recommended changes; and (2) Ordinance being presented for first reading.			
FUNDING SOURCE (Where Applicable): N/A			
RECOMMENDED ACTION: Approve an Ordinance on its first reading amending the Code of Ordinances of the City of Brenham, Chapter 2, Administration, Article VII, Library Advisory Board, to provide for the powers, duties, organization, operation, board membership and additional matters related to the Library Advisory Board			
APPROVALS: Terry K. Roberts			

**CHAPTER 2
ARTICLE VII
LIBRARY ADVISORY BOARD**

Sec. 2-70. Name.

The Board shall be named and referred to as the Library Advisory Board (“Board”) of the Nancy Carol Roberts Memorial Library (“Library”) and shall be comprised of members appointed by the City of Brenham (“City”) City Council, and the Brenham Fortnightly Club (“Fortnightly”) in accordance with this Article.

Deleted: , Washington County (“County”) Commissioners Court

Sec. 2-71. Purpose and Responsibility.

The purpose and responsibility of the Board shall include, but not be limited to, the following:

- A. To counsel library staff on establishing, reviewing and updating library policies.
- B. To monitor existing library operations.
- C. To recommend fee schedules for library services and facilities.
- D. To consider ways to better utilize the existing facilities and provide input and recommendations for future development of the Library.

Sec. 2-72. Scope of Authority.

The Library Advisory Board shall serve in an advisory capacity. Recommendations of the Board regarding policies, procedures, or improvements to the Library shall be presented to the City Council for its consideration and final approval.

The Board shall be subject to and comply with all applicable local, state or federal laws, rules, regulations, acts or mandates.

Sec. 2-73. Membership Requirements.

The membership requirements of the Board are as follows:

- A. Members must be residents of Washington County, Texas.
- B. Members must be qualified voters of Washington County, Texas.

C. Members must not be in arrears in the payment of any taxes or other liability due to the City of Brenham.

Deleted: or Washington County

A member must meet all membership requirements at the time of appointment to the Board, and shall maintain said qualifications during the member's term on the Board. A member who fails to remain qualified to serve on the Board shall be removed from the Board and another person shall be appointed to the disqualified member's position for the remainder of the member's unexpired term.

Sec. 2-74. Member Selection.

All persons interested in serving as a City appointee to the Board must complete an application which shall include information about the applicant's background, current and past occupations, involvement in and knowledge of issues related to the Board, and any other information deemed appropriate by the City. All applications must be submitted to the City Secretary by October 1st of each year.

The Mayor and City Manager will review all submitted applications and make recommendations to the City Council regarding appointments to the Board. Appointments to the Board will be made by the City Council in December of each year, or as soon as practicable thereafter.

Sec. 2-75. Organization.

The Board shall consist of nine (9) members. Five (5) members shall be nominated by Fortnightly from its membership and four (4) members are to be nominated by the City.

Deleted: the

Deleted: ; three (3)

Deleted: , and one (1) member shall be nominated by the County

All nominated members shall be approved by the City Council and appointed to staggered three (3) year terms, expiring on December 31st of each calendar year.

The authority vested in the Board shall be exercised only at a meeting of a quorum of its members. Five (5) members of the Board shall constitute a quorum. Any action taken by the Board shall be by simple majority vote of the members present at a properly constituted meeting. A Board member may cast only a single vote on any issue. Proxy votes are prohibited. Alternate and ex-officio members shall not vote.

The Board members serve at the pleasure of the entity that appointed and/or nominated the member to the Board. The City Council retains the right to remove any Board member at any time and for any reason.

The terms of the members and officers of the Board shall be on a calendar year basis, i.e. terms shall begin on January 1 and expire on December 31. In the event that appointments are not made prior to the expiration of a member's term, such member shall continue to serve until his/her successor is appointed by the City.

Resignations from the Board shall be submitted in writing to the Board Chairperson, Mayor ~~and Brenham Fortnightly Club President~~. Vacancies resulting from resignation, or any other cause, will be filled by nomination by the City Council ~~or the Fortnightly~~, depending on which entity nominated the member. Nominations to fill vacancies on the Board must be approved by the City Council. A person appointed to fill a vacancy shall serve for the remaining unexpired term of the position to which the person is appointed.

- Deleted: .
- Deleted: and County Judge
- Deleted: , Brenham
- Deleted: Club or the Commissioners Court

Members of this Board shall not use their position for a purpose that is or gives the appearance of being a conflict of interest. In the event that a member becomes aware of a conflict of interest, or potential conflict of interest, with regard to any particular item being considered by the Board, such member shall immediately notify the Chairman and shall abstain from the consideration of and voting on the item, unless the Board determines that no conflict of interest exists. A “conflict of interest” is generally defined as a situation in which a Board member’s personal interests might be served or financial benefits gained as a result of, or relating to, a decision of the Board.

Sec. 2-76. Member Positions.

For the purpose of establishing and maintaining three (3) year staggered terms of Board members, each member shall be assigned a Member Position.

- Comment [JB1]: Move Member Position 4 from County to City.
- Deleted: Establishment of

The following Member Positions are City representatives:

- Member Position 1: ~~Initial term expiring December 31, 2014~~
- Member Position 2: ~~Initial term expiring December 31, 2012~~
- Member Position 3: ~~Initial term expiring December 31, 2012~~
- Member Position 4: ~~Initial term expiring December 31, 2013~~

- Deleted: E
- Deleted: E
- Deleted: E

The following Member Positions are Fortnightly Club representatives:

- Member Position 5: ~~Initial term expiring December 31, 2012~~
- Member Position 6: ~~Initial term expiring December 31, 2013~~
- Member Position 7: ~~Initial term expiring December 31, 2014~~
- Member Position 8: ~~Initial term expiring December 31, 2014~~
- Member Position 9: ~~Initial term expiring December 31, 2013~~

- Deleted: ¶
The following Member Position is the County representative:¶
¶
Member Position 4: Expiring December 31, 2013¶
- Deleted: E

Sec. 2-77. Officers.

A Chairperson ~~and~~ Vice Chairperson shall be elected annually by the members of the Board. The Chairperson shall preside at all meetings of the Board and shall perform such duties as may be assigned by the Board or by the City Council. The Chairperson shall have the power to appoint subcommittees, as he/she deems necessary to achieve the objectives of the Board. In the event there is a vacancy in the Chairperson position, or the Chairperson is otherwise unable

- Deleted: .
- Deleted: and Secretary

to act, the Vice Chairperson shall perform the duties of Chairperson until such time as a Chairperson is elected by the members of the Board to fill such vacancy, or is otherwise able to act.

In the absence of the Chairperson from a meeting of the Board, the Vice Chairperson shall serve as the presiding officer during the meeting. If both the Chairperson and Vice Chairperson are absent from a meeting of the Board, the Board members in attendance shall choose a member to serve as the presiding officer during the meeting.

Resignation of the Chairperson from the Chairperson position shall be by letter to all other Board members. If the Chairperson resigns from the Chairperson position but continues to serve on the Board, the members shall elect a new Chairperson as soon as practicable.

Sec. 2-78. Staff.

The City ~~Manager or his/her designee~~ shall be an ex-officio member of the Board. ~~An ex-officio member is not entitled to vote or preside over meetings.~~

Deleted: Librarian

A Staff Liaison will be designated by the City Manager and shall serve as a communications liaison between the Board and the City. The Staff Liaison will perform support services, provide technical data, prepare agendas for the meetings, post notices of the meetings, prepare minutes of the meetings, and any other functions as requested by the Board or the City.

Sec. 2-79. Meetings and Communication.

The Board shall meet ~~bi-monthly or~~ as needed, upon the direction of the Chairperson, or upon request to ~~the~~ Chairperson by a majority of the members of the Board.

An agenda of subjects to be considered at each Board meeting shall be posted on the external bulletin board at City Hall at least seventy-two (72) hours prior to the meeting time. All meetings of the Board will be held in compliance with the provisions of the Texas Open Meetings Act and shall be open to the public, except as may otherwise be allowed by law.

Robert's Rules of Order shall govern all matters of parliamentary procedure in conducting Board meetings.

Emergency meetings to address ~~urgent~~ matters ~~related to the health, safety and welfare of library patrons~~, may be called provided each member is notified by telephone or by personal contact, provided notice is posted at least two (2) hours prior to the meeting time, and provided said meeting is held in compliance with the applicable provisions of the Texas Open Meetings Act.

Deleted: of an urgent nature

An agenda of each meeting and the minutes shall be delivered to each member of the Board and the City Secretary's Office.

Sec. 2-80. Attendance Requirements.

Members of the Board are required to maintain regular attendance at all meetings. Members who cannot attend a meeting should notify the Chairman or Staff Liaison of his/her absence as soon as possible prior to the meeting.

Three (3) consecutive absences from regular meetings, or absences from more than twenty-five percent (25%) of the meetings in a six month period, shall cause the Chairperson or Staff Liaison to report a Board member's attendance record to the City Manager.

The City Manager shall review the circumstances of the absences and determine if the Board member should be recommended to the City Council for removal.

A Board member who misses fifty percent (50%) or more of the meetings of the Board during a one (1) year period shall not be eligible for reappointment to the Board.

Sec. 2-81. Member Training.

All Board members shall attend training on the Texas Open Meetings Act, the Texas Public Information Act, and any applicable laws pertaining to the Board. Such training must be completed within ninety (90) days of the member's appointment to the Board.

Sec. 2-82. Mid-Term Member Appointments

If a member is unable to finish his or her term, or will be removed by the City Council prior to the term ending, the vacant position must be filled by a mid-term appointment who will serve out the remainder of the other member's term.

Comment [JB2]: As allowed in the City's Board Policy, adopted by Council on 3/1/2012.

Sec. 2-83, – Sec. 2-89. RESERVED.

Deleted: 2

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BRENHAM, TEXAS AMENDING CHAPTER 2, ADMINISTRATION, ARTICLE VII, LIBRARY ADVISORY BOARD, OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS PROVIDING FOR THE DUTIES, ORGANIZATION, OPERATION, BOARD MEMBERSHIP AND ADDITIONAL MATTERS RELATED TO THE LIBRARY ADVISORY BOARD; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR PROPER NOTICE AND MEETINGS

WHEREAS, The City of Brenham (“City”) is a Texas home-rule municipality; and

WHEREAS, pursuant to Texas Local Government Code, Section 51.001, the City has the authority to adopt ordinances and regulations that are for good government, peace and order of the City; and

WHEREAS, as a home-rule municipality, Texas Local Government Code, Section 51.072 confirms that the City has the full power of local self-government; and

WHEREAS, the City has created multiple boards and commissions in furtherance of the exercise of the City’s powers and functions; and

WHEREAS, the City and the Brenham Fortnightly Club (“Fortnightly”) desires to provide the best library possible to the citizens of Brenham; and

WHEREAS, the Interlocal Agreement for library services at the Nancy Carol Roberts Memorial Library (“Library”) between the City and Washington County expired on September 30, 2013; and

WHEREAS, a City Library Advisory Board was established to make recommendations regarding the planning and operations of the Library to ensure the library services provided are the best possible; and

WHEREAS, the City Council hereby finds that the best interests of the City will be promoted by the enactment of this Ordinance;

NOW, THEREFORE, be it ordained by the City Council of the City of Brenham, Texas that:

SECTION 1.
FINDINGS

The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2.

Section 2-70, Name, of the Code of Ordinances of the City of Brenham, Texas, shall be amended to read as follows:

Sec. 2-70. Name.

The Board shall be named and referred to as the Library Advisory Board (“Board”) of the Nancy Carol Roberts Memorial Library (“Library”) and shall be comprised of members appointed by the City of Brenham (“City”) City Council and the Brenham Fortnightly Club (“Fortnightly”) in accordance with this Article.

SECTION 3.

Section 2-73, Membership Requirements, of the Code of Ordinances of the City of Brenham, Texas, shall be amended to read as follows:

Sec. 2-73. Membership Requirements.

The membership requirements of the Board are as follows:

- A. Members must be residents of Washington County, Texas.
- B. Members must be qualified voters of Washington County, Texas.
- C. Members must not be in arrears in the payment of any taxes or other liability due to the City of Brenham.

A member must meet all membership requirements at the time of appointment to the Board, and shall maintain said qualifications during the member’s term on the Board. A member who fails to remain qualified to serve on the Board shall be removed from the Board and another person shall be appointed to the disqualified member’s position for the remainder of the member’s unexpired term.

SECTION 4.

Section 2-75, Organization, of the Code of Ordinances of the City of Brenham, Texas, shall be amended to read as follows:

Sec. 2-75. Organization.

The Board shall consist of nine (9) members. Five (5) members shall be nominated by Fortnightly from its membership and four (4) members are to be nominated by the City.

All nominated members shall be approved by the City Council and appointed to staggered three (3) year terms, expiring on December 31st of each calendar year.

The authority vested in the Board shall be exercised only at a meeting of a quorum of its members. Five (5) members of the Board shall constitute a quorum. Any action taken by the Board shall be by simple majority vote of the members present at a properly constituted meeting. A Board member may cast only a single vote on any issue. Proxy votes are prohibited. Alternate and ex-officio members shall not vote.

The Board members serve at the pleasure of the entity that appointed and/or nominated the member to the Board. The City Council retains the right to remove any Board member at any time and for any reason.

The terms of the members and officers of the Board shall be on a calendar year basis, i.e. terms shall begin on January 1 and expire on December 31. In the event that appointments are not made prior to the expiration of a member's term, such member shall continue to serve until his/her successor is appointed by the City.

Resignations from the Board shall be submitted in writing to the Board Chairperson, Mayor and Brenham Fortnightly Club President. Vacancies resulting from resignation, or any other cause, will be filled by nomination by the City Council or the Fortnightly, depending on which entity nominated the member. Nominations to fill vacancies on the Board must be approved by the City Council. A person appointed to fill a vacancy shall serve for the remaining unexpired term of the position to which the person is appointed.

Members of this Board shall not use their position for a purpose that is or gives the appearance of being a conflict of interest. In the event that a member becomes aware of a conflict of interest, or potential conflict of interest, with regard to any particular item being considered by the Board, such member shall immediately notify the Chairman and shall abstain from the consideration of and voting on the item, unless the Board determines that no conflict of interest exists. A "conflict of interest" is generally defined as a situation in which a Board member's personal interests might be served or financial benefits gained as a result of, or relating to, a decision of the Board.

SECTION 5.

Section 2-76, Establishment of Member Positions, of the Code of Ordinances of the City of Brenham, Texas, shall be amended to read as follows:

Sec. 2-76. Member Positions.

For the purpose of establishing and maintaining three (3) year staggered terms of Board members, each member shall be assigned a Member Position.

The following Member Positions are City representatives:

- Member Position 1: Initial term expiring December 31, 2014
- Member Position 2: Initial term expiring December 31, 2012
- Member Position 3: Initial term expiring December 31, 2012
- Member Position 4: Initial term expiring December 31, 2013

The following Member Positions are Fortnightly representatives:

- Member Position 5: Initial term expiring December 31, 2012
- Member Position 6: Initial term expiring December 31, 2013
- Member Position 7: Initial term expiring December 31, 2014
- Member Position 8: Initial term expiring December 31, 2014
- Member Position 9: Initial term expiring December 31, 2013

SECTION 6.

Section 2-77, Officers, of the Code of Ordinances of the City of Brenham, Texas, shall be amended to read as follows:

Sec. 2-77. Officers.

A Chairperson and Vice Chairperson shall be elected annually by the members of the Board. The Chairperson shall preside at all meetings of the Board and shall perform such duties as may be assigned by the Board or by the City Council. The Chairperson shall have the power to appoint subcommittees, as he/she deems necessary to achieve the objectives of the Board. In the event there is a vacancy in the Chairperson position, or the Chairperson is otherwise unable to act, the Vice Chairperson shall perform the duties of Chairperson until such time as a Chairperson is elected by the members of the Board to fill such vacancy, or is otherwise able to act.

In the absence of the Chairperson from a meeting of the Board, the Vice Chairperson shall serve as the presiding officer during the meeting. If both the Chairperson and Vice Chairperson are absent from a meeting of the Board, the Board members in attendance shall choose a member to serve as the presiding officer during the meeting.

Resignation of the Chairperson from the Chairperson position shall be by letter to all other Board members. If the Chairperson resigns from the Chairperson position but continues to serve on the Board, the members shall elect a new Chairperson as soon as practicable.

SECTION 7.

Section 2-78, Staff, of the Code of Ordinances of the City of Brenham, Texas, shall be amended to read as follows:

Sec. 2-78. Staff.

The City Manager or his/her designee shall be an ex-officio member of the Board. An ex-officio member is not entitled to vote or preside over meetings.

A Staff Liaison will be designated by the City Manager and shall serve as a communications liaison between the Board and the City. The Staff Liaison will perform support services, provide technical data, prepare agendas for the meetings, post notices of the meetings, prepare minutes of the meetings, and any other functions as requested by the Board or the City.

SECTION 8.

Section 2-79, Meetings and Communications, of the Code of Ordinances of the City of Brenham, Texas, shall be amended to read as follows:

Sec. 2-79. Meetings and Communication.

The Board shall meet bi-monthly or as needed, upon the direction of the Chairperson, or upon request to the Chairperson by a majority of the members of the Board.

An agenda of subjects to be considered at each Board meeting shall be posted on the external bulletin board at City Hall at least seventy-two (72) hours prior to the meeting time. All meetings of the Board will be held in compliance with the provisions of the Texas Open Meetings Act and shall be open to the public, except as may otherwise be allowed by law.

Robert's Rules of Order shall govern all matters of parliamentary procedure in conducting Board meetings.

Emergency meetings to address urgent matters related to the health, safety and welfare of library patrons may be called provided each member is notified by telephone or by personal contact, notice is posted at least two (2) hours prior to the meeting time, and provided said meeting is held in compliance with the applicable provisions of the Texas Open Meetings Act.

An agenda of each meeting and the minutes shall be delivered to each member of the Board and the City Secretary's Office.

SECTION 9.

Section 2-82, Mid-Term Member Appointment, of the Code of Ordinances of the City of Brenham, Texas, shall be amended to read as follows:

Sec. 2-82. Mid-Term Member Appointments

If a member is unable to finish his or her term, or will be removed by the City Council prior to the term ending, the vacant position must be filled by a mid-term appointee who will serve out the remainder of the other member's term.

Sec. 2-83. – Sec. 2-89. RESERVED.

SECTION 10. **SAVINGS CLAUSE**

All provisions of any ordinance, resolution or other action of the City in conflict with this Ordinance are hereby repealed to the extent they are in conflict. Any remaining portions of said ordinances, resolutions or other actions shall remain in full force and effect.

SECTION 11. **SEVERABILITY**

Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, sentences and clauses and phrases remaining should any provision be declared unconstitutional or invalid.

SECTION 12.
REPEALER

Any other ordinance or parts of ordinances in conflict with this Ordinance are hereby expressly repealed.

SECTION 13.
EFFECTIVE DATE

This Ordinance shall become effective upon adoption and publication as required by law.

SECTION 14.
PROPER NOTICE AND MEETINGS

It is hereby officially found and determined that the meetings at which this Ordinance was passed were open to the public as required and that public notice of the time, place and purpose of said meetings were given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

PASSED AND APPROVED on its first reading this the ____ day of _____, 2013.

PASSED AND APPROVED on its second reading this the ____ day of _____, 2013.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC
City Secretary



AGENDA ITEM 7

DATE OF MEETING: November 21, 2013	DATE SUBMITTED: November 18, 2013	
DEPT. OF ORIGIN: Administration	SUBMITTED BY: Terry Roberts	
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:
<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> PUBLIC HEARING	<input type="checkbox"/> 1 ST READING
<input type="checkbox"/> SPECIAL	<input type="checkbox"/> CONSENT	<input type="checkbox"/> 2 ND READING
<input type="checkbox"/> EXECUTIVE SESSION	<input checked="" type="checkbox"/> REGULAR	<input checked="" type="checkbox"/> RESOLUTION
	<input type="checkbox"/> WORK SESSION	
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon Resolution No. R-13-019 for the Election of Members to the Board of Directors of the Washington County Appraisal District		
SUMMARY STATEMENT: At the October 17, 2013 council meeting, Resolution No. R-13-016 was approved for the nomination of Washington County Appraisal District Board members to serve a two-year term beginning January 1, 2014. Our taxing entity received 590 votes; these votes can be cast to on candidate or distributed among any of the candidates. The candidates on the official ballot include John Schaer, Delton Koerth, Charles Gaskamp, Johanna Fatheree and Joel Romo.		
STAFF ANALYSIS (For Ordinances or Regular Agenda Items):		
A. PROS: The City of Brenham, as a taxing entity, has the opportunity to vote for the WCAD Board of Directors		
B. CONS: Decline the opportunity to vote for the WCAD Board of Directors		
ALTERNATIVES (In Suggested Order of Staff Preference): N/A		
ATTACHMENTS: (1) Resolution No. R-13-019 ; and (2) Official Ballot WCAD Board of Directors Election		
FUNDING SOURCE (Where Applicable): N/A		
RECOMMENDED ACTION: Approve Resolution No. R-13-019 for the election of members to the Board of Directors of the Washington County Appraisal District		
APPROVALS: Terry K. Roberts		

RESOLUTION NO. R-13-019

A RESOLUTION OF THE CITY OF BRENHAM, TEXAS FOR THE ELECTION OF MEMBERS TO THE BOARD OF DIRECTORS OF THE WASHINGTON COUNTY APPRAISAL DISTRICT

WHEREAS, the Washington County Tax Appraisal District is governed by a board of five directors, serving two-year terms beginning on January 1 of even numbered years; and

WHEREAS, the governing boards of the participating taxing entities elect the directors under a system of cumulative voting; and

WHEREAS, the City of Brenham, Texas may cast its total number of votes for one candidate or distribute it among candidates for any number of directorships; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brenham, Texas that the City of Brenham, Texas does hereby cast its votes as shown for the following people for membership on the Board of Directors of the Washington County Appraisal District:

<u>CANDIDATES</u>	<u>VOTES CAST</u>
Charles Gaskamp	114
Delton Koerth	114
Joel Romo	114
John Schaer	114
Johanna Fatheree	115

BE IT FURTHER RESOLVED that this Resolution be adopted and entered upon the pages of the minutes of the City Council of Brenham, Texas, and that a copy of this Resolution be presented to the Chief Appraiser of the Washington County Appraisal District office at 1302 Niebuhr Street, Brenham, Texas.

APPROVED this the _____ day of _____, 2013.

Milton Y. Tate, Jr., Mayor

ATTEST:

Jeana Bellinger, TRMC
City Secretary

2014

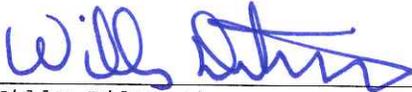
OFFICIAL BALLOT
Washington County Appraisal District
Board of Directors Election

CANDIDATES

VOTES ALLOCATED

Charles Gaskamp	_____ Votes
Delton Koerth	_____ Votes
Joel Romo	_____ Votes
John Schaer	_____ Votes
Johanna Fatheree	_____ Votes

Issued under my hand, this the 28th day of October, 2013.



Willy Dilworth
Chief Appraiser
Washington County Appraisal District



AGENDA ITEM 8

DATE OF MEETING: November 21, 2013	DATE SUBMITTED: November 18, 2013	
DEPT. OF ORIGIN: Administration	SUBMITTED BY: Amanda Klehm	
MEETING TYPE: CLASSIFICATION: ORDINANCE:		
<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> PUBLIC HEARING	<input checked="" type="checkbox"/> 1ST READING
<input type="checkbox"/> SPECIAL	<input type="checkbox"/> CONSENT	<input type="checkbox"/> 2ND READING
<input type="checkbox"/> EXECUTIVE SESSION	<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> RESOLUTION
	<input type="checkbox"/> WORK SESSION	
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon an Ordinance on Its First Reading to Repeal Ordinance No. O-09-019 Relating to a Non-Exclusive Franchise to Impact Disposal Services, LLC to Operate a Roll-Off Container Service for Residents, Businesses, and Industries Inside Brenham City Limits		
SUMMARY STATEMENT: On November 5, 2009, Council approve an Ordinance on its second reading granting Impact Disposal Services, LLC a non-exclusive franchise to collect demolition/construction debris and or solid waste from commercial residential, and industrial sites using roll-off containers and/or commercial compactors. This ordinance was requested by Impact Disposal Services, LLC at that time. On November 12, 2013, the City of Brenham was notified by Ray Lauter, Impact Disposal Services, LLC owner, that his company will no longer be operating in the City of Brenham. Therefore, Staff recommends that Council repeal Ordinance O-09-019 which granted Impact Disposal Services, LLC authority to operate a roll-off container service for residents, businesses, and industries inside Brenham city limits.		
STAFF ANALYSIS (For Ordinances or Regular Agenda Items):		
A. PROS:		
B. CONS:		
ALTERNATIVES (In Suggested Order of Staff Preference):		
ATTACHMENTS: (1) Ordinance repealing Ordinance O-07-016; and (2) Letter from Impact Disposal Services, LLC		
FUNDING SOURCE (Where Applicable):		

RECOMMENDED ACTION: Approve an Ordinance on its first reading to repeal Ordinance No. O-09-019 relating to a non-exclusive franchise to Impact Disposal Services, LLC to operate a roll-off container service for residents, businesses, and industries inside Brenham city limits.

APPROVALS: Terry K. Roberts

ORDINANCE _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRENHAM, TEXAS, REPEALING ORDINANCE O-09-019 RELATING TO A NON-EXCLUSIVE FRANCHISE WITH IMPACT DISPOSAL SERVICES, LLC TO OPERATE A ROLL-OFF CONTAINER SERVICE FOR RESIDENTS, BUSINESSES AND INDUSTRIES INSIDE BRENHAM CITY LIMITS; AND ORDAINING OTHER RELATED MATTERS:

WHEREAS, the City of Brenham, by ordinance, provides exclusively all solid waste collection and disposal services for solid waste generated from within the corporate limits of the City of Brenham; and

WHEREAS, the City of Brenham may, by ordinance and charter, grant franchises to other entities for the use of public streets, alleys and thoroughfares within the corporate limits of CITY and for the collection and disposal of solid waste generated from within the corporate limits of he City of Brenham; and

WHEREAS, on November 5, 2009, the City Council passed Ordinance O-09-019, on second and final reading, granting a solid waste franchise to Impact Disposal Services, LLC; and

WHEREAS, on November 12, 2013, the City became aware that Impact Disposal Services, LLC was sold to Legacy Waste Services;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRENHAM, TEXAS, THAT:

Ordinance O-09-019 is hereby repealed and rescinded in its entirety.

PASSED and APPROVED on its first reading this the _____ day of _____, 2013.

PASSED and APPROVED on its second reading this the _____ day of _____, 2013.

Milton Y. Tate, Jr.
Mayor

ATTEST

Jeana Bellinger
City Secretary

Impact Disposal Services, LLC

November 7, 2013

City of Brenham
PO Box 1059
Brenham, TX 77833

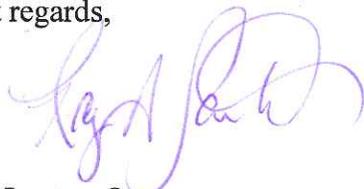
Attn: Jena Bellinger

Dear Ms. Bellinger:

Impact Disposal Services would like to inform you that we will no longer be operating in the City of Brenham effective 11/7/13.

Thank you for allowing us to provide Roll off Services for the past years.

Best regards,



Ray Lauter, Owner

16401 FM 1155 E Washington, TX 77880 979 451-5561



AGENDA ITEM 9

DATE OF MEETING: November 21, 2013		DATE SUBMITTED: November 18, 2013
DEPT. OF ORIGIN: Administration		SUBMITTED BY: Amanda Klehm
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:
<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> PUBLIC HEARING	<input checked="" type="checkbox"/> 1 ST READING
<input type="checkbox"/> SPECIAL	<input type="checkbox"/> CONSENT	<input type="checkbox"/> 2 ND READING
<input type="checkbox"/> EXECUTIVE SESSION	<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> RESOLUTION
	<input type="checkbox"/> WORK SESSION	
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon an Ordinance on Its First Reading to Grant a Non-Exclusive Franchise to Legacy Waste Services to Operate a Roll-Off Container Service for Residents, Businesses, and Industries Inside Brenham City Limits		
SUMMARY STATEMENT: On November 12, 2013 we received a letter from Legacy Waste Services requesting to do business within the City of Brenham. Legacy Waste Services purchase Impact Disposal Services, LLC. They have never had a franchise in Brenham.		
STAFF ANALYSIS (For Ordinances or Regular Agenda Items):		
A. PROS:		
B. CONS:		
ALTERNATIVES (In Suggested Order of Staff Preference):		
ATTACHMENTS: (1) Letter from Legacy Waste Services; and (2) Draft Ordinance		
FUNDING SOURCE (Where Applicable): N/A		
RECOMMENDED ACTION: Approve an Ordinance on its first reading to grant a non-exclusive franchise to Legacy Waste Services to operate a roll-off container service for residents, businesses, and industries inside Brenham city limits		
APPROVALS: Terry K. Roberts		

LEGACY

Waste Services

November 11, 2013

City of Brenham
200 West Vulcan Street
Brenham, Texas 77833

Attention: Ms. Jeana Bellinger

Reference: Roll Off Waste Services

Dear Ms. Bellinger:

Our company would like to provide Roll off Waste Services within the city limits of Brenham. If you have any question, please contact our office.

Thank you for your time in this matter.

Respectfully yours,



Larry Schulz
President

ORDINANCE NO. _____

AN ORDINANCE GRANTING LEGACY WASTE SERVICES, ITS SUCCESSORS AND ASSIGNS, A FRANCHISE FOR THE PRIVILEGE AND USE OF PUBLIC STREETS, ALLEYS, AND PUBLIC WAYS WITHIN THE CORPORATE LIMITS OF THE CITY OF BRENHAM FOR THE PURPOSE OF ENGAGING IN THE BUSINESS OF COLLECTING SOLID WASTE FROM COMMERCIAL, RESIDENTIAL AND INDUSTRIAL SITES USING ROLL-OFF CONTAINERS AND/OR COMMERCIAL COMPACTORS; PRESCRIBING THE TERMS, CONDITIONS, OBLIGATIONS, AND LIMITATIONS UNDER WHICH SAID FRANCHISE SHALL BE EXERCISED; PROVIDING FOR THE CONSIDERATION; FOR PERIOD OF GRANT; FOR ASSIGNMENT; FOR METHOD OF ACCEPTANCE; FOR REPEAL OF CONFLICTING ORDINANCES AND FOR PARTIAL INVALIDITY.

WHEREAS, the City of Brenham, by ordinance, provides exclusively all solid waste collection and disposal services for solid waste generated from within the corporate limits of the City of Brenham; and

WHEREAS, the City of Brenham may, by ordinance and charter, grant franchises to other entities for the use of public streets, alleys and thoroughfares within the corporate limits of CITY and for the collection and disposal of solid waste generated from within the corporate limits of the City of Brenham; and

WHEREAS, the City of Brenham desires to exercise the authority provided to it by ordinance and charter to grant a franchise for the collection and disposal of certain solid waste generated from within the corporate limits of the City of Brenham; and

WHEREAS, the City of Brenham hereinafter referred to as “CITY” desires to grant this franchise to LEGACY WASTE SERVICES, under the terms of this Agreement as set out below.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRENHAM, TEXAS, THAT:

SECTION 1. DEFINITIONS

Agreement. This contract between the City of Brenham and for the provision of certain roll-off container and/or commercial compactor service within the corporate limits of the City of Brenham under certain terms and conditions set out herein.

City of Brenham. Also referred to as "CITY" in this Agreement.

City Council. Also referred to as "COUNCIL" denoting the governing body of the City of Brenham.

Customers. Those industrial, residential, and/or commercial premises located within the CITY that generates solid waste requiring collection using roll-off containers and/or commercial compactors.

Solid Waste. All putrescible and nonputrescible solid, semi-solid, and liquid wastes, including residential, industrial, commercial and municipal garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, discarded home and industrial appliances, vegetable or animal solid and semi-solid wastes, and other discarded solid and semi-solid wastes.

Roll-Off Containers. A type of solid waste industry container that is loaded by a winch truck. Also referred to as "container".

Commercial Compactor. A type of solid waste industry container that is loaded by a winch truck and compacts solid waste. Also referred to as "compactor".

Legacy Waste Services Herein-after referred to as "LEGACY WASTE SERVICES". The party contracting with the CITY for roll-off container and/or commercial compactor service, which contains demolition/construction debris or solid waste.

SECTION 2. GENERAL DESCRIPTION OF SERVICES TO BE PROVIDED

For and in consideration of the compliance by LEGACY WASTE SERVICES with the covenants and conditions herein set forth, and the Charter, Ordinances and Regulations of the City governing the collection and disposal of solid waste, CITY hereby grants to LEGACY WASTE SERVICES a non-exclusive franchise for use of designated public streets, alleys and thoroughfares within the corporate limits of City for the sole purpose of engaging in the business of collecting solid waste using roll-off containers and/or commercial compactors from commercial, residential and industrial sites within the jurisdictional limits of CITY, as approved by the City Manager or his designee.

**SECTION 3.
AUTHORITY FOR TO PROVIDE SERVICE**

CITY hereby grants to LEGACY WASTE SERVICES the privilege to collect from commercial, residential, and industrial customers within the City limits solid waste using roll-off containers and/or commercial compactors only.

**SECTION 4.
DISPOSAL SITE TO BE USED**

Unless approved otherwise in writing by the CITY, LEGACY WASTE SERVICES shall utilize any Type I permitted landfill that LEGACY WASTE SERVICES deems appropriate and is authorized for disposal of all solid waste, which is collected by LEGACY WASTE SERVICES from within the corporate limits of the CITY.

**SECTION 5.
RATES TO BE CHARGED**

A written Schedule of Rates that LEGACY WASTE SERVICES shall charge for the aforementioned services shall be provided to each customer, and such Schedule of Rates may be revised periodically as agreed by and its customers. LEGACY WASTE SERVICES shall immediately provide the CITY with copies of any and all revised Schedule of Rates documents.

**SECTION 6.
PAYMENTS TO CITY**

For and in consideration of the use of designated streets, alleys, and thoroughfares as well as in consideration of the covenants and agreements contained herein, LEGACY WASTE SERVICES agrees and shall pay to CITY upon acceptance of this Agreement and thereafter during the term hereof, a sum equivalent to five percent (5%) of LEGACY WASTE SERVICES monthly gross revenues generated from LEGACY WASTE SERVICES provision of solid waste roll-off container collection services within the CITY excluding actual landfill tipping charges.

Any revenue received by LEGACY WASTE SERVICES in excess of the actual landfill tipping charges will be subject to the franchise fee and shall be computed into LEGACY WASTE SERVICES monthly gross revenue. Said payment shall be paid monthly to the City of Brenham Attn: City Secretary and must be received by the CITY no later than the twenty-fifth (25th) day of the month following the end of the previous month. If the payment due date falls on a Saturday, Sunday or other holiday designated by the CITY, the payment must be received by the CITY on the next regular business day.

Payments received by the CITY after the due date shall be assessed a ten percent (10%) penalty on the outstanding franchise fee amount owed under this Section.

Failure by LEGACY WASTE SERVICES to pay amounts due under this Agreement, after written notice by CITY, shall constitute Failure to Perform under this Agreement and CITY may invoke the provisions of Section 15 of this Agreement (FAILURE TO PERFORM), and/or any other remedy available to the CITY in law or equity.

SECTION 7. ACCESS TO RECORDS & REPORTING

CITY shall have access to LEGACY WASTE SERVICES's records, billing records of those customers served by LEGACY WASTE SERVICES and all papers relating to this Agreement and the operation of solid waste roll-off container collection and disposal services within the CITY. Access by CITY to LEGACY WASTE SERVICES's records shall be provided to CITY within ten (10) business days, after written notice to LEGACY WASTE SERVICES during normal business hours.

The following records and reports shall be filed quarterly with the City Secretary or his/her designee:

- A. Reports of all complaints, investigations, and actions taken by LEGACY WASTE SERVICES with regard to services provided pursuant to this Agreement.
- B. A listing of all LEGACY WASTE SERVICES accounts served and monthly revenue derived from roll-off containers placed in the CITY under the terms of this Agreement. The reports should include: a unique customer identification or account number, frequency of pick-up, size of container and monthly charges.

The CITY is subject to the Texas Public Information Act ("Act"). Generally, the Act requires the release of requested information by the CITY, but there are exceptions. If the requested information meets the criteria outlined in the exceptions, the CITY may decline to release the information for the purpose of requesting a decision from the Texas Attorney General's Office. The Act excepts from public disclosure trade secrets and certain commercial or financial information. The Act states the CITY may withhold:

- A. A trade secret obtained from a person and privileged or confidential by statute or judicial decision; or
- B. Commercial or financial information for which it is determined based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained.

Pursuant to Section 552.305 of the Act, the CITY is obligated to make a good faith attempt to contact third parties who have a trade secret interest or a commercial financial interest in the information that's been requested so that the third party has an opportunity to submit reasons to the Texas Attorney General's Office why the information should be withheld or released.

The CITY will comply with Section 552.305 of the Act with regard to any requests for records concerning LEGACY WASTE SERVICES that invoke Section 552.305.

**SECTION 8.
PLACEMENT OF CONTAINERS**

All roll-off containers and/or compactors placed for service within CITY shall be located in such a manner so as not to be a safety or traffic hazard. Under no circumstances shall LEGACY WASTE SERVICES place containers on public streets, alleys and/or thorough fares without the prior written approval of the CITY. CITY reserves the right to specify to LEGACY WASTE SERVICES the exact location of any roll-off container(s) it places for service in CITY.

LEGACY WASTE SERVICES agrees and acknowledges that it shall be liable for any and all damages it causes to any public street, alley and/or thorough fare, and associated improvements and LEGACY WASTE SERVICES will pay CITY's entire construction costs and other expenses associated with repairing and/or replacing the damaged public street, alley and/or thorough fare, and associated improvements.

**SECTION 9.
CONTAINER MAINTENANCE**

LEGACY WASTE SERVICES ___ agrees to properly maintain as necessary, including but not limited to cleaning and painting, all roll-off containers placed for service within CITY.

**SECTION 10.
COMPLAINTS REGARDING SERVICE/SPILLAGE**

LEGACY WASTE SERVICES shall receive and directly respond to any complaints pertaining to service from their roll-off containers and/or compactor customers located within CITY. However, any such complaints received by CITY shall be forwarded to LEGACY WASTE SERVICES within twenty four (24) hours of their receipt by CITY. LEGACY WASTE SERVICES shall respond to all complaints within twenty four (24) hours of receiving notice of such complaint from CITY and shall report to CITY as to the action taken. Failure by LEGACY WASTE SERVICES to respond and report to CITY on action taken within this twenty four (24) hour period may subject LEGACY WASTE SERVICES to a \$25.00 per incident charge from CITY payable with the next payment due to CITY under Section 6 of this Agreement.

LEGACY WASTE SERVICES agrees that during transport all vehicles used by LEGACY WASTE SERVICES in the removal of solid waste shall be properly covered to prevent spillage, blowing, or scattering of refuse onto public streets or properties adjacent thereto. All equipment necessary for the performance of this Agreement shall be in good condition and repair. A standby vehicle shall always be available. LEGACY WASTE SERVICES vehicles shall at all times be clearly marked with LEGACY WASTE SERVICES name in letters not less than three (3) inches in height.

**SECTION 11.
OBEISANCE OF LAWS**

LEGACY WASTE SERVICES agrees that it shall comply with all laws, policies, rules and regulations of the United States, State of Texas, and CITY. All collections made hereunder shall be made by LEGACY WASTE SERVICES without unnecessary noise, disturbance, or commotion.

**SECTION 12.
UNDERSTANDINGS PERTAINING TO NON-EXCLUSIVITY**

It is understood by and between the parties that this Agreement executed by and between the parties on the ____ day of _____, 20____, constitutes the only agreement between the parties. It is further understood and agreed that there are no other agreements between these parties with regard to the disposal of commercial, industrial or residential solid waste in the CITY using roll-off containers/compactors and that this Agreement does not authorize LEGACY WASTE SERVICES to utilize the streets, alleys or public ways to dispose of commercial, industrial, or residential solid waste other than demolition and construction debris. Both parties agree and understand that nothing in this Agreement conveys to LEGACY WASTE SERVICES an exclusive franchise for the services described in this Agreement and that this Agreement is non-exclusive.

**SECTION 13.
OWNERSHIP OF MATERIALS COLLECTED**

Nothing herein shall create or be construed to convey any title to CITY of any solid waste collected pursuant to the provisions of this agreement.

**SECTION 14.
INTERRUPTION OF SERVICE OR DEFAULT**

A. Termination of Service. In the event that LEGACY WASTE SERVICES terminates service to any customer with the CITY limits for cause, LEGACY WASTE SERVICES must notify the CITY through certified mail within forty-eight (48) hours of termination and state the cause of such termination.

B. Excessive Interruption in Service. If the interruption in service continues for a period of seventy-two (72) hours or more, then it may constitute a Failure to Perform under this Agreement and CITY may invoke the provisions of Section 15 of this Agreement (FAILURE TO PERFORM).

**SECTION 15.
FAILURE TO PERFORM**

It is expressly understood and agreed by the parties that if at any time LEGACY WASTE SERVICES shall fail to perform any of the terms, covenants, or conditions herein set forth, CITY may after a hearing as described herein, revoke and cancel the Agreement by and between the parties and said Agreement shall be null and void. Upon the determination by the staff of CITY that a hearing should be held before the City Council, CITY shall mail notice of the hearing to LEGACY WASTE SERVICES, at the address designated herein or at such address as may be designated from time to time, by registered or certified mail. The notice shall specify the time and place of the hearing and shall include the allegations being asserted for the revocation of this Agreement. The hearing shall be conducted in public before the City Council and LEGACY WASTE SERVICES shall be allowed to present evidence and given an opportunity to answer all reasons for the termination set forth in the notice. In the event that the Council determines that the allegations set forth are true as set forth in the notice it may by majority vote cancel this Agreement between the parties at no penalty to the CITY.

**SECTION 16.
INDEMNIFICATION**

In the event CITY is damaged due to the act, omission, mistake, fault or default of LEGACY WASTE SERVICES, then LEGACY WASTE SERVICES shall indemnify and hold CITY harmless for such damage.

LEGACY WASTE SERVICES is to indemnify and hold CITY harmless for any disposal of any prohibited material whether intentional or inadvertent.

LEGACY WASTE SERVICES shall indemnify and hold CITY harmless from any and all injuries to or claims of adjacent property owners caused by LEGACY WASTE SERVICES, its agents, employees, and representatives.

LEGACY WASTE SERVICES agrees to and shall indemnify and hold harmless CITY, its officers, agents and employees, from and against any and all claims, losses, damages, causes of action, suits, and liability of every kind, including all expenses of litigation, court costs, and attorney's fees, for injury to or death of any person, or for damage to any property, arising out of or in connection with the work done by LEGACY WASTE SERVICES under this Agreement, regardless of whether such injuries, death or damages are caused in whole or in part by the negligence, including but not limited to the contractual comparative negligence, concurrent negligence or gross negligence, of CITY.

SECTION 17. INSURANCE

LEGACY WASTE SERVICES shall procure and maintain at its sole cost and expense for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by LEGACY WASTE SERVICES, its agents, representatives, volunteers, employees or subcontractors.

LEGACY WASTE SERVICES insurance coverage shall be primary insurance with respect to the CITY, its officials, employees and volunteers. Any insurance or self-insurance maintained by the CITY, its officials, employees or volunteers shall be considered in excess of the LEGACY WASTE SERVICES insurance and shall not contribute to it.

LEGACY WASTE SERVICES shall include all subcontractors as additional insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage's for subcontractors shall be subject to all of the requirements stated herein.

Certificates of Insurance and endorsements shall be furnished to CITY and approved by CITY before work commences.

A. STANDARD INSURANCE POLICIES REQUIRED

1. Commercial General Liability Policy
2. Automobile Liability Policy
3. Worker's Compensation Policy

B. GENERAL REQUIREMENTS APPLICABLE TO ALL POLICIES

1. General Liability and Automobile Liability insurance shall be written by a carrier with a better rating in accordance with the current Best Key Rating Guide.
2. Only Insurance Carriers licensed and admitted to do business in the State of Texas will be accepted.
3. Deductibles shall be listed on the Certificate of Insurance and are acceptable only on a per occurrence basis for property damage only.
4. Claims Made Policies will not be accepted.
5. The CITY, its officials, employees and volunteers are to be added as "Additional Insured" to the General Liability and the Automobile Liability policies. The coverage shall contain no special limitations on the scope of protection afforded to the CITY, its officials, employees or volunteers.

6. A Waiver of Subrogation in favor of the CITY with respect to the General Liability, Automobile Liability, and Workers' Compensation insurance must be included.
7. Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the CITY.
8. Upon request, certified copies of all insurance policies shall be furnished to the CITY.

C. COMMERCIAL GENERAL LIABILITY

1. Minimum Combined Single Limit of \$1,000,000 per occurrence for Bodily Injury and Property Damage.
2. No coverage shall be deleted from the standard policy without notification of individual exclusions being attached for review and acceptance.

D. AUTOMOBILE LIABILITY

1. Minimum Combined Single Limit of \$1,000,000 per occurrence for Bodily Injury and Property Damage.

E. WORKERS' COMPENSATION

1. Employer's Liability limits of \$500,000/\$500,000/ \$500,000 are required.

F. CERTIFICATES OF INSURANCE

1. Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent, and shall contain provisions representing and warranting the following:
 - a. The company is licensed and admitted to do business in the State of Texas.
 - b. The insurance set forth by the insurance company are underwritten on forms which have been approved by the Texas Department of Insurance or ISO.
 - c. Sets forth all endorsements as required above and insurance coverage's as previously set forth herein.
 - d. Shall specifically set forth the notice of cancellation, termination, or change in coverage provisions to the CITY.
 - e. Original endorsements affecting coverage required by this section shall be furnished with the certificates of insurance.

**SECTION 18.
ASSIGNMENT**

This Agreement and the rights and obligations contained herein may not be assigned by LEGACY WASTE SERVICES without the specific prior written approval of the City Council. Any assignment by LEGACY WASTE SERVICES without prior written approval of the City Council shall be null and void.

**SECTION 19.
SAFETY**

LEGACY WASTE SERVICES shall perform the collection in accordance with applicable laws, codes, ordinances and regulations of the United States, State of Texas, Washington County, and CITY and in compliance with OSHA and other laws as they apply to its employees. It is the intent of the parties that the safety precautions are a part of the collection techniques for which LEGACY WASTE SERVICES is solely responsible. In the carrying on of the work herein provided for, LEGACY WASTE SERVICES shall use all proper skill and care, and LEGACY WASTE SERVICES shall exercise all due and proper precautions to prevent injury to any property, person or persons. LEGACY WASTE SERVICES assumes responsibility and liability and hereby agrees to indemnify the CITY from any liability caused by LEGACY WASTE SERVICES failure to comply with applicable federal, state or local laws and regulations, touching upon the maintenance of a safe and protected working environment, and the safe use and operation of machinery and equipment in that working environment.

**SECTION 20.
AD VALOREM TAXES**

LEGACY WASTE SERVICES agrees to render all personal property utilized in its solid waste operation services to Washington County Appraisal District so that said personal property will be the subject of ad valorem taxation for the benefit of CITY.

**SECTION 21.
NOTICES**

All notices required under the terms of this Agreement to be given by either party to the other shall be in writing, and unless otherwise specified in writing by the respective parties, shall be sent to the parties at the addresses following:

City of Brenham
P.O. Box 1059
Brenham, Texas 77834
ATTN: City Secretary

LEGACY WASTE SERVICES

ATTN: _____

All notices shall be deemed to have been properly served only if sent by certified mail, to the person(s) at the address designated as above provided, or to any other person at the address which either party may hereinafter designate by written notice to the other party.

**SECTION 22.
AMENDMENTS**

It is hereby understood and agreed by the parties to this Agreement that no alternation or variation to the terms of this Agreement shall be made unless made in writing, approved by both parties, and attached to this Agreement to become a part hereof.

**SECTION 23.
SEVERABILITY**

If any section, sentence, clause or paragraph of this Agreement is for any reason held to be invalid or illegal, such invalidity shall not affect the remaining portions of the Agreement.

**SECTION 24.
TERM OF AGREEMENT**

The term of this Agreement shall be effective beginning on the _____ day of _____, 20____, being the date of acceptance by LEGACY WASTE SERVICES and shall terminate on September 30, 2014.

Thereafter, this Agreement shall automatically renew annually for a subsequent one (1) year terms beginning on October 1 and terminating on the following September 30 unless either party gives written notice of non-renewal by certified mail no later than sixty (60) days prior to the then current termination date. Further, either party may terminate this Agreement without cause at any time by providing the other party with sixty (60) days written notice of termination by certified mail. This section is not intended, nor shall this section be construed, to limit or prohibit a party's ability to terminate this Agreement as otherwise provided in this Agreement.

**SECTION 25.
ACCEPTANCE OF AGREEMENT**

That LEGACY WASTE SERVICES shall have sixty (60) days from and after the final passage and approval of this Ordinance to file its written acceptance thereof with the City Secretary, and upon such acceptance being filed, this Ordinance shall take effect and be in force from and after the date of its acceptance, and shall effectuate and make binding the agreement provided by the terms hereof.

**SECTION 26.
AUTHORIZATION TO EXECUTE**

The parties signing this Agreement shall provide adequate proof of their authority to execute this Agreement. This Agreement shall inure to the benefit and is binding upon the parties hereto and their respective successors or assigns, but shall not be assignable by either party without the written consent of the other party.

**SECTION 27.
PUBLIC MEETING**

It is hereby found and determined that the meeting(s) at which this Ordinance was considered were open to the public, as required by Chapter 551, Texas Government Code, and that advance public notice of time, place, and purpose of said meetings was given in accordance with law.

PASSED and APPROVED on its first reading this ____ day of _____, 2013.

PASSED and APPROVED on its second reading this ____ day of _____, 2013.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC
City Secretary



AGENDA ITEM 10

DATE OF MEETING: November 21, 2013	DATE SUBMITTED: November 15, 2013			
DEPT. OF ORIGIN: Public Works	SUBMITTED BY: Dane Rau			
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:		
<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> PUBLIC HEARING	<input type="checkbox"/> 1 ST READING		
<input type="checkbox"/> SPECIAL	<input type="checkbox"/> CONSENT	<input type="checkbox"/> 2 ND READING		
<input type="checkbox"/> EXECUTIVE SESSION	<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> RESOLUTION		
	<input type="checkbox"/> WORK SESSION			
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon Bid No. 14-001 for the Purchase of a 53' Aluminum Refuse Trailer and Authorize the Mayor to Execute Any Necessary Documentation.				
SUMMARY STATEMENT: On November 13, 2013 the Purchasing Dept. opened bids for the purchase of an aluminum refuse trailer. The bids were as follows:				
<u>Bidder</u>	<u>Year</u>	<u>Mfg.</u>	<u>Del.</u>	<u>Bid Price</u>
Travis Body & Trailer (Houston, TX)	2015	Travis Body	90	\$65,070
East Manufacturing Corp	2015	East Genesis	90	\$66,800
Bids were sent to 4 manufactures with two bids received. As seen above Travis Body and Trailer was the low bid received and met all bid specifications. Travis Body and Trailer did receive the bid in 2011 for a 53' trailer at the cost of \$60,653.00.				
During the 2013-14 budget process a total of \$68,000 was budgeted for this trailer. By purchasing this trailer it will add to our fleet of transfer trailers that we use on a daily basis to transport waste to the Austin landfill. It will ultimately replace our oldest 48' steel transfer trailer which is approaching 10 years old. These trailers are used 6 days a week and transport over 20+ tons of waste on each trip. The transfer station averages 4 trips per day to the landfill with other trailers being loaded throughout the day.				
After buying this trailer it will give us 6 trailers and 3 trucks. Over the last year we have seen our volumes increase approximately 1500 tons than the prior year. As of 2011, we now transport all waste that enters both the Collection Station and Transfer Station.				

STAFF ANALYSIS (For Ordinances or Regular Agenda Items):

A. PROS: Will provide the transfer station with another large 53' trailer to handle the additional volume of the station and will replace the last steel trailer that is approaching 10 year old.

B. CONS: None

ALTERNATIVES (In Suggested Order of Staff Preference):

ATTACHMENTS: (1) Bid Information Sheet; and (2) Bid Tabulation

FUNDING SOURCE (Where Applicable): 106-5-042-803.00

RECOMMENDED ACTION: Approve Bid No. 14-001 and award contract to Travis Body and Trailer in the amount of \$65,070.00 for the purchase of a 53' Aluminum Refuse Trailer and authorize the Mayor to execute any necessary documentation.

APPROVALS: Terry K. Roberts



Bid Information Sheet

November 13, 2013

Bid No. 14-001

For: Live Floor Trailer

Purchase not to exceed budgeted funds.

Number of bids sent out: 4

Number of completed bids returned to Purchasing: 2



BID TABULATION

**BID NO. 14-001
LIVE FLOOR TRAILER**

BIDDER	BID PRICE	DELIVERY	TRAILER CAPACITY
East Manufacturing Corp. Randolph, OH	\$66,800	90 Days After Receipt of Order	130 cu. yd.
Travis Body & Trailer Houston, TX	\$65,070*	90 Days After Receipt of Order	137 cu. yd.

* Price shown is \$350 less than bid price of \$65,420 due to us picking the trailer up from the vendor in Houston, TX, thereby saving the shipping charges.



AGENDA ITEM 11

DATE OF MEETING: November 21, 2013	DATE SUBMITTED: November 18, 2013	
DEPT. OF ORIGIN: Administration	SUBMITTED BY: Terry Roberts	
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:
<input type="checkbox"/> REGULAR	<input type="checkbox"/> PUBLIC HEARING	<input type="checkbox"/> 1 ST READING
<input type="checkbox"/> SPECIAL	<input type="checkbox"/> CONSENT	<input type="checkbox"/> 2 ND READING
<input checked="" type="checkbox"/> EXECUTIVE SESSION	<input type="checkbox"/> REGULAR	<input type="checkbox"/> RESOLUTION
	<input type="checkbox"/> WORK SESSION	
AGENDA ITEM DESCRIPTION: Section 551.072 – Deliberation Regarding Real Property – Discussion Concerning the Possible Donation and Acceptance of Land for Future Park Purposes		
SUMMARY STATEMENT: Executive Session discussion		
STAFF ANALYSIS (For Ordinances or Regular Agenda Items):		
A. PROS:		
B. CONS:		
ALTERNATIVES (In Suggested Order of Staff Preference):		
ATTACHMENTS:		
FUNDING SOURCE (Where Applicable):		
RECOMMENDED ACTION: Discussion only.		
APPROVALS: Mayor Milton Y. Tate, Jr.		



AGENDA ITEM 12

DATE OF MEETING: November 21, 2013	DATE SUBMITTED: November 18, 2013	
DEPT. OF ORIGIN: Administration	SUBMITTED BY: Terry Roberts	
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:
<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> PUBLIC HEARING	<input type="checkbox"/> 1 ST READING
<input type="checkbox"/> SPECIAL	<input type="checkbox"/> CONSENT	<input type="checkbox"/> 2 ND READING
<input type="checkbox"/> EXECUTIVE SESSION	<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> RESOLUTION
	<input type="checkbox"/> WORK SESSION	
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon a Development Agreement Related to the Donation of Land for Future Park Purposes and Authorize the Mayor to Negotiate and Execute Any Necessary Documentation		
SUMMARY STATEMENT: As discussed in Executive Session.		
STAFF ANALYSIS (For Ordinances or Regular Agenda Items):		
A. PROS:		
B. CONS:		
ALTERNATIVES (In Suggested Order of Staff Preference):		
ATTACHMENTS:		
FUNDING SOURCE (Where Applicable):		
RECOMMENDED ACTION: Approve a development agreement related to the donation of land for future park purposes in accordance with the parameters, consideration and terms discussed in executive session and authorize the Mayor to negotiate and execute any necessary documentation.		
APPROVALS: Terry K. Roberts		