



**NOTICE OF A REGULAR MEETING
THE BRENHAM CITY COUNCIL
THURSDAY FEBRUARY 6, 2014 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 – Mayor Pro Tem Nix**
- 3. 3-a. Service Recognitions**
 - Rebecca L. Squyres, Public Utilities, - 15 years
 - Dant Lange – Police Department – 20 years
 - Michele L. Glenz, Public Utilities - 25 years
 - David A. Bartkowiak, Street Department - 30 years
- 3-b. New Employees**
 - David Beserra – Police Department
 - Kevin Mertz – Police Department
- 3-c. Awards**
 - Recognition of the Blue Bell Aquatic Center’s Award from the Texas Public Pool Council
- 4. Citizens Comments**

CONSENT AGENDA

5. Statutory Consent Agenda

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

- 5-a. Minutes from the January 9, 2014 and January 23, 2014 Regular City Council Meetings**

- 5-b. **Ordinance No. O-14-004 on Its Second Reading Granting a Specific Use Permit to HuntJon, LLC for a Senior Housing Facility (Apartments) Being Located on All or Portions of Lots 18A, 19 and 20 Within the Randle Second Addition in the City of Brenham, Washington County, Texas (Said Property Consisting of 2.0 Acres, More or Less, and Being Bounded by Liberty Street, North Market Street, and Cottonwood Street), in an R-2, Mixed Residential District** **Page 23-26**
- 5-c. **Ordinance No. O-14-005 on Its Second Reading Amending Part II, Division 1, Section 17.04, Rear Yards, of Appendix A – “Zoning” of the Code of Ordinances of the City of Brenham to Establish Ten Feet (10’) as the Minimum Distance Allowed Between an Accessory Structure and a Main Structure** **Page 27**
- 5-d. **Ordinance No. O-14-006 on Its Second Reading for the Creation of Reinvestment Zone Number 38 Requested by Tempur-Sealy International, Inc. for Commercial-Industrial Tax Phase-In Incentive on a Certain Tract of Land Containing 11.979 Acres, More or Less, Being Located at 1201 U.S. Highway 290, Brenham, Texas with Boundaries Further Described in Exhibit “A” of Said Ordinance, and Designating This Property as Qualifying for Tax Phase-In** **Page 28-34**
- 5-e. **Ordinance No. O-14-007 on Its Second Reading Amending Chapter 8, Fire Protection and Prevention, Article II, Fire Prevention Code, of the Code of Ordinances of the City of Brenham** **Page 35-42**

WORK SESSION

6. **Discussion and Update on the Organization of the Main Street Advisory Board** **Page 43-65**
7. **Presentation of the First Quarter Report by the Washington County Convention and Visitors Bureau** **Page 66-67**

PUBLIC HEARING

8. **Public Hearing Considering an Amendment of Appendix A – “Zoning” of the Code of Ordinances of the City of Brenham Granting a Specific Use Permit to HuntJon, LLC for a Retirement Village on a Site Area of Two Acres or More (Senior Apartment Housing) in an R-2 (Mixed Residential) Zoning District and Being Located on All or Portions of Lots 18A, 19, and 20 Within the Randle Second Addition to the City of Brenham, Washington County, Texas (Said Property Bounded by Liberty, North Market, and Cottonwood Streets)** **Page 68**

9. **Public Hearing Considering an Amendment of Appendix A – “Zoning” of the Code of Ordinances of the City of Brenham Granting a Specific Use Permit to First Baptist Church of Brenham for a Church and Related Auxiliary Uses, Including Educational or Philanthropic Uses on a Site in an R-1 (Residential) Zoning District and a B-2 (Commercial, Research and Technology) District and Being Located on Approximately 33.28 Acres, being a Part of Tract 34 in the Isaac Lee Survey of the City of Brenham, Washington County, Texas (Said Property Located East of the Intersection of Cantey and South Market Streets)** **Page 69**

REGULAR AGENDA

10. **Discuss and Possibly Act Upon an Ordinance on Its First Reading Granting a Specific Use Permit to HuntJon, LLC for a Retirement Village on a Site Area of Two Acres or More (Senior Apartment Housing) in an R-2 (Mixed Residential) Zoning District and Being Located on All or Portions of Lots 18A, 19, and 20 Within the Randle Second Addition to the City of Brenham, Washington County, Texas (Said Property Bounded by Liberty, North Market, and Cottonwood Streets)** **Page 70-79**
11. **Discuss and Possibly Act Upon Resolution No. R-14-004 in Support of HuntJon, LLC’s Submission of an Application Requesting Low Income Housing Tax Credits to the Texas Department of Housing and Community Affairs for Belle Towers, a Low Incoming Housing Development for Seniors** **Page 80-85**
12. **Discuss and Possibly Act Upon an Ordinance on Its First Reading Granting a Specific Use Permit to First Baptist Church of Brenham for a Church and Related Auxiliary Uses, Including Educational or Philanthropic Uses on a Site in an R-1 (Residential) Zoning District and a B-2 (Commercial, Research and Technology) District and Being Located on Approximately 33.28 Acres, being a Part of Tract 34 in the Isaac Lee Survey of the City of Brenham, Washington County, Texas (Said Property Located East of the Intersection of Cantey and South Market Streets)** **Page 86-94**
13. **Discuss and Possibly Act Upon Resolution No. R-14-005 of the City Council of the City of Brenham, Texas, Adopting a Commercial Tax Phase-In Agreement with Tempur Sealy International, Inc.** **Page 95-127**
14. **Discuss and Possibly Act Upon Resolution No. R-14-006 Nominating Tempur Sealy International, Inc. to the Office of the Governor Economic Development and Tourism for Designation as an Enterprise Project Under the Texas Enterprise Zone Program and Authorize the Mayor to Execute Any Necessary Documentation** **Page 128-131**

15. **Discuss and Possibly Act Upon an Ordinance on Its First Reading to Repeal Chapter 17, Article VI, Prohibited Smoking Paraphernalia and Smoking Products, of the Code of Ordinances of the City of Brenham** **Page 132-134**

16. **Discuss and Possibly Act Upon the Purchase of a Road Mixer for the City of Brenham's Street Department from the Houston Galveston Area Council (HGAC) Local Government Purchasing Cooperative and Authorize the Mayor to Execute Any Necessary Documentation** **Page 135-139**

17. **Discuss and Possibly Act Upon an Ordinance on Its First Reading to Repeal Ordinance No. O-08-004 Relating to a Non-Exclusive Franchise to South Central Carriers, LLC to Operate a Roll-Off Container Service for Residents, Businesses, and Industries Inside Brenham City Limits** **Page 140-143**

EXECUTIVE SESSION

18. **Texas Government Code Section 551.072 – Deliberation Regarding Real Property – Discuss and Consider the Acquisition of Property Related to the Extension of Chappell Hill Street** **Page 144**

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 salutory 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.

RE-OPEN REGULAR AGENDA

19. **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 February 6, 2014 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 February 3, 2014 at **12:05 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 _____, 2014 at _____ AM PM.

Signature

Title

Brenham City Council Minutes

A regular meeting of the Brenham City Council was held on January 9, 2014 beginning at 1:00 p.m. in the Brenham City Hall, City Council Chambers, at 200 W. Vulcan Street, Brenham, Texas.

Members present:

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

Members absent:

None.

Others present:

City Manager Terry K. Roberts, Assistant City Manager Kyle Dannhaus, City Attorney Cary Bovey, City Secretary Jeana Bellinger, Deputy City Secretary Amanda Klehm, Chief Financial Officer Carolyn Miller, Stacy Hardy, Wende Ragonis, Cyndi Longhofer, Susan Nienstedt, Fire Chief Ricky Boeker, Police Chief Rex Phelps, Todd Jacobs, Development Services Director Julie Fulgham, Public Works Director Dane Rau, Public Utilities Director Lowell Ogle, Dane Bybee, Alton Sommerfield, Ande Bostain, Kevin Bogus, Stephen Draehn, and Grant Lischka

Citizens present:

Page Michel, Clint Kolby, Mr. Rothermehl, Perry Thomas, Richard Edwards, Sallie Blackie-Sengle, John Knapp and Tay Knapp

Media Present:

Arthur Hahn and Caitlin Hahn, Brenham Banner Press; Frank Wagner, KWHI

- 1. Call Meeting to Order**
- 2. Invocation and Pledges to the US and Texas Flags – Mayor Tate**

- 3. 3-a. Service Recognitions**
- Christopher S. Kokemor – Water Construction – 5 years
 - Gary Marburger – Gas Department – 15 years
 - Donald Bolenbarr – Electric Department – 25 years

- 3-b. New Employees**
- Ashley Burns – Police Department
 - Jean Luera – Police Department
 - Heather Sowders – Police Department

4. Citizens Comments

There were no citizen comments.

CONSENT AGENDA

5. Statutory Consent Agenda

5-a. Minutes from the December 5, 2013 and December 19, 2013 Regular City Council Meetings

5-b. Discuss and Possibly Act Upon Ordinance No. O-14-001 on Its Second Reading Amending the FY2012-13 Adopted Budget

A motion was made by Councilmember Barnes-Tilley and seconded by Councilmember Herrings to approve the Statutory Consent Agenda Items 5-a. and 5-b. as read.

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

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

PUBLIC HEARING

6. Public Hearing, Discussion and Receipt of Input Related to the Proposed Creation of Reinvestment Zone Number 37 Requested by PPE, LLC and GSL Constructors Ltd. for Commercial-Industrial Tax Phase-In Incentive on a Certain Tract of Land Containing 4.929 Acres, More or Less, Being Located at 3201 South Blue Bell Road, Brenham, Texas

Project Manager with the Brenham Economic Development Foundation Clint Kolby presented this item. Kolby stated PPE, LLC and GSL Constructors Ltd. will create 22 jobs in the first year and create approximately 60 jobs over a five year period. Kolby explained the pay scale will be approximately \$46,000 per year, which is above average. Kolby stated the building costs will be \$3.3 million with a total capital investment of \$11.3 million. Kolby explained the capital machinery and equipment cost will be \$3.7 million with a total cost over 5 years of \$8.3 million.

Councilmember Barnes-Tilley stated it is impressive that they chose to bring their business to Brenham. Councilmember Herring questioned if this has been presented to the County. Kolby stated it is scheduled to be presented to the County on January 28th. Councilmember Herring questioned if the tax phase-in locked Brenham into a contract with PPE and GSL as their business location. Kolby explained the location is tentative, pending the approval of the tax phase-in.

Councilmember Goss questioned how closely monitored the businesses are whom receive the tax phase-in. Kolby explained tax phase-in is based on jobs created and their level is based on their jobs and capital created each year. Councilmember Goss stated it shows that PPE will receive 90% for all 5 years and questioned how Kolby determined this. Kolby stated they can adjust the schedule if PPE and GSL does not perform as their numbers in their application are stated. Kolby explained as per their application, they are qualified for Level 5 abatement, which is 90% for all 5 years based on their capital investments and job creation each year. City Attorney Cary Bovey stated if they meet the standards agreed upon each year, they will stay at Level 5, but if their performance falls, then the level of tax phase-in benefit will be reduced accordingly.

City Manager Terry Roberts stated PPE and GSL will be located adjacent to Advanced Data Storage in the Brenham Business Center. Mayor Pro Tem Nix questioned if their company puts forth emission. Kolby explained they put forth very little. Kolby stated most emissions are filtered out during production and most is treated within the facility.

REGULAR AGENDA

- 7. Discuss and Possibly Act Upon an Ordinance on its First Reading for the Creation of Reinvestment Zone Number 37 Requested by PPE, LLC and GSL Constructors Ltd. for Commercial-Industrial Tax Phase-In Incentive on a Certain Tract of Land Containing 4.929 Acres, More or Less, Being Located at 3201 South Blue Bell Road, Brenham, Texas, with Boundaries Further Described in Exhibit “A” of Said Ordinance, and Designating This Property as Qualifying for Tax Phase-In**

Project Manager with the Brenham Economic Development Foundation Clint Kolby presented this item.

A motion was made by Councilmember Williams and seconded by Councilmember Ebel to approve an Ordinance on its first reading for the creation of Reinvestment Zone Number 37 requested by PPE, LLC and GSL Constructors, Ltd. for Commercial-Industrial Tax Phase-In Incentive on a certain tract of land containing 4.929 acres, more or less, being located at 3201 South Blue Bell Road, Brenham, Texas, with boundaries further described in Exhibit “A” of said Ordinance, and designating this property as qualifying for Tax Phase-In.

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

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

- 8. Discuss and Possibly Act Upon a Proposal for Architectural Services for the Future Brenham Pet Adoption and Animal Care Facility and Authorize the Mayor to Execute Any Necessary Documentation**

Police Chief Rex Phelps presented this item. Phelps stated Richard Edwards with Edwards and Associates was present at the meeting to answer any questions they may have. Phelps stated it has been determined the existing animal shelter needs to be replaced to meet community and mandated demands. Phelps explained funding commitments have been made and fundraising efforts have begun. Phelps stated the location has been determined; therefore, the project’s next phase is to consider the attached architectural services proposal. Phelps explained Edwards Associates has assisted the Animal Shelter Task Force from the beginning of this project initiative. Phelps explained they have given numerous presentations and design examples at no cost thus far.

Councilmember Goss questioned the fees that are being charged to design the Animal Shelter facility. Phelps stated Edwards and Associates will receive 6% of the total construction cost, which is approximately \$86,000.

Councilmember Barnes-Tilley stated in the proposal it states that it will be 5-6 months before they go out for bids and questioned if this was correct. Richard Edwards stated based on how well the planning goes with the group, they will keep coming back with proposals until they get an approval to move forward. Edwards stated the process could go quicker, but could also be slower depending on approvals.

City Manager Roberts stated they will be bringing back figures on how to pay for the building in a month or so. Phelps stated on December 27th, an anonymous donor forwarded \$500,000 to the City as well as another sizable donation was made by a donor to help with costs of the new building. Phelps introduced the Animal Task Force members that were present at the meeting: Sallie Blackie-Sengle, John Knapp and Tay Knapp.

A motion was made by Mayor Pro Tem Nix and seconded by Councilmember Ebel to approve a proposal for Architectural for the future Brenham Pet Adoption and Animal Care Facility to Edwards and Associates provided in their proposal and authorize the Mayor to execute any necessary documentation.

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

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

9. Discuss and Possibly Act Upon Resolution No. R-14-001 Providing for the Approval of an Advanced Funding Agreement with TxDOT for the Installation of a Traffic Signal on U.S. Highway 290 Business at Chappell Hill Street

City Engineer Grant Lischka presented this item. Lischka explained Staff has received the Advanced Funding Agreement (AFA) from TxDOT for the construction of the signal light at the intersection of Chappell Hill Street and South Market Street. Lischka stated the executed AFA will allow the City to submit final plans to TxDOT for the signal construction and proceed with the project.

Councilmember Williams questioned what the largest component of the signal light. Lischka explained the 4 poles and massive arms for signal as well as the electronic components of the signal lights would be the majority of the cost, which is estimated at \$225,000 range. City Manager Roberts explained TxDOT is allowing the City to do the engineering work with Jones & Carter and Staff is currently at 90-95% completion on the plans.

Councilmember Barnes-Tilley questioned if they signal will go in after the project is complete. Lischka stated yes, the signal and road would be open at the same time.

Councilmember Goss questioned if the City will be reimbursed for the signal. Lischka stated no, the City is responsible for the costs. Councilmember Goss questioned why the need for the Advanced Funding Agreement with TxDOT. Lischka stated it is a requirement by TxDOT.

A motion was made by Councilmember Herring and seconded by Councilmember Barnes-Tilley to approve Resolution No. R-14-001 providing for the approval of an Advanced Funding Agreement with TxDOT for the installation of a traffic signal on U.S. Highway 290 Business at Chappell Hill Street.

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

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

10. Discuss and Possibly Act Upon an Ordinance on Its First Reading Amending Chapter 24, Taxation, Article II, Hotel Occupancy Tax, of the Code of Ordinances of the City of Brenham

City Secretary Jeana Bellinger presented this item. Bellinger stated in February 2013 the Chairman of the HOT Board, Jean Shoup (Antique Rose Emporium), appointed a special committee to review the hotel occupancy tax ordinance and collection procedures to ensure the City was in compliance with current state laws. Bellinger stated the Committee members included: Al Patel (Holiday Inn Express) and James Lopez (The Brenham House). Bellinger explained after several meetings and a lot of discussion, the Committee presented the final recommended changes to the HOT Board at their November 20, 2013 meeting for their final review and approval. Bellinger stated the HOT board approved the revised Ordinance and requested that she present the new Ordinance to the City Council for adoption.

Bellinger explained that many of the changes are simply to reflect what is outlined in Chapter 351 of the Tax Code; however there are a few revisions that will affect how the City Secretary's office collects the tax and the application of penalties and interest on late payments. Bellinger explained a brief outline of the changes, which are listed below:

- Section 24-21, Definitions: Amended for better clarity and/or to mirror state law.
- Section 24-23, Collection: Added stronger language related to the collection provisions to coincide with state law by allowing past due collection remedies such as audits, assessing attorney's fees and charging late payment penalties.
- Section 24-24, Reports: Amended when tax payments are due when how to handle when a due date falls on a city-observed holiday or week-end.

- Section 24-25, Rules and regulations: Amended for better clarity and/or to mirror state law.
- Section 24-26, Violations; penalties: Increased misdemeanor fine amount, as allowed by law. Added language to allow for a minimum late fee of five dollars (\$5.00). Amended penalty language to allow for the collection of ten percent (10%) interest and a twenty-five dollar (\$25.00) administrative fee on all late payments received after the thirty-first (31st) day.
- Section 24-27 Collection procedures on Purchase of Hotel: New section added to mirror state law.

Bellinger explained the significant changes to the ordinance are in Sections 24-24 and 24-26. Bellinger requested the Committee review these provisions carefully in order to address some of the issues her office deals with on a monthly basis when collecting hotel occupancy tax. Bellinger explained some of those issues were due dates falling on city-observed holidays or weekends and calculating/assessing late fees and penalties for small hoteliers. Bellinger stated once the new Ordinance is approved by the Council, her office will notify all of the hoteliers, in writing, of the new payment guidelines and penalty procedures.

Mayor Pro Tem Nix questioned if we were close to being caught up. Bellinger stated we are 98%, but getting close to being caught up.

A motion was made by Councilmember Herring and seconded by Mayor Pro Tem Nix to approve an Ordinance on its first reading amending Chapter 24, Taxation, Article II, Hotel Occupancy Tax, of the Code of Ordinances of the City of Brenham.

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

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

11. Discuss and Possibly Act Upon Resolution No. R-14-002 Providing for the Approval of the Bylaws of the Brenham-Washington County Hotel Occupancy Tax Board

City Secretary Jeana Bellinger presented this item. Bellinger stated a red-lined version of the Resolution with clarification changes has been laid around the Dias for Council review. Bellinger stated in February 2013 the Chairman of the HOT Board, Jean Shoup (Antique Rose Emporium), appointed a special committee to review the 2010 HOT Board bylaws. Bellinger stated the Committee members included: Bob Cottle (Pleasant Hill Winery) and Keith Hankins (Ant Street Inn).

Bellinger explained after several meetings and a lot of discussion, the Committee presented the final recommended changes to the HOT Board at their November 20, 2013 meeting for their final review and approval. Bellinger explained the HOT board approved the revised bylaws and requested that she present them to the City Council and Commissioners Court for adoption.

Bellinger stated County Commissioner Kirk Hanath is the County liaison for the HOT Board, he attended all of the meetings and has reviewed the changes being recommended. Bellinger explained that she will coordinate with him on getting the updated bylaws on an upcoming Commissioners Court agenda for their approval.

Mayor Pro Tem Nix stated Item D doesn't list all things the money can be used for and questioned if this should be clarified. City Attorney Bovey stated anything permitted by State Law applies, but does not have to be listed.

A motion was made by Mayor Pro Tem Nix and seconded by Councilmember Barnes-Tilley to Approve Resolution No. R-14-002 providing for the approval of the bylaws of the Brenham-Washington County Hotel Occupancy Tax Board as revised.

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

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

12. Discuss and Possibly Act Upon Change Order No. 1 (Reconciliation), and Authorize Final Payment to M&C Fonseca Construction Co. for the 2013 Water System Improvements and Authorize the Mayor to Execute Any Necessary Documentation

Public Utilities Director Lowell Ogle presented this item. Ogle stated M&C Fonseca Construction Co. has completed the installation of 2,560 feet of 6" PVC, 225 feet of 6" polyethylene, and 410 feet of 8" water lines along Allison and Walnut streets to replace existing AC water lines. Ogle explained the project consisted of several connections to existing water lines of various sizes, fire hydrant installation, service connections, asphalt pavement repair, and related appurtenances to replace the existing lines. Ogle stated during the project, Staff identified a few items that needed to be added, which included an additional fire hydrant, some additional footage and tie-ins at Ryan and Market, some added valves, along with some miscellaneous small items. Ogle stated these changes are included in the reconciliation Change Order No. 1 in the amount of \$17,396.00, which is included in the final payment of \$85,853.50. Ogle explained the project will be within budgeted funds.

A motion was made by Councilmember Herring and seconded by Councilmember Williams to approve Change Order No. 1 in the amount of \$17,396.00 and approve final payment to M&C Construction Co. in the amount of \$85,853.50 for the 2013 Water System Improvements and authorize the Mayor to execute any necessary documentation.

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

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

13. Discuss and Possibly Act Upon a Recommendation for an Appointment to the City of Brenham's Airport Advisory Board

City Manager Terry Roberts presented this item. Roberts stated at the December 5th Council meeting, Staff had not received any requests for appointments from citizens interested in serving on the Airport Advisory Board. Roberts explained since that meeting, the City Secretary's office has received two (2) requests. Roberts explained after careful review of the requests received, it is the recommendation of the Mayor and City Manager that Dr. Michele Bright be appointed to serve on the Board.

A motion was made by Councilmember Barnes-Tilley and seconded by Councilmember Ebel to approve the appointment of Dr. Michele Bright to the City of Brenham's Airport Advisory Board.

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

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

14. Administrative/Elected Officials Report

City Manager Terry Roberts reported on the following:

- There is a handout laid around the Dias with several events in January. Please fill out the Event Checklist and return to Paula.
- Fire Department Appreciation Dinner is Thursday, January 16 at Fireman's Training Center.
- The Chamber Banquet is January 30th.
- The City of Brenham Holiday Party is January 31st at Fireman's Training Center.
- Senior Housing Project is coming to town and there will be a Resolution of Support on the January 23rd Council agenda.
- Renovations of the Library are still being discussed and a formal presentation will be at an upcoming Council meeting for recommendations.
- Annual Reports coming soon!
- The Fire Department is currently fully staffed.
- The Police Department has one vacancy from being fully staffed. They have 3 officers that just finished their training and 1 officer currently in training.

Administrative Services Manager Wende Ragonis reported on the following:

- Library was closed to the public while the new library system was integrated. There were 53,000 circulation items put into the new system and it went smoothly.
- The new system allows patrons to find items in the catalog easier and will provide them with a receipt stated money saved by not buying the book, the due date and other information.
- Staff re-shelved and merged genres as well as updated online database and services for easier location of books for patrons.

The meeting was adjourned.

Milton Y. Tate, Jr.
Mayor

Jeana Bellinger, TRMC
City Secretary

Brenham City Council Minutes

A regular meeting of the Brenham City Council was held on January 23, 2014 beginning at 1:00 p.m. in the Brenham City Hall, City Council Chambers, at 200 W. Vulcan Street, Brenham, Texas.

Members present:

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

Members absent:

Councilmember Weldon Williams, Jr.

Others present:

City Manager Terry K. Roberts, Assistant City Manager Kyle Dannhaus, City Attorney Cary Bovey, City Secretary Jeana Bellinger, Deputy City Secretary Amanda Klehm, Chief Financial Officer Carolyn Miller, Stacy Hardy, Kaci Konieczny, Andria Heiges, Wende Ragonis, Deputy Fire Chief Alan Finke, Police Chief Rex Phelps, Todd Jacobs, Development Services Director Julie Fulgham, Kim Hodde, Public Works Director Dane Rau, Leslie Kelm, Public Utilities Director Lowell Ogle, and Grant Lischka

Citizens present:

Perry Thomas, Brad Beach, Tom Dubel, Marvalette Hunter, Billie Schmidt, Clint Kolby, and Carol Hutchens

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 – City Attorney Cary Bovey**

3. Citizens Comments

Billie Schmidt with the Brenham Fortnightly Club personally invited Mayor and Council to attend the Library’s Birthday Party at 10:00am on February 18, 2014.

CONSENT AGENDA

4. Statutory Consent Agenda

4-a. Correction to the Minutes from the September 19, 2013 Regular City Council Meeting

4-b. Ordinance No. O-14-002 on Its Second Reading for the Creation of Reinvestment Zone Number 37 Requested by PPE, LLC and GSL Constructors Ltd. for Commercial-Industrial Tax Phase-In Incentive on a Certain Tract of Land Containing 4.929 Acres, More or Less, Being Located at 3201 South Blue Bell Road, Brenham, Texas, with Boundaries Further Described in Exhibit “A” of Said Ordinance, and Designating This Property as Qualifying for Tax Phase-In

4-c. Ordinance No. O-14-003 on Its Second Reading Amending Chapter 24, Taxation, Article II, Hotel Occupancy Tax, of the Code of Ordinances of the City of Brenham

A motion was made by Councilmember Barnes-Tilley and seconded by Councilmember Herring to approve the Statutory Consent Agenda Items 4-a., 4-b., and 4-c.

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

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

WORK SESSION

5. Discuss and Review the FY2012-13 Fourth Quarter Financial Report

Chief Financial Officer Carolyn Miller presented this item. Miller advised the status of the General Fund and the five major utility funds in the report. Miller reported that the City experienced favorable performance in the General, Electric, and Gas Funds for FY2012-13; however, due to a 3% decrease in water consumption, the Water Fund performance was

unfavorable; due to lower utility revenues, the Wastewater Fund also posted a net loss; and the Sanitation Fund overall posted a net loss for the year primarily due to capital improvements at the Recycling Center.

FINANCIAL PERFORMANCE SUMMARY

Fund	YTD FY13 Actual Performance		
	Revenues	Expenditures	Net Revenues (Expenditures)
General Fund	\$ 15,935,007	\$ 15,924,510	\$ 10,497
Electric Fund	25,792,730	25,241,226	551,504
Gas Fund	2,996,865	2,824,920	171,945
Water Fund	4,914,876	5,019,163	(104,287)
Wastewater Fund	3,622,070	3,647,934	(25,864)
Sanitation Fund	3,379,769	3,428,776	(49,007)

Miller explained at the end of the fiscal year, the City has 98 days of General Fund reserves to cover the financial goal of 90 days reserve and 5 days of Renovations and Replacements (R&R) reserve, which leaves the City with about 3 days of undesignated reserves. Miller stated the Electric Fund working capital reserves grew from 91 days to 100 days. Miller explained even with the favorable performance in the Gas Fund, working capital reserves decreased from 146 days to 133 days. Miller stated although the Water Fund experienced a net loss, the working capital reserves increased from 152 days to 164 days. Miller explained similar to the Water Fund, the Wastewater Fund posted a net loss of \$25,864; however, the days of working capital reserves grew from 54 days to 57 days. Miller stated the Sanitation Fund working capital reserves decreased from 95 days to 88 days. Miller advised the City experienced favorable performance in the General, Electric, and Gas Funds, and grew working capital in all utility funds except for Sanitation.

6. Discussion and Presentation on Potential Areas for Annexation into the City of Brenham

City Engineer Grant Lischka presented this item. Lischka stated there are 3 potential areas of annexation, which include: (1) Highway 36 North going out of town before the merge with Business 36, (2) The West side of town: Highway 36 South across from the State School by the Beauty Salon, and (3) The East side of town: Tiaden Lane by Business Park.

Development Services Director Julie Fulgham highlighted the Ag Exempt properties within the potential annexation areas stating Development Agreements would be offered to those property owners. Fulgham stated it will take 2-3 months to follow State Law guidelines.

Councilmember Goss expressed his concern about annexing property on Highway 36 North due to future development there. Mayor Pro Tem Nix questioned what type of strain the additional annexation properties would place on Police Department and Fire Department to respond to calls. Deputy Fire Chief Alan Finke stated the Fire Department already serves as a 1st

to arrive or response for those properties. Lischka stated most of these areas are equipped with fire hydrants. Mayor Pro Tem Nix questioned who services the utilities. Public Utilities Director Lowell Ogle stated Bluebonnet is the service to the utilities of the potential annexation properties.

Councilmember Barnes-Tilley questioned how much the cost of improvements on the areas for potential annexation. Lischka stated Tiaden Lane would be an improvement, but not right away. Lischka stated the most improvements they would make to Tiaden Lane would be to crack seal the road. Lischka explained Tiaden Lane is only about 250-300 feet of County Road before it becomes a private lane. Councilmember Goss questioned if the road improvements would be at the cost of City of Brenham. City Attorney Cary Bovey stated if the property is annexed by City of Brenham, then the improvement costs would be the City's responsibility.

Mayor Tate and Councilmember Goss both support moving forward with the potential areas of annexation.

Councilmember Barnes-Tilley questioned there were no other improvements besides Tiaden Lane. Lischka stated Dixie Street is currently built to County spec road and is holding up fine right now, but will need improvements if developments occur. Councilmember Goss questioned the condition of Zientek Lane. Lischka stated he is not sure how the City would handle Zientek Lane and Karen Lane at this point.

7. Discussion and Presentation Regarding the City of Brenham's Street Program and Street Equipment Inventory

Public Works Director Dane Rau presented this item. Rau stated over the last 3 months the Street Department has been very active improving streets, implementing the maintenance program, and planning the remainder of the budget year. Rau explained to date the Street Department has spent approximately \$58,603 (27%) of the annual street budget on improvements to E. Sixth Street, Alma St, Lott Lane, Carrington Lane, Shepard Lane, Tarver Street and Hidden Creek Lane with the last of these 5 being chip sealed. Rau stated prior to those street repairs, the Street Department used the remaining funds from the 2011 tax notes on the overlay of three streets being Gun and Rod/ Stone Street intersection, Spinn Street, and Second Street at \$62,351. Rau explained with the remaining portion of this year's budget money, City Staff has outlined several streets to improve, which include the reconstruction of Swain Street, W. Wilkens (500/600 Block), Day Street (700/800 Block), W. Sixth Street (400/500 Block) and Ross Street (600 Block). Rau stated Staff is also planning to chip seal Kuhn Lane, Brooks Lane, and Watts Lane.

Rau explained the Preventative Maintenance Team has been very busy using the new Crafcro crack sealing unit, which arrived in November. Rau stated since November, 3.3 miles of street have been crack sealed.

Rau stated on reconstructing streets, Staff has looked at several options and one of the most efficient and economical method is asphalt reclamation with cement stabilization. Rau explained in the past, Staff has used this method only when they have rented a road mixer such

as the BOMAG, which is allows Staff to reuse the existing road surface by mixing the road base and asphalt together along with the addition of cement. Rau explained by mixing these together you create a solid base that you can actually use as part of your new road and resources are not used for hauling off the old asphalt and hauling crushed limestone in. Rau explained the other benefit to it is that it almost eliminates the need for crushed limestone, which is one of the biggest costs when reconstructing streets when not using the cement stabilization process.

Rau explained there are two different types of road mixers, one being the BOMAG road grinder and the other being the Asphalt Zipper. Rau stated both machines are capable of doing the same thing, but each has its advantages and disadvantages. Rau explained when Staff compared each unit one main thing stuck out, which was cost. Rau recommends Council to look at the Asphalt Zipper for the City's road mixing needs because this unit can be used with the City's Case 621D loader, which attaches by a quick connect without the loader bucket. Rau stated the unit, unlike the BOMAG will be versatile and used for gutter mills, utility patching and smaller areas that we often provide maintenance on. Rau explained if money was not an option Staff's preference would be a BOMAG but at this time Staff feels for the value the Asphalt Zipper will provide Staff with a road mixer that will allow the Street department to be more efficient and save money.

Rau explained an Asphalt Zipper including the water tank and transport trailer can be purchased off of HGAC for around \$165,000. Rau stated the BOMAG can also be purchased through HGAC or Buy board at a price of \$290,000, which is a comparable unit to the Asphalt Zipper but is a standalone unit. Rau explained that each unit can also be financed or leased purchase as well.

Councilmember Herring questioned if the Tandem trailer was included in the price of the Asphalt Zipper. Rau stated the trailer and water tank are included in the price and both can be purchased through HGAC or BuyBoard. Rau explained the trailer is a transport trailer that cradles the zipper. Councilmember Herring stated the only real problem he sees are tying up the front-end loader and the manpower to attach the attachment. Rau stated Staff can use the loader they currently have, but it does tie up that loader.

Mayor Tate questioned how long it takes to change out the attachment. Rau stated to hook it up to the loader, water tank and mixer tank the first time took Staff approximately 2 hours. Lischka stated Staff would not be doing street work every day because that would be costly; therefore, Staff might tie up the loader a month out of the entire year. Councilmember Goss questioned how long the dismantle takes. Rau stated approximately 30 minutes.

Rau stated other cities that have the Asphalt Zipper are happy with the equipment and it does what it is supposed to do. Councilmember Herring questioned if the Asphalt Zipper will work with thicker streets. Rau stated it will mill up to 12 inch thick streets.

Councilmember Goss questioned how much it costs to rent this machine. Rau stated when Staff rented the BOMAG, the lease for 9 months was roughly \$11,000 per month. Councilmember Herring stated he leans more towards the standalone BOMAG because the other one ties up machine and manpower. Councilmember Ebel stated to get numbers and bring back.

PUBLIC HEARING

8. Public Hearing Considering the Amendment of Appendix A – “Zoning” of the Code of Ordinances of the City of Brenham Granting a Specific Use Permit to HuntJon, LLC for a Senior Housing Facility (Apartments) Being Located on All or Portions of Lots 18A, 19 and 20 Within the Randle Second Addition in the City of Brenham, Washington County, Texas (Said Property Consisting of 2.0 Acres, More or Less, and Being Bounded by Liberty Street, North Market Street, and Cottonwood Street), in a Mixed Residential (R-2) District

Development Services Director Julie Fulgham presented this item. Fulgham stated the request is for a senior housing apartment complex (defined as a retirement village in the Zoning ordinance) on approximately 2 acres of land located northeast of downtown, near a large medical facility and residential neighborhood. Fulgham explained Staff believes multi-family development for seniors is compatible with the neighborhood and would provide orderly growth. Fulgham stated Staff also believes this is an ideal location for a senior housing community because of its close proximity to the medical offices, and further a grocery store and downtown. Fulgham explained additionally, this developer will apply for tax-credit benefits through the Texas Department of Housing and Community Affairs, if the specific use permit request is approved. Fulgham explained the apartment complex will have 76 units and 114 parking spots and is located outside of the Downtown Master Plan.

There were no citizen comments.

9. Public Hearing Considering the Amendment of Part II, Division 1, Section 17.04, Rear Yards, of Appendix A – “Zoning” of the Code of Ordinances of the City of Brenham to Establish Ten Feet (10’) as the Minimum Distance Allowed Between an Accessory Structure and a Main Structure

Development Services Director Julie Fulgham presented this item. Fulgham stated Staff believes a twenty-foot separation requirement between accessory structures and the principal structure on a single-family lot is excessive. Fulgham explained modern development trends are for smaller lots due to the costs of developing subdivisions and many single-family residential dwellings are being constructed at the minimum rear twenty-five foot building line. Fulgham explained in order to construct an accessory structure, the principal structure must be set much farther away from the minimum rear property line in order to accommodate a twenty-foot separation between these structures, as currently is required. Fulgham stated Staff recommends amending the separation between a principal structure and accessory structure distance to a minimum of ten feet instead of twenty. Fulgham explained a ten-foot separation is standard in many cities throughout Texas as it is a standard allowable distance in the International Residential Building Code. Fulgham stated this amendment does not relax the total amount of

coverage allowed on lots so the maximum density (as it relates to building mass) is not increased within this proposed amendment.

Mayor Tate questioned if the trend was changing. Fulgham stated City of Brenham just has larger than normal standards.

Councilmember Goss questioned the exposure to fire. Finke stated Building Code is no more than 10 feet, so he thinks it is good. Finke states the Fire Department has no objection.

Councilmember Barnes-Tilley questioned what kinds of structures are defined as an accessory structure. Fulgham stated accessory structures would be storage buildings, pavilion, deck, shed, playhouse or other similar structures.

There were no citizen comments.

10. Public Hearing, Discussion and Receipt of Input Related to the Proposed Creation of Reinvestment Zone Number 38 Requested by Tempur-Sealy International, Inc. for Commercial-Industrial Tax Phase-In Incentive on a Certain Tract of Land Containing 11.979 Acres, More or Less, Being Located at 1201 U.S. Highway 290, Brenham, Texas

Project Manager with the Brenham Economic Development Foundation Clint Kolby presented this item. Kolby stated the EDF has been working with a consultant representing Tempur-Sealy's corporate office over the past five months in their site selection process to locate their expansion project. Kolby explained after competing with several other communities throughout the nation, Tempur-Sealy has tentatively accepted our incentive package to locate this project at the Brenham plant. Kolby stated if granted local incentives, Tempur-Sealy has plans to invest \$500,000 in capital to purchase new machinery and equipment and will add 104 new jobs. Kolby explained they will be retaining 160 existing employees as well. Kolby stated the use of local incentives will help off-set the initial costs of investing in physical and human capital. Kolby stated this project would also provide a substantial positive economic impact to the rest of the local Brenham economy.

Councilmember Herring questioned how long will it take to create new jobs. Tempur-Sealy International Representative Brad Beach stated within the next 3 months. Beach thanked everyone for all of their support.

There were no citizen comments.

CLOSE PUBLIC HEARING

REGULAR AGENDA

11. Discuss and Possibly Act Upon an Ordinance on Its First Reading Granting a Specific Use Permit to HuntJon, LLC for a Senior Housing Facility (Apartments) Being Located on All or Portions of Lots 18A, 19 and 20 Within the Randle Second Addition in the City of Brenham, Washington County, Texas (Said Property Consisting of 2.0 Acres, More or Less, and Being Bounded by Liberty Street, North Market Street, and Cottonwood Street), in an R-2, Mixed Residential District

Development Services Director Julie Fulgham presented this item. There was no further discussion from the Public Hearing on this Item.

Councilmember Barnes-Tilley questioned if the housing was based on income. HuntJon, LLC Representative Marvalette Hunter stated yes, a certain percentage is income-based.

A motion was made by Councilmember Goss and seconded by Councilmember Ebel to approve an Ordinance on its first reading granting a Specific Use Permit to HuntJon, LLC for a Senior Housing Facility (Apartments) being located on all or portions of Lots 18A, 19 and 20 within the Randle Second Addition in the City of Brenham, Washington County, Texas (said property consisting of 2.0 acres, more or less, and being bounded by Liberty Street, North Market Street, and Cottonwood Street), in an R-2, Mixed Residential District.

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

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

12. Discuss and Possibly Act Upon an Ordinance on Its First Reading Amending Part II, Division 1, Section 17.04, Rear Yards, of Appendix A – “Zoning” of the Code of Ordinances of the City of Brenham to Establish Ten Feet (10’) as the Minimum Distance Allowed Between an Accessory Structure and a Main Structure

Development Services Director Julie Fulgham presented this item. There was no further discussion from the Public Hearing on this Item.

A motion was made by Councilmember Herring and seconded by Councilmember Goss to approve an Ordinance on its first reading amending Part II, Division 1, Section 17.04, Rear Yards, of Appendix A – “Zoning” of the Code of Ordinances of the City of Brenham to establish ten feet (10’) as the minimum distance allowed between an accessory structure and a main structure.

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

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

13. Discuss and Possibly Act Upon an Ordinance on Its First Reading for the Creation of Reinvestment Zone Number 38 Requested by Tempur-Sealy International, Inc. for Commercial-Industrial Tax Phase-In Incentive on a Certain Tract of Land Containing 11.979 Acres, More or Less, Being Located at 1201 U.S. Highway 290, Brenham, Texas with Boundaries Further Described in Exhibit “A” of Said Ordinance, and Designating This Property as Qualifying for Tax Phase-In

Project Manager with the Brenham Economic Development Foundation Clint Kolby presented this item. Bovey stated there is a revised Ordinance laid around the Dias that eliminates the lengthy, legal description. There was no further discussion from the Public Hearing on this Item.

A motion was made by Councilmember Barnes-Tilley and seconded by Councilmember Ebel to approve an Ordinance on its first reading for the creation of Reinvestment Zone Number 38 requested by Tempur-Sealy International, Inc. for Commercial-Industrial Tax Phase-In incentive on a certain tract of land containing 11.979 acres, more or less, being located at 1201 U.S. Highway 290, Brenham, Texas, with boundaries further described in Exhibit “A” of said Ordinance, and designating this property as qualifying for Tax Phase-In as revised.

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

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

14. Discuss and Possibly Act Upon Resolution No. R-14-003 of the City Council of the City of Brenham, Texas, Adopting a Commercial Tax Phase-In Agreement with PPE, LLC and GSL Constructors Ltd.

Project Manager with the Brenham Economic Development Foundation Clint Kolby presented this item. Kolby stated the EDF has been working with PPE over the past seven months in their site selection process to expand their operations where they will be

manufacturing rubber products for various industries. Kolby explained PPE has chosen approximately 5 acres in the Brenham Business Center off of Hwy 290 and S. Blue Bell Rd. to locate this project. Kolby stated they have also selected GSL Welcome Group (GSL Constructors) to be the developer of this site. Kolby explained GSL will actually own the building and PPE will lease it from them.

Kolby stated the use of the Tax Phase-In incentive will help PPE and GSL invest in the necessary equipment and building to help offset the initial costs of locating here. Kolby explained additionally, Brenham was in strong competition with another community north of Houston and their decision to locate here is contingent upon them receiving the tax phase-in incentive. Kolby stated this project would also provide a substantial positive economic impact to the local Brenham economy.

A motion was made by Councilmember Barnes-Tilley and seconded by Councilmember Herring to approve Resolution R-14-003 of the City Council of the City of Brenham, Texas, adopting a Commercial Tax Phase-In Agreement with PPE, LLC and GSL Constructors, Ltd.

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

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

15. Discuss and Possibly Act Upon the Acceptance of a Donation in the Amount of \$500,000.00 to the City of Brenham for the Brenham Pet Adoption and Animal Care Facility and Authorize the Mayor to Execute Any Necessary Documentation

Police Chief Rex Phelps presented this item. Phelps stated an anonymous donor has come forward to offer this generous donation for the construction of the above named facility. Phelps explained in accordance with the City of Brenham Resolution number R-00-013 the Mayor and City Council must approve the acceptance of the donation.

Councilmember Barnes-Tilley stated the City really appreciates the generous donation by the anonymous donor.

A motion was made by Mayor Pro Tem Nix and seconded by Councilmember Ebel to approve the acceptance of a donation in the amount of \$500,000.00 to the City of Brenham for the Brenham Pet Adoption and Animal Care Facility and authorize the Mayor to execute any necessary documentation.

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

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

16. Discuss and Possibly Act Upon an Ordinance on Its First Reading Amending Chapter 8, Fire Protection and Prevention, Article II, Fire Prevention Code, of the Code of Ordinances of the City of Brenham

Deputy Fire Chief and Fire Marshal Alan Finke presented this item. Finke stated during a review of Chapter 8 of the Code of Ordinances, which deals with various fire-related topics, an assessment was made of the 1,000 gallon limit currently placed on the capacity of aboveground petroleum fuel storage tanks located in the city. Finke explained the Brenham Fire Department (BFD) Staff acknowledges that the current limits may be impractical and overly restrictive for certain industrial operations using diesel fuel for fleet operations. Finke stated the Fire Marshal recommends that the City Council amend Chapter 8, Article II of the Code to allow for the issuance of permits by the Fire Marshal, with approval of City Council, for the operation of “over-sized aboveground fuel storage tanks” storing diesel fuel or other high flash point combustible liquids, at locations that are zoned “Industrial”, providing that such fuel tanks also meet the requirements of the International Fire Code, 2012 Edition and the NFPA Flammable and Combustible Liquids Code – Standard 30, 2012 edition. Finke explained such permits would be issued only for storage of combustible liquid fuel with a flash point higher than 100° F. Finke stated tanks containing flammable liquids with a low flash point, such as gasoline, or tanks containing compressed or liquefied petroleum gases (propane, liquefied natural gas, or compressed natural gas) would be excluded from the over-sized permitting process. Staff further recommends the adoption of the “International Fire Code – 2012 Edition” as the fire prevention code of the city, replacing the 2003 edition currently in place.

Mayor Tate questioned how many of these types of situations do we have in the City. Finke stated there are only a few: Blue Bell, Jimmie Hahn, City of Brenham, and County Road and Bridge.

A motion was made by Councilmember Herring and seconded by Councilmember Goss to approve an Ordinance on its first reading amending Chapter 8, Fire Protection and Prevention, Article II, Fire Prevention Code, of the Code of Ordinances of the City of Brenham.

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

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

17. Administrative/Elected Officials Report

City Manager Terry Roberts reported on the following:

- Thursday, January 30, 2014 is the Chamber Banquet.
- Friday, January 31, 2014 is the City of Brenham Holiday Party at Fireman's Training Center.
- Laid around the Dias is a memo from Wende about weather delays for City buildings.
- City Hall will be open tomorrow, unless unforeseen conditions occur.
- The Aquatic Center will be closed tomorrow.
- The Library will have a delayed opening tomorrow.

The meeting was adjourned.

Milton Y. Tate, Jr.
Mayor

Jeana Bellinger, TRMC
City Secretary

ORDINANCE NO. O-14-004

AN ORDINANCE AMENDING APPENDIX A - "ZONING" OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS, AMENDING THE OFFICIAL ZONING MAP TO GRANT A SPECIFIC USE PERMIT FOR A RETIREMENT VILLAGE ON A SITE AREA OF TWO ACRES OR MORE (SENIOR APARTMENT HOUSING) IN AN R-2 (MIXED RESIDENTIAL) ZONING DISTRICT AND BEING LOCATED ON ALL OR PORTIONS OF LOTS 18A, 19, AND 20 WITHIN THE RANDLE SECOND ADDITION TO THE CITY OF BRENHAM, WASHINGTON COUNTY, TEXAS.

WHEREAS, the City of Brenham has adopted Appendix A – “Zoning” of the City of Brenham Code of Ordinances, as amended, which divides the City of Brenham into various zoning districts;

WHEREAS, Appendix A – “Zoning” of the City of Brenham Code of Ordinance authorizes the City Council to grant specific use permits for specific uses within the various zoning districts; and

WHEREAS, this amendment was recommended for approval by the Brenham Planning and Zoning Commission during its regular meeting on January 6, 2014;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF BRENHAM, TEXAS, THAT APPENDIX A - "ZONING" OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS, AND THE OFFICIAL ZONING MAP BE AMENDED IN THE FOLLOWING MANNER:

SECTION 1. That Appendix A - "Zoning" of the Code of Ordinances of the City of Brenham, Texas, and the Official Zoning Map of the City of Brenham is hereby amended to grant a specific use permit for retirement village on a site area of two acres or more (senior apartment housing) in an R-2 (Mixed Residential) zoning district and being located on all or portions of Lots 18A, 19, and 20 within the Randle Second Addition to the City of Brenham, Washington County, Texas (said property bounded by Liberty, North Market, and Cottonwood Streets). Furthermore, the specific use permit approval is subject to the development substantially conforming to the concept plan shown on Exhibit A.

SECTION 2. This Ordinance shall take effect as provided by the Charter of the City of Brenham, Texas.

PASSED and APPROVED on its first reading this the _____ day of _____, 2014.

PASSED and APPROVED on its second reading this the _____ day of _____, 2014.

Milton Y. Tate, Jr.
Mayor

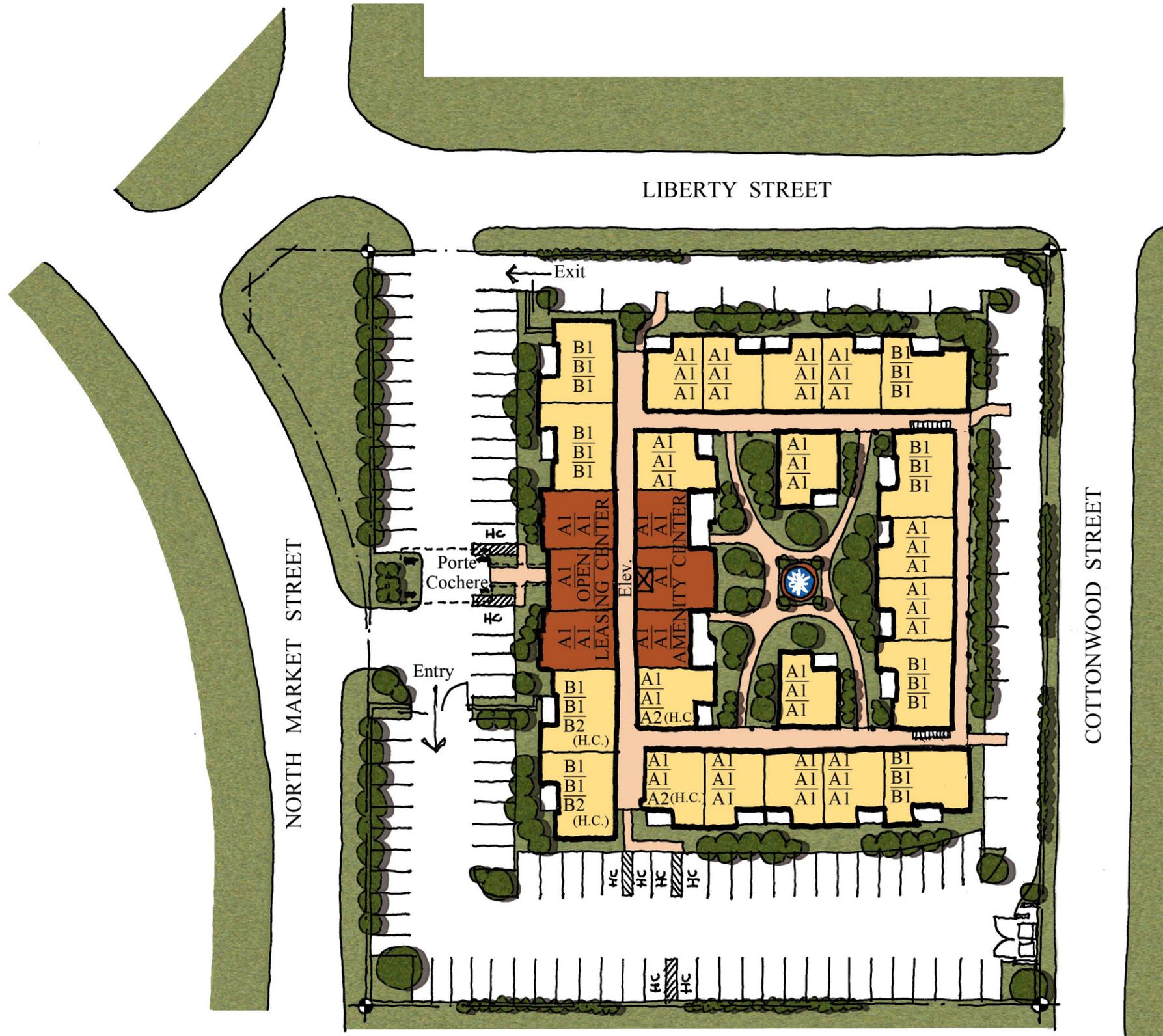
ATTEST:

Jeana Bellinger, TRMC
City Secretary

BELLE TOWERS

A Seniors Community
Mucasey & Associates, Architects

December 15, 2013



PROJECT SUMMARY:

Apartments:

Type	Description	Area	Qty.
A1	One Bedroom, 1 Bath	729 s.f.	50
A2	One Bedroom, 1 Bath (H.C.)	729 s.f.	2
Total One Bedroom Units			52 Units
B1	Two Bedroom, 2 Bath	990 s.f.	22
B2	Two Bedroom, 2 Bath (H.C.)	990 s.f.	2
Total Two Bedroom Units			24 Units
Apartments Total		61,668 s.f.	76 Units
Amenity Center		4,979 s.f.	
Project Total		66,647 s.f.	

Parking Required:

76 units @ 1.5 cars per unit =	114 Cars
Parking Provided	114 Cars



BELLE TOWERS

A Seniors Community
Mucasey & Associates, Architects

ORDINANCE NO. O-14-005

AN ORDINANCE AMENDING APPENDIX A - "ZONING" OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS, AMENDING PART II, DIVISION 1, SECTION 17.04, AND SPECIFICALLY AMENDING THE MINIMUM SEPERATION STANDARDS BETWEEN ACCESSORY AND MAIN BUILDINGS.

BE IT ORDAINED BY THE CITY OF BRENHAM, TEXAS, THAT APPENDIX A - "ZONING" OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS, AND THE OFFICIAL ZONING MAP BE AMENDED IN THE FOLLOWING MANNER:

SECTION 1. That Appendix A - "Zoning" of the Code of Ordinances of the City of Brenham, Texas, and the Official Zoning Map are hereby amended as follows:

(Sec. 17.04) Rear Yards. In residential districts, an accessory building not exceeding twenty (20) feet in height may occupy a maximum of twenty-five (25) percent of the rear yard, and unenclosed parking spaces may occupy a maximum of eighty (80) percent of the area of a required rear yard provided that the total lot coverage shall not exceed the maximum allowable for the district in which the subject property is located. No accessory building shall be closer to any rear or side lot line than applicable zoning district regulations allow and no accessory building that contains more than 100 square feet of gross floor area shall be closer than ten (10) feet to the main building.

SECTION 2. This Ordinance shall take effect as provided by the Charter of the City of Brenham, Texas.

PASSED and APPROVED on its first reading this the 23rd day of January, 2014.

PASSED and APPROVED on its second reading this the 6th day of February, 2014.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC
City Secretary

ORDINANCE NO. O-14-006

AN ORDINANCE DESIGNATING A TRACT OF LAND CONTAINING 11.979 ACRES OF LAND, MORE OR LESS SITUATED IN THE PHILLIP COE SURVEY, A-31, SAID TRACT BEING MORE FULLY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO AND INCORPORATED HEREIN FOR ALL PURPOSES, AS REINVESTMENT ZONE NUMBER THIRTY-EIGHT FOR COMMERCIAL TAX PHASE-IN INCENTIVE AS PROVIDED IN CHAPTER 312, TEXAS TAX CODE; ESTABLISHING THE NUMBER OF YEARS FOR THE ZONE, AUTHORIZING AN AGREEMENT FOR EXEMPTION FROM TAXATION THE INCREASE IN VALUE OF CERTAIN PROPERTY IN ORDER TO ENCOURAGE DEVELOPMENT AND REDEVELOPMENT AND OTHER MATTERS RELATING THERETO; AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the City Council of the City of Brenham, Texas, ("City") desires to encourage supervised improvements by property owners and lessees through tax phase-in procedures within its jurisdiction by the creation of a reinvestment zone as authorized by Chapter 312, Texas Tax Code (the "Act"); and

WHEREAS, on the 23rd day of January, 2014, the City Council held a public hearing to receive comments concerning the designation of proposed Reinvestment Zone Number Thirty-Eight. The notice of such hearing was published on January 16, 2014, such date being not later than the seventh day before the date of the public hearing; and

WHEREAS, the City called a public hearing and published notice of such public hearing as required by Section 312.201 of the Act; and has delivered written notice to the presiding officer of the governing body of each taxing unit within the jurisdiction of the proposed Reinvestment Zone Number Thirty-Eight for Commercial Tax Phase-In; and

WHEREAS, at said public hearing the City presented evidence that such proposed designation would be reasonably likely to contribute to the retention or expansion of primary employment or to attract major investment in the zone that would be a benefit to the property, that the proposed improvements are feasible and practical, that said improvements would be a benefit to the land included in the zone and that would contribute to the economic development of the City; and

WHEREAS, the designation of the proposed reinvestment zone is consistent with the City's policies adopted by Council Resolution No. R-13-020 on the 5th day of December, 2013, and will benefit the land included within the Reinvestment Zone after the expiration of the Agreement; and

WHEREAS, the City at such public hearing invited any interested person or his attorney to appear and contend for or against the creation of the reinvestment zone, the boundaries of the proposed reinvestment zone, whether all or part of the territory which is referred to as City of Brenham Reinvestment Zone Number Thirty-Eight for Commercial Tax Phase-In, should be included in such proposed reinvestment zone, and obtain tax phase-in; and

WHEREAS, at such hearing recommendations were given as to the number of years the reinvestment zone would be designated, the number of years in which an agreement would be available, as well as the percentage of potential tax exemption under the aforesaid tax phase-in guidelines and criteria to be applied to taxable real property which is redeveloped.

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

- Section 1.** That the facts and recitations contained in the preamble of this Ordinance are hereby found and declared to be true and correct and are incorporated herein for all purposes.
- Section 2.** That the City, after conducting such hearing and having further studied recommendations, as well as the evidence presented at the public hearing, has made the following findings based on the evidence and testimony presented to it:
- a) That the public hearing on the adoption of the reinvestment zone under the provisions of the Act has been properly called, held and conducted and that notice of such hearing has been published as required by law and has been sent to the respective taxing units within the proposed reinvestment zone; and
 - b) That the City has jurisdiction to hold and conduct said public hearing on the creation of the proposed reinvestment zone pursuant to the Act; and
 - c) That creation of the proposed reinvestment zone with boundaries described herein will result in improvements made after the passage of this Ordinance and the execution of tax phase-in agreements, that are feasible and practical and will benefit the City, its residents and property owners in the reinvestment zone; and
 - d) That the proposed designation will be reasonably likely to contribute to the retention or expansion of primary employment or to attract major investments to the zone that would be a benefit to the property and contribute to economic development of the City.

- Section 3.** That the City hereby creates Reinvestment Zone Number Thirty-Eight, designated as a tract of land containing 11.979 acres of land, more or less situated in the Phillip Coe Survey, A-31, said property being located at 1201 U.S. Highway 290, Brenham, Texas, and said tract being more fully described in Exhibit “A” attached hereto and incorporated herein for all purposes, and such reinvestment zone shall hereafter be identified as Reinvestment Zone Number Thirty-Eight for Commercial Tax Phase-In, City of Brenham, Texas.
- Section 4.** That the designation of Reinvestment Zone Number Thirty-Eight for Commercial Tax Phase-In, shall expire five (5) years from the date of this Ordinance, unless renewed as provided by the Act, or at an earlier time designated by subsequent ordinance.
- Section 5.** That written agreements as provided in the Act with owners of eligible property located within the reinvestment zone shall be for a period of up to ten (10) years, and that the eligible property that is subject to the above mentioned exemption from taxation shall be the improvements to the property in conformity with the City's criteria and guidelines, and written agreements shall provide for an exemption from taxation of the total increase in value of the eligible property over its value in the year the agreement is executed. The written agreement will require that all taxes be current at the time of execution of agreement and be kept current to all taxing entities during the term of said agreement.
- Section 6.** That said designation of Reinvestment Zone Number Thirty-Eight for Commercial Tax Phase-In and the written agreement thereof are in accordance with the City of Brenham Policy Statement on Property Tax Phase-In Incentive for Selected Commercial Enterprises and will be a benefit to the land which will be included within the Reinvestment Zone and to the City of Brenham after the expiration of the agreement.
- Section 7.** That if any provision of this Ordinance shall be held to be invalid or unconstitutional, the remainder of such ordinance shall continue in full force and effect the same as if such invalid or unconstitutional provision had never been a part of it.
- Section 8.** That it is hereby officially found and determined that the meeting at which this Ordinance is passed is open to the public as required by law and that public notice of the time, place and purpose of said meeting was given as required.

PASSED and APPROVED on its first reading this the 23rd day of January, 2014.

PASSED and APPROVED on its second reading this the 6th day of February, 2014.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC
City Secretary

Exhibit A

FIELD NOTE to a tract of land containing 11.979 acres (521,815 square feet) of land, more or less situated in the Phillip Coe Survey, A-31, and being a portion of the 55.990 acres tract described in a deed from Fred J. Rodeck, et ux to The Brenham Industrial Foundation, Inc., dated April 28, 1978, recorded in Volume 364, Page 217, Deed Records of Washington County, Texas, and being a portion of the 16.386 acre tract described as Tract One in a deed from Carl Gallip, et al to The Brenham Industrial Foundation, Inc. dated September 20, 1978, recorded in Volume 371, Page 355, Deed Records of Washington County, Texas, and being a portion of the two tracts of land described in a deed from Kathleen Patricia Mushaway to HI-Line Industries, Inc. dated April 30, 1974, recorded in Volume 329, Page 91, Deed Records of Washington County, Texas, and being a portion of the 8.00 acres tract described in a deed from The Brenham Industrial Foundation, Inc. to Central Freight Lines, Inc., dated December 3, 1959, recorded in Volume 224, Page 399, Deed Records of Washington County, Texas; and being a portion of the 2.151 acres tract described in a deed from The Brenham Industrial Foundation, Inc. to Central Freight Lines, Inc., dated February 20, 1965, recorded in Volume 256, Page 506, Deed Records of Washington County, Texas, and being part of the 15.004 acre tract conveyed by Ed Wehmayer to Brenham Industrial Foundation by deed recorded in Volume 198, Page 56, Washington County Deed Records; being part of the 14.504 acres tract conveyed by Fred Rodeck to Brenham Industrial Foundation by deed recorded in Volume 198, Page 43, Washington County Deed Records and more particularly described by metes and bounds as follows:

BEGINNING at a set 1/2" iron rod marking the intersection of the south right-of-way line of US 290 (variable right-of-way) and the westerly line of Gulf Coast & Santa Fe Rail Road, same being the beginning of a curve to the left;

THENCE with said curve to the left along the westerly right-of-way line of Gulf Coast & Santa Fe Rail Road having a radius of 19007.80 feet subtending a central angle of 02° 00' 36" and a length of 668.81 feet to a set 1/2" iron rod;

THENCE N 49° 00' 00" W a distance of 183.80 feet to a set 1/2" iron rod;

Exhibit A

THENCE N 55° 10' 00" W a distance of 228.51 feet to a set 1/2" iron rod;

THENCE S 34° 28' 00" W a distance of 150.89 feet to a set 1/2" iron rod;

THENCE S 74° 20' 33" W a distance of 358.15 feet to a found 5/8" iron rod;

THENCE N 69° 41' 55" W a distance of 458.82 feet to a found 1/2" iron rod in the northeast right-of-way line of a private street, same being the beginning of a curve to the left;

THENCE with said curve to the left along the northeast right-of-way line of a private street with a radius of 70.00 feet subtending a central angle of 50° 25' 28" and a length of 61.81 feet to a found 1/2" iron rod;

THENCE N 34° 28' 00" E a distance of 156.26 feet to a set 1/2" iron rod;

THENCE S 55° 32' 00" E a distance of 50.88 feet to a set 1/2" iron rod;

THENCE N 34° 28' 00" E a distance of 264.35 feet to a set 1/2" iron rod;

THENCE S 55° 32' 00" E a distance of 240.00 feet to a set 1/2" iron rod;

THENCE N 34° 46' 48" E a distance of 510.00 feet to a set 1/2" iron rod marking the south right-of-way line of US 290 (variable width);

THENCE S 55° 10' 00" along the south right-of-way line of US 290 (variable width) a distance of 345.80 feet to the POINT OF BEGINNING and containing 11.979 acres, more or less.

FILED FOR RECORD
WASHINGTON COUNTY, TEXAS

2007 JUN 27 AM 11:14

BETH A. ROTHERMEL
WASHINGTON COUNTY CLERK

STATE OF TEXAS
COUNTY OF WASHINGTON

I hereby certify that this instrument was FILED on the date and at the time affixed hereon by me and was duly RECORDED in the volume and page of the OFFICIAL RECORDS of Washington County, Texas, as stamped hereon by me on

JUN 28 2007

Beth A. Rothermel

Beth Rothermel, County Clerk
Washington County, Texas



EXHIBIT A



ORDINANCE NO. O-14-007

AN ORDINANCE OF THE CITY OF BRENHAM, TEXAS, AMENDING CHAPTER 8, FIRE PROTECTION AND PREVENTION, ARTICLE II, FIRE PREVENTION CODE, OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS FOR THE PURPOSE OF PRESCRIBING REGULATIONS GOVERNING FIRE PREVENTION; REGULATING THE USE AND PLACEMENT OF FUEL STORAGE TANKS; PROVIDING FOR A REPEALER AND SAVINGS CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR PROPER NOTICE AND OPEN MEETINGS

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, in order to enhance, promote, and protect the health, safety, and general welfare of the citizens of Brenham, Texas, the City Council must from time to time amend and/or adopt new regulations; and

WHEREAS, for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, the City Council desires to amend or modify the International Fire Code, sometimes referred to as the Fire Prevention Code; and

WHEREAS, the City Council desires to amend or modify the regulation and use of fuel storage tanks, including establishing guidelines for use, location and permitting process; and

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

SECTION 1.

Chapter 8, Article II, of the Code of Ordinances of the City of Brenham is hereby amended to read as follows:

**CHAPTER 8
FIRE PROTECTION AND PREVENTION**

**ARTICLE II
FIRE PREVENTION CODE**

Sec. 8-20. Adoption.

There is hereby adopted by the city for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the 2012 International Fire Code, including Appendices B, C, D, F and H, and all revisions thereto, and the whole thereof, save and except such portions as are hereinafter deleted, modified or amended, said code as revised herein also being sometimes referred to as the fire prevention code. A copy of the 2012 International Fire Code shall be filed in the office of the planning & development services department, and in the office of the Fire Marshal. The same is hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this Section shall take effect, the provisions thereof shall be controlling within the limits of the city.

Sec. 8-21. Establishment and duties of the Bureau of Fire Prevention.

(a) The fire prevention code shall be enforced by members of the Bureau of Fire Prevention, within the fire department of the city, which is hereby established and which shall be operated by the Fire Marshal, under the direction of the chief of the fire department.

(b) The Fire Marshal shall be in charge of the Bureau of Fire Prevention and is hereby designated as the fire code official for purposes of enforcement of fire-related codes and ordinances of the city

(c) The chief of the fire department may employ properly certified fire inspectors as is necessary for the operation of the fire department.

(d) A report of the Bureau of Fire Prevention shall be made annually by the Fire Marshal and transmitted to the Fire Chief. Such report shall contain all proceedings under and incidents of enforcement of this fire prevention code, with such statistics as the chief of the fire department may wish to include therein; the chief of the fire department shall also recommend any amendments to the report which, in his judgment, shall be desirable.

Sec. 8-22. Definitions.

(a) Wherever the word "municipality" is used in the fire prevention code, it shall be held to mean this city.

(b) Where the term "corporation counsel" is used in the fire prevention code, it shall be held to mean the attorney for this city.

Sec. 8-23. Establishment of limits of districts in which storage of explosives and blasting agents is to be prohibited.

The limits referred to in the fire prevention code in which storage of explosives and blasting agents is prohibited are hereby established as the city limits..

Sec. 8-24. Regulation of use and placement of fuel storage tanks.

(a) *Definitions.* The following definitions shall apply in the interpretation and enforcement of this Article:

Aboveground shall mean any storage tank, as defined herein, which any portion thereof is aboveground, excluding valves and pipes into and out of the tank.

Combustible liquid shall mean a liquid having a flash point of one hundred degrees (100°) Fahrenheit or higher per NFPA-30, the Flammable and Combustible Liquid Code, 2012 Edition, and as amended thereafter.

Flammable liquid shall mean a liquid having a flash point of less than one hundred degrees (100°) Fahrenheit per NFPA-30, the Flammable and Combustible Liquid Code, 2012 Edition, and as amended thereafter.

Storage location shall mean any area which contains no less than one hundred (100) square feet within which one (1) or more fuel storage tanks are to be located. Each storage location shall be located no less than one hundred (100) linear feet from any other storage location.

Storage tanks shall mean any container in excess of one hundred (100) gallons, which is used to store any hydrocarbon material including, but not limited to, gasoline, diesel and kerosene.

(b) *Permit required.* Every owner shall obtain a permit from the Fire Marshal for any of the following prior to the commencement of construction of such facilities:

- (1) A belowground (or underground), liquefied natural gas, liquefied petroleum gas, or flammable or combustible liquid storage tank.
- (2) An aboveground storage tank for liquefied natural gas, or liquefied petroleum gas. No new storage locations shall be permitted which will contain a fuel storage tank with a liquid capacity of more than two thousand (2,000) gallons or which will contain two (2) or more fuel storage tanks with an aggregate liquid capacity of more than four thousand (4,000) gallons.

- (3) An aboveground storage tank for a flammable or combustible liquid. No new storage locations shall be permitted which will contain a fuel storage tank with a liquid capacity of more than one thousand (1,000) gallons or which will contain two (2) or more fuel storage tanks with an aggregate liquid capacity of more than two thousand (2,000) gallons.

(c) *Proper tank for aboveground storage of flammable or combustible liquids.* Any new tank or tank system used in the city for aboveground storage of flammable or combustible liquids shall be designed, constructed, installed, operated and maintained in accordance with NFPA-30, titled "Flammable and Combustible Liquid Code, 2012 Edition," and as amended thereafter.

(d) *Proper tank for aboveground storage of liquefied natural gas.* Any new tank or tank system used in the city for aboveground storage of liquid natural gas shall be designed, constructed, installed, operated and maintained in accordance with NFPA-59A, titled "Liquefied Natural Gas, 2009 Edition," and as amended thereafter.

(e) *Proper tank for aboveground storage of liquefied petroleum gas.* Any new tank or tank system used in the city for aboveground storage of liquefied petroleum gas shall be designed, constructed, installed, operated and maintained in accordance with NFPA-58, titled "Liquefied Petroleum Gas, 2011 Edition," and as amended thereafter.

(f) *Tank location.* In addition to location restrictions listed in NFPA-30, "Flammable and Combustible Liquid Code, 2012 Edition," no new tank used for the aboveground storage of flammable or combustible liquids may be placed or used within one hundred feet (100') of property zoned or used for residential use. New tanks added to existing bulk plants are excluded from this provision.

(g) *Noncompliance; denial or revocation of certificate; order to cease operations.* Upon finding of non-compliance with this Article, the Fire Marshal may revoke or deny the renewal of a permit and order the person or firm owning or operating the tank to cease all or part of its operation in this city until in compliance. No one shall operate or own a storage tank without a valid permit.

(h) *Establishment of limits of districts in which storage of flammable or combustible liquids, liquefied petroleum gas, or liquefied natural gas in aboveground tanks is prohibited.* The storage of flammable or combustible liquids, liquefied petroleum gas, or liquefied natural gas in aboveground tanks is prohibited within the areas of the city zoned as "B-3, Historical and Central Business" district(s). New bulk loading and unloading facilities for tank cars, tank vehicles and similar equipment involved in the storage or transportation of flammable or combustible liquids, liquefied petroleum gas, or liquefied natural gas, in aboveground tanks, are prohibited within the city limits.

(i) *Special Permit Required For Tank Exceeding Volumes Limits Established in Subsections 8-24(b)(2) and 8-24(b)(3)*. Any person or firm desiring to own, install or operate one or more aboveground tanks for the storage of combustible liquids in excess of the volume limits stated in Subsections 8-24(b)(2) and 8-24(b)(3) hereinabove, shall submit an application to the Fire Marshal for a special permit allowing for an increase in the volume capacity of the tank(s). To be considered for such special permit, the owner or operator of the tank facility shall demonstrate to the satisfaction of the Fire Marshal or his deputy that the aboveground tank(s):

(1) Shall be located only on property zoned as Industrial;

(2) Shall be registered and licensed in compliance with all rules and regulations of the Texas Commission on Environmental Quality;

(3) Shall be designed, built and operated in compliance with all applicable provisions of the International Fire Code, 2012 Ed. and the National Fire Protection Association Standard 30 entitled "Flammable and Combustible Liquids Code" as referenced by the International Fire Code; and

(4) Shall contain only combustible liquids having a flash point of greater than one hundred degrees (100°) Fahrenheit, including but not limited to, diesel fuel, bio-diesel, motor oil, hydraulic oil and like substances.

Special permits may not be issued for aboveground storage tanks containing gasoline or other flammable liquids having a flash point of less than one hundred degrees (100°) Fahrenheit and with a capacity greater than the volume limits detailed in subsections 8-24(b)(2) and 8-24(b)(3) herein above.

Within forty-five (45) after determining that a special permit application meets the requirements of this Section, the Fire Marshal, or his deputy, shall present the matter to the City Council for its consideration. No special permit for a tank or tanks exceeding the quantities shown in Subsections 8-24(b)(2) and 8-24(b)(3) may be issued without approval by the City Council. The Fire Marshal, or his deputy, shall inspect all tank(s) installed pursuant to a special permit to determine compliance with the requirements of this Section.

Special permits approved and issued pursuant to this Section shall be revocable. The City Council, upon request of the Fire Marshal and after written notice and opportunity to be heard being issued to the permit holder, is authorized to revoke a special permit for non-compliance with the provisions of this Section or other applicable law. Where an immediate hazard to life or property exists, however, the Fire Marshal in such an emergency may order a permit holder to take immediate action, without prior written notice, to correct the issues of non-compliance with the fire prevention code and the provisions of this Article or to immediately abate all conditions creating the immediate hazard to life or property. The Fire Marshal, in such an emergency and without prior written notice to the permit holder, may also order the permit holder to cease any and all operations, occupancy or activity at the affected site. A permit holder that violates an order of the Fire Marshal shall be subject to the penalties provided for in Section 8-27 of this Article and as otherwise allowed by law. In the event a permit holder does not immediately comply with an

emergency order of the Fire Marshal, the Fire Marshal, without prior written notice to the permit holder, may take any and all actions necessary to immediately abate all conditions creating the immediate hazard to life or property.

Sec. 8-25. Modifications.

The Fire Marshal, as the fire code official of the city, shall have power to approve exceptions any of the provisions of the fire prevention code upon application in writing by the owner or lessee, or his duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such exceptions when granted or allowed and the decision of the Fire Marshal thereon shall be entered upon the records of the department and a signed copy shall be furnished the applicant.

Sec. 8-26. Appeals.

Whenever the Fire Marshal shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the fire prevention code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the Fire Marshal to the City Council within thirty (30) days from the date of the decision appealed.

Sec. 8-27. Penalties.

(a) Any person who shall violate any of the provisions of the fire prevention code hereby adopted or fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the City Council or by a court of competent jurisdiction, within the time fixed herein, shall severally for each such violation and noncompliance respectively, be guilty of a misdemeanor, punishable as provided in Section 1-5 of the Code of Ordinances. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense.

(b) The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

SECTION 2.
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 3.
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 4.
REPEALER

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

SECTION 5.
EFFECTIVE DATE

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

SECTION 6.
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 _____, 2014.

PASSED AND APPROVED on its second reading this the _____ day of _____, 2014.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC
City Secretary



AGENDA ITEM 6

DATE OF MEETING: February 6, 2014	DATE SUBMITTED: January 28, 2014	
DEPT. OF ORIGIN: Main Street	SUBMITTED BY: Jennifer Eckermann	
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 Update on the Organization of the Main Street Advisory Board		
<p>SUMMARY STATEMENT: The Main Street Advisory Board has discussed updates to its By-Laws at the November, January and February meetings, and the proposed changes will be reviewed in this Council Work Session, before bringing an ordinance to Council for final approval. The two primary changes include the addition of two board members, and the addition of an executive committee for the Board.</p> <p>Attached to this memo is the Main Street Work Plan for 2014. As you can see, the five standing committees will again be very busy this year, working to accomplish – through specific projects - the stated program goals. All of the Main Street board members are actively working on at least one of the committees, and often, on more than one. It’s easy to see that this is a “working” board, and adding two more members will be helpful in the Board accomplishing more of its stated goals.</p> <p>Additionally, by adding an executive committee, the Board can focus less on the details of each of the standing committee projects, and focus more on the direction of the program and the work it would like to accomplish for the city and community. As it stands, the Board can be bogged down in the minutia of projects during the Board meetings and an executive committee can help ensure the standing committees are adhering to the goals and direction of the Main Street Board and allow for the Board to focus on programmatic goals.</p>		
STAFF ANALYSIS (For Ordinances or Regular Agenda Items):		
<p>A. PROS:</p> <p>B. CONS:</p>		
ALTERNATIVES (In Suggested Order of Staff Preference): N/A		
ATTACHMENTS: (1) Main Street Ordinance Draft; (2) Main Street By-Laws Draft; and (3) 2014 Main Street Work Plan		

FUNDING SOURCE (Where Applicable): N/A

RECOMMENDED ACTION: Discussion Only.

APPROVALS: Terry K. Roberts

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BRENHAM, TEXAS AMENDING CHAPTER 10, RESERVED, OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM TEXAS; PROVIDING FOR THE POWERS, DUTIES, ORGANIZATION, OPERATION, BOARD MEMBERSHIP AND ADDITIONAL MATTERS RELATED TO THE MAIN STREET 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 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.

The Code of Ordinances of the City of Brenham, Texas, Chapter 10, RESERVED, is hereby amended to read as follows:

**CHAPTER 10
ADVISORY BOARDS & COMMITTEES**

**ARTICLE I
MAIN STREET ADVISORY BOARD**

Sec. 10-1. Name.

The Board shall be named and referred to as the “Main Street Advisory Board,” (“Board”) and shall be comprised of members appointed by the City of Brenham (“City”) City Council.

Sec. 10-2. Purpose and Responsibility.

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

- A. To develop plans and programs to stimulate both historic preservation and economic development and vitality in downtown Brenham.
- B. To work with the Washington County Convention and Visitors Bureau to implement marketing strategies to help improve sales in downtown Brenham and create a positive public image.
- C. To develop financial assistance programs and grants to assist downtown business and property owners.

Sec. 10-3. Scope of Authority.

The Board shall serve in an advisory capacity. All recommendations of the Board regarding policies, procedures, and programming shall be presented to the City Council for final approval, as applicable.

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

Sec. 10-4. 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.
- D. Members shall be knowledgeable about marketing, financing, historic preservation or other special disciplines important to the overall purpose of the Board.

Sec. 10-5. Member Selection.

All persons interested in serving as a City appointee on 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.

In the event of an unexpected medical or personal emergency an interim member may be appoint for a term of not more than six (6) months by the Mayor. The interim member shall have all the rights and responsibilities of the incumbent member while serving in the incumbent member's position.

Sec. 10-6. Organization.

The Board shall consist of nine (9) members appointed by the Mayor and City Council. All members shall be 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 City Council. 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 end 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 Council.

Resignations from the Board shall be submitted in writing to the Board Chairperson and the Mayor. Vacancies resulting from a resignation, or any other cause, will be filled by the Mayor and City Council. Any person appointed to fill a vacancy shall serve for the remaining unexpired term of the position to which the person was 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, they 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. 10-7. Establishment of Member Positions.

For the purpose of establishing and maintaining three (3) year staggered terms, each member shall be assigned a Member Position. The following Member Positions are hereby established:

- Member Position 1: Expiring December 31, 2015
- Member Position 2: Expiring December 31, 2016
- Member Position 3: Expiring December 31, 2014
- Member Position 4: Expiring December 31, 2015
- Member Position 5: Expiring December 31, 2016
- Member Position 6: Expiring December 31, 2014
- Member Position 7: Expiring December 31, 2015
- Member Position 8: Expiring December 31, 2016
- Member Position 9: Expiring December 31, 2014

Sec. 10-8. 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 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 present at the meeting shall elect a member of the Board to serve as the temporary 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 or Vice Chairperson resigns from their officer position but continues to serve on the Board, the members shall elect a new Chairperson or Vice Chairperson as soon as practicable. If the Chairperson or Vice Chairperson resigns from their officer position and does not continue serving on the Board, the member position will be considered vacant.

Sec. 10-9. Staff Liaison.

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 City. The staff liaison shall be considered a non-voting, ex-officio member of the Board.

Sec. 10-10. Meetings and Communication.

The Board shall meet as needed, upon the direction of the Chairperson, Vice Chairperson, or upon request of a majority of the members of the Board.

An agenda of issues 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 matters of an urgent nature 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.

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

Sec. 10-11. Attendance Requirements.

Members of the Board are required to maintain regular attendance at all meetings. Members who cannot attend a meeting should, as soon as possible, 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 staff liaison to report the member's attendance record to the City Manager.

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

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

Sec. 10-12. Member Training.

All new 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 held within ninety (90) days of the new member's appointment to the Board.

Sec. 10-13 – Sec. 1-19. RESERVED.

SECTION 3.
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 4.
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 5.
REPEALER

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

SECTION 6.
EFFECTIVE DATE

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

SECTION 7.
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 _____, 2014.

PASSED AND APPROVED on its second reading this the _____ day of _____, 2014.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC
City Secretary

BYLAWS OF THE MAIN STREET ADVISORY BOARD

ARTICLE I **NAME OF ORGANIZATION**

Section 1:

The name of this organization shall be the Main Street Advisory Board hereinafter referred to as “this Board” of the City of Brenham, Texas.

Section 2:

This Board will implement its objectives and purposes in the City of Brenham, Texas and the County of Washington, Texas.

Section 3:

The street address of the office of this Board shall be the same as for the City of Brenham, Texas, or at such location as may be designated by the City Council of the City of Brenham, Texas.

ARTICLE II **AUTHORITY**

The creation of this Board is authorized by City of Brenham, Texas and is a necessary and helpful advisory board to the City Council of the City of Brenham, Texas. All recommendations of the Board regarding policies, procedures, and/or funding shall be presented to the City Council for final approval.

ARTICLE III **PURPOSE AND RESPONSIBILITY**

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

- A. To develop plans and programs to stimulate both historic preservation and economic development and vitality in downtown Brenham.
- B. To work with the Washington County Convention and Visitors Bureau to promote Downtown as a tourist destination.
- C. To develop financial assistance programs and grants to assist downtown business and property owners.

ARTICLE IV
MEMBERSHIP

Section 1:

The membership requirements for this Board are as follows:

- A. Members must be residents of Washington County, Texas for at least one (1) year prior to their appointment;
- 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.

Section 2:

This Board shall consist of nine (9) members who shall be knowledgeable about downtown revitalization, marketing, finance, historic preservation or other disciplines important to the purpose and scope of the Board.

Section 3:

Board members shall be appointed by the City Council Elected officials, city staff, members of this Board or interested citizens may recommend individuals to the City Council for consideration.

Section 4:

Each member of the Board shall serve at the pleasure of the City Council that appointed said member to the Board.

Section 5:

The term of membership for Board members shall be staggered three (3) year terms. The member shall be able to succeed himself/herself, subject to reappointment by the City Council. Members shall have no term limits.

The terms of office for members and officers of the Board will be on a calendar year basis.

Section 6:

A Board member who is unable to attend regular meetings or participate in Board business shall be expected to tender his/her resignation. Resignation from this Board shall be by letter to the Board Chairperson. Vacancies resulting from resignation or any other cause will be filled by the City Council of the City of Brenham. A person appointed to fill a vacancy on the Board shall serve for the remaining unexpired term of the position to which the person is appointed.

Section 7:

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

Section 8:

In the event of an unexpected medical or personal emergency an interim member may be appointed, for a term of no more than six (6) months, by the Mayor. The interim member shall have all the rights and responsibilities of the incumbent member while serving in the incumbent member's position.

Section 9:

A Board member may cast only a single vote on any issue. Proxy votes are prohibited. Alternate and ex-officio members shall not vote.

Section 10:

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

If a member has completed Texas Open Meetings training within the last five (5) years and can provide the Chairperson documentation of the training, the member shall be exempt from this training requirement.

ARTICLE V
OFFICERS

- A. A Chairperson and Vice Chairperson shall be elected annually by the members of the Board.
- B. 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.

- C. 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 remaining Board members present at the meeting shall elect a member of the Board to serve as the temporary presiding officer during the meeting.
- D. Resignation of the Chairperson or Vice Chairperson from this Board shall be by letter to all other Board members. If the Chairperson or Vice Chairperson resigns from their officer position but continues to serve on the Board, the members shall elect a new Chairperson or Vice Chairperson as soon as practicable, If the Chairperson or Vice Chairperson resigns from their officer position and does not continue serving on the Board, their member position will be considered vacant and will be filled as outlined in Section IV.6 of these Bylaws.

ARTICLE VI
EXECUTIVE COMMITTEE

Section 1:

Annually, two (2) board members shall be elected by the members to serve on an Executive Committee along with the Board Chairperson and Vice Chairperson.

Section 2:

As needed, the Board Chairperson shall call and preside over the Executive Committee meetings. The Executive Committee meetings will not be subject to the requirements of the Texas Open Meetings Act.

Section 3:

The Executive Committee shall serve as a sounding board for staff on emerging issues, problems, and initiatives.

Section 4:

At each Board meeting, the Executive Committee shall give the Board a full report of the projects, issues and initiatives they are working on.

ARTICLE VII
STANDING COMMITTEES

Section 1:

The Board shall have five (5) Standing Committees which are: Design Committee, the Organization Committee, the Promotions Committee, the Economic Restructuring Committee, and the Planning Committee.

Section 2:

A Chairperson for each Standing Committee shall be appointed by the Board Chairperson. When needed, the Board Chairman may appoint citizens to serve on a Standing Committee.

Section 3:

The Standing Committees shall meet as needed, and will make reports and recommendations to the full Board. The Standing Committee meetings will not be subject to the requirements of the Texas Open Meetings Act.

ARTICLE VIII
SPECIAL SUBCOMMITTEES

Section 1:

Special subcommittees may be appointed by the Board Chairperson for special, one-time, projects.

Section 2:

The Board Chairperson shall also appoint a Chairperson for each special subcommittee.

Section 3:

All special subcommittees will automatically dissolve upon completion of their project and submission of a final report and recommendation to the Board.

ARTICLE IX
MEETINGS AND COMMUNICATION

Section 1:

The Board shall meet monthly, or as often as needed, upon the direction of the Chairperson, or upon request of a majority of the members of the Board.

Section 2:

An agenda of issues to be considered at each meeting shall be posted on the external bulletin board at the City Hall at least seventy-two (72) hours prior to the meeting time. All meetings of this 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.

Section 3:

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

Section 4:

All meetings of this Board shall be open to the public. The Board may meet in closed session during a meeting only as authorized by the Texas Open Meetings Act.

ARTICLE X
STAFF

Section 1:

The City Manager of the City of Brenham shall designate a Staff Liaison to prepare agendas and post meetings, record proceedings of and prepare official minutes of the Board meeting.

Section 2:

Professional staff members of the City of Brenham assigned to work with the Board shall be non-voting ex-officio members of the Board.

ARTICLE XI
QUORUM

The authority vested in the Board shall be exercised only at a meeting of a quorum of its members. Six (6) members of this Board present shall constitute a quorum. Any action taken by this Board shall be by simple majority vote of members present at a properly posted meeting.

ARTICLE XII
RULES FOR PROCEDURE / STATUTORY REQUIREMENTS

Section 1:

Robert's Rules of Order shall govern on all matters of parliamentary procedures.

Section 2:

This Board shall be subject to any rules, regulations, acts or mandates placed on the City of Brenham by local, state or federal governments.

Section 3:

The activities of this board shall comply with the Texas Historical Commission's Main Street Program.

ARTICLE XIII
AMENDMENTS TO BYLAWS

These bylaws may be amended by approval of the City of Brenham City Council. This Board may make recommendations for amendments to the bylaws by written request to the City of Brenham City Council.

ARTICLE XIV
CONFLICTS

Members of the Board shall not use their position on the Board 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, they shall immediately notify the Chairman and shall abstain from participation in and voting on the item. 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.

CERTIFICATION

These bylaws of the Main Street Advisory Board are hereby approved and adopted by the City of Brenham, Texas, City Council on this _____ day of _____, 20____.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC
City Secretary

DRAFT

Main Street Brenham 2014 Plan of Work

Our Mission

The Brenham Main Street Program, will use the 4-point approach to revitalization – organization, promotion, design and economic restructuring – to encourage reinvestment and preservation; and to entice businesses, customers, visitors and downtown residents to the historic district.

Our Vision

The Brenham Main Street Program envisions Downtown Brenham as the heart of the community; where history is preserved, where unique and exciting businesses thrive, and where the community and visitors want to be for restaurants, shopping, living and entertainment.



Proposed Goals for 2014

Consider and develop alternate sources of funding.

Encourage varied and unique retail mix.

Make quality the key in all we do.

Encourage appreciation and support for preserving our history and architectural heritage.

Continue work on implementing the Downtown Brenham Master Plan.

Promote downtown as local shopping and dining destination and work to keep it vibrant.

Entice the interest of the public in downtown revitalization efforts.

Work to improve social media components of Main Street.

Design Committee

Overall Program Goal	Committee Goal	Action Item	Responsible Party	Timeline	Budget/ Outcomes
Encourage support for preserving architectural heritage.	Help staff with recommendations for TDA Presidents Awards.	<ul style="list-style-type: none"> • Work with staff on recommendation of entries to Texas Downtown Association President's Award program. • Make recommendation on entries to board. • Review narrative for input. 	<ul style="list-style-type: none"> • Bev and Debbie • Margie • Committee 	<ul style="list-style-type: none"> • Upon receipt of guidelines. • By April • June Board meeting. 	<ul style="list-style-type: none"> • \$75 per entry for members. (Normally not more than 3) •
Encourage support for preserving architectural heritage.	Encourage business & property owners to update, maintain/paint, and preserve buildings	<ul style="list-style-type: none"> • Get word out about refunded Incentive Grant. • Target particular building owners for encouragement to use Incentive Grant Fund, with suggested uses when appropriate. 	<ul style="list-style-type: none"> • Margie • Committee • Committee 	<ul style="list-style-type: none"> • Want to use allotted funds in 2014. • On-going. 	<ul style="list-style-type: none"> • \$10,000 in current fund •
Make quality the key in all we do.	Plan and Execute Spring Eggs Art Walk	<ul style="list-style-type: none"> • Discuss any changes to Spring Egg Art Walk • Get word out. • Plan for eggs. • Get judges. • Execute! 	<ul style="list-style-type: none"> • Mary • Committee 	<ul style="list-style-type: none"> • January, 2014, begin. 	<ul style="list-style-type: none"> • <i>TBD</i>
Make quality the key in all we do.	Utilize professional consultation for design issues	<ul style="list-style-type: none"> • Consider sponsoring Sign Grant with Main Street funding. • Request Design Assistance from Texas Main Street Center when building/business owner is interested. 	<ul style="list-style-type: none"> • Staff/Committee 	<ul style="list-style-type: none"> • On-going • Summer 	<ul style="list-style-type: none"> • <i>TBD</i>
Encourage support for preserving architectural heritage.	Keep Main Street involved in planning processes.	<ul style="list-style-type: none"> • Review and make recommendations for changes to ordinances affecting the Main Street area. • Work with Organization on LHD. 	<ul style="list-style-type: none"> • Committee • Elizabeth 	<ul style="list-style-type: none"> • On-going • Begin in spring 	<ul style="list-style-type: none"> •

Organization Committee

Overall Program Goal	Committee Goal	Action Item	Responsible Party	Timeline	Budget
Encourage varied and unique retail mix	Host Merchant Mixers	<ul style="list-style-type: none"> • Decide how often, when, where and what's included in the discussion. 	<ul style="list-style-type: none"> • 		
Encourage appreciation and support for preserving our history and architectural heritage.	Continue hosting Local History Day for National Preservation Month	<ul style="list-style-type: none"> • Develop and plan Local History Day • Recruit and determine partners. • Work with BISD • Raise funds in community. • Determine program • Recruit volunteers • Develop schedule 	<ul style="list-style-type: none"> • 		\$2500 in Main Street Budget – may need to raise more <i>Were able to get contributions to cover additional expenses.</i>
Improve social media components of Main Street	Improve Facebook presence	<ul style="list-style-type: none"> • Assign someone to keep current with Facebook and create regular postings. • Create opportunities to promote downtown businesses 	<ul style="list-style-type: none"> • 		FREE!
Entice the interest of the public in our efforts.	Help with volunteers for Main Street Events	<ul style="list-style-type: none"> • Assist with Volunteers for Hot Nights, Cool Tunes, and Christmas Stroll and Parade, and Swirl. 	<ul style="list-style-type: none"> • 		
Entice the interest of the public in our efforts.	Consider celebration of 15 years of Main Street.	Work with board and other committees on any plans.	<ul style="list-style-type: none"> • 		

Promotion Committee

Overall Program Goal	Committee Goal	Action Items	Responsible Party	Timeline	Budget
Promote downtown.	Scarecrow Extravaganza	<ul style="list-style-type: none"> • Push for more entrants. • Work to get info to schools earlier • Decorate downtown for fall • Get sponsor to cover prizes 	<ul style="list-style-type: none"> • Committee • Tiffany M. • Traci & Cmte • Jennifer & Traci 	<ul style="list-style-type: none"> • Discuss in July • August • September • August 	
Promote downtown as local shopping and dining destination and work to keep it vibrant.	Plan new brew event for fall.	<ul style="list-style-type: none"> • Determine name. • Determine date. 	<ul style="list-style-type: none"> • Cmte • Jennifer, Traci & Tiffany • Cmte 	<ul style="list-style-type: none"> • February • February • September 	
Promote downtown as local shopping and dining destination and work to keep it vibrant.	Host 2014 Uptown Swirl event.	<ul style="list-style-type: none"> • Consider improvements to 2013. • Increase participation of merchants. • Increase sponsors of event. • Work to increase online glass sales • Increase net revenue \$12,500 in 2012) 	<ul style="list-style-type: none"> • Cmte & participants • Tom & Cmte • Jennifer 	<ul style="list-style-type: none"> • September • September • September • October 	<ul style="list-style-type: none"> • <i>Could do a better job with sponsors.</i> • <i>Almost doubled online sales.</i> • <i>Inc'd revenue:</i>
Same as above.	Host Hot Nights/Cool Tunes	<ul style="list-style-type: none"> • Review Scope of Work • Contract with bands • Get sponsors. • Determine food booths. • Work with (c)(3) on beverage booth • Determine if others vendors needed. 	<ul style="list-style-type: none"> • Cmte • Jennifer, Tom, Traci • Tom • Traci • Cmte • Cmte 	<ul style="list-style-type: none"> • January • Aug/Sep • Sep/Oct • February • April • April 	<i>Another successful year.</i>

Economic Restructuring Committee

Overall Program Goal	Committee Goal	Action Items	Responsible Party	Timeline	Budget
Encourage varied and unique retail mix.	Recruit varied and unique businesses: restaurants and specialty retail	<ul style="list-style-type: none"> • Develop packet for potential downtown investors. 	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> • 	
Encourage varied and unique retail mix.	Recruit varied and unique businesses: restaurants and specialty retail	<ul style="list-style-type: none"> • Consider Offering Workshops to benefit downtown property and business owners. 	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> • 	
Encourage varied and unique retail mix.	Recruit varied and unique businesses: restaurants and specialty retail	<ul style="list-style-type: none"> • Keep updated list of available downtown properties. • Keep updated on business and property owner changes. 	<ul style="list-style-type: none"> • Johanna & Jennifer 	<ul style="list-style-type: none"> • 	
Encourage varied and unique retail mix.	Establish and expand financial incentives for preservation, adaptive re-use and property maintenance	<ul style="list-style-type: none"> • Research financial assistance programs in other cities, create a packet of incentive options and coordinate research usable incentive programs. • Discuss options with property owners who have recently completed projects to determine what would be most helpful 	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> • 	
Entice the interest of the public in downtown revitalization efforts.	Keep educating the public in Main Street efforts.	<ul style="list-style-type: none"> • Update record of downtown property values with comparison to time prior to rejoining Main Street. 	<ul style="list-style-type: none"> • Jennifer 	<ul style="list-style-type: none"> • On-going 	2013 update completed 7/13

Planning Committee

Overall Program Goal	Committee Goal	Action Items	Responsible Party	Timeline	Budget
Work on Implementation of Downtown Master Plan	Educate the public in Downtown master Plan Implementation efforts.	<ul style="list-style-type: none"> • Give periodic reports to interested parties, including Council and BCDC. 	<ul style="list-style-type: none"> • Committee 	<ul style="list-style-type: none"> • On-going 	
Develop alternate sources of funding.	Consider grant opportunities to accomplish projects.	<ul style="list-style-type: none"> • Research opportunities. 	<ul style="list-style-type: none"> • Staff 	<ul style="list-style-type: none"> • 	
Develop alternate sources of funding.	Push to include partners in the process.	<ul style="list-style-type: none"> • Search for partners to help accomplish certain priorities. 	<ul style="list-style-type: none"> • Committee 	<ul style="list-style-type: none"> • 	



AGENDA ITEM 7

DATE OF MEETING: February 6, 2014		DATE SUBMITTED: February 3, 2014	
DEPT. OF ORIGIN: Convention and Visitors Bureau		SUBMITTED BY: Lu Hollander	
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: Presentation of the First Quarter Report by the Washington County Convention and Visitors Bureau			
SUMMARY STATEMENT: In an effort to be more cost efficient, a copy of the Washington County Convention and Visitors Bureau First Quarter Report is not included in the agenda packet. However, a compact disc of this report will be distributed to Mayor and City Council Members.			
A complete copy of the Washington County Convention and Visitors Bureau First Quarter Report is on file for review in the City Secretary's Office. A copy can also be downloaded from the Washington County Chamber of Commerce website at www.brenhamtexas.com .			
If you are interested in obtaining a hard copy, please call the City Secretary at 979-337-7567			
STAFF ANALYSIS (For Ordinances or Regular Agenda Items):			
A. PROS:			
B. CONS:			
ALTERNATIVES (In Suggested Order of Staff Preference): N/A			
ATTACHMENTS: (1) First Quarter Summary Report			
FUNDING SOURCE (Where Applicable): N/A			
RECOMMENDED ACTION: Discussion Only.			
APPROVALS: Terry K. Roberts			

WCCC Convention & Visitors Bureau

First Quarter Report: Oct-Dec 2013

OCTOBER

MAJOR TOURISM EVENTS:

- Chappell Hill Scarecrow Festival
- Burton Cotton Gin Barn Dance
- Corn Maize and Pumpkin Patch

ADVERTISING PLACEMENTS:

- *Texas Highways* - full page color co-op
- *Ride Texas* magazine - ¼ page
- *Austin Monthly* magazine - ¼ page

EDITORIAL COVERAGE:

- *Houston Chronicle* –Weekend getaway feature
- Geiger Fall Press Tour

NOVEMBER

MAJOR TOURISM EVENTS:

- Holiday Home Tour & Trunk Show
- Victorian Christmas Tea & Flower Show
- Twilight, Firelight at Fanthorp Inn

ADVERTISING PLACEMENTS:

- *Texas Monthly* – 1/6 page event listings
- *Edible Austin* – ad featuring local chef Connie Wilder
- *Texas Events Calendar* – ½ pg. co-op with Tx. Ind. Trail Region

EDITORIAL COVERAGE:

- *Texas Meetings & Events* magazine – feature by Geiger journalist
- *tulsaworld.com* - feature about Blue Bell fudge divinity

DECEMBER

MAJOR TOURISM EVENTS:

- Downtown Christmas Stroll
- Holiday Home Tour in Chappell Hill
- Unity Theatre's "Nuncrackers"
- Christmas at Winedale

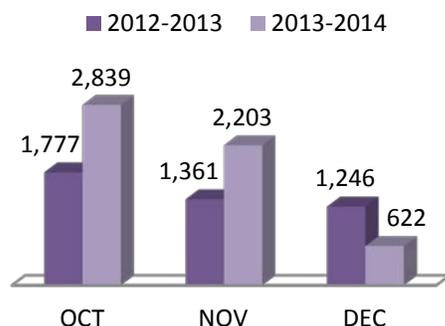
ADVERTISING PLACEMENTS:

- *Houston House & Home* magazine – full page co-op
- *Southern Living* magazine– 1/6 page travel ad

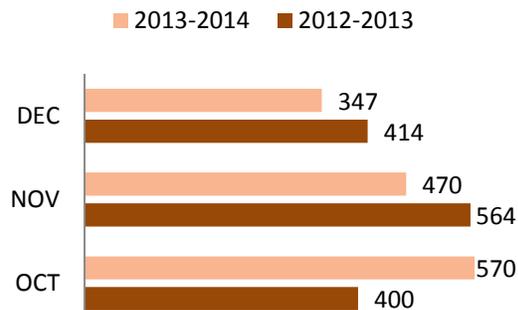
EDITORIAL COVERAGE:

- *Houston Chronicle* – multiple features about Cubs football
- *Village News* – feature Candlelight Christmas at Washington on the Brazos

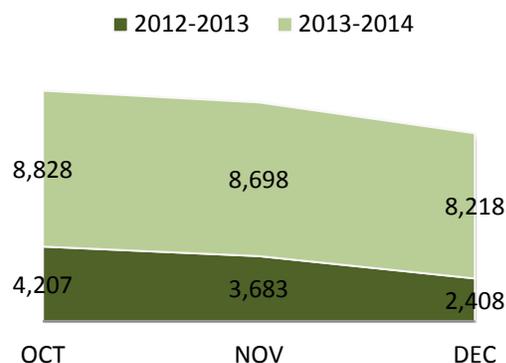
Visitor Info Mailed



Walk In Visitors



VisitBrenhamTexas.com Unique Visits





AGENDA ITEM 8

DATE OF MEETING: February 6, 2014		DATE SUBMITTED: January 31, 2014	
DEPT. OF ORIGIN: Development Services		SUBMITTED BY: Julie Fulgham	
MEETING TYPE:		CLASSIFICATION:	
<input checked="" type="checkbox"/> REGULAR		<input checked="" type="checkbox"/> PUBLIC HEARING	
<input type="checkbox"/> SPECIAL		<input type="checkbox"/> CONSENT	
<input type="checkbox"/> EXECUTIVE SESSION		<input type="checkbox"/> REGULAR	
		<input type="checkbox"/> WORK SESSION	
ORDINANCE:			
<input type="checkbox"/> 1 ST READING			
<input type="checkbox"/> 2 ND READING			
<input type="checkbox"/> RESOLUTION			
AGENDA ITEM DESCRIPTION: Public Hearing Considering an Amendment of Appendix A – “Zoning” of the Code of Ordinances of the City of Brenham Granting a Specific Use Permit to HuntJon, LLC for a Retirement Village on a Site Area of Two Acres or More (Senior Apartment Housing) in an R-2 (Mixed Residential) Zoning District and Being Located on All or Portions of Lots 18A, 19, and 20 Within the Randle Second Addition to the City of Brenham, Washington County, Texas (Said Property Bounded by Liberty, North Market, and Cottonwood Streets)			
SUMMARY STATEMENT: Prior to considering the request for a specific use permit from HuntJon, LLC for a senior housing facility, the City Council is required to hold a Public Hearing to receive input regarding the request.			
STAFF ANALYSIS (For Ordinances or Regular Agenda Items):			
A. PROS:			
B. CONS:			
ALTERNATIVES (In Suggested Order of Staff Preference):			
ATTACHMENTS: N/A			
FUNDING SOURCE (Where Applicable): N/A			
RECOMMENDED ACTION: Discussion Only.			
APPROVALS: Terry K. Roberts			



AGENDA ITEM 9

DATE OF MEETING: February 6, 2014	DATE SUBMITTED: January 31, 2014	
DEPT. OF ORIGIN: Development Services	SUBMITTED BY: Julie Fulgham	
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:
<input checked="" type="checkbox"/> REGULAR	<input checked="" 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 type="checkbox"/> WORK SESSION	
AGENDA ITEM DESCRIPTION: Public Hearing Considering an Amendment of Appendix A – “Zoning” of the Code of Ordinances of the City of Brenham Granting a Specific Use Permit to First Baptist Church of Brenham for a Church and Related Auxiliary Uses, Including Educational or Philanthropic Uses on a Site in an R-1 (Residential) Zoning District and a B-2 (Commercial, Research and Technology) District and Being Located on Approximately 33.28 Acres, being a Part of Tract 34 in the Isaac Lee Survey of the City of Brenham, Washington County, Texas (Said Property Located East of the Intersection of Cantey and South Market Streets)		
SUMMARY STATEMENT: Prior to considering the request for a specific use permit from First Baptist Church of Brenham for a church and related auxiliary uses, including educational or philanthropic uses, the City Council is required to hold a Public Hearing to receive input regarding the request.		
STAFF ANALYSIS (For Ordinances or Regular Agenda Items):		
A. PROS:		
B. CONS:		
ALTERNATIVES (In Suggested Order of Staff Preference):		
ATTACHMENTS: N/A		
FUNDING SOURCE (Where Applicable): N/A		
RECOMMENDED ACTION: Discussion Only.		
APPROVALS: Terry K. Roberts		



AGENDA ITEM 10

DATE OF MEETING: February 6, 2014	DATE SUBMITTED: January 31, 2014	
DEPT. OF ORIGIN: Development Services	SUBMITTED BY: Julie Fulgham	
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 Granting a Specific Use Permit to HuntJon, LLC for a Retirement Village on a Site Area of Two Acres or More (Senior Apartment Housing) in an R-2 (Mixed Residential) Zoning District and Being Located on All or Portions of Lots 18A, 19, and 20 Within the Randle Second Addition to the City of Brenham, Washington County, Texas (Said Property Bounded by Liberty, North Market, and Cottonwood Streets).		
SUMMARY STATEMENT: This request is for a senior housing apartment complex (defined as a retirement village in the zoning ordinance) on approximately 2.5 acres of land located northeast of downtown, near a large medical facility and residential neighborhood. Staff believes multi-family development for seniors is compatible with the neighborhood and would provide orderly growth. Staff also believes this is an ideal location for a senior housing community because of its close proximity to the medical offices, and further a grocery store and downtown. Additionally, this developer will apply for tax-credit benefits through the Texas Department of Housing and Community Affairs, if the specific use permit request is approved. A request for a specific use permit was made at the previous Council meeting for this identical development on 2 acres. Since that meeting, an additional ½ an acre was placed under contract by the developer, allowing for more green space to be incorporated into the project. The scale of the project is identical (76 units/114 parking spaces); however the request is now for the development to be located on approximately 2.5 acres instead of only 2 acres.		
STAFF ANALYSIS (For Ordinances or Regular Agenda Items):		
<p style="margin-left: 40px;">A. PROS: Provide affordable housing for seniors in a mixed use area.</p> <p style="margin-left: 40px;">B. CONS:</p>		
ALTERNATIVES (In Suggested Order of Staff Preference): 1. Approve ordinance approving specific use permit; 2. Modify ordinance approving specific use permit; 3. Deny specific use permit request.		
ATTACHMENTS: (1) Ordinance with Attachment A; (2) Map showing difference between this request and the previous Belle Towers request; and (3) P&Z Staff report		

FUNDING SOURCE (Where Applicable): N/A

RECOMMENDED ACTION: Approve an Ordinance on its first reading granting a Specific Use Permit to HuntJon, LLC for a Retirement Village on a site area of two acres or more (Senior Apartment Housing) in an R-2 (Mixed Residential) Zoning District and being located on all or portions of Lots 18A, 19, and 20 within the Randle Second Addition to the City of Brenham, Washington County, Texas (said property bounded by Liberty, North Market, and Cottonwood Streets).

APPROVALS: Terry K. Roberts

ORDINANCE NO. _____

AN ORDINANCE AMENDING APPENDIX A - "ZONING" OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS, AMENDING THE OFFICIAL ZONING MAP TO GRANT A SPECIFIC USE PERMIT FOR A RETIREMENT VILLAGE ON A SITE AREA OF TWO ACRES OR MORE (SENIOR APARTMENT HOUSING) IN AN R-2 (MIXED RESIDENTIAL) ZONING DISTRICT AND BEING LOCATED ON ALL OR PORTIONS OF LOTS 18A, 19, AND 20 WITHIN THE RANDLE SECOND ADDITION TO THE CITY OF BRENHAM, WASHINGTON COUNTY, TEXAS.

WHEREAS, the City of Brenham has adopted Appendix A – “Zoning” of the City of Brenham Code of Ordinances, as amended, which divides the City of Brenham into various zoning districts;

WHEREAS, Appendix A – “Zoning” of the City of Brenham Code of Ordinance authorizes the City Council to grant specific use permits for specific uses within the various zoning districts; and

WHEREAS, this amendment was recommended for approval by the Brenham Planning and Zoning Commission during its regular meeting on January 6, 2014;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF BRENHAM, TEXAS, THAT APPENDIX A - "ZONING" OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS, AND THE OFFICIAL ZONING MAP BE AMENDED IN THE FOLLOWING MANNER:

SECTION 1. That Appendix A - "Zoning" of the Code of Ordinances of the City of Brenham, Texas, and the Official Zoning Map of the City of Brenham is hereby amended to grant a specific use permit for retirement village on a site area of two acres or more (senior apartment housing) in an R-2 (Mixed Residential) zoning district and being located on all or portions of Lots 18A, 19, and 20 within the Randle Second Addition to the City of Brenham, Washington County, Texas (said property bounded by Liberty, North Market, and Cottonwood Streets). Furthermore, the specific use permit approval is subject to the development substantially conforming to the concept plan shown on Exhibit A.

SECTION 2. This Ordinance shall take effect as provided by the Charter of the City of Brenham, Texas.

PASSED and APPROVED on its first reading this the 23rd day of January, 2014.

PASSED and APPROVED on its second reading this the 6th day of February, 2014.

Milton Y. Tate, Jr.
Mayor

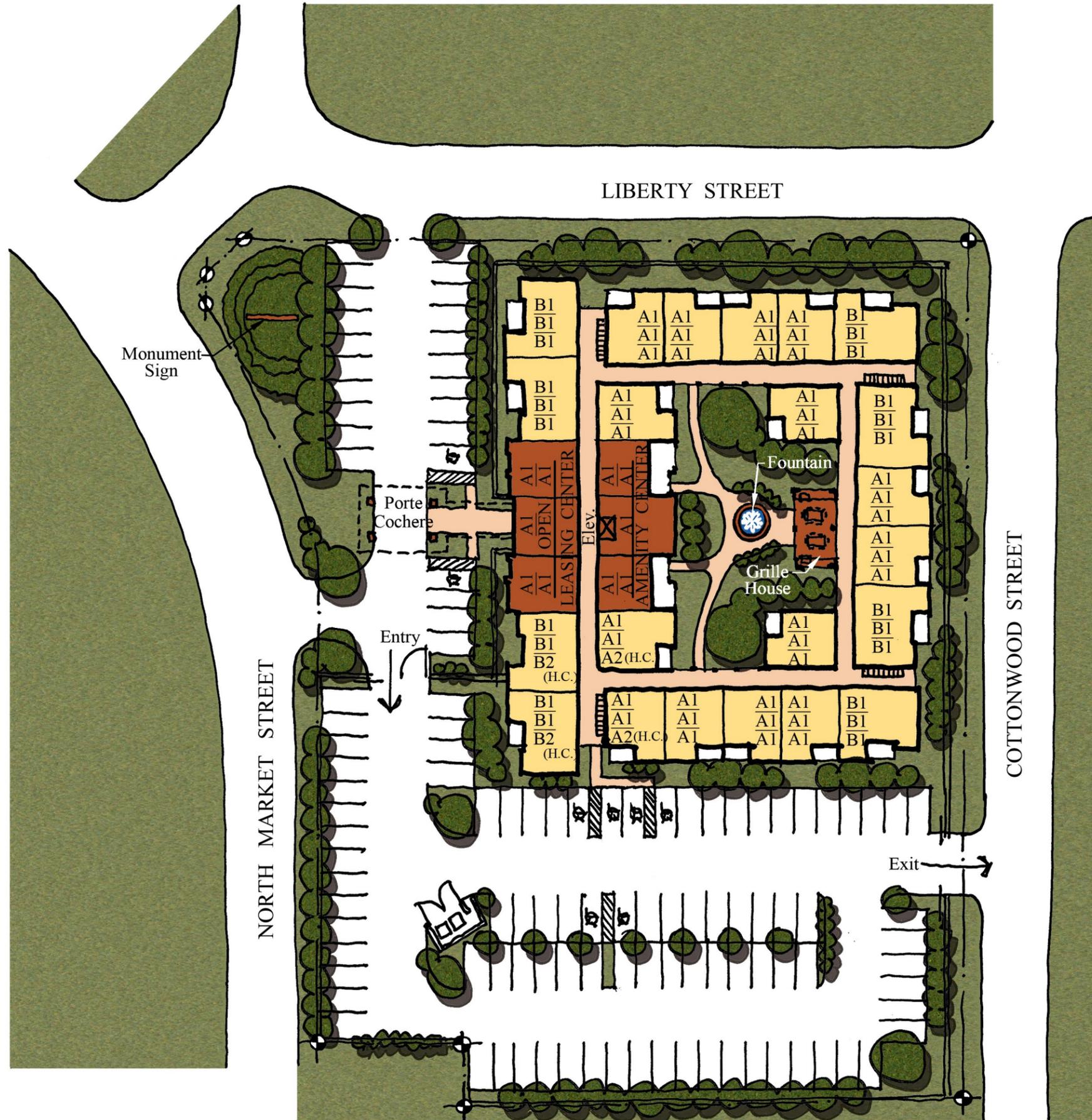
ATTEST:

Jeana Bellinger, TRMC
City Secretary

BELLE TOWERS

A Seniors Community
Mucasey & Associates, Architects

December 15, 2013



PROJECT SUMMARY:

Apartments:

Project One
Phase One

Type	Description	Area	Qty.
A1	One Bedroom, 1 Bath	729 s.f.	50
A2	One Bedroom, 1 Bath (H.C.)	729 s.f.	2
Total One Bedroom Units			52 Units
B1	Two Bedroom, 2 Bath	990 s.f.	22
B2	Two Bedroom, 2 Bath (H.C.)	990 s.f.	2
Total Two Bedroom Units			24 Units
Apartments Total		61,668 s.f.	76 Units
Amenity Center		4,979 s.f.	
Project Total		66,647 s.f.	

Parking Required:

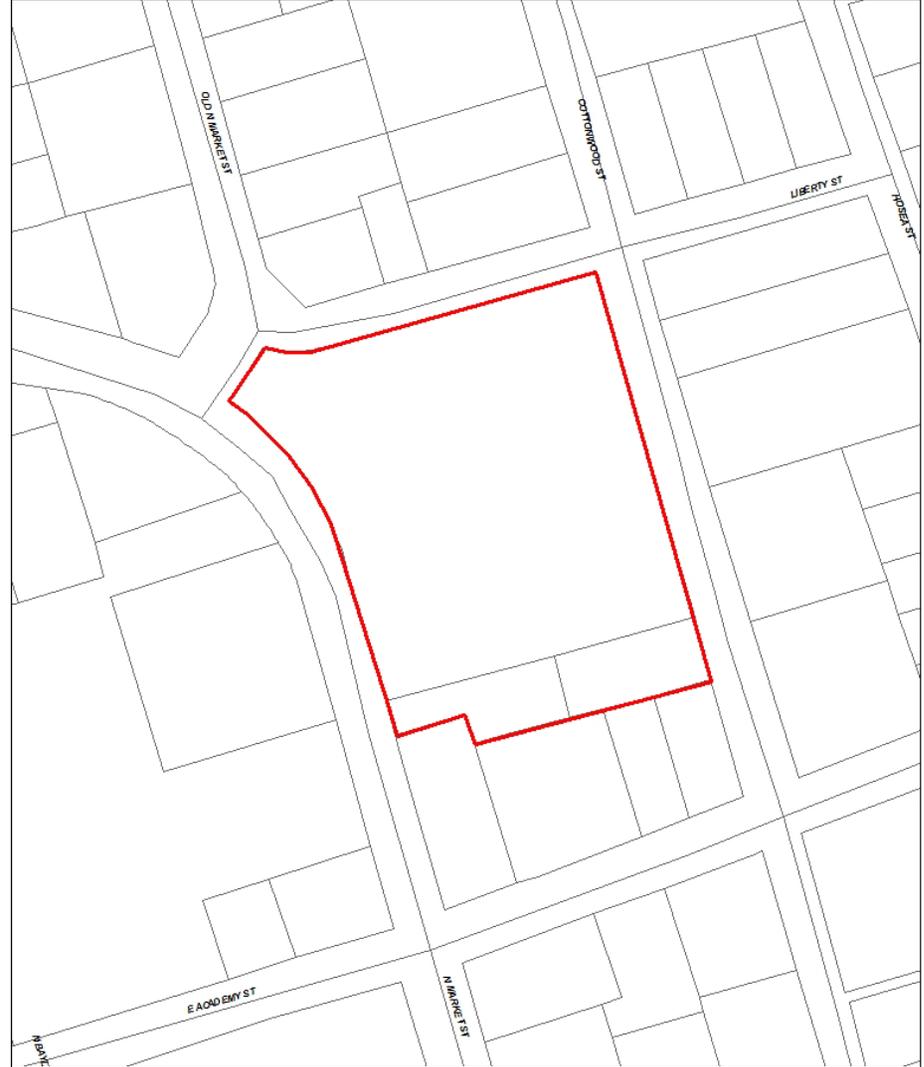
76 units @ 1.5 cars per unit =	114 Cars
Parking Provided	114 Cars

Belle Towers Specific Use Requests

Belle Towers Original Specific Use Request



Belle Towers Expanded Specific Use Request



Both Requests: 76 units/114 parking spaces

1 inch = 100 feet





Specific Use Request: Belle Towers Senior Community

STAFF CONTACT: Julie Fulgham, Director of Development Services

OWNERS/APPLICANTS: Marvalette Hunter, HuntJon, LLC

LEGAL DESCRIPTION: Approximately 2.5 acres bounded by Cottonwood, Liberty, and North Market Streets, specifically being All or Portions of Lots 18A, 18B, 19, and 20 within the Randle Second Addition to the City of Brenham, Washington County, Texas

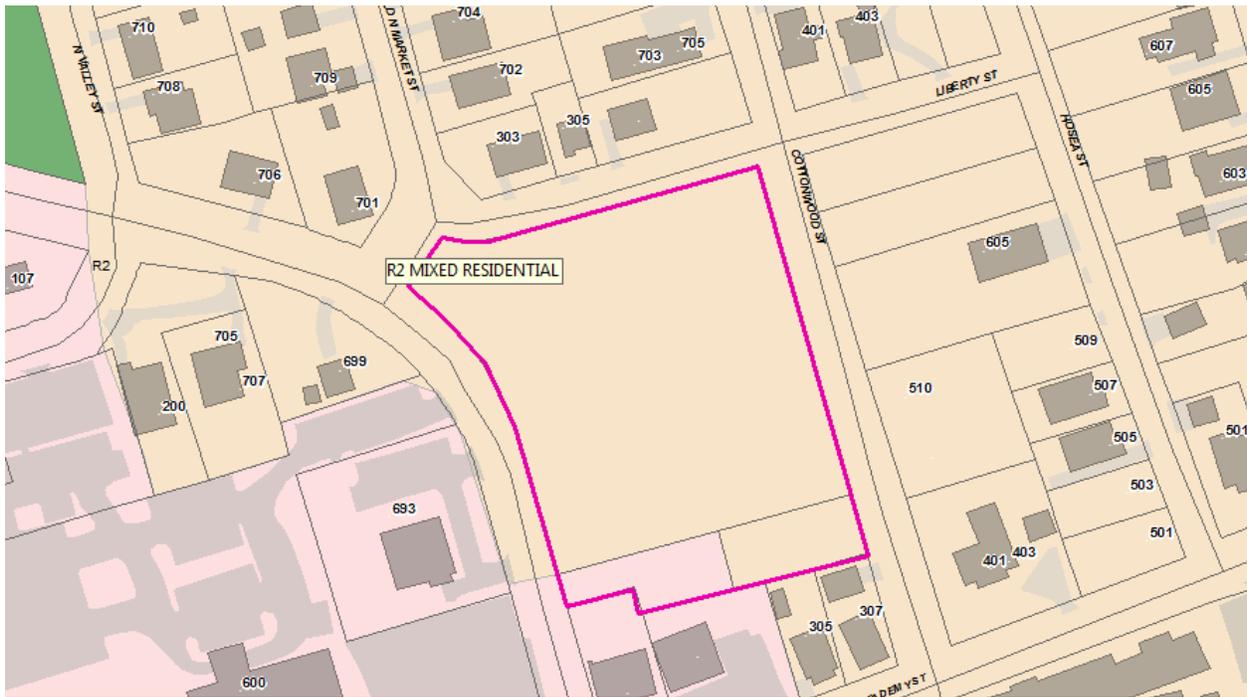
REQUEST: A request for a specific use permit to allow a Senior Retirement Village (Apartments) with a Site Area of Two (2) Acres or more within an R-2 Mixed Residential Zoning District. Apartments are allowed by right within the R-2 zoning district when located on a parcel less than 2 acres.

SUMMARY RECOMMENDATION:

Staff recommends approving the specific use permit request. A specific use permit on approximately 2 acres was requested by the Planning and Zoning Commission at their January 6th Regular meeting. This request is identical in terms of number of units (76) and parking spaces (114), however the applicant has negotiated the purchase of two additional lots totaling approximately ½ an acre to allow for more green space and landscaping to address comments and concerns made at the January 6th Planning and Zoning Commission public hearing. Included on the last page of the staff report is a graphic showing the property included in original request and the property included within the expanded request. The proposed number of units and parking spaces is unchanged; this expanded specific use request is to add additional green space.



Aerial photograph



Zoning map

ANALYSIS OF CITY OF BRENHAM ZONING POLICIES:

The purpose of zoning policies is to provide guidelines for considering future amendments to the zoning ordinance (Part 1, Section 4 of Appendix A – “Zoning” of the Brenham Code of Ordinances). They are as follows:

- (1) The city's zoning should recognize and seek to preserve the small town attributes that make Brenham a special place for its citizens to live, work and play.

This request should have no effect on the small town attributes that make Brenham a unique community.

- (2) The city's zoning should be guided by the future land use plan and other applicable guidelines found in the Comprehensive Plan.

This request is for property within an R-2 District and the proposed use is compatible with the list of permitted uses within this district. Apartments are allowed on sites less than two acres and this site is 2.5 acres. The request does not contradict any portion of the Comprehensive Plan. Furthermore, this tract lies across the street from the boundaries of the Downtown Master Plan, which encourages senior housing developments within this area, near the Brenham Clinic.

- (3) The city's zoning should be designed to facilitate the more efficient use of existing and future city services and utility systems in accordance with the Comprehensive Plan.

This property is currently undeveloped and this project would be considered an infill project, meaning extension of public utilities is not necessary and development of this site would not cause a burden on the infrastructure in the area.

- (4) The city's zoning should be organized and as straight forward as possible to minimize use problems and enforcement problems.

Surrounding properties are zoned within the R-2 District or B-1 District and conflicts between existing and proposed uses should not arise because of the consistent zoning within the area. This tract would serve as a buffer area between more commercial areas to the southwest and single- or two-family development patterns that exist to the northeast.

- (5) The city's zoning process should be fair and equitable, giving all citizens adequate information and opportunity to be heard prior to adoption of zoning amendments.**

All notification requirements were met with this application and a copy of this staff report was provided to the property owners.

- (6) The city's zoning should insure that adequate open space is preserved as residential and commercial development and redevelopment occur.**

The zoning ordinance limits the amount of impervious coverage allowed on a lot at the time of development. All performance criteria shall be met for this site.

- (7) The city's zoning should insure Brenham's attractiveness for the future location of business and housing by preserving an attractive and safe community environment in order to enhance the quality of life for all of its residents.**

The property's use as an apartment complex should not impact the future location of businesses or housing within this area.

- (8) The city's zoning ordinance should preserve neighborhood culture by retaining and promoting land uses consistent with the community's plan for the development and/or redevelopment of its neighborhoods.**

Residential neighborhoods nearby should be preserved by the low impact (in terms of traffic, noise, or undesired activity nearby residential uses) of apartments. Apartments are residential structures compatible within residential neighborhoods.

- (9) The city's zoning should protect existing and future residential neighborhoods from encroachment by incompatible uses.**

This request buffers the existing low density residential neighborhood with a medium density residential use from the existing non-residential uses further west of this area.

- (10) The city's zoning should assist in stabilizing property values by limiting or prohibiting the development of incompatible land uses or uses of land or structures which negatively impact adjoining properties.**

This property is currently surrounded by R-2 zoning and the continuation of R-2 zoning on this tract will not negatively impact adjoining properties.

- (11) The city's zoning should make adequate provisions for a range of commercial uses in existing and future locations that are best suited to serve neighborhood, community and regional markets.**

Commercial zoning is not appropriate at this location and in this vicinity and this request preserves

the residential zoning on this property. The scale of this development is compatible with nearby residential uses.

(12) The city's zoning should give reasonable accommodation to legally existing incompatible uses, but it should be fashioned in such a way that over time, problem areas will experience orderly change through redevelopment that gradually replaces the nonconforming uses.

This property is vacant and development of the site with apartment would not create incompatible uses.

(13) The city's zoning should provide for orderly growth and development throughout the city.

This land is near a large medical facility and residential neighborhood. Staff believes multi-family development is compatible with the neighborhood and would provide orderly growth. Staff also believes this is an ideal location for a senior housing community because of its close proximity to the medical offices, and further a grocery store and downtown.

STAFF RECOMMENDATION:

Staff recommends **approving** the specific use permit, subject to substantial conformity with the attached concept plan.



AGENDA ITEM 11

DATE OF MEETING: February 6, 2014		DATE SUBMITTED: January 31, 2014	
DEPT. OF ORIGIN: Development Services		SUBMITTED BY: Julie Fulgham	
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-14-004 in Support of HuntJon, LLC's Submission of an Application Requesting Low Income Housing Tax Credits to the Texas Department of Housing and Community Affairs for Belle Towers, a Low Incoming Housing Development for Seniors			
SUMMARY STATEMENT: HuntJon, LLC, is requesting support of their Texas Department of Housing and Community Affairs tax credit application #14099 for the Belle Towers Senior Community development. Applications for the tax credit benefits are scored on a number of factors and applications may qualify for up to seventeen points for a resolution or resolutions from the municipality and/or county in which the proposed development site is located. Resolutions that expressly set forth that the municipality or county supports the Application or Development are worth maximum points while resolutions setting forth that the municipality or county has no objection to the Applicant or Development are worth fewer points.			
In addition to points for a resolution for support, the developer may also receive an additional 10 points (the ten points are calculated for a commitment by a Local Political Subdivision of the lesser of the population of the Place multiplied by a factor of 0.10 in funding per Low Income Unit or \$10,000 in funding per Low Income Unit), if the municipality provides financial support to the project as well. The amount of financial support needed to receive 10 points for this project is \$60,800.00.			
Staff recommends supporting the project, finding it is aligned with the recommendations of the Downtown Master Plan, and would provide affordable housing for seniors in the community. If Council is inclined to offer financial support as well, staff believes the most cost effective way to provide that financial support is by reducing the impact fee required for this project in regards to storm-water runoff. In lieu of on-site detention, staff has determined that off-site storm sewer improvements, which can carry storm water run-off to the nearby creek, is a more effective solution, in both cost and storm-water management. The City's Public Works Department would perform the work and the developer would be invoiced for the cost associated with the project. This work would be in lieu of on-site detention. If the Council wishes to offer financial support, the invoice for this project (needed for the additional impact to our storm-sewer system in the area) would be reduced by \$60,800.			
Attached are two resolutions for the Council to consider, one resolution supports the project and the other offers both support and financial assistance to the project.			

STAFF ANALYSIS (For Ordinances or Regular Agenda Items):

- A. PROS:** Providing support and financial assistance to the project can garner the application approximately 27 points.
- B. CONS:** Providing financial assistance to the project will cost \$60,800.

ALTERNATIVES (In Suggested Order of Staff Preference): 1. Approve Resolution 2. Approve Resolution minus the financial support 3. Approve Resolution without support but stating no objection; or 4. Deny Approval of the Resolution

ATTACHMENTS: (1) Resolution No. R-14-004 without Financial Support; (2) Resolution No. R-14-004 with Financial Support; and (3) Site Plan; and (4) Elevation View

FUNDING SOURCE (Where Applicable): Street Department

RECOMMENDED ACTION: Approve Resolution No. R-14-004 in support of HuntJon, LLC's submission of an application requesting Low Income Housing Tax Credits to the Texas Department of Housing and Community Affairs for Belle Towers, a low incoming housing development for seniors.

APPROVALS: Terry K. Roberts

RESOLUTION NO. R-14-004

A RESOLUTION OF THE CITY OF BRENHAM, TEXAS PROVIDING SUPPORT FOR TDHCA APPLICATION NUMBER 14099 WITHIN THE CITY OF BRENHAM, TEXAS

WHEREAS, HuntJon, LLC has proposed a development for affordable rental housing for seniors on approximately 2.4 acres bounded by North Market, Liberty and Cottonwood Streets specifically being described as Lots 18A, 19, and 20 of the Randle 2nd Addition to the City of Brenham, said development being named Belle Towers; and

WHEREAS, HuntJon, LLC has advised that it intends to submit an application to the Texas Department of Housing and Community Affairs (TDHCA) for 2014 Competitive 9% Housing Tax Credits for Belle Towers; and

WHEREAS, the proposed apartment community for seniors is in conformance with the City’s Comprehensive Plan, “Envision 2020” and 2012 Downtown Brenham Master Plan; and

WHEREAS, the City of Brenham recognizes the need for affordable housing to accommodate seniors affected by the increasing economic activity in our area.

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

The City Council hereby confirms its support of the proposed Belle Towers Senior Community located on approximately 2.4 acres bounded by North Market, Liberty, and Cottonwood Streets, said development being the subject of TDHCA Application #14099; and that for and on behalf of the City Council, Milton Y. Tate, Jr, Mayor of the City of Brenham is hereby authorized, empowered, and directed to certify this resolution to the Texas Department of Housing and Community Affairs.

PASSED and APPROVED on this 6TH day of February, 2014.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC
City Secretary

RESOLUTION NO. R-14-004

A RESOLUTION OF THE CITY OF BRENHAM, TEXAS PROVIDING SUPPORT FOR TDHCA APPLICATION NUMBER 14099 WITHIN THE CITY OF BRENHAM, TEXAS

WHEREAS, HuntJon, LLC has proposed a development for affordable rental housing for seniors on approximately 2.4 acres bounded by North Market, Liberty and Cottonwood Streets specifically being described as Lots 18A, 19, and 20 of the Randle 2nd Addition to the City of Brenham, said development being named Belle Towers; and

WHEREAS, HuntJon, LLC has advised that it intends to submit an application to the Texas Department of Housing and Community Affairs (TDHCA) for 2014 Competitive 9% Housing Tax Credits for Belle Towers; and

WHEREAS, the proposed apartment community for seniors is in conformance with the City's Comprehensive Plan, "Envision 2020" and 2012 Downtown Brenham Master Plan; and

WHEREAS, the City of Brenham recognizes the need for affordable housing to accommodate seniors affected by the increasing economic activity in our area.

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

The City Council hereby confirms its support of the proposed Belle Towers Senior Community located on approximately 2.4 acres bounded by North Market, Liberty, and Cottonwood Streets, said development being the subject of TDHCA Application #14099, and the City Council further shows its support by committing \$60,800.00 in financial support to the proposed Belle Towers Senior Community Project in the form of reduced infrastructure-related costs; and that for and on behalf of the City Council, Milton Y. Tate, Jr, Mayor of the City of Brenham is hereby authorized, empowered, and directed to certify this resolution to the Texas Department of Housing and Community Affairs.

PASSED and APPROVED on this 6TH day of February, 2014.

Milton Y. Tate, Jr.
Mayor

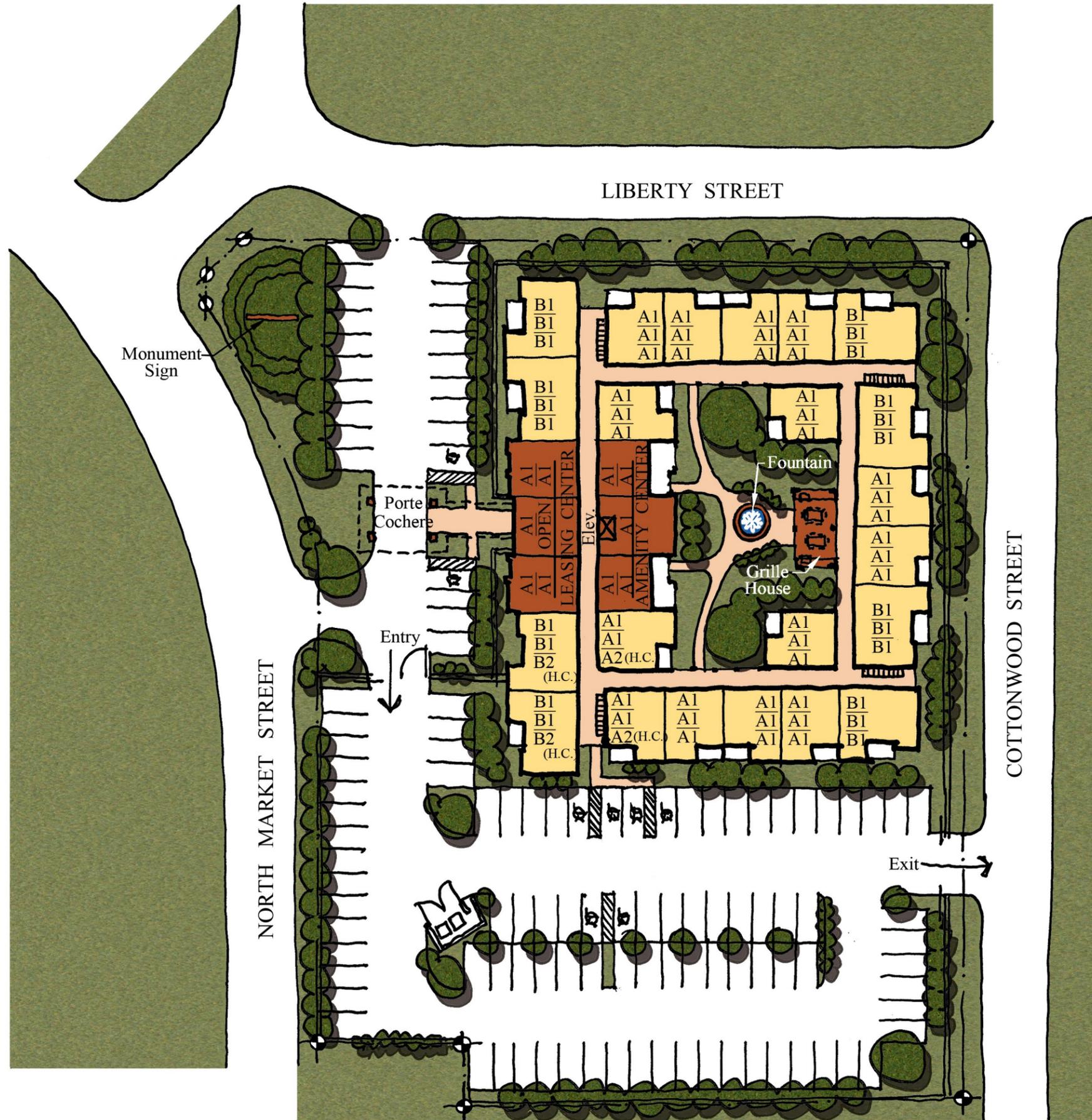
ATTEST:

Jeana Bellinger, TRMC
City Secretary

BELLE TOWERS

A Seniors Community
Mucasey & Associates, Architects

December 15, 2013



PROJECT SUMMARY:

Apartments:

Project One
Phase One

Type	Description	Area	Qty.
A1	One Bedroom, 1 Bath	729 s.f.	50
A2	One Bedroom, 1 Bath (H.C.)	729 s.f.	2
Total One Bedroom Units			52 Units
B1	Two Bedroom, 2 Bath	990 s.f.	22
B2	Two Bedroom, 2 Bath (H.C.)	990 s.f.	2
Total Two Bedroom Units			24 Units
Apartments Total		61,668 s.f.	76 Units
Amenity Center		4,979 s.f.	
Project Total		66,647 s.f.	

Parking Required:

76 units @ 1.5 cars per unit =	114 Cars
Parking Provided	114 Cars



BELLE TOWERS

A Seniors Community
Mucasey & Associates, Architects



AGENDA ITEM 12

DATE OF MEETING: February 6, 2014	DATE SUBMITTED: January 31, 2014	
DEPT. OF ORIGIN: Development Services	SUBMITTED BY: Julie Fulgham	
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 Granting a Specific Use Permit to First Baptist Church of Brenham for a Church and Related Auxiliary Uses, Including Educational or Philanthropic Uses on a Site in an R-1 (Residential) Zoning District and a B-2 (Commercial, Research and Technology) District and Being Located on Approximately 33.28 Acres, being a Part of Tract 34 in the Isaac Lee Survey of the City of Brenham, Washington County, Texas (Said Property Located East of the Intersection of Cantey and South Market Streets)		
SUMMARY STATEMENT: This request is for property within an R-1 District and a B-2 District. A specific use is specifically required for the portion of the property that is located with the R-1 District. Staff believes the proposed use is compatible with the list of permitted uses within this district. Churches can impact a neighborhood, which is the reasoning for requiring specific use permits to be approved prior to the location of a church in an R-1 District; however, this land is currently undeveloped and is not part of the road network of any nearby neighborhoods. Therefore, staff believes a church at this location will have minimal impact on any surrounding residential uses and is aligned with the City's Comprehensive Plan.		
STAFF ANALYSIS (For Ordinances or Regular Agenda Items):		
A. PROS:		
B. CONS:		
ALTERNATIVES (In Suggested Order of Staff Preference): 1. Approve ordinance approving specific use permit; 2. Modify ordinance approving specific use permit; 3. Deny specific use permit request.		
ATTACHMENTS: (1) Ordinance; and (2) P&Z Staff report		
FUNDING SOURCE (Where Applicable): N/A		

RECOMMENDED ACTION: Approve an Ordinance on its first reading granting a Specific Use Permit to First Baptist Church of Brenham for a Church and Related Auxiliary Uses, including Educational or Philanthropic Uses on a site in an R-1 (Residential) Zoning District and a B-2 (Commercial, Research and Technology) District and being located on approximately 33.28 acres, being a part of Tract 34 in the Isaac Lee Survey of the City of Brenham, Washington County, Texas (said property located East of the intersection of Cantey and South Market Streets)

APPROVALS: Terry K. Roberts

ORDINANCE NO. _____

AN ORDINANCE AMENDING APPENDIX A - "ZONING" OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS, AMENDING THE OFFICIAL ZONING MAP TO GRANT A SPECIFIC USE PERMIT TO FIRST BAPTIST CHURCH OF BRENHAM FOR A CHURCH AND RELATED AUXILIARY USES, INCLUDING EDUCATIONAL AND PHILANTHROPIC USES IN AN R-1 (RESIDENTIAL) ZONING DISTRICT AND BEING LOCATED ON APPROXIMATELY 33.28 ACRES, BEING A PART OF TRACT 34 IN THE ISAAC LEE SURVEY OF THE CITY OF BRENHAM, WASHINGTON COUNTY, TEXAS.

WHEREAS, the City of Brenham has adopted Appendix A – “Zoning” of the City of Brenham Code of Ordinances, as amended, which divides the City of Brenham into various zoning districts;

WHEREAS, Appendix A – “Zoning” of the City of Brenham Code of Ordinance authorizes the City Council to grant specific use permits for specific uses within the various zoning districts; and

WHEREAS, this amendment was recommended for approval by the Brenham Planning and Zoning Commission during its regular meeting on February 3, 2014;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF BRENHAM, TEXAS, THAT APPENDIX A - "ZONING" OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS, AND THE OFFICIAL ZONING MAP BE AMENDED IN THE FOLLOWING MANNER:

SECTION 1. That Appendix A - "Zoning" of the Code of Ordinances of the City of Brenham, Texas, and the Official Zoning Map of the City of Brenham is hereby amended to grant a specific use permit to First Baptist Church of Brenham for a church and related auxiliary uses, including educational and philanthropic uses in an R-1 (Residential) zoning district and being located on approximately 33.28 acres, being a part of Tract 34 in the Isaac Lee Survey to the City of Brenham, Washington County, Texas.

SECTION 2. This Ordinance shall take effect as provided by the Charter of the City of Brenham, Texas.

PASSED and APPROVED on its first reading this the 6th day of February, 2014.

PASSED and APPROVED on its second reading this the 20th day of February, 2014.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC
City Secretary



Specific Use Request: First Baptist Church of Brenham

STAFF CONTACT: Julie Fulgham, Director of Development Services

OWNERS/APPLICANTS: First Baptist Church of Brenham

LEGAL DESCRIPTION: 33.28 acres described as Part of Tract 34 in the Isaac Lee Survey, A-77, in the City of Brenham, Washington County, Texas

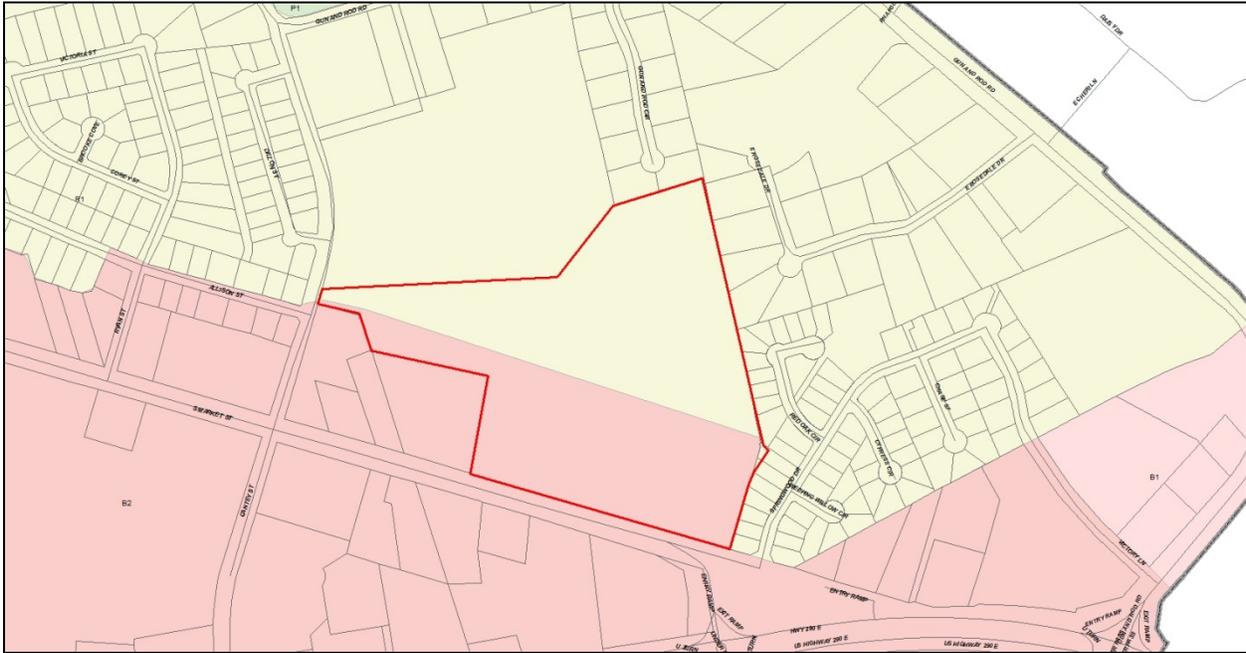
REQUEST: A request for a specific use permit to allow a Church and related auxiliary uses, including educational or philanthropic uses, on a site that is approximately 33.28 acres within an R-1 Residential Zoning District and a B-2 Commercial, Research and Technology District located east of the intersection of Cantey Street and S. Market Street, and specifically being part of Tract 34 in the Isaac Lee Survey, A-77, in the City of Brenham

SUMMARY RECOMMENDATION:

Staff recommends approving the specific use permit request.

Aerial photograph





Zoning map

ANALYSIS OF CITY OF BRENHAM ZONING POLICIES:

The purpose of zoning policies is to provide guidelines for considering future amendments to the zoning ordinance (Part 1, Section 4 of Appendix A – “Zoning” of the Brenham Code of Ordinances). They are as follows:

- (1) The city's zoning should recognize and seek to preserve the small town attributes that make Brenham a special place for its citizens to live, work and play.**

This request should have no effect on the small town attributes that make Brenham a unique community.

- (2) The city's zoning should be guided by the future land use plan and other applicable guidelines found in the Comprehensive Plan.**

This request is for property within an R-1 District and a B-2 District. A specific use is specifically required for the portion of the property that is located with the R-1 District. Staff believes the proposed use is compatible with the list of permitted uses within this district. Churches can impact a neighborhood, which is the reasoning for requiring specific use permits to be approved prior to the location of a church in an R-1 District; however, this land is currently undeveloped and is not part of the road network of any nearby neighborhoods. Therefore, staff believes a church at this location will have minimal impact on any surrounding residential uses and is aligned with the City’s Comprehensive Plan.

- (3) The city's zoning should be designed to facilitate the more efficient use of existing and future city services and utility systems in accordance with the Comprehensive Plan.**

This property is currently undeveloped; however any extension of public utilities would not cause a burden on the infrastructure in the area.

- (4) The city's zoning should be organized and as straight forward as possible to minimize use**

problems and enforcement problems.

Surrounding properties are zoned within the R-1 District or B-2 District and conflicts between existing and proposed uses should not arise because of the consistent zoning within the area and application of the required buffer yards at the time of development.

- (5) The city's zoning process should be fair and equitable, giving all citizens adequate information and opportunity to be heard prior to adoption of zoning amendments.**

All notification requirements were met with this application and a copy of this staff report was provided to the property owners.

- (6) The city's zoning should insure that adequate open space is preserved as residential and commercial development and redevelopment occur.**

The zoning ordinance limits the amount of impervious coverage allowed on a lot at the time of development. All performance criteria shall be met for this site.

- (7) The city's zoning should insure Brenham's attractiveness for the future location of business and housing by preserving an attractive and safe community environment in order to enhance the quality of life for all of its residents.**

The property's use as a church and related auxiliary uses should not impact the future location of businesses or housing within this area.

- (8) The city's zoning ordinance should preserve neighborhood culture by retaining and promoting land uses consistent with the community's plan for the development and/or redevelopment of its neighborhoods.**

Residential neighborhoods nearby should be preserved by the low impact (in terms of traffic, noise, or undesired activity nearby residential uses) of a church and related uses. The primary driveway access is expected to be on South Market Street.

- (9) The city's zoning should protect existing and future residential neighborhoods from encroachment by incompatible uses.**

This request buffers the existing low density residential neighborhood with a low density non-residential use from the commercial corridor (South Market Street).

- (10) The city's zoning should assist in stabilizing property values by limiting or prohibiting the development of incompatible land uses or uses of land or structures which negatively impact adjoining properties.**

This property is currently surrounded by R-1 zoning and B-2 zoning and the continuation of these same zoning districts on this tract will not negatively impact adjoining properties.

- (11) The city's zoning should make adequate provisions for a range of commercial uses in existing and future locations that are best suited to serve neighborhood, community and regional markets.**

A large scale commercial zoning district is not appropriate at this location and this request

preserves the majority of residential zoning on this property. The scale of this development is compatible with nearby residential uses. A large church is anticipated; however the approximately 33 acres will be sufficient for the anticipated large scale religious uses and provide a sufficient buffer between residential uses and commercial uses with the proposed non-residential use.

(12) The city's zoning should give reasonable accommodation to legally existing incompatible uses, but it should be fashioned in such a way that over time, problem areas will experience orderly change through redevelopment that gradually replaces the nonconforming uses.

This property is vacant and development of the site with a church and related auxiliary uses would not create incompatible uses.

(13) The city's zoning should provide for orderly growth and development throughout the city.

This land is near established residential neighborhood but has frontage on a busy commercial corridor (South Market Street). Staff believes a church and related auxiliary uses is compatible with the area and would provide orderly growth.

STAFF RECOMMENDATION:

Staff recommends **approving** the specific use permit.



AGENDA ITEM 13

DATE OF MEETING: February 6, 2014	DATE SUBMITTED: January 30, 2014	
DEPT. OF ORIGIN: Brenham EDF	SUBMITTED BY: Clint Kolby	
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-14-005 of the City Council of the City of Brenham, Texas, Adopting a Commercial Tax Phase-In Agreement with Tempur Sealy International, Inc.		
SUMMARY STATEMENT: The EDF has been working with a consultant representing Tempur-Sealy's corporate office over the past five months in their site selection process to locate their expansion project. After competing with several other communities throughout the nation, Tempur-Sealy has tentatively accepted our incentive package to locate this project at the Brenham plant. If granted local incentives, Tempur-Sealy has plans to invest \$500,000 in capital to purchase new machinery & equipment and add 104 new jobs. They will be retaining 160 existing employees as well. The use of local incentives will help off-set the initial costs of investing in physical and human capital. This project would also provide a substantial positive economic impact to the rest of the local Brenham economy.		
STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: Approve the Resolution authorizing the tax phase-in. B. CONS: If the Resolution is not approved, then Tempur Sealy may decide to locate this expansion at one of the other communities they were considering for this project.		
ALTERNATIVES (In Suggested Order of Staff Preference):		
ATTACHMENTS: (1) Resolution R-14-005; and (2) Tax Phase-In Agreement with Exhibits A & B		
FUNDING SOURCE (Where Applicable):		
RECOMMENDED ACTION: Approve Resolution R-14-005 of the City Council of the City of Brenham, Texas, adopting a Commercial Tax Phase-In Agreement with Tempur Sealy International, Inc.		
APPROVALS: Terry K. Roberts		

RESOLUTION NO. R-14-005

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRENHAM, TEXAS ADOPTING A COMMERCIAL TAX PHASE-IN AGREEMENT WITH TEMPUR SEALY INTERNATIONAL, INC.; AUTHORIZING THE MAYOR TO EXECUTE THE TAX PHASE-IN AGREEMENT; AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, Chapter 312 of the Texas Tax Code authorizes the City of Brenham, Texas, to participate in tax phase-in incentives; and

WHEREAS, in accordance with Section 312.002 of the Texas Tax Code, the City of Brenham, Texas previously passed a resolution stating the City's intent to participate in tax phase-in incentives; and

WHEREAS, in accordance with Section 312.002 of the Texas Tax Code, the City of Brenham, Texas also previously adopted tax phase-in incentive guidelines and criteria; and

WHEREAS, the City Council of the City of Brenham, Texas, finds and determines that the terms of the Tax Phase-In Agreement and the subject property meet the applicable tax phase-in incentive guidelines and criteria, and entering into the Tax Phase-In Agreement will be to the benefit of the citizens of the City of Brenham; and

WHEREAS, the City Council desires to adopt the Tax Phase-In Agreement, a copy of which is attached hereto as Exhibit "A" and incorporated herein for all purposes, by and between the City of Brenham, Texas, and Tempur Sealy International, Inc., a Delaware corporation;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BRENHAM, TEXAS, AS FOLLOWS:

Section 1: That the foregoing recitals are hereby found to be true and correct legislative findings of the City of Brenham, Texas, and are fully incorporated into the body of this Resolution.

Section 2: That the City Council of the City of Brenham, Texas does hereby adopt the commercial Tax Phase-In Agreement, a copy of which is attached hereto as Exhibit "A", by and between the City of Brenham, Texas, and Tempur Sealy International, Inc.

Section 3: That the Mayor is hereby authorized to execute the Tax Phase-In Agreement between the City of Brenham, Texas, and Tempur Sealy International, Inc., a copy of which is attached hereto as Exhibit "A".

Section 4: This Resolution shall become effective immediately from and after its passage.

RESOLVED this _____ day of _____, 2014.

Milton Y. Tate, Jr., Mayor
City of Brenham, Texas

ATTEST:

Jeana Bellinger, City Secretary
City of Brenham, Texas

**AGREEMENT FOR DEVELOPMENT AND TAX PHASE-IN
IN REINVESTMENT ZONE NO. 38 CITY OF BRENHAM
FOR COMMERCIAL TAX PHASE-IN, CITY OF BRENHAM, TEXAS**

THE STATE OF TEXAS

COUNTY OF WASHINGTON

This Agreement is entered into by and between the CITY OF BRENHAM, TEXAS, a Texas home-rule municipal corporation, of Washington County, Texas, acting herein by and through its Mayor, hereinafter referred to as CITY, and TEMPUR SEALY INTERNATIONAL, INC., a Delaware corporation, hereinafter referred to as COMPANY.

WITNESSETH:

The City Council of the City of Brenham, Texas, ("COUNCIL") on February 20, 1992, adopted by resolution a policy for the creation of tax abatement zones in the City of Brenham, ("POLICY"). Said POLICY was amended by COUNCIL on April 2, 1992, amended on June 4, 1992, and re-adopted on December 1, 1994, November 20, 1997, October 21, 1999, November 1, 2001, January 15, 2004, December 20, 2007, December 17, 2009, and December 15, 2011 and December 5, 2013 (as amended) (entitled "City of Brenham Policy Statement on Property Tax Phase-In Incentive for Selected Commercial Enterprises"). On February 6, 2014, the COUNCIL, by Ordinance, established Reinvestment Zone No. 38, City of Brenham, for Commercial Tax Phase-In, City of Brenham, Texas, ("ZONE") as authorized by V.T.C.A., Texas Tax Code Chapter 312. Said POLICY is attached hereto as Exhibit "B" and incorporated herein for all purposes.

WHEREAS, COMPANY has filed an application for the phase-in of ad valorem taxes,

WHEREAS, COUNCIL finds that this application, this Agreement, and the property subject to this Agreement meet the applicable guidelines and criteria of said POLICY,

WHEREAS, in order to provide for the proper development of such property and to aid in the conduct of the operation thereof to the best interest of the CITY in accordance with the above referenced ordinances and statutes, the parties do mutually agree as follows:

1. **Location of Tax Phase-In.** The property that is the subject matter of this Agreement is the land located at 1201 U.S. Highway 290 and described more particularly as that certain tract of land containing 11.979 acres, more or less, being further described in Exhibit “A”, attached hereto and incorporated herein for all purposes, and which property is hereinafter referred to as "PREMISES."

2. **Improvements.** In consideration of COMPANY'S construction of between One Hundred Fifty Thousand and No/100 Dollars and One Million and No/100 Dollars (\$150,000.00 to \$1,000,000.00) of real and personal property improvements and renovations to said PREMISES, including fixed machinery, equipment and buildings, CITY agrees that, subject to the terms and conditions contained herein, eligible improvements and renovations to the above described PREMISES shall be entitled to tax phase-in incentives in accordance with the schedule as provided in “Table 1A – Property Improvements by an Existing Local Business”, and tax phase-in incentives in accordance with the schedule as provided in “Table 2 – Jobs Created & Retained – by Existing Businesses or New/Relocating Businesses”, said Tables being set out in the attached Exhibit “B”, and that upon the expiration of such tax phase-in incentives this Agreement shall terminate.

"Improvements and renovations" as used herein shall be defined as including the building and all other associated improvements (personal and realty) and fixtures on the PREMISES added by the COMPANY within said zone. COMPANY will limit the uses of the property consistent with the general purpose of encouraging development or redevelopment of the zone during the period that property tax exemptions are in effect.

COMPANY acknowledges and agrees that the purpose of CITY in entering into this Agreement is to encourage development of the property in the ZONE and, therefore, COMPANY agrees to limit the use of the property to further said purpose.

3. **Submission of Plans.** COMPANY agrees that the site plan, interior and exterior design drawings and materials ("PLANS") for each improvement will be submitted to CITY and/or its designated representative for its approval when available. An official set of PLANS will be designated by the COMPANY and will be kept on file with the CITY.

4. **Other Applicable Regulations.** COMPANY agrees to construct all improvements in accordance with all applicable laws, ordinances, codes, rules, requirements or regulations of the City of Brenham, Washington County, the State of Texas and the United States, and any subdivision, agency or authority thereof.

5. **Liability of City in Approving Plans.** CITY, by approving the PLANS or any revised PLANS, assumes no liability or responsibility therefore for any defect in any fixed machinery or equipment installed or any structure constructed, renovated, or repaired from the

PLANS or approved revised PLANS. The relationship between CITY and COMPANY at all times shall not be deemed a partnership or joint venture for purposes of this Agreement or for any other purpose.

COMPANY AGREES TO HOLD HARMLESS, INDEMNIFY AND REIMBURSE CITY, ITS OFFICERS, AGENTS, AND/OR EMPLOYEES FOR ANY DAMAGES SUFFERED BY THEM DUE TO COMPANY'S NEGLIGENCE, SUCH DUTY AND LIABILITY NOT TO EXCEED WHAT COMPANY WOULD OWE TO ANY OF THEM UNDER COMMON LAW. CITY AGREES TO USE BEST REASONABLE EFFORTS TO NOTIFY COMPANY AS SOON AS POSSIBLE AFTER IT BECOMES AWARE OF ANY LEGAL ACTION (INCLUDING PRE-LITIGATION NOTICES, DEMAND LETTERS, ETC.) WHICH REASONABLY COULD THEN BE FORESEEN AS HAVING THE PROSPECTIVE POTENTIAL OF ACTIVATING THE TERMS OF THE IMMEDIATELY PRECEDING SENTENCE.

6. **Rights of City to Inspect.** At all reasonable times during the construction and installation of improvements on the PREMISES and following completion, CITY and its respective designees may inspect PREMISES in order to verify the construction, workmanship, materials and installations involved in or incident to the project are performed in substantial compliance with the approved PLANS and compliance with the applicable building permits and governmental regulations.

7. **Payment of Taxes by Company.** COMPANY agrees to pay all ad valorem taxes and assessments that may be owed to CITY or any other taxing entity by it prior to such taxes

and/or assessments becoming delinquent; provided, that COMPANY shall have the right to contest in good faith the validity or application of any such tax or assessment and shall not be considered in default hereunder so long as such contest is diligently pursued to completion. If COMPANY undertakes any such contest, COMPANY shall so notify in writing CITY and keep CITY apprised of the status of such contest. Should COMPANY be unsuccessful in such contest, COMPANY shall promptly pay the taxes, penalties, and/or interest, resulting therefrom.

COMPANY certifies that at the time of execution of this Agreement, there are no delinquent ad valorem taxes on the PREMISES owed to any taxing jurisdiction. Subject to the foregoing paragraph, COMPANY shall pay all non-phased-in taxes subject to all requirements and due dates, as it would be required to pay in the absence of this Agreement.

8. **Employment.** COMPANY anticipates hiring or retaining at least fifty (50) employees upon opening and over the tax phase-in period. COMPANY acknowledges and agrees that COMPANY'S failure to create and maintain a minimum of ten (10) jobs within the first year and throughout the Tax Phase-In incentive period in accordance with this Agreement and the POLICY is a default in the performance of this Agreement, and subjects the COMPANY to the remedies for default as provided in this Agreement.

9. **Tax Recapture.** In the event COMPANY (i) does not construct the improvements and renovations to the PREMISES as contemplated by this Agreement, (ii) fails to use the PREMISES for the purposes that are contemplated by this Agreement, (iii) fails to comply with the terms of the "City of Brenham Policy Statement on Property Tax Phase-In Incentive for Selected Commercial Enterprises", or (iv) otherwise fails to comply with the terms

of this Agreement, then the CITY shall have the right to terminate this Agreement and recapture the amount of all property taxes abated as a result of this Agreement in accordance with Texas Tax Code Sec. 312.205 and the POLICY after written notice of intended recapture by CITY to COMPANY and failure to cure by COMPANY within thirty (30) days of said notice.

10. **Default.** In the event COMPANY (i) allows the PREMISES to become vacant, (ii) fails to pay all non-abated ad valorem taxes as required by Section 7 hereof, (iii) fails to comply with the terms of the “City of Brenham Policy Statement on Property Tax Phase-In Incentive for Selected Commercial Enterprises”, or (iv) otherwise fails to comply with the terms of this Agreement, then COMPANY shall be in "default" in the performance of this Agreement. The CITY shall notify COMPANY in writing of said "default." Further, in accordance with Chapter 2264, Texas Government Code, COMPANY certifies that COMPANY, or a branch, division, or department of COMPANY does not and will not knowingly employ an undocumented worker. COMPANY further certifies that in the event that COMPANY, or a branch, division, or department of COMPANY, is convicted of a violation under 8 U.S.C. Section 1324a(f), COMPANY shall be repay the amounts of ad valorem taxes previously abated by the CITY pursuant to this Agreement, with interest, calculated at the rate ten percent (10%) annually. Such a conviction shall constitute a default under this Agreement.

If COMPANY does not comply with this Agreement within thirty (30) days of written notice of such "default", CITY reserves the right to terminate this Agreement and terminate the benefits of tax phase-in provided for in this Agreement, and all taxes previously abated pursuant to this Agreement shall be recaptured and paid to the City. In such event, the PREMISES and all improvements, fixed machinery and equipment installed thereon shall be deemed taxable and not entitled to tax phase-in as provided herein. If this Agreement is terminated, any taxes abated for

the calendar year of the termination shall be paid within sixty (60) days of the date of such termination, and all taxes and all taxes previously abated pursuant to this Agreement shall be recaptured and paid to the City within sixty (60) days of the date of termination.

11. **Tax Phase-In Amount.** COMPANY shall receive tax phase-in incentives for eligible property improvements in accordance with the schedule as provided in “Table 1A – Property Improvements by an Existing Local Business”, and tax phase-in incentives for job creation in accordance with the schedule as provided in “Table 2 – Jobs Created & Retained – by Existing Businesses or New/Relocating Businesses” said Tables being set out in the attached Exhibit “B”, and that upon the expiration of such tax phase-in incentives this Agreement shall terminate. The total annual tax phase-in incentive amount received by the COMPANY, expressed on a percentage basis, shall be the sum of the respective percentages provided for in Table 1A and Table 2 for the applicable year of the tax phase-in.

COMPANY shall, on or before October 15 of each calendar year, submit a sworn statement to the Compliance Review Committee that COMPANY is in compliance with this Agreement, including such information as may be necessary to verify compliance (e.g. employment and payroll information), subject to verification by the City of Brenham and/or the Compliance Review Committee

During the term of this Agreement, the CITY, its officers and employees, and/or the Compliance Review Committee is entitled to review and verify the COMPANY’S employment records, payroll records, and such other information and documents as the CITY and/or the Compliance Review Committee deems reasonably necessary to verify compliance with this

Agreement. The CITY, its officers and employees, and/or the Compliance Review Committee may conduct on-site inspections of the PREMISES and facilities located thereon during the term of this Agreement to verify compliance with this Agreement.

The estimated value of eligible property improvements for tax phase-in incentives is between One Hundred Fifty Thousand and No/100 Dollars and One Million and No/100 Dollars (\$150,000.00 to \$1,000,000.00). Notwithstanding anything contained herein to the contrary, COMPANY and CITY agree that the amount of eligible property improvements and jobs created & retained as set forth herein are based on projected property improvement and personnel employed, and the actual amount of tax phase-in incentives shall be determined annually by Table 1A and Table 2 of the POLICY based on the actual eligible improvements and the actual number of employees. COMPANY agrees to reasonably cooperate with CITY to determine compliance with this Agreement and the applicable level of tax phase-in incentives.

12. **Certificate of Compliance.** Upon completion of the improvements and renovations to the PREMISES, COMPANY shall submit to CITY a sworn Certificate of Compliance certifying that all construction of the improvements and renovations to the PREMISES has been completed in accordance with the approved plans. After receipt of this Certificate of Compliance, CITY shall make a final inspection of PREMISES to determine whether the improvements and renovations have been constructed and installed in compliance with this Agreement. Upon so finding, CITY shall approve such a Certificate of Compliance and authorize tax phase-in to commence on January 1 of the year indicated in said certificate and

terminate after the property has received the tax phase-in incentives as provided by this Agreement and Exhibit "B."

13. **Eligible and Ineligible Property.** "Eligible property" is defined to include all of the following items located on the PREMISES which were not so located prior to execution of this Agreement and whether or not they are so affixed as to become "real property": buildings, structures, fixed machinery and equipment, site improvements (including landscaping), office space and related fixed improvements necessary to the operation and administration of the facility.

"Ineligible Property" shall be fully taxable and ineligible for abatement, defined as including:

- Land;
- Animals;
- Inventories;
- Supplies;
- Tools;
- Furnishings and other forms of movable personal property (except as described as "eligible property" above);
- Vehicles;
- Vessels;
- Aircraft;
- Hotels/motels;
- Housing or residential property;
- Fauna;
- Flora (excluding landscaping improvements);
- Retail facilities;
- Deferred maintenance investments;
- Improvements for the generation or transmission of electrical energy not wholly consumed by a new facility or expansion;
- Any improvements including those to produce, store or distribute natural gas or fluids that are not integral to the operation of the facility; or
- Property owned or used by the State of Texas or its political subdivisions or by any organization owned operated or directed by a political subdivision of the State of Texas.

14. **Severability.** If any provision of this Agreement is held to be illegal, invalid, or unenforceable under the present or future laws effective while this Agreement is in effect, such provision shall be automatically deleted from this Agreement and the legality, validity and enforceability of the remaining provisions of this Agreement shall not be affected thereby, and in lieu of such deleted provision, there shall be added automatically as part of this Agreement a provision that is similar in terms and substance to such deleted provision as may be possible and yet be legal, valid and enforceable under the Texas Tax Code and related state statutes.

15. **Texas Law to Apply.** This Agreement shall be construed under the POLICY adopted by the CITY, including the Glossary of Terms, in accordance with said POLICY in force at the date of execution hereof and in accordance with the laws of the State of Texas. All obligations of the parties created hereunder are performable in Washington County, Texas. In the event of litigation, or other claim or dispute arising out of or involving this Agreement, exclusive venue shall lie in a court of competent jurisdiction in Washington County, Texas.

16. **Prior Agreements Superseded.** This Agreement constitutes the sole agreement of the parties herein and supersedes any and all prior written or oral agreements, arrangements or understandings between the parties relating to the subject matter.

17. **Amendments.** No amendment, modification or alteration of the terms hereof shall be binding unless the same shall be in writing, dated subsequent to the date of this Agreement and duly executed by the parties hereto.

18. **Rights and Remedies Cumulative.** The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by either party shall not preclude or waive its rights to use all other remedies. Said rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.

19. **No Waiver.** No waiver by CITY in any event of default, or breach of any covenant, condition or stipulation herein contained by COMPANY shall be treated as a waiver of any subsequent default or breach of the same or any other covenant, condition or stipulation hereof.

20. **Assignment.** This Agreement may be assigned by COMPANY upon CITY'S written approval of said assignment.

21. **Authority to Act.** The parties to this Agreement shall provide proof of authorization to execute this document.

22. **Notice.** Whenever notice or other communication is herein required to be given to COMPANY or to CITY, such notice will be sent, respectively, to the attention of COMPANY'S President or other designated officer at the address of Company's facility in the reinvestment zone, or to the attention of the City Manager at the address of said Manager's then-current office location, via certified or registered mail, return receipt requested. Such notice will be considered effectively delivered when sent if such is properly addressed and sent and the return receipt is received by the sender, or if addressee fails to receive or accept delivery and the undelivered item is returned to sender.

23. **Definitions.** It is specifically understood by the governing body of the jurisdiction and its signatory/agent as well as COMPANY and its signatory/agent that "new jobs," as used in both, this Agreement and the underlying CITY guidelines for tax phase-in, means (and calculations therefore include) COMPANY employees as follows: The number of "new jobs" each year shall be determined by the cumulative sum of all new jobs employed by the COMPANY in the reinvestment zone after execution of this Agreement. This includes all employees who, subsequently to the Agreement, begin working in the reinvestment zone for Applicant (whether newly hired or who were previously hired by COMPANY elsewhere and whose work location is transferred to within the reinvestment zone), and, for purposes of the tax phase-in schedules in the guidelines and this Agreement, who work an average of at least a forty (40) hour work week. Two part-time employees working an average of twenty (20) hours each per week shall constitute one full-time employee for the calculation of "new jobs."

Any definitions of words or phrases given in the currently effective tax phase-in guidelines entitled "City of Brenham Policy Statement on Property Tax Phase-in Incentive for Selected Commercial Enterprises" shall be controlling in this document as well, except as may be specifically modified herein.

24. This Agreement has been approved by the governing body of the CITY.

25. Any aspect of this Agreement which may happen to conflict with the underlying jurisdiction's tax phase-in guidelines shall be considered as an approved modification or clarification of such guidelines as may be required to affect the intent of this Agreement.

26. For the duration of this Agreement and for additional consideration for this tax phase-in, COMPANY agrees to purchase the following utilities: water, natural gas, sewer, and electricity, exclusively from the City of Brenham in its service area.

27. If any action is brought to enforce, construe or determine the validity of any term or provision of this Agreement (whether at the trial court level or any appeal therefrom), the prevailing party shall be entitled to reasonable attorney's fees and costs of the action.

The parties hereto have executed or caused to be executed by its duly authorized officials this Agreement in multiple counterparts, each of equal dignity, on this the _____ day of _____, 2014.

TEMPUR SEALY INTERNATIONAL, INC. CITY OF BRENHAM

BY: _____
Dale E. Williams
Executive Vice President & CFO
1000 Tempur Way
Lexington, KY 40511

BY: _____
Milton Y. Tate, Jr.
Mayor
P.O. Box 1059
Brenham, Texas 77834-1059

ATTEST:

BY: _____
Jeana Bellinger
City Secretary
P.O. Box 1059
Brenham, Texas 77834-1059

THE STATE OF TEXAS

COUNTY OF WASHINGTON

Before me, the undersigned authority, on this day personally appeared **MILTON Y. TATE, JR.**, Mayor of the City of Brenham, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office on this the ____ day of _____, 2014.

Notary Public in and for
The State of Texas

THE STATE OF KENTUCKY

COUNTY OF _____

Before me, the undersigned authority, on this day personally appeared **DALE E. WILLIAMS**, _____ Executive Vice President & CFO of TEMPUR SEALY INTERNATIONAL, INC., known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office on this the ____ day of _____, 2014.

Notary Public in and for
The State of Kentucky

Exhibit A

FIELD NOTE to a tract of land containing 11.979 acres (521,815 square feet) of land, more or less situated in the Phillip Coe Survey, A-31, and being a portion of the 55.990 acres tract described in a deed from Fred J. Rodeck, et ux to The Brenham Industrial Foundation, Inc., dated April 28, 1978, recorded in Volume 364, Page 217, Deed Records of Washington County, Texas, and being a portion of the 16.386 acre tract described as Tract One in a deed from Carl Gallip, et al to The Brenham Industrial Foundation, Inc. dated September 20, 1978, recorded in Volume 371, Page 355, Deed Records of Washington County, Texas, and being a portion of the two tracts of land described in a deed from Kathleen Patricia Mushaway to HI-Line Industries, Inc. dated April 30, 1974, recorded in Volume 329, Page 91, Deed Records of Washington County, Texas, and being a portion of the 8.00 acres tract described in a deed from The Brenham Industrial Foundation, Inc. to Central Freight Lines, Inc., dated December 3, 1959, recorded in Volume 224, Page 399, Deed Records of Washington County, Texas; and being a portion of the 2.151 acres tract described in a deed from The Brenham Industrial Foundation, Inc. to Central Freight Lines, Inc., dated February 20, 1965, recorded in Volume 256, Page 506, Deed Records of Washington County, Texas, and being part of the 15.004 acre tract conveyed by Ed Wehmayer to Brenham Industrial Foundation by deed recorded in Volume 198, Page 56, Washington County Deed Records; being part of the 14.504 acres tract conveyed by Fred Rodeck to Brenham Industrial Foundation by deed recorded in Volume 198, Page 43, Washington County Deed Records and more particularly described by metes and bounds as follows:

BEGINNING at a set 1/2" iron rod marking the intersection of the south right-of-way line of US 290 (variable right-of-way) and the westerly line of Gulf Coast & Santa Fe Rail Road, same being the beginning of a curve to the left;

THENCE with said curve to the left along the westerly right-of-way line of Gulf Coast & Santa Fe Rail Road having a radius of 19007.80 feet subtending a central angle of 02° 00' 36" and a length of 668.81 feet to a set 1/2" iron rod;

THENCE N 49° 00' 00" W a distance of 183.80 feet to a set 1/2" iron rod;

Exhibit A

THENCE N 55° 10' 00" W a distance of 228.51 feet to a set 1/2" iron rod;

THENCE S 34° 28' 00" W a distance of 150.89 feet to a set 1/2" iron rod;

THENCE S 74° 20' 33" W a distance of 358.15 feet to a found 5/8" iron rod;

THENCE N 69° 41' 55" W a distance of 458.82 feet to a found 1/2" iron rod in the northeast right-of-way line of a private street, same being the beginning of a curve to the left;

THENCE with said curve to the left along the northeast right-of-way line of a private street with a radius of 70.00 feet subtending a central angle of 50° 25' 28" and a length of 61.81 feet to a found 1/2" iron rod;

THENCE N 34° 28' 00" E a distance of 156.26 feet to a set 1/2" iron rod;

THENCE S 55° 32' 00" E a distance of 50.88 feet to a set 1/2" iron rod;

THENCE N 34° 28' 00" E a distance of 264.35 feet to a set 1/2" iron rod;

THENCE S 55° 32' 00" E a distance of 240.00 feet to a set 1/2" iron rod;

THENCE N 34° 46' 48" E a distance of 510.00 feet to a set 1/2" iron rod marking the south right-of-way line of US 290 (variable width);

THENCE S 55° 10' 00" along the south right-of-way line of US 290 (variable width) a distance of 345.80 feet to the POINT OF BEGINNING and containing 11.979 acres, more or less.

FILED FOR RECORD
WASHINGTON COUNTY, TEXAS

2007 JUN 27 AM 11:14

BETH A. ROTHERMEL
WASHINGTON COUNTY CLERK

STATE OF TEXAS
COUNTY OF WASHINGTON

I hereby certify that this instrument was FILED on the date and at the time affixed hereon by me and was duly RECORDED in the volume and page of the OFFICIAL RECORDS of Washington County, Texas, as stamped hereon by me on

JUN 28 2007

Beth A. Rothermel

Beth Rothermel, County Clerk
Washington County, Texas



EXHIBIT A



CITY OF BRENHAM

POLICY STATEMENT ON PROPERTY TAX PHASE-IN INCENTIVE FOR SELECTED COMMERCIAL ENTERPRISES

Policy Adoption Date: December 5, 2013

I. PURPOSE

The City of Brenham, hereinafter referred to as "the City," is committed to the promotion of high quality development in all parts of the community and to improving the quality of life for its citizens. In order to help meet these goals and to stimulate economic development, the City will consider providing incentives that include, but are not limited to, the property Tax Phase-In incentive, in accordance with the procedures, criteria and guidelines set forth in this Policy and as provided by Chapter 312 of the Texas Tax Code. Nothing in this Policy shall imply or suggest that the City is under any obligation to provide any incentives to any applicant. Each application for the Tax Phase-In incentive under this Policy shall be considered on an individual basis.

II. DEFINITION OF TAX PHASE-IN INCENTIVE

Tax Phase-In incentive, as referred to in this Policy, means the partial, temporary exemption from ad valorem taxes on certain qualifying property in a Reinvestment Zone designated by the City or County for economic development purposes. Only ad valorem (property) taxes are eligible for the incentive. Brenham ISD and Blinn College taxes are required to be paid in full at all times.

The attached Glossary is a list of words with their definitions that are found in this document, and the Glossary is incorporated herein by reference.

III. GUIDELINES AND CRITERIA

In order to be eligible for property Tax Phase-In incentive, the planned improvement at a minimum must:

- (a) Be an Authorized Facility. A facility may be eligible if it is a(n):
 - Agriculture/Aquaculture Facility,
 - Distribution Center Facility,
 - Manufacturing Facility,
 - Research Facility, or
 - Other Basic Industry. [as defined in Glossary-Section XII (o)]
- (b) The project must add new value to the tax roll of eligible property: a minimum of \$300,000 for a business new to Brenham or \$150,000 for an existing local business. For development in the Downtown Zone, a National Register Historic District, the added value must be a minimum of \$50,000. This is to help maintain the economic viability of

the central business district.

- (c) The applicant must maintain or create within the first year and throughout the Tax Phase-In incentive period a minimum of ten (10) jobs at an average base salary of \$33,000/year or higher, including any benefits (except for a location in the Downtown Zone).

In consideration of the request for the Tax Phase-In incentive, the following factors will also be considered:

- (1) Jobs The projected new jobs created including the number of jobs, the type of jobs and the average salary per job class.
- (2) Fiscal Impact The amount of real and personal property value that will be added to the tax roll for both eligible and ineligible property, the amount of direct sales tax that may be generated, any infrastructure improvements by the City that will be required by the facility, the infrastructure improvements made by the facility, and the compatibility of the project with the City's master plan for development.
- (3) Valuation at Termination of Tax Phase-In Incentive Period The estimated fair market value, valued at the end of incentive period, of any equipment included in the Tax Phase-In incentive. The economic life of the added-value property must exceed the duration of the granted Tax Phase-In incentive period.

- (4) Community Impact

The pollution, if any, as well as other negative environmental impacts affecting the health and safety of the community that will be created by the project;

The revitalization of a depressed area;

The business opportunities of existing local businesses;

The alternative development possibilities for proposed site;

The impact on other taxing entities;

Whether the improvement is expected to solely or primarily have the effect of transferring employment from one part of Washington County to another; and/or,

Whether the product manufactured or service provided by the business competes to a substantial degree with an existing business.

IV. TAX PHASE-IN INCENTIVE AUTHORIZED

- (a) Authorized Date A facility shall be eligible for the Tax Phase-In incentive if it has applied for the incentive prior to the commencement of construction and meets the guidelines and criteria under this Policy.

- (b) Creation of New Value Tax Phase-In incentive may only be granted for the additional value

of eligible property improvements made subsequent to the filing of an application for the Tax Phase-In incentive and specified in the Tax Phase-In incentive agreement between the City and the property owner and/or lessee, subject to such limitations as the guidelines and criteria may require.

(c) New and Existing Facilities Tax Phase-In incentive may be granted for new facilities and improvements and for the expansion or modernization of existing facilities and improvements. If the modernization project includes facility replacement, the Tax Phase-In incentive value shall be the tax-appraised value of the new unit(s) less the value of the old unit(s).

(d) Eligible Property Except as otherwise provided in this policy, the Tax Phase-In incentive may be extended to the value of buildings, structures, fixed machinery and equipment, site improvements plus that office space and related fixed improvements necessary or convenient to the operation and administration of the facility.

(e) Ineligible Property The following types of property shall be fully taxable and ineligible for property Tax Phase-In incentives:

- land,
- animals,
- inventories,
- supplies,
- tools,
- furnishings and other forms of movable personal property,
- vehicles,
- vessels,
- aircraft,
- housing or residential property (except for property owners in the Downtown Zone),
- hotels/motels,
- fauna,
- flora,
- retail facilities (except for property owners in the Downtown Zone),
- deferred maintenance investments,
- property to be rented or leased except as provided in Part IV (f),
- improvements for the generation or transmission of electrical energy not wholly consumed by a new facility or expansion,
- any improvements including those to produce, store or distribute natural gas or fluids that are not integral to the operation of the facility,
- property owned or used by the State of Texas or its political subdivisions or by any organization owned, operated or directed by a political subdivision of the State of Texas.

(f) Owned/Leased Facilities If a leased facility is granted the Tax Phase-In incentive, the agreement shall be executed with the lessor and the lessee and the new value investment shall be combined to calculate the total new value investment. If the lessee removes or reduces its new value investment to the detriment of the lessor, the lessor may annually elect to extend its Tax Phase-In incentive to obtain a replacement lessee. The lessor may obtain the full benefit of the remaining Tax Phase-In incentive period by resuming the Tax Phase-In incentive with the combined value of the replacement lessee by disregarding the Tax Phase-In incentive extension

term. The lessor shall not receive any Tax Phase-In incentive during any year where a Tax Phase-In incentive extension has been elected. The Tax Phase-In incentive period, including any extensions, shall never exceed a total of ten years as provided by state law. The replacement lessee may apply for its own Tax Phase-In incentive based solely on its new value investment.

(g) Value and Term of Tax Phase-In incentive Tax Phase-In incentives shall commence with the January 1 valuation date immediately following the occupancy of the property qualifying for the Tax Phase-In incentive unless otherwise specified by the City. The value of new eligible properties shall be abated according to the approved agreement between applicant and the City. The City, in its sole discretion, shall determine the amount of any Tax Phase-In incentive. The table one Tax Phase-In incentive schedule - Exhibit "A", table three in a Downtown Zone (map Exhibit "B"), incorporated herein by reference, shall be the maximum Tax Phase-In incentive available based on total new value investment or added employment for each year during the Tax Phase-In incentive term, whichever is greater. The total amount of abatement shall be derived from the sum of table one and table two, unless located in a Downtown Zone, in which the total amount of abatement will be derived from table three. Tax Phase-In incentive in a Downtown Zone shall receive approval for building plans and specifications by the Main Street Board as a condition of receiving the Tax Phase-In incentive.

(h) Downtown Zone A Tax Phase-In incentive zone within the designated downtown area in the attached Exhibit B, incorporated herein by reference, and any tracts or parcels contiguous to a tract in Exhibit B under common ownership.

(i) Taxability From the execution of the Tax Phase-In incentive contract to the end of the agreement period, taxes shall be payable as follows:

- (1) The value of ineligible property as provided in Part IV (e) shall be fully taxable.
- (2) The base year value of existing eligible property as determined each year shall be fully taxable.
- (3) The additional value of new eligible property shall be taxable in the manner described in Part IV (g).

V. APPLICATION PROCESS

(a) Any present or potential owner of taxable property in the City of Brenham may request the creation of a Reinvestment Zone and Tax Phase-In incentive by filing written request with the City Manager.

(b) The application shall consist of a completed application form accompanied by:

- (1) A general description of the proposed use and the general nature and extent of the modernization, expansion or new improvements to be undertaken;
- (2) A descriptive list of the improvements which will be a part of the facility;
- (3) A map and property description or a site plan, including a legal description of the area proposed for designation as a Reinvestment Zone, as applicable.

- (4) A time schedule for undertaking and completing the planned improvements;
- (5) In the case of modernizing or replacing existing facilities, a statement of the assessed value of the facility, separately stated for real and personal property, shall be given for the tax year immediately preceding the application;
- (6) The application form may require such financial and other information as deemed appropriate for evaluating the financial capacity and other factors of the applicant;
- (7) A schedule reflecting the proposed amount of abated taxes for which the applicant seeks, as well as the anticipated taxes to be paid by the applicant which will not be subject to the Tax Phase-In incentive; and
- (8) A schedule of the proposed job creation or retention, including details of job type(s), wages and benefits, and the timing of creation of any job within the phase-in period.

(c) Upon receipt of a completed application, the City Manager shall notify the Mayor and City Council. Before acting upon the application, the City may conduct an Economic Impact Study. Following this step, the City shall afford the applicant and any other interested persons the opportunity to speak and present evidence for or against the designation of the area as a Reinvestment Zone for the purpose of the Tax Phase-In incentive during a public hearing. Notice of the public hearing shall be clearly identified on an agenda of the City to be posted as required by law. At least seven (7) days before the date of the hearing, notice of the hearing must be 1) published in a newspaper having general circulation in the City; and 2) delivered in writing to the presiding officer of the governing body of each taxing entity having in its boundaries real property that is to be included in the proposed Reinvestment Zone.

(d) The City shall approve or disapprove the application for designation of an area as a Reinvestment Zone for Tax Phase-In incentive within ninety (90) days after receipt of the application. The presiding officer of the legislative body of the City shall notify the applicant of the approval or disapproval promptly thereafter.

(e) A request for designation of an area as a Reinvestment Zone for the purpose of receiving the Tax Phase-In incentive shall not be granted if the jurisdiction receiving the application finds that the request for the Tax Phase-In incentive was filed after the commencement of construction or installation of improvements related to a proposed modernization expansion or new facility began.

Variance. Requests for any variances from this Policy may be made in written form to the City Manager. Such request shall include a complete description of the circumstances explaining why the applicant should be granted a variance. Approval of a request for variance requires a three-fourths (3/4) majority vote of the governing body of the City. The approval by the City of a Tax Phase-In incentive shall conclusively be deemed as an approval of any variance from the provisions of Subsections (a) through (e) of Part V.

VI. PUBLIC HEARING

(a) Should the City be able to show cause in the public hearing why the granting of a designation of an area as a Reinvestment Zone for the Tax Phase-In incentive will have a substantial adverse effect on its bonds, service capacity or the provision of service, that showing shall be reason for the City to deny the granting of the application.

(b) Neither a Reinvestment Zone nor a property Tax Phase-In incentive agreement shall be authorized if it is determined that:

- (1) There would be a substantial adverse affect on the provision of a government service or tax base of the City.
- (2) The applicant has insufficient financial capacity
- (3) Planned or potential use of the property would constitute a hazard to public safety, health or morals.
- (4) Planned or potential use of the property violates governmental codes or laws.

VII. AGREEMENT

(a) After approval of the application for the designation of an area as a Reinvestment Zone for the property Tax Phase-In incentive, the City shall formally pass a resolution and execute an agreement with the owner of the facility and the lessee involved, if any, which shall include:

- (1) Estimated value to be abated and the base year value.
- (2) Percent of value to be abated each year as provided in Part IV (g).
- (3) The commencement date and the termination date of Tax Phase-In incentive.
- (4) The proposed use of the facility, nature of construction, time schedule for undertaking and completing the planned improvements, map, property description and improvements list as provided in Application, Part V.
- (5) Contractual obligations in the event of default, violation of terms or conditions, delinquent taxes, recapture, administration and assignment as provided herein and other provisions that may be required for uniformity or by state law.
- (6) Amount of investment and average number of jobs involved for the period of the Tax Phase-In incentive.
- (7) Said contract shall meet all of the requirements of Texas Tax Code Chapter 312.

(b) Such agreement shall be executed within ninety (90) days after the later of 1) the date

applicant has forwarded all necessary information to the City or 2) the date of the approval of the application.

(c) The City shall make its own determination of the property Tax Phase-In incentive which shall not bind any other jurisdiction.

VIII. ADMINISTRATION

Each Tax Phase-In incentive project will be monitored annually for compliance. The agreement will require the applicant to provide a sworn statement and documents verifying compliance each year. Failure to provide the required documents in the manner outlined herein shall result in termination of the Tax Phase-In incentive agreement.

The terms of the agreement shall include the right of the City to review and verify the applicant's employment records and payroll records in each year during the term of the agreement, and to conduct an on-site inspection of the project in each year during the duration of the Tax Phase-In incentive, and to review such other items as may be reasonable to verify compliance with the terms of the agreement.

The agreement shall stipulate that employees and/or designated representatives of the City will have access to the Reinvestment Zone during the term of the Tax Phase-In incentive to inspect the facility to determine compliance with the terms and conditions of the agreement. All inspections will be made only after the giving of twenty-four (24) hours prior notice and will be conducted in such manner as to not unreasonably interfere with the construction and/or operation the facility. All City inspections will be made with one or more representatives of the company or individual and in accordance with its safety standards.

All proprietary information acquired by any affected jurisdiction for purposes of monitoring compliance with the terms and conditions of a property Tax Phase-In incentive agreement shall be considered confidential to the extent allowed by law.

Compliance will be monitored in the following manner:

- (a) A Compliance Review Committee shall collect from the applicant a sworn statement of compliance and verifying documents and conduct any inspections on or before October 15 of each calendar year. The Committee shall be comprised of 5 representatives, with 2 appointed by the Mayor, 2 appointed by the County Judge and 1 by the Chief Appraiser. They will be appointed by January 30 of even numbered years for a two year term. Any vacancy on the committee will be filled by the designated official who appointed the vacating committee person. The designated official may remove an appointee at any time. The company/individual receiving the property Tax Phase-In incentive shall furnish the Committee with such information as may be necessary to verify compliance, including the number of new or retained employees associated with the facility and their salaries.
- (b) The Chief Appraiser of the County shall annually determine an assessment of the real and personal property in the Reinvestment Zone. This shall be done on or before December 1 of each calendar year.

- (c) The Committee shall provide a report on the status of all Tax Phase-In incentive agreements to the City Council on or before December 15 of each calendar year.

IX. RECAPTURE

Should the City determine that a company or individual is in default according to the terms and conditions of its agreement, the City shall notify the company or individual in writing at the address stated in the agreement, and if such default is not cured within thirty (30) days or begun to be cured (in the case of a default that cannot reasonably be cured within 30 days) from the date of such notice ("Cure Period"), then the agreement shall be terminated.

In the event that the company or individual:

- (1) allows its ad valorem taxes owed the City to become delinquent and fails to timely and properly follow the legal procedures for their protest and/or contest; or
- (2) does not create or maintain jobs as outlined in the agreement; or
- (3) violates any of the terms and conditions of the Tax Phase-In incentive agreement and fails to cure same during the Cure Period; or
- (4) if the facility is completed and begins producing product or service, but subsequently discontinues producing product or service for any reason excepting fire, explosion or other casualty or accident or natural disaster, for a period of more than one (1) year during the Tax Phase-In incentive period;

then the agreement shall terminate and so shall the Tax Phase-In incentive of taxes for the calendar year during which the agreement is terminated. The taxes otherwise abated for that calendar year shall be paid to the City within sixty (60) days from the date of termination, and all taxes previously abated by virtue of the agreement will be recaptured and paid within sixty (60) days of the termination. The City will use all available means for recapture, including but not limited to, placing a lien on the property and pursuing all other legal and equitable remedies available to the City.

X. ASSIGNMENT

- (a) The Tax Phase-In incentive may be transferred and assigned by the holder to a new owner or lessee of the same facility upon the approval by resolution of the City, subject to the financial capacity of the assignee and provided that all conditions and obligations in the Tax Phase-In incentive agreement are guaranteed by the execution of a new contractual agreement with the City.
- (b) The contractual agreement with the new owner or lessee shall not exceed the termination date of the Tax Phase-In incentive agreement with the original owner and/or lessee.
- (c) No assignment or transfer shall be approved if the parties to the existing agreement, the

new owner or new lessee are liable to the City for outstanding taxes or other obligations.

(d) Approval shall not be unreasonably withheld.

XI. SUNSET PROVISION

(a) This policy is effective upon the date of the adoption and will remain in force for two (2) years, at which time all Reinvestment Zones and Tax Phase-In incentive contracts created pursuant to its provisions may be reviewed by the City to determine whether the goals have been achieved. Based on that review, this policy may be modified, renewed or eliminated, providing that such actions shall not affect existing contracts.

(b) This policy does not amend any existing Industrial District Contracts or agreements with the owners of real property in areas deserving of specific attention as agreed by the City.

(c) Prior to the date for review, as defined above, this Policy Statement may be modified by a three fourths (3/4) vote of members each governing body, as provided for under the laws of the State of Texas.

XII. SEVERABILITY AND LIMITATIONS

(a) In the event that any section, clause, sentence, paragraph or any part of this Policy Statement shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such invalidity shall not affect, impair, or invalidate the remainder of this Policy Statement.

(b) Property that is owned or leased by the following is excluded from the property Tax Phase-In incentive:

- (1) a member of the governing body of the City of Brenham or a member of a planning board or commission of the City; or
- (2) a member of the Commissioners Court or a member of a planning board or commission of Washington County.

(c) If this Policy Statement has omitted any mandatory requirements of the applicable Tax Phase-In incentive laws of the State of Texas, then such requirements are hereby incorporated as a part of this Policy Statement.

GLOSSARY

- (a) "Agriculture/Aquaculture Facility" means buildings, structures and major earth structure improvements, including fixed machinery and equipment, the primary purpose of which is of food and/or fiber products in commercially marketable quantities.
- (b) "City" means the City of Brenham, Texas that levies ad valorem taxes upon and/or provides services to property located within the City limits.
- (c) "Agreement" means a contractual agreement between a property owner and/or lessee and the City for the purpose of the Tax Phase-In incentive.
- (d) "Base year value" means the assessed value of eligible property on January 1 preceding the execution of the agreement plus the agreed upon value of eligible property improvements made after January 1 but before the filing of an application for the Tax Phase-In incentive.
- (e) "Committee" means the Compliance Review Committee, consisting of representatives appointed by the City, County and Chief Appraiser's office to annually review documents verifying compliance of all projects receiving the Tax Phase-In incentive.
- (f) "Deferred maintenance" means improvements necessary for continued operations which do not improve productivity or alter the process technology.
- (g) "Distribution Center Facility" means building and structures, including machinery and equipment, used or to be used primarily to receive, store, service or distribute goods or materials owned by the facility, from which a majority of revenues generated by activity at the facility are derived from outside of Washington County.
- (h) "Existing Local Business" means a business that has been located in the City of Brenham and has paid property taxes for at least one full year prior to submitting any application for the property Tax Phase-In incentive.
- (i) "Expansion" means the addition of buildings, employees, structures, machinery or equipment for purposes of increasing production capacity.
- (j) "Facility" means property improvements completed or in the process of construction which together comprise an integral whole.
- (k) "Job(s)" shall represent a newly created or a retained employment position on a full-time permanent basis at an average base salary of \$30,000 or higher, including any benefits, whether hired directly or leased through an employee leasing service.
- (l) "Manufacturing Facility" means buildings and structures, including machinery and equipment, the primary purpose of which is or will be the manufacture of tangible goods or materials or the processing of such goods or materials by physical or chemical change.
- (m) "Modernization" means the upgrading and or replacement of existing facilities which increases the productive input or output, updates the technology or substantially lowers the unit

cost of the operation. Modernization may result from the construction, alteration or installation of buildings, structures, fixed machinery or equipment. It shall not be for the purpose of reconditioning, refurbishing or repairing.

(n) "New Facility" means improvements to real estate previously undeveloped which is placed into service by means other than or in conjunction with expansion or modernization.

(o) "Other Basic Industry" means buildings and structures/including fixed machinery and equipment not elsewhere described, used or to be used for the production of products or providing of services which serve a market primarily outside the County and results in the creation of new permanent jobs and new wealth in the County.

(p) "Productive Life" means the number of years a property improvement is expected to be in service in a facility.

(q) "Research Facility" means buildings and structures, including fixed machinery and equipment, used or to be used primarily for research or experimentation to improve or develop new tangible goods or materials or to improve or develop the production processes thereto.

EXHIBIT "A"
TAX PHASE-IN INCENTIVE SCHEDULES

Applicants may receive property Tax Phase-In incentive according to the schedules in Tables 1 and 2, depending on their combination of property value creation and job creation/retention.

TABLE 1 (earns 50% of incentive)

1A - Property Improvements by an Existing Local Business

Level	Amount of Valuation of Eligible Improvements as determined by the Tax Appraisal District:		Percent of property tax to be abated each year									
	From	To	1	2	3	4	5	6	7	8	9	10
1	\$ 150,000	\$1,000,000	45	40	30	20	0	0	0	0	0	0
2	\$1,000,001	\$2,500,000	45	45	40	30	20	0	0	0	0	0
3	\$2,500,001	\$4,000,000	45	45	45	40	30	20	0	0	0	0
4	\$4,000,001	\$5,500,000	45	45	45	45	40	30	20	0	0	0
5	More than	\$5,500,000	45	45	45	45	45	40	30	20	0	0

1B - Property Improvements by a New Business

Level	Amount of Valuation of Eligible Improvements as determined by the Tax Appraisal District:		Percent of property tax to be abated each year									
	From	To	1	2	3	4	5	6	7	8	9	10
1	\$ 300,000	\$1,000,000	45	40	30	20	0	0	0	0	0	0
2	\$1,000,001	\$2,500,000	45	45	40	30	20	0	0	0	0	0
3	\$2,500,001	\$4,000,000	45	45	45	40	30	20	0	0	0	0
4	\$4,000,001	\$5,500,000	45	45	45	45	40	30	20	0	0	0
5	More than	\$5,500,000	45	45	45	45	45	40	30	20	0	0

TABLE 2 (earns 50% of incentive)

2 - Jobs Created & Retained - by Existing Businesses or New/Relocating Businesses

Level	The number of new and/or retained full-time employees with an average salary level of \$33,000+/year including benefits averaged during the twelve calendar months prior to the tax assessment date of January 1:		Percent of property tax to be abated each year									
	From	To	1	2	3	4	5	6	7	8	9	10
1	10	19	45	40	30	20	0	0	0	0	0	0
2	20	29	45	45	40	30	20	0	0	0	0	0
3	30	39	45	45	45	40	30	20	0	0	0	0
4	40	49	45	45	45	45	40	30	20	0	0	0
5	50 and more		45	45	45	45	45	40	30	20	0	0

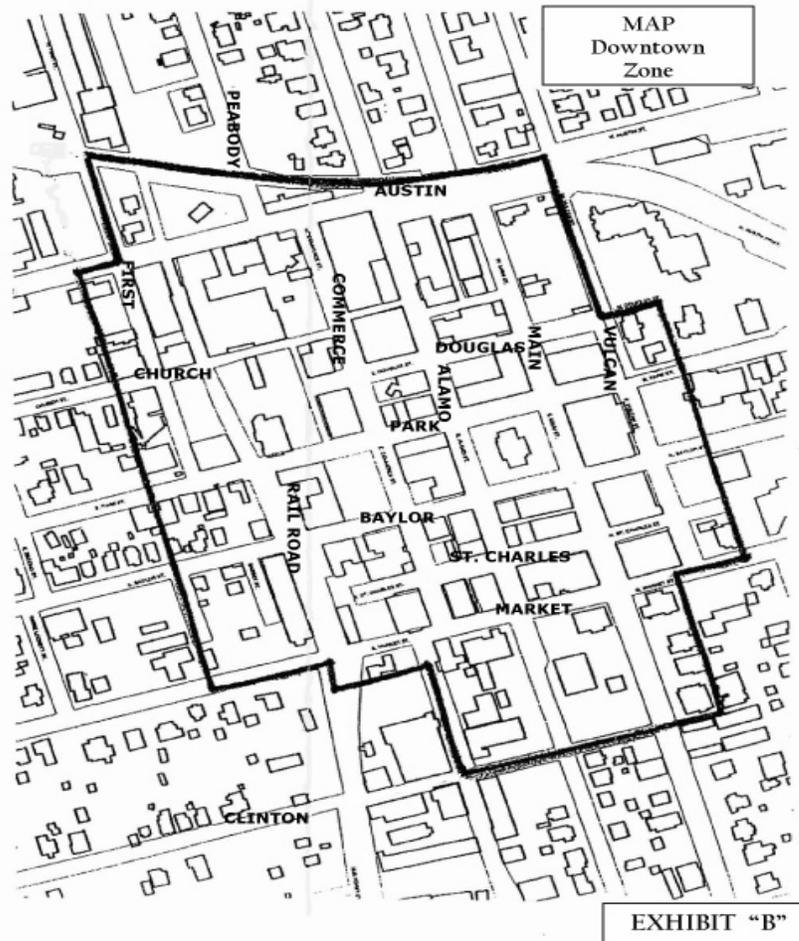
TABLE 3 Downtown Zone

Amount of valuation
of downtown
reinvestment
determined by tax appraisal:

Percent of property tax to be abated each year

Valuation	1	2	3	4	5	6	7	8
\$ 50,000 to \$150,000	90	90	90	60	40	20	0	0
\$150,001 to \$250,000	90	90	90	90	60	40	20	0
\$250,001 and beyond	90	90	90	90	90	60	40	20

**EXHIBIT
B
MAP OF DOWNTOWN
ZONE**





AGENDA ITEM 14

DATE OF MEETING: February 6, 2014		DATE SUBMITTED: January 29, 2014	
DEPT. OF ORIGIN: Brenham EDF		SUBMITTED BY: Clint Kolby	
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-14-006 Nominating Tempur Sealy International, Inc. to the Office of the Governor Economic Development and Tourism for Designation as an Enterprise Project Under the Texas Enterprise Zone Program and Authorize the Mayor to Execute Any Necessary Documentation			
SUMMARY STATEMENT: : City Council is being asked to consider discussion and possible action on a resolution nominating Tempur Sealy International as an Enterprise Project to the State of Texas. Participation in the Texas Enterprise Zone Program is possible because of Tempur Sealy’s planned expansion at their local plant. In order for the application to be submitted, the City is required to consider the attached Resolution nominating Tempur Sealy International for the State of Texas Enterprise Zone program. A company that qualifies as a State Enterprise Project qualifies for reimbursement of the State portion of sales and use tax paid as a part of the business expansion. No local sales tax is rebated to the Company. The designation is for a five year period.			
STAFF ANALYSIS (For Ordinances or Regular Agenda Items):			
A. PROS: The Council should favorably consider this ordinance to provide state economic development incentive benefits to a local business that qualifies.			
B. CONS:			
ALTERNATIVES (In Suggested Order of Staff Preference):			
ATTACHMENTS: (1) Resolution No. R-14-006			
FUNDING SOURCE (Where Applicable):			

RECOMMENDED ACTION: Approve Resolution No. R-14-006 nominating Tempur Sealy International, Inc. to the Office of the Governor Economic Development and Tourism for designation as an Enterprise Project under the Texas Enterprise Zone Program and authorize the Mayor to execute any necessary documentation..

APPROVALS: Terry K. Roberts

RESOLUTION NO. R-14-006

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRENHAM, TEXAS, NOMINATING TEMPUR SEALY INTERNATIONAL, INC. (“TSII” OR THE “COMPANY”), TO THE OFFICE OF THE GOVERNOR, ECONOMIC DEVELOPMENT AND TOURISM THROUGH THE TEXAS ECONOMIC DEVELOPMENT BANK FOR DESIGNATION AS AN ENTERPRISE PROJECT UNDER THE TEXAS ENTERPRISE ZONE PROGRAM PURSUANT TO THE TEXAS ENTERPRISE ZONE ACT, TEXAS GOVERNMENT CODE, CHAPTER 2303; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on February 18, 2010, the City of Brenham (“City”) previously passed Ordinance No. O-10-002 electing to participate in the Texas Enterprise Zone Program, and the local incentives offered under this resolution are the same on this date as were outlined in Ordinance No. O-10-002;

WHEREAS, the Office of the Governor, Economic Development and Tourism (“OOGEDT”) through the Texas Economic Development Bank (“Bank”) will consider TSII as an Enterprise Project pursuant to a nomination and an application made by the City;

WHEREAS, the City desires to pursue the creation of the proper economic and social environment in order to induce the investment of private resources in productive business enterprises located in the City and to provide employment to residents of enterprise zones and to other economically disadvantaged individuals;

WHEREAS, pursuant to Chapter 2303, Subchapter F of the Texas Enterprise Zone Act, Texas Government Code (the "Act"), TSII has applied to the City for designation as an Enterprise Project; and

WHEREAS, the City finds that, based upon representations of TSII, that the Company is a "qualified business" under Section 2303.402 of the Act since it will be engaged in the active conduct of a trade or business at a qualified business site within the governing body’s jurisdiction located inside of an enterprise zone and at least twenty-five percent (25.0%) of the business' new employees will be residents of an enterprise zone or economically disadvantaged individuals; and

WHEREAS, the City finds that TSII further meets the criteria for designation as an Enterprise Project under Chapter 2303, Subchapter F of the Act on the following grounds:

- (1) There has been and will continue to be a high level of cooperation between public, private, and neighborhood entities within the area; and

- (2) The designation of TSII as an Enterprise Project will contribute significantly to the achievement of the plans of the City for development and revitalization of the area.

WHEREAS, the City finds that TSII meets the criteria for tax relief and other incentives adopted by the City and nominates the Company for enterprise project status on the grounds that it will be located at the qualified business site, will retain a high level of employment, economic activity and stability; and

WHEREAS, the City finds that it is in the best interest of the City to nominate TSII as an Enterprise Project pursuant to the Act;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BRENHAM, TEXAS that the findings of the City and its actions approving this resolution taken at the council meeting are hereby approved and adopted.

Section I: The City finds that TSII is a "qualified business", as defined in Section 2303.402 of the Act, and meets the criteria for designation as an Enterprise Project, as set forth in Section 2303, Subchapter F of the Act.

Section II: The City nominates TSII as an Enterprise Project.

Section III: The Enterprise Project shall take effect on March 1, 2014 and terminate on March 1, 2019.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF BRENHAM, TEXAS this ____ day of _____, 2014.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC
City Secretary

APPROVED AS TO FORM:

Cary Bovey
City Attorney



AGENDA ITEM 15

DATE OF MEETING: February 6, 2014	DATE SUBMITTED: February 2, 2014, 2014	
DEPT. OF ORIGIN: Police	SUBMITTED BY: Rex Phelps	
MEETING TYPE: <input checked="" type="checkbox"/> REGULAR <input type="checkbox"/> SPECIAL <input type="checkbox"/> EXECUTIVE SESSION	CLASSIFICATION: <input type="checkbox"/> PUBLIC HEARING <input type="checkbox"/> CONSENT <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 to Repeal Chapter 17, Article VI, Prohibited Smoking Paraphernalia and Smoking Products, of the Code of Ordinances of the City of Brenham		
SUMMARY STATEMENT: The existing ordinance has become obsolete due to a state law that has made the possession and sale of synthetic marihuana a higher class offense. A city ordinance cannot supersede a state law.		
STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: Repeal an ordinance that has been jurisdictionally replaced by state law B. CONS: None Identified		
ALTERNATIVES (In Suggested Order of Staff Preference): None		
ATTACHMENTS: (1) Ordinance		
FUNDING SOURCE (Where Applicable): N/A		
RECOMMENDED ACTION: Approve an Ordinance on its first reading to repeal Chapter 17, Article VI, Prohibited Smoking Paraphernalia and Smoking Products, of the Code of Ordinances of the City of Brenham		
APPROVALS: Terry K. Roberts		

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BRENHAM, TEXAS REPEALING ORDINANCE NUMBER O-11-002 RELATED TO CHAPTER 17, ARTICLE VI, PROHIBITED SMOKING PARAPHERNALIA AND SMOKING PRODUCTS; AND ORDAINING OTHER RELATED MATTERS

WHEREAS, pursuant to Texas Local Government Code section 51.001, the City of Brenham, Texas (“City”) has the authority to adopt ordinances and regulations that are for the good government, peace and order of the City; and

WHEREAS, on February 3, 2011, the City Council passed Ordinance O-11-002 on second reading, adding Chapter 17, Article VI, Prohibited Smoking Paraphernalia and Smoking Products, of the Code of Ordinances, City of Brenham, Texas to prohibit products containing synthetic cannabinoids, salvia divinorum or related chemicals and paraphernalia in the City of Brenham; and

WHEREAS, the Texas Controlled Substances Act has been amended to address the matters regulated by Chapter 17, Article VI, Prohibited Smoking Paraphernalia and Smoking Products, of the Code of Ordinances, City of Brenham, Texas;

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

SECTION 1

Chapter 17, Article VI, Prohibited Smoking Paraphernalia and Smoking Products, of the Code of Ordinances, City of Brenham, Texas is hereby repealed and rescinded in its entirety.

SECTION 2

Chapter 17, Article VI, Prohibited Smoking Paraphernalia and Smoking Products, of the Code of Ordinances, City of Brenham, Texas shall be amended to read as follows:

Sec. 17-76. – Sec. 17-80. RESERVED

SECTION 3
EFFECTIVE DATE

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

SECTION 4
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 at the meeting of the City Council held on this the 6th day of February, 2014.

PASSED AND APPROVED, on its second reading at the meeting of the City Council held on this the 20th day of February, 2014.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC
City Secretary



AGENDA ITEM 16

DATE OF MEETING: February 6, 2014	DATE SUBMITTED: January 31, 2014	
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 the Purchase of a Road Mixer for the City of Brenham's Street Department from the Houston Galveston Area Council (HGAC) Local Government Purchasing Cooperative and Authorize the Mayor to Execute Any Necessary Documentation		
SUMMARY STATEMENT: During the last Council work session two options were discussed related to the purchase of a road mixer for the City of Brenham Street Dept. Our two options were the Asphalt Zipper (Model # AZ-590B), which is an attachment to our Case 621D loader, and the Bomag (Model # MPH364R-2), a stand-alone unit. As discussed both units have their advantages and disadvantages.		
<p>The Asphalt Zipper can be purchased off of the HGAC Buy board for \$164,490. This unit is very versatile and can be used for road reconstruction, mixing of cement and gutter milling throughout town. It can also be used for small asphalt patches that are done on a weekly basis. This unit does attach through quick connect to our current loader. Because this is an attachment, the loader will not be available for other projects while being used with the Zipper. The Street Dept. does have another loader that can be used while this attachment is on the main loader, therefore, we will just have to become more precise with our scheduling of equipment. I feel that if the operational resources remain the same for the Street Dept. as they have in the past, this unit will be ideal to begin our transition from a motor grader to a road mixer because of its flexibility not only on reconstruction but for smaller projects. Based on discussion with our Maintenance Personnel they feel that the Asphalt Zipper will require less maintenance in the long run and is the logical choice for our department's needs. This unit is belt driven, not hydrostatic as is the Bomag. Hydro static engines are very touchy and when it comes to maintenance these engines always have to be taken to a specialist to diagnose the issue. When comparing fuel efficiency, the Asphalt Zipper by far is more efficient than the standalone Bomag. Results show that the loader with the Asphalt Zipper averages 11 gal/hr. and the standalone Bomag averages 25-30 gal/hr.</p> <p>The other option discussed was the Bomag. The Bomag is a stand-alone unit that is designed specifically for road mixing. This unit can be purchased off of the HGAC Buy board for \$294,223. The Bomag, in my opinion, is not as versatile as the Asphalt Zipper but can work at a faster past than the zipper. Being that it is a standalone unit it does not rely on another piece of equipment to operate but due to the nature of it will require more maintenance. This unit would be great if operational budget in the Street Dept. were increased because we could keep it busy, but with the price difference and the unknown factor of the operational budget I would really hate to see a \$300,000 unit not being used all year long.</p>		

The funding options are listed on the attached spreadsheet. If we choose to fund this unit at this time, we have two options. The first option is to finance either unit with De Lage Landen (through BBVA Compass) and the first payment will be due at lease signing. The payments are estimated to be \$35,409.63 on the Asphalt Zipper or \$62,358.61 for the Bomag Recycler. If this option is chosen, we would make the initial lease payment in FY13-14 and then transfer that amount from General Fund reserves to the Debt Service Fund to cover the payment. The second option is to finance this piece of equipment through Chase Equipment Leasing. The payments are estimated to be \$37,469.45 for the Zipper and \$66,059.58 for the Bomag Recycler. If this option is chosen, the first payment will be due one year from lease signing and will be factored into the I&S tax rate in the upcoming FY14-15 budget.

This item along with several other pieces of equipment for the Street Dept. was presented to council during the 2013-14 budget workshop. We understand that this is not the preferred time to buy a piece of equipment, but due to the savings this equipment would generate in road construction we would like to start saving operational costs by producing more roads with less money. With a road mixer you can do just that. We do have the option to rent a road mixer to complete the 2013-14 roads but ultimately we could be putting that money into a unit that we own. With the unknown factor of how much this will impact the debt service this could be the safest decision at this time. Both units are available for rent and this money could be taken from the Street Dept.'s annual budget. If now is not the right time, we will be glad to look at other options and will be bringing this back for the 2014-2015 budget.

STAFF ANALYSIS (For Ordinances or Regular Agenda Items):

A. PROS: Saves money in the long run, is easier on our Street Dept. staff in that we do not have to use Portland cement by the bag and provides a means of reusing the existing asphalt and sub base instead of wasting that material. Just this year alone it is estimated that \$75,000+ can be saved on using a road mixer compared to using a road grader and adding base to build up the roads.

B. CONS: Funding options are not very good.

ALTERNATIVES (In Suggested Order of Staff Preference):

ATTACHMENTS: (1) Asphalt Zipper HGAC price sheet; (2) BOMAG HGAC price sheet; and (3) Funding Options

FUNDING SOURCE (Where Applicable): General Fund Reserves and Debt Service

RECOMMENDED ACTION: Approve the purchase of a road mixer for the City of Brenham's Street Department from the Houston Galveston Area Council (HGAC) Local Government Purchasing Cooperative and authorize the Mayor to execute any necessary documentation.

APPROVALS: Terry Roberts

ASPHALT ZIPPER

DE LAGE LANDEN (THROUGH BBVA COMPASS)

Loan Amount	164,490.00			
Down Payment (1st pmt)	35,409.63		***PAYMENT 1 DUE AT LEASE SIGNING	
Interest Rate	3.82			
Number of Years	4			
Annual Payment	(\$35,409.63)			
Payment #	Starting Balance	Annual Interest	Payment	End Balance
1	164,490.00	-	(\$35,409.63)	129,080.37
2	129,080.37	4,930.87	(\$35,409.63)	98,601.61
3	98,601.61	3,766.58	(\$35,409.63)	66,958.56
4	66,958.56	2,557.82	(\$35,409.63)	34,106.75
5	34,106.75	1,302.88	(\$35,409.63)	-
		<u>12,558.15</u>	<u>(177,048.15)</u>	

BOMAG

DE LAGE LANDEN (THROUGH BBVA COMPASS)

Loan Amount	290,000.00			
Down Payment (1st pmt)	62,358.61		***PAYMENT 1 DUE AT LEASE SIGNING	
Interest Rate	3.76			
Number of Years	4			
Annual Payment	(\$62,358.61)			
Payment #	Starting Balance	Annual Interest	Payment	End Balance
1	290,000.00	-	(\$62,358.61)	227,641.39
2	227,641.39	8,559.32	(\$62,358.61)	173,842.10
3	173,842.10	6,536.46	(\$62,358.61)	118,019.95
4	118,019.95	4,437.55	(\$62,358.61)	60,098.89
5	60,098.89	2,259.72	(\$62,358.61)	0.00
		<u>21,793.05</u>	<u>(311,793.05)</u>	

CHASE EQUIPMENT LEASING

Loan Amount	164,490.00			
Interest Rate	4.50		***PAYMENT 1 DUE ONE YEAR FROM LEASE SIGNING	
Number of Years	5			
Annual Payment	(\$37,469.45)			
Payment #	Starting Balance	Annual Interest	Payment	End Balance
1	164,490.00	7,402.05	(\$37,469.45)	134,422.60
2	134,422.60	6,049.02	(\$37,469.45)	103,002.17
3	103,002.17	4,635.10	(\$37,469.45)	70,167.82
4	70,167.82	3,157.55	(\$37,469.45)	35,855.93
5	35,855.93	1,613.52	(\$37,469.45)	-
		<u>22,857.23</u>	<u>(187,347.23)</u>	

CHASE EQUIPMENT LEASING

Loan Amount	290,000.00			
Interest Rate	4.50		***PAYMENT 1 DUE ONE YEAR FROM LEASE SIGNING	
Number of Years	5			
Annual Payment	(\$66,059.58)			
Payment #	Starting Balance	Annual Interest	Payment	End Balance
1	290,000.00	13,050.00	(\$66,059.58)	236,990.42
2	236,990.42	10,664.57	(\$66,059.58)	181,595.42
3	181,595.42	8,171.79	(\$66,059.58)	123,707.64
4	123,707.64	5,566.84	(\$66,059.58)	63,214.90
5	63,214.90	2,844.67	(\$66,059.58)	-
		<u>40,297.88</u>	<u>(330,297.88)</u>	



AGENDA ITEM 17

DATE OF MEETING: January 28, 2014	DATE SUBMITTED: February 6, 2014	
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 Repeal Ordinance No. O-08-004 Relating to a Non-Exclusive Franchise to South Central Carriers, LLC to Operate a Roll-Off Container Service for Residents, Businesses, and Industries Inside Brenham City Limits		
SUMMARY STATEMENT: On April 3, 2008, Council approve an Ordinance on its second reading granting South Central Carriers, 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 South Central Carriers, LLC at that time. On January 27, 2014, the City of Brenham was notified by Heidi Schulz with South Central Carriers, LLC, that the company will no longer be operating in the City of Brenham. Therefore, Staff recommends that Council repeal Ordinance O-08-004 which granted South Central Carriers, 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-08-004; and (2) Letter from South Central Carriers, LLC		
FUNDING SOURCE (Where Applicable):		

RECOMMENDED ACTION: Approve an Ordinance on its first reading to repeal Ordinance No. O-08-004 relating to a non-exclusive franchise to South Central Carriers, 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-08-004 RELATING TO A NON-EXCLUSIVE FRANCHISE WITH SOUTH CENTRAL CARRIERS, 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 the City of Brenham; and

WHEREAS, on April 3, 2008, the City Council passed Ordinance O-08-004, on second and final reading, granting a solid waste franchise to South Central Carriers, LLC; and

WHEREAS, on January 27, 2014, the City became aware that South Central Carriers, LLC was no longer conducting business within the City limits;

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

Ordinance O-08-004 is hereby repealed and rescinded in its entirety.

PASSED and APPROVED on its first reading this the _____ day of _____, 2014.

PASSED and APPROVED on its second reading this the _____ day of _____, 2014.

Milton Y. Tate, Jr.
Mayor

ATTEST

Jeana Bellinger
City Secretary

SOUTH CENTRAL CARRIERS, LLC.

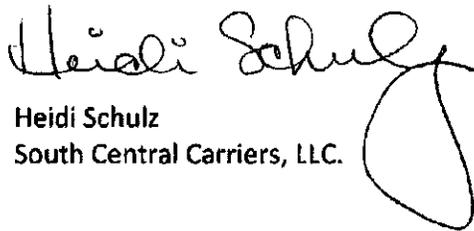
6355 Little York Lane
Washington, TX 77880
979-836-6822
979-836-7510 FAX

January 27, 2014

To Whom It May Concern:

We no longer use roll off's or do any type of sanitation hauling. We also no longer employ Ray Lauter. If you need any other information on this matter please let us know.

Thank you,


Heidi Schulz
South Central Carriers, LLC.



AGENDA ITEM 18

DATE OF MEETING: February 6, 2014	DATE SUBMITTED: February 3, 2014	
DEPT. OF ORIGIN: Administration	SUBMITTED BY: Grant Lischka	
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: Texas Government Code Section 551.072 – Deliberation Regarding Real Property – Discuss and Consider the Acquisition of Property Related to the Extension of Chappell Hill Street		
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: Discussion Only.		
APPROVALS: Terry K. Roberts		